

Statement on Criminal Justice
A Policy Statement for the Kentucky Council of Churches

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Introduction

The approach taken by a community with regard to Criminal Justice speaks volumes about the extent to which that community recognizes the value of each human life, and further, seeks to maintain and promote a true sense of community among its members. The Kentucky Council of Churches, representing numerous Christian denominations and congregations, seeks to apply a Scriptural approach to crime and criminal justice which balances the rights of the individual, with the responsibility human beings possess toward one another in fulfilling our call to live in community and love our neighbors as ourselves.

The purpose of this policy statement is to express the ideals held by the member communions of the Kentucky Council of Churches as they relate to the Commonwealth of Kentucky's approach and policies in the arena of criminal justice. The goals embedded in this purpose are threefold:

- a. To educate
- b. To advocate
- c. To dialogue

In pursuit of each of these goals, this statement endeavors to apply an authentic theological understanding, derived from the Scriptures and our Christian traditions, to the issues present in current debates related to crime and the criminal justice system.

The Church has a long history of involvement in the criminal justice arena. Historically, the Church has seen this involvement in a more direct fashion, providing chaplains in prisons, supporting victims of crime and their families, but speaking out sparingly on few policy issues (among them capital punishment and church/state related issues). This limitation has changed over the last few decades, and the Church has spoken on a far greater range of policy matters in the criminal justice field, ranging from prisoners rights, to victims' assistance, to racial profiling.

It is in this new tradition that the Kentucky Council of Churches first adopted a policy statement on Crime and Criminal Justice. Further, it is in that same tradition that this policy statement has been revised and updated to reflect the growing needs and concerns in this critical area of policy making.

The primary Christian understanding of justice is one that focuses on the potential for redemption, an effort to restore wholeness – wholeness to the individual, as well as wholeness to the community. This concept of justice is also formed by a call to compassion and equality. These ideals are embodied in the concept of “Restorative Justice,” and are incorporated throughout the series of policy statements included herein.

The laws of a society are most effective when they are applied equally to all members of that society, regardless of ethnic, religious, or socio-economic condition. This series of policy statements seeks to encourage this sort of unbiased application of law throughout the Commonwealth.

Further, the theological ideas that serve as a foundation for this restorative and unbiased approach to criminal justice are expanded upon in the *Theological Background* statement attached to this document. However, it is this call to do and reflect God’s justice that serves as the foundation for ecumenical activities in the Criminal Justice arena.

Theological Background

Any approach to criminal justice from a Christian perspective must begin with an understanding of how we are called to live and act as followers of Christ, and in the light of the wisdom contained in the scriptures. An understanding of how we are valued by God begins in the opening words of the Bible with an understanding that all people are created in the image of God (Genesis 1:26-27). This description indicates that all human beings have intrinsic value and are precious to God, and therefore to

each other. Nothing in the Scriptures or in our church traditions changes that simple statement.

Deuteronomy 10:17 makes clear that persons all stand as equals before God:

“For the Lord your God is God of gods and Lord of lords, the great God, mighty and awesome, who is not partial...”

No single life is more important in the eyes of God than any other.

The Hebrew scriptures are often misunderstood to represent a perspective of God as a “God of law and punishment.” However, a closer examination of the scriptures reveals that the primary concern of the “law” in the Hebrew scriptures is the maintaining of the covenantal relationship between God and the people. The laws given to the people at Mt. Sinai were covenantal laws, and related to how the people would live in community with each other and with God. Therefore, the use of the image of a judgmental and vengeful God derived from the misreading of the Hebrew scriptures is an inappropriate justification for such an approach in our criminal justice system.

Another commonly misunderstood and improperly applied idea from the Hebrew Scriptures comes from Leviticus 24:20, “fracture for fracture, eye for eye, tooth for tooth...” This text (designated with the Latin name *lex talionis*) has been used over time to justify the imposition of the death penalty. However, placed in the proper context, the purpose of this passage is not to prescribe punishment, but rather to limit punishment, so that the penalty for an action does not overreach the act being punished. In Matthew 5:38-42, Jesus responds to this statement of Mosaic Law,

You have heard that it was said, ‘An eye for an eye and a tooth for a tooth.’ But I say to you, do not resist an evildoer. But if anyone strikes you on the right cheek, turn the other also...

Jesus makes clear that we are not to understand this reference as a call to take vengeance. Rather, Jesus calls us, in all aspects of our lives, to act out of our love for neighbor.

Further study of the Hebrew Scriptures reveals the prominence of several basic concepts for how we are to approach our lives in community with God and other people. These concepts include justice, grace/mercy, righteousness and love. According to the New Interpreter's Study Bible, "Divine grace and mercy are the presupposition of law in the Hebrew scriptures." In Micah 6:8, the prophet states quite clearly what we are called to do in life, "...what does the Lord require of you but to do justice, and to love kindness and to walk humbly with your God."

The New Testament's contributions to these ideas of how we are to live in community serve to provide even further clarity, supporting the idea of living in community with others and with God. Our call to shared responsibility for each other is expressed in the call for us to, "Strive first for the kingdom of God and its righteousness..." (Matthew 6:33). This reference to the "kingdom of God" is the same vision spoken of by the Hebrew prophets as the ideal of living in covenant with God, and establishing that relationship while on earth.

Christ's teachings ground all concepts of law and justice in the simple proposition of love. In Matthew 22: 34-40, when Christ was asked by a lawyer to identify the greatest commandment, he replied:

'You shall love the Lord your God, and with all your soul, and with all your mind.'
This is the greatest and first commandment. And a second is like it: 'You shall love your neighbor as yourself.' On these two commandments hang all the law of the prophets.

This simple statement was not qualified, but insists that all other laws are to be viewed in light of this commandment to love our neighbors. As Christians, this call to love

should inform all of our interactions, and should be the driving force behind how we approach all issues of justice in our world.

Christ continues to inform our approach to issues of justice through the parables and teachings that he shared throughout his ministry. We are taught to pursue restoration, not punishment through the parable of the prodigal son (Luke 15:11-32). In this story, while the younger son has made great demands upon his father (for his inheritance), and has wasted his father's money, he is immediately accepted back into his family. In seeking forgiveness and reconciliation with his father he is forgiven.

Another important message is conveyed in the story of adulterous woman (John 8:1-11). While the punishment for her transgressions is clearly stated in the law, Christ steps into the situation. He does not deny her wrongdoing, but rather questions the right of the other people to condemn and punish her for her actions. He then commands her to go and sin no more. Again, her actions are not excused, but Christ makes clear that we, as other people, must not rush to condemn and punish others. We are then called to accept people who have made mistakes, and restore them into our community.

The letters of the Apostle Paul further contribute to our better understanding of how we, as Christians, are called to act justly. In Romans 12:21, Paul instructs us, "Do not be overcome by evil, but overcome evil by good." And in II Corinthians 5:16-21, Paul describes at length our calling as Christians to a ministry of reconciliation, "...in Christ God was reconciling the world to Godself not counting their trespasses against them, and entrusting the message of reconciliation to us."

Restorative Justice Background

The roots of restorative justice can be found in the Hebrew scriptures and the New Testament (see Theological Background), and in the practices of Jewish and Christian traditions throughout history. As such, it is not a new concept, simply a new term by

which to refer to a well established set of ideals. Other terms used to refer to this concept throughout time have been:

- Transforming Justice
- Transformative Justice
- Creative Justice
- Relational Justice
- Reparative Justice
- Healing Justice

No matter what term is used to identify this set of ideals, the basic concepts behind restorative justice have remained relatively unchanged. Restorative justice focuses on the relational aspect of our society, and our call as Christians to live in full community with one another. As a result, this approach provides a creative and constructive alternative to the retributive approach to justice, which focuses on punishment and vengeance. Instead, restorative justice focuses on the communal aspect of our society, and prescribes methods by which the needs of all involved with a crime can be recognized and addressed. One potential definition for restorative justice is:

“...addressing the hurts and the needs of the victim, the offender, and the community in such a way that all – victim, offender, and community – might be healed.”¹

Perhaps an effective way to understand restorative justice is to make clear what it is not:

- Restorative justice is not an approach that ignores wrongdoing or that a crime has been committed.
- Restorative justice is not an attempt to subvert or avoid the criminal justice system.

¹ Mackey, Virginia. “Restorative Justice: Toward Nonviolence.” Presbyterian Church (U.S.A.) 1997. (Originally published 1990, revised 1992). p. 54.

- Restorative justice is not an approach that necessarily removes consequences for crimes.
- Restorative justice is not a method focused solely on the concepts of forgiveness and reconciliation.

Instead:

- Restorative justice is a means to recognize that a wrong has been committed, and attempts to fully address the real impact of that action, so that all involved can be restored.
- Restorative justice works in conjunction with the existing criminal justice system and provides effective alternatives to simple incarceration (punishment), including the potential for rehabilitation.
- Restorative justice recognizes that the consequences for a crime should include an effort to address the impact that crime has had on the victim, offender, and community, and prescribes appropriate consequences to attend to all impacts.
- Restorative justice does not always result in forgiveness on the part of the victim(s), rather, the intent is to address the harm(s) done, while forgiveness may be an outcome.

There are three pillars of Restorative Justice according to Howard Zehr in his work *The Little Book of Restorative Justice*.²

1. Restorative justice focuses on harm.
2. Wrongs or harms result in obligations.
3. Restorative justice promotes engagement or participation.

Recognizing these pillars, the approach of restorative justice is one that calls for engagement if possible, between the offender and the victim(s), and seeks to address the harms that have resulted from the crime. Such engagement can (and should) include consideration of the harm(s) done to the greater community as well, as the goal is to identify and address all effects of the crime.

² Zehr, Howard. *The Little Book of Restorative Justice*. Intercourse, PA: Good Books. 2002.

In general, an application of restorative justice would call for an interactive experience between offender and victim(s), to the extent that the victim(s) is able and willing to participate. This interaction allows the victim(s) to express the harm(s) that has resulted from the actions of the offender, and looks to result in a method by which all involved parties are again made whole. Unlike in retribution based criminal justice models, the restorative model, through this interaction/engagement addresses the needs of the victim, providing a much needed sense of closure, as well as providing a means for the offender to fulfill the obligations that have resulted from his/her actions.

Restorative justice concepts have been in use in several civil communities in the United States since the 1970s. Given that the concepts find their roots in the Mennonite tradition, many of the communities that have incorporated the concepts of restorative justice with great success into their criminal justice systems have large Mennonite populations. However, more widespread applications have been made in other communities, primarily in the field of juvenile justice. This policy statement attempts to incorporate the ideals of restorative justice in recommendations where such concepts would lend productive/effective alternatives for addressing matters of criminal justice in the Commonwealth of Kentucky.

Policy Specific Statements

Victim Support and Aid

The impact of a crime can be far reaching, and the number of victims is often much higher than expected. Recognizing that the term "victim" can and should relate to all of those individuals negatively impacted by a crime, efforts to address their needs and lend support must be more far reaching. All victims of crime should be provided the services and support needed to help them attain full restoration of their social, civil, and economic rights.

The Kentucky Council of Churches recommends that appropriate aspects of “restorative justice” be included in the sentencing of individuals who have committed crimes against individuals in order to provide an arena for restorative efforts to commence. The council further recommends that those identified as victims include as broad a circle of individuals as possible to provide all necessary support.

The Kentucky Council of Churches recommends that the General Assembly and Governor support fully funding programs to provide services to victims of crime, including psychological assistance where needed, so that financial barriers do not impede their restoration.

Law Enforcement

Law enforcement is an essential element toward maintaining a safe and productive society. In addition to the dedicated law enforcement professionals, a successful program of public safety requires the commitment of all citizens. At the same time, it is necessary for all law enforcement officers to maintain a fully unbiased approach to the execution of their duties.

The Kentucky Council of Churches recommends the organization, where non-existent, of community-betterment programs, active neighborhood associations, and official crime prevention efforts, and calls on the citizenry to play an active role. The Council further recommends that such activities be fully supported by local law enforcement, in order to improve the relationship between communities and those dedicated individuals who protect them.

The Kentucky Council of Churches recommends that all efforts be made within local, county and state law enforcement agencies to eliminate all instances of racial/ethnic profiling in the application of the law.

Criminal Justice System and Criminal Law

The Kentucky Council of Churches calls on the Kentucky General Assembly, the courts, and all involved in the criminal justice system to pursue modifications in state codes and procedures related to criminal justice. These adjustments, which should create a uniform approach within the system, should reflect the following values:

- fairness,
- the placement of human rights at the center,
- respect for the value of each human life,
- dedication to the ideals of rehabilitation and restoration,
- accountability and responsibility to the wronged, and
- insure the basic human dignity of all persons, victims, the suspected, accused, convicted, and abolish profiling, harassment, brutality, and unjust discrimination against those in need of medical or mental health assistance.

Such changes should also recognize the innate bias in the system against those of lesser socio-economic resources, as well as ethnic minorities. The overall goal of the criminal justice system should be the application of equal justice for all, in order to create and maintain a safe and harmonious society.

Further, it is important to recognize the diversity represented within the prison population in Kentucky, of particular note, the religious diversity. To this end, the Kentucky Council of Churches recommends that all prison chaplains (volunteer and employed) be provided appropriate training in order to ensure religious practices of all inmates are respected.

Crime and Criminology

The United States, when compared with other industrialized nations in the world, experiences a significantly higher level of crime and violence. Studies have been conducted to identify the reasons for this national trend, but in lieu of solutions, the population has continued to support reactionary and often inhumane proposals aimed

at addressing the symptoms of the greater issue. These “solutions” generally serve only to exacerbate the problems.

The Kentucky Council of Churches recommends that a review be undertaken of the available studies surrounding the issue of violence and crime in our communities. Further, based on the findings of these studies, the Council recommends that efforts be made to develop effective, proactive programs aimed at the causes of these behaviors, rather than simply continuing the trend of punishing the actions that are truly symptomatic of the larger problems.

The Courts

The Courts are at the heart of the criminal justice system, and should to ensure that the rights of all people are protected and are subject to a consistent, unbiased application of justice. Given that laws are written to apply equally to all, the application of those laws should be similarly equitable.

The Kentucky Council of Churches recommends that, in order to ensure the highest level of fairness in the courts, the system for selecting judges be reviewed to guarantee inclusiveness and competence for service on the bench. In addition, training of judges should include specific efforts to reinforce these characteristics. Finally, judges should be provided with appropriate levels of flexibility and discretion in law administration, recognizing that, while all people are subject to the same laws, application of those laws must reflect an understanding of the circumstances of the individual.

The Kentucky Council of Churches further recommends that the jury system undergo regular reviews to ensure continued integrity. The jury system represents a vital component of the criminal justice system, but is constantly subject to potential corruption. It is necessary, therefore, to apply scrutiny in the jury selection process to assure fair and impartial jury trials.

Corrections System

When dealing with individuals who have been accused of or convicted of crimes, our society, often driven by our thirst for retribution, fails to recognize the continued humanity of these individuals. As a result, we may allow them to be subjected to sub-standard conditions and treatment while incarcerated in our jails and prisons. However, allowing for this additional punishment fails to acknowledge that, regardless of what someone has done, they are still of child of God, and deserving of treatment in that light.

Prisons in Kentucky are growing at an unsustainable rate. The Department of Corrections estimates that between 1000 and 2000 inmates will be added each year to the overall population between now and 2014. There are no new prisons being built, and thus no place to house these new prisoners. The Department of Corrections is housing them in local jails which are overcrowded and do not provide treatment similar to that provided in the correctional system. Many inmates are sleeping on the floors. Substance abuse treatment is not available to most of the inmates either in the correctional system or in local jails. With the closing of mental health institutions, prisons and jails have become the largest mental health system in Kentucky. Yet, sufficient and appropriate mental health treatment is not available in the state's penal institutions. The budget for the Department of Corrections is growing at a rate of \$20 million each year, robbing other parts of society from necessary resources. Kentucky is warehousing many people with substance abuse addictions and mental illness, people who are in need of treatment who can be safely dealt with outside the correctional system.

Of particular concern is that of reentry. Most persons in prison will reenter society. They will do so ill equipped to deal with the realities they will face on the outside. Few of them will have received the substance abuse treatment that they need. Many of them will be reintroduced to the outside with the same addictions that caused them to offend in the first place. When they are released, they will be saddled with the new

category of “convicted felon”, a category that will strip them of many of their rights, and will debilitate them as they search for employment, housing, and dignity. Policy makers are beginning to address the problems of reentry, but more attention, and particularly more resources are needed. KCC recommends support for re-entry initiatives that prepare inmates to successfully transition to full citizenship after serving out their sentence. We also support faith, community, and government programs that assist former inmates to successfully integrate in their family and community after they serve their sentence.

The Kentucky Council of Churches recommends that justice system and law enforcement administrators upgrade the qualifications, including higher ethical standards, for their personnel, and accordingly pursue higher compensation at all levels. In addition, the Council recommends that a program of continuing education and training be developed and implemented for all personnel, which should include instruction related to multi-cultural issues, recognizing the growing diversity of the population of the Commonwealth.

The Kentucky Council of Churches recommends that the conditions in all jails and prisons be reviewed, and that all such facilities be maintained at a high level of sanitation and safety.

Sentencing and the Jails

The Kentucky Council of Churches recommends pursuit of a set of procedures related to sentencing that reflect the following:

- equitable application of justice for all people,
- a decrease in the jail/prison population,
- rehabilitation and re-entry efforts for all offenders,
- unqualified opposition to the death penalty,
- diversionary and treatment alternatives for first-time drug offenders, and

- alternative sentencing/penalties for those with mental or physical illness, and juvenile offenders.

The Kentucky Council of Churches recommends, when possible, that sentencing reflect a dedication to the concepts of redemption and reconciliation embodied in the concept of restorative justice, allowing all victims to be made whole. In addition, the Council recommends that upon successful completion of a sentence, steps be taken to guarantee the restoration of the convicted to full participation in all aspects of society.

The Kentucky Council of Churches recommends a regular comprehensive review of sentencing procedures, and their application over the past 10 years, to ensure fairness and equitability. This review should consider matters of:

- ethnic bias,
- socio-economic bias,
- tendency toward punitive, rather than rehabilitative sentences, and
- application of alternative sentencing, or lack thereof.

Registration of sex offenders has little or no penological justification, and further is now thought to result in driving convicted sex offenders underground. Of particular concern is the new law that requires offenders to live a particular distance from schools, play grounds, etc. This law has resulted in exile, splitting up of families, and homelessness. The Kentucky Council of Churches recommends that the General Assembly, in conjunction with the Department of Corrections commission a study into the impact of sex offender registration requirements in the Commonwealth. Based on the findings of this study, the Council recommends appropriate adjustments to registration requirements be adopted.

The Kentucky Council of Churches recommends efforts to ensure humane conditions in the jails. Also, the Council recommends a thorough review be undertaken to determine the make-up of the jail population, in order to identify troubling trends in racial

profiling. Based on the findings of this review, steps should be taken to alleviate such circumstances.

Finally, the Kentucky Council of Churches recommends that the Kentucky State General Assembly commission a study on the unsustainable growth of persons in prisons and jails. Further, based on the findings of this study, the Council recommends that, when appropriate, alternatives to incarceration should be used more prominently. In particular, treatment options for substance abuse and addictions should be provided for all those who need it, and sentences for specified low level felonies should be reduced to misdemeanors and many misdemeanors should be turned into violations.

(Note: Issues related to drug offenses are addressed further in the Policy Statement on Drug Offenses and Rehabilitation.)

Drug Offences and Rehabilitation

Drug addiction is a serious disease and should be treated as such. Drug-related crimes are most frequently linked to this underlying problem of addiction, and to date, efforts to punish such crimes have failed to recognize the illness which prompts the criminal behavior. If efforts to curb drug-related offenses are to succeed, it is necessary to address the addiction inherent in the crime. It is estimated that 68% of persons in jails and prisons have a substance abuse problem. Only 20% of those persons receive treatment while in an institution. Most of the persons in jail and prison for nonviolent offenses could be handled outside of the prison setting, with a greater chance of successful treatment. Locking up persons in overcrowded jails and prisons is often counterproductive to the ultimate goal of restoring the individual to his or her family and their community.

The Kentucky Council of Churches recommends that sentencing in all drug-related crimes include serious rehabilitation efforts, and recommends full funding for Drug Court programs. Further, in cases that do not involve violent acts aimed at other

individuals, the Council recommends diversionary programs replace jail/prison sentences in order to treat, rather than punish, the disease.

Finally, the Kentucky Council of Churches recommends that all sentences in drug and alcohol related cases include continued counseling components throughout any parole or probationary periods.

Probation and the Parole System

Probation and Parole are vital components of the criminal justice system, as they provide key supervision and support, vital toward the full rehabilitation and restoration of the individual who has served their time in jail or prison. The adequacy of such services is therefore under continual scrutiny, which is appropriate. All too often, there is too much emphasis on rigid compliance with conditions and too little emphasis on addressing the root causes of criminality. Revocations of probation and parole, particularly for technical violations, are a major cause of prison and jail overcrowding, and have little penological justification. Probation and parole officers should strive to identify barriers to law abiding behavior, such as poor housing or even homelessness, drug and alcohol abuse, mental illness, mental retardation, and the lack of education and job training, to name a few. Officers should work to tear down those barriers with the goal not of sending the parolee back to prison but rather to restore the parolee into his community.

Too many persons are denied parole for low level offenses, which is a major contributing factor to prison and jail overcrowding. The Kentucky Council of Churches recommends that the General Assembly and Department of Corrections examine the concept of a presumptive parole for those who have been convicted of Class D and Class C felonies.

The Kentucky Council of Churches recommends a regular review of the regulations and statutes of the parole system be implemented, and changes, as recommended by made to ensure the effectiveness of such services.

Post-Incarceration Concerns

Some of the most tragic miscarriages of justice occur when the individual who has committed a crime has fulfilled his or her “debt to society” and is attempting to be assimilated back into everyday society. The stigma of past transgressions often leads to continued punishment in the form of exclusion and discrimination. There are many consequences to having committed and served time for a felony, such as losing one’s right to vote, to serve on a jury, to work in a particular industry, to live in a particular place, to receive college loans, to obtain subsidized housing, to remain in this country, to name a few. Often, these consequences interfere with the restoration of the person back into the community and lead indirectly to further acts of criminality. It is additionally important to note that such disenfranchisement laws (restrictions on prisoners, parolees, and felons who have completed their sentences) have a disproportionate impact on ethnic minorities, illustrated by studies that show the voting rights of one in twelve African-Americans impacted by such laws, a number five times the average of non-African-Americans. Finally, studies have also show a link with reduced recidivism, where 27-percent of non-voters were rearrested, compared to 12-percent of voters.³ In order to live out the call to love all as we are loved by God, this trend must end.

The Kentucky Council of Churches recommends that all the Commonwealth participate in efforts to restore individuals who have served their time in prison, completed parole, and paid all fines, to full rights and privileges of citizenship, including the full restoration of voting rights.

³ King, Ryan. S. *A Decade of Reform: Felony Disenfranchisement Policy in the United States*. The Sentencing Project. October 2006.

The Kentucky Council of Churches recommends that all post-incarceration practices be reviewed, and those deemed to continue punishment be eliminated or modified in order to minimize punitive intrusion (such as tracking, registering, etc).

Death Penalty

There are several problems with the current application of the death penalty in the Commonwealth of Kentucky, and more generally. Among these issues of concern are:

- The death penalty is most often imposed upon people who are poor, mentally ill, mentally retarded, addicted, poorly educated, and represented by appointed counsel with heavy caseloads.
- The death penalty is disproportionately costly, depriving the Commonwealth of resources to meet the overwhelming other human needs presently going unmet. It is estimated that the death penalty prosecution, defense, etc. cost as much as \$5-10 million each year
- There is little evidence that the death penalty has deterrent value. Support for the death penalty is waning, and support for other penalties in lieu of the death penalty is increasing.

In 1997, the Kentucky Council of Churches adopted the following Resolution opposing the imposition of the death penalty:

The Kentucky Council of Churches affirmed its belief in reconciliation and restorative justice, as opposed to retributive justice, through a statement adopted at the 49th Annual Assembly, on October 25, 1996. (See the Statement: "Reconciliation: The Christian's Responsibility amid the Violence of our Time", adopted at the 49th Annual Assembly, October 25, 1996.) Ten years ago (40th Annual Assembly, October, 1987), in a study and public policy document entitled "Crime and Criminal Justice", the Kentucky Council officially voted to oppose "the imposition of the death penalty."

Therefore, the Kentucky Council of Churches, acting at its 50th Annual Assembly meeting in Middletown, Kentucky, October 23-24, 1997, does hereby resolve:

- that the Kentucky Council of Churches shall encourage its member churches to stand with the victims of violent crime and their families and to minister to them in their grief and anger, and to foster those attitudes that will lead to peace for victims and their survivors;
- that the Kentucky Council of Churches shall oppose the imposition of a death sentence, by whatever method of implementation that the state shall designate, whether by electrocution or lethal injection, or any other means which may be devised;
- that the Kentucky Council of Churches shall inform legislators about the Council's position on the death penalty, and shall urge the Commonwealth to serve the purposes of justice without resorting to use of the death penalty;
- that, while capital punishment remains legal in Kentucky, the Council shall do all in its power to persuade the Governor of the Commonwealth of Kentucky to use the executive power of clemency to commute sentences to life in prison without possibility of parole for those persons on death row facing imminent execution;
- that the Council will affirm the work of people who are employed in the criminal justice system, recognizing the special burdens that accompany such work;
- that the Council shall encourage its member churches to seek further opportunities to serve people caught in cycles of violence; and

that the Council shall offer a clear voice within the Commonwealth of Kentucky on behalf of restorative justice, peace, order, and reconciliation.

The "Castle Defense"

Recent trends in the criminal justice system have seen more widespread adoption of the laws related to the "castle defense." Such a defense claims that an individual has the right to use appropriate force, up to and including deadly force, in a situation where an intruder has entered their home/property. In such cases, it is virtually impossible to determine whether the level of response was appropriate and/or necessary.

It is imperative that the laws of the Commonwealth of Kentucky reflect above all else the value and dignity of all human beings.

The Kentucky Council of Churches recommends against the adoption or continuation of any laws which allow for such unchecked responses by individuals, as they serve to allow for, if not encourage vigilantism.

Juvenile Justice

All crime is tragic, and cause for great concern. However, crimes committed by juveniles are of particular concern, and the response to such transgressions must be one aimed at full rehabilitation and restoration. Anything less would result in the potential "loss" of a potentially vital and productive young life.

There is a present trend in Kentucky toward the increasing use of detention and commitment to treatment facilities. This is occurring often with children who have not been adjudicated delinquent of a serious offense. Studies demonstrate that the use of detention is often counterproductive to the ultimate goal of rehabilitation of the child. Similarly, the use of "transfer" of children from juvenile into adult court has been demonstrated to result in increasing criminality. Finally, there has been a recent trend to treat juvenile "sex offenders" much more harshly than is warranted. Children who have been sexually abused often act out of that abuse. The Kentucky Council of

Churches recommends adjustments be made in state law to preclude the labeling of juveniles from being temporarily or permanently labeled as “sex offenders,” including all prescribed penalties that come with such a label, such as the requirement to register as sex offenders into their adulthood.

The Kentucky Council of Churches, recognizing the importance of nurturing our youth and providing effective alternatives and guidance, recommends the realignment of the Commonwealth's juvenile justice system toward the goals of full rehabilitation and restoration. To this end, the Council recommends that all efforts and financial commitments be made to ensure juvenile offenders be allowed to fulfill their sentences (including but limited to incarceration) as close to home as possible. Also, the Council recommends the implementation of a full range of restorative justice alternatives to traditional incarceration. These restorative options should include the involvement of the offender, as well as family members, and all victims. The Council further recommends that such sentences include follow-up activities, involving family members, to ensure full rehabilitation and restoration.

Toward the goal of juvenile crime prevention, the Kentucky Council of Churches recommends that the State Legislature, with the assistance of experts in the field, develop and fully-fund a comprehensive after-school programming model, to be made available to all school districts throughout the state, contingent on local matching funds. The primary goal of such a program would be to provide productive alternatives for youth outside of the regular school day.

Recognizing that:

“Under the law of most states, juvenile records are kept confidential. The rationale behind the confidentiality laws is to protect the privacy of children. Children's proceedings are held in family court where proceedings are not open. The rationale behind protecting the privacy of children and families is the idea that children, because of cognitive development, are not as responsible as adults

for their behavior. It is in society's interest to allow children the opportunity to rehabilitate themselves and prepare for a future without being hindered by the scar of bad behavior."⁴

The Kentucky Council of Churches recommends that all appropriate action be taken to guarantee the continuation of state (and federal) level protections assuring the confidentiality of juvenile court records.

Legal Aid Services

Nationally, over 1.2 million court cases annually touch the lives of those living below the federal poverty guidelines. The Legal Services Corporation does a commendable job in assisting these individuals; however, this organization faces continuing struggles to maintain its level of services. Since 1996, when Congress slashed the funding for Legal Services, the caseloads for attorneys have climbed far beyond nationally recognized standards.⁵ A recent study by the Legal Services Corporation found that over 50-percent of qualified individuals requesting assistance went unserved due to lack of resources. This circumstance serves as yet another example of discrimination along socio-economic lines, an example that often results in those with the least in our society paying a higher price for their transgressions as they are unable to secure proper representation.

The Kentucky Council of Churches recommends that Kentucky congressional delegation support full funding of the Legal Services Corporation programs in the Commonwealth.

The Kentucky Council of Churches recommends that the Bar Associations participate in this effort to level the legal playing field by offering pro-bono services to those unable to hire attorneys for financial reasons.

⁴ "Memo in Opposition of S. 254, the Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act of 1999." American Civil Liberties Union Website.
<http://www.aclu.org/crimjustice/juv/10300leg19990310.html>

⁵ "Rights of the Poor." American Civil Liberties Union Website,
<http://www.aclu.com/rightsofthepoor/index.html>.

Public Defenders

Public defenders play a vital role in the criminal justice system. Most persons who are charged with crime are not able to afford legal counsel. As a result, they are appointed public defenders. Public defenders in Kentucky have excessive caseloads, with the average trial attorney opening 468 cases in FY06. That caseload far exceeds nationally recognized standards. With so many cases, a public defender has only about 4 hours to spend on each case. 25% of the cases for Kentucky public defenders involve felonies in circuit court, and another 14% involve juvenile cases. The circuit court cases may result in incarceration in prison, including lengthy prison terms, life without parole sentences, or even the death penalty. Most persons charged with capital offenses are represented by public defenders. All 41 of Kentucky's death row inmates are represented by appointed counsel. All of Kentucky has a strong interest in a robust indigent defense system, a system that features well trained attorneys who have the time and resources to provide the effective assistance of counsel. Such a system ensures the reliability of verdicts, provides a check on police and prosecutorial abuse of power, and imbeds trust into our system of justice.

An important concern at present is that salaries for public defenders is far too low and not at all competitive with the private bar. Kentucky public defenders start at \$37,500 per year. The average public defender carrying law school student loans has over \$60,000 in debt. As a result, many public defenders stay in their jobs for only a few years. Persons who desire to be public defenders should make a reasonable salary that allows them to pay off their student loans, buy a home, and educate their children. It is particularly important that there be salary and resource parity with the prosecution function. Kentucky has a strong interest in an equal playing field between prosecutors and public defenders.

The Kentucky Council of Churches recommends that the General Assembly and Governor fully fund the State Public Defenders' offices, and further consider increasing

the starting salary of Public Defenders to more appropriately reflect their professional training. In addition, the Council recommends that in juvenile cases involving court-appointed attorneys, full funding be adopted to compensate these attorneys for their work.

Professional Ethics/Responsibility

As with all aspects of public life, elected officials and public servants in the criminal justice field are given the public trust, and should make all efforts to respect and nurture that gift. To that end, it is vital that these individuals be held to the highest ethical standard.

The Kentucky Council of Churches recommends that the General Assembly and Governor, along with local and county government agencies continually monitor the professional activities of those individuals involved in the criminal justice system to ensure a high ethical standard is maintained, thus protecting the integrity of the system.

Media Impact/Role

The media plays a significant role in shaping the public awareness and perspective on most activities in our society. Given this influence, the media has an incredible responsibility to avoid abuses of this power, and ensure clear, unbiased, respectful coverage. Trends in television media continue to promote "crime du jour" news coverage, highlighting stories in their newscasts related to crime and violence, thus contributing to an unhealthy obsession with such topics.

The Kentucky Council of Churches calls upon all representatives of the media, when reporting on activities/proceedings in the criminal justice system, to provide balanced, unbiased, and thorough coverage. The Council further calls on the media to respect the rights of the individual to the greatest extent possible. Finally, the Council requests

that reporters and editors alike avoid sensationalizing stories in an effort to increase interest. Such efforts for the sake of ratings often cause greater damage to those involved than they serve the public good.