The Church and Criminal Justice: Hearing the Cries

An ELCA social statement

Detailed Summary

The statement and other supplemental materials can be downloaded at
www.elca.org/criminaljustice

About this social statement:

- *Social statements are teaching and policy documents that assist the Evangelical Lutheran Church in America (ELCA) in reaching informed judgments on social issues from a faith perspective.*
- *This social statement was reviewed by the ELCA Conference of Bishops and the ELCA Church Council. The text was considered at the ELCA Churchwide Assembly in August 2013 and passed by a vote of 882-25..*
- *It was developed through a significant listening, sharing and comment process involving the entire denomination mass a multi-year period.*
- *It addresses broad issues related to the criminal justice system ranging from an assessment of the various aspects of the system to theological reflection to practical ministry suggestions to recommendations about reform.*
- *The development of this statement was requested by several synods and authorized by the Churchwide Assembly in 2007.*

These basic convictions undergird The Church and Criminal Justice: Hearing the Cries

- *God's two ways of governing.* For the benefit of spiritual life, God relates to the world through the gospel. For life's many other needs, God relates to the world through various institutions and communities, including civil government and its criminal justice system.
- *Affirmations and deficiencies*. The Evangelical Lutheran Church in America (ELCA) affirms the fundamental principles of the U.S. criminal justice system such as due process of law. Yet this church joins its voice with many others who recognize grave deficiencies in the current functioning of the system of criminal justice.
- *Mass incarceration*. More U.S. citizens are imprisoned as a percentage of the population than in any other country on earth, and this reality causes significant individual and social harm. Appropriate measures should be taken to develop alternative measures as sanction for criminal offenses and limit the use of incarceration..
- *Racism*. Racism is central to the deep and abiding problems of the current criminal justice system, even though often unacknowledged, and must be addressed.
- *Affirmation of vocation*. Those who serve in the criminal justice system are to act as God's agents in delivering the institution's benefits. The calling to serve in these jobs, as with any job, creates a standard for evaluating the work done, i.e. does this work and do these systems serve in a just way that meets the neighbor's needs?
- *Holy yearning*. Christ has put a mark, the sign of the cross, on his ruling power and yet the power of Christ crucified has not come in its completeness. The resulting tension creates a restlessness, a holy yearning among God's people that grounds the search for justice in human institutions.

- *The mark of the cross*. The mark of the cross expressed in compassion and burden bearing should be evident throughout the church's involvement in today's criminal justice system.
- *The need for reform and for mindset change*. The ELCA does not presume to have quick or easy prescriptions for the enduring problems, but does call for robust and sustained response guided by evidence of effectiveness. It is clear that a dramatic shift is needed away from a common mindset about criminal justice that equates more punitive measures with more just ones.
- *A framework*. The statement provides a framework to guide reflections, discernment and action in congregations, in everyday callings and in the public arena.

Summaries of key themes in each section of the statement

I. **Introduction**

- The ELCA is prompted to speak and to act because so many cries of suffering and despair emerge from the criminal justice system --from victims of crime, the incarcerated, their families, communities, they who work in the system, and others — and have not been heard.
- Christians are called to confess that we, as individuals and in our common life together, often have fallen short in responding to issues raised and persons involved in criminal justice — both in response to crime's harm and to problems in the justice system. The ELCA is called to renewed ministry on behalf of those whom the system affects.

II. **Assessing the System**

- In assessing the current system, the ELCA gives thanks for the principles and orientation toward equal treatment under the law of the U.S. criminal justice system. This church recognizes that many people in the system serve their professional vocations with competent and humane performance. Yet this statement recognizes serious deficiencies in the system. An underlying punitive mindset, budgetary constraints and persistent inequalities based on race and class frequently challenge its basic principles and impose significant costs on all involved in the system, and on society as a whole.
- Assessing the system entails attention to the outcomes and data concerning law enforcement, judicial system, corrections system, confronting racism, reentry barriers, and immigration detention. It gives attention to the needs of victims of crime, those who work in the criminal justice system, those who are incarcerated and the families of both victims and incarcerated individuals.
- The ELCA does not presume to have quick or easy prescriptions for the extensive and enduring problems. However, the cries of people, the needs within the various systems named, and the data all shape an urgent call for change in the criminal justice system that requires robust and sustained response.

III. **Justice and yearning**

- Drawing from Holy Scripture, this church holds up a vision of God's justice that is wondrously richer and deeper than human imitations and yet is a mirror in which justice in this world, God's world, must always be assessed. Motivated by this vision and yet aware that we live in a world fraught with sin, Christians are guided a holy yearning for justice.
- Civil government contributes to the common good primarily through law, which is a gift from God to provide justice and security as well as many other material and social benefits. When the criminal justice system does not live up to what it is intended to be, action must be taken.
- The church does not presume to have special insight into matters of reason or instruct the public authority how, in detail, to shape a justice system. This church does, however, urge the development, implementation, and assessment of criminal justice procedures and criminal law

on the basis of human reason and principled, evidence-based practices, and laments the absence of such critical reason in many areas of the system

IV. Wise Responses of Love

- Because the cross is the clearest mark of the Christian church's work,, the evidence that the ELCA is putting into practice its convictions will be expressed by the growth of four forms of ministry and mission indicated wise responses of love.
- The foundational practice of must be *listening with compassion to the cries* and listening for "what is really happening."
- *Hospitality* is a biblical practice honoring a sacred obligation to welcome the stranger. Such hospitality is profound and must be practiced with equally profound recognition of the church's care for the vulnerable in its community.
- The third response moves beyond hospitality to *accompaniment*. The ELCA understands accompaniment as walking together in a solidarity of interdependence and mutuality, a strategy of baptismal vocation lived out in journeying with those suffering from crime and its effects.
- Compassion leads to seeking justice in the relationships and *structur*e of society. Seeking justice demands becoming *advocates* for those whose cries are ignored.
- Bearing the cross inevitably moves Christians toward actual identification with the victim, the criminal, the justice system worker. Wearing the mark of the cross leaves distance and the familiar behind and begins counting others' experience as our own.

V. Paths to greater justice: positive trends

- The ELCA supports positive trends underway in reforms such as greater emphasis on victims' rights and needs, use of restorative justice, community-based alternatives to incarceration, legislation that reduces sentences for certain offenses, the emergence of specialized courts, and programs for reentry.
- Such efforts should be funded and supported adequately.

VI. Paths to greater justice: ending the overuse of incarceration

- Because mass incarceration causes significant harms, both personal and social, the ELCA strongly urges alternative policies that take all appropriate measures to limit the use of incarceration as a sanction for criminal offenses. Toward that end this statement identifies three specific paths:
- The ELCA urges greatly expanded use of *alternatives to incarceration* and detention as commended in its discussion of positive trends (Section IV). This church also supports responsible treatment-focused alternatives to incarceration for mentally ill offenders.
- There should be review of and legislative reform of sentencing policies for three reasons. First, research raises serious doubts about the effectiveness of more severe sentences in deterring crime; second, current policies shift discretion from judges' sentencing decisions to prosecutors' charging decisions; and third, current policies exact unnecessary personal costs on offenders, families, and neighborhoods, along with a massive demand for tax dollars desperately needed elsewhere.
- Current U.S. drug policy bears significant responsibility for the dramatic increase in the incarcerated population and has been marked by improper use of war language, very high costs, and disproportionate burdens on vulnerable members of our society. This church does not presume to resolve debate about the needed reforms, but does call for close scrutiny to the full costs and consequences of drug policy.

VII. Paths to greater justice: support needed reforms

- The U.S. prison population by any measure give evidence of grave disparities and both implicit and explicit racism. The ELCA believes actions must be taken to end racial disparity in practices within the adult criminal and juvenile systems, including racial profiling.
- Juvenile offenders have unique needs compared to adults and until every state can manage the risks of all youth offenders within a rehabilitation-focused juvenile system, juvenile justice reform will be incomplete. Authorities should explore means of ensuring public safety without continuing the practice of transferring juvenile offenders to the adult system.
- On theological, moral, and economic grounds, this church objects to trends of corporate privatization in the justice system. The ELCA urges government at every level to maintain or reclaim its responsibility and eliminate reliance on the use of private, for-profit prisons.
- Attention to offender services and the successful reintegration of ex-offenders to society matter as part of the criminal justice system. Support for rehabilitation and reentry programs must be increased and policies imposing punitive, long-term collateral sanctions must be reformed for the sake of successful re-entry and the reduction of recidivism.

VIII. Moved by the cries: called to respond

- A fundamental transformation of mindset about criminal justice is required that challenges the logic equating more punitive measures with more just ones. Individuals must be held accountable, but every person in the criminal justice system deserves to be seen as a member of human communities, created in the image of God and worthy of appropriate and compassionate response.
- To God we owe thanks for human reason and its abilities to discern — with compassion and wisdom — how human communities might reflect at least the justice of the law. "For what does the LORD require of you but to do justice, and to love kindness, and to walk humbly with your God?" (Micah 6:8).

Implementing Resolutions

- Ten resolutions encourage, call for, or direct specific actions by various actors within the ELCA that are consistent with the principles and recommendations set forth in the body of the statement.

Glossary of selected legal terms