

Justice Criminal Justice

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1. General

A society is often measured by the way in which it treats its most disfavored members. People who become entangled in the criminal justice system represent a failure in our society. Responsible citizenship is developed through having a strong educational system available to our children, a law-abiding family structure developed over generations, and attractive employment opportunities. Government funding should support community programs which address crime at its origins, emphasizing restorative and rehabilitative programs for offenders. Society best protects itself from crime by addressing the moral, educational, social and material conditions under which we live. In the light of the Quaker idea that “there is that of God in every person,” FCL opposes the perpetuation of unreasoning fears of crime which are often fueled by growing prison, police, and prosecutorial bureaucracies. The “us versus them” view which promotes greater punishments, longer prison terms, more sterile prisons, and death penalties has failed and will continue to fail. Friends have long favored reconciliation and restoration as a healing response to crime. FCL must encourage new reflective thinking and legislation.

2. Victims of Crime

Damage done by offenders is not only the infliction of physical injury or loss of property. The emotional trauma robs victims (including families of victims) of the confidence and security, leading to anger and frustration. This trauma, experienced by large numbers of victims in a host of minor offenses, contributes to erosion of public trust, and makes serious crimes seem even more threatening. Responses to crime by police and prosecutors focus attention on judicial procedures and penalties which usually fail to address the emotional and physical suffering experienced by the people involved. Victims are demoralized when their concerns are ignored, and usually the effort to compensate victims while keeping them separated from offenders fails to restore either party's sense of civility and self-respect.

Communities need encouragement to promptly address the victim's psychological, physical and material wounds. A “restorative” approach to justice, which draws neighbors and friends of the parties into support of a dialogue between the victim and the offender, could prove both helpful and affordable. Victims may be constructively involved in the response to unlawful behavior; however, even when the crime is serious the victim should never be encouraged to participate in personal or judicial revenge. Victim-offenders reconciliation programs, counseling, and various avenues of restitution should be widely available. Such programs may lead the offender to a humane appreciation of the effects of the misdeed, and can restore the victim's sense of social responsiveness. Realistic ways of enabling offenders to effect prompt restitution need to be developed.

3. Juveniles in Trouble

All segments of society share the obligation to teach children to take responsibility for their actions. Community-building efforts are the most successful approach to channel juvenile energy into productive activity. These efforts need to include school and recreation programs, prompt attention to truancy and risk-taking activities such as drug use and sexual misconduct, opportunities for engaging, age-appropriate work experiences, and development of close family relationships. Parents, teachers, church leaders, the media, and community leaders need encouragement and ample resources to work together in this effort.

Status offenders—those who commit acts which would not be unlawful were it not for the age of the offender—should normally be dealt with informally. Every effort must be made to avoid punitive reactions to such status offenses as curfew and runaway violations. Such activities are often signals that the minor and the minor's family need attention, and incidents should not be permitted to escalate into situations where confinement is used as a penalty. In the rare situations where a curfew violator or runaway needs to be detained, the juvenile should not be confined with individuals in custody for serious offenses, such as motor vehicle violations.

When a juvenile comes to the attention of law enforcement in connection with more serious offenses, consideration needs to be given to the probability that the incident is part of a pattern of behavior. Sufficient social and educational services need to be available to address the problems and, if appropriate, to begin the process of reconciliation between the juvenile and the victim of the offense without delay. Juveniles in pretrial custody should have an immediate hearing before a judicial officer (always within 48 hours) and should never be detained along with adults.

We oppose trying juveniles as adults.

4. Pretrial Process and Release

The powers of police to detain, investigate, question, and accuse individuals must be reasonably circumscribed to prevent the oppression of unpopular individuals and groups. For example, people who are young, gay, alcoholic, homeless, poor, speak with an accent, ride motorcycles, belong to a racial minority, or abuse drugs are sometimes detained, investigated, and even arrested for trivial reasons. Such harassment should be vigorously discouraged.

All persons are presumed innocent until proven guilty, and the fact that a person is charged with a crime should not normally lead to pretrial incarceration of that individual. Only in cases where an accused person is unlikely to appear in court, or where a person is clearly dangerous, should a person be confined pending trial. Confinement must cease to be a focus of the criminal process; instead the focus should be on prompt and reasonable steps to restore the right relationship between victim and offender. In the context of a restorative justice regime, prompt investigation of the potential for release on own

recognizance is important, not only for the individual, but for the victim and the community.

If bail is required, the circumstances of the accused should be considered in setting the amount. Steps should be taken to eliminate race and ethnicity as factors in pretrial decisions.

5. Rights of the Accused

Constitutional rights must be protected, including the rights to a speedy trial by jury (with a unanimous decision required), freedom from unreasonable searches and seizures, protection from self-incrimination, privacy, due process, and assistance of counsel. These rights must be applied to all, regardless of economic status, social class, gender, or sexual orientation.

6. Arrest and Conviction Records

Records of arrest or conviction present a continuing handicap to the individual as an obstacle to employment and to participation as a responsible member of society. The arrest or conviction record is not always a valid criterion for determining eligibility for employment, public service, or professional licensing. It is not a crime to be arrested; if conviction does not ensue, the arrest record should not be available, except for legitimate law enforcement purposes. Conviction records should be expunged in cases where expunction does not compromise the legitimate interests of society.

7. Penalties

As a routine penalty for crime, incarceration has proved to be a costly failure. Jails and prisons encourage dysfunctionality, burden society with an institutionalized sub-culture, and legitimate brutalization. Other societies have learned that it is best not to imprison many people. Instead of routinely consigning failing individuals to institutions, society needs to view incarceration as a last resort, to be used sparingly when all alternatives have been exhausted. We opposed laws prescribing minimum sentences.

Programs for restitution, closely supervised probation, weekend public work programs, electronic home confinement, and other alternatives to confinement must be used to reduce the number of individuals who are incarcerated, especially for “victimless offense.” Such alternatives must be available to defendants, regardless of their economic status. These alternatives need to be combined with programs which enable the offender to deal with housing, employment, and other factors essential to a constructive life.

8. Rights of Prisoners and their Families

All prisoners should be treated in ways that maintain mutually supportive family connections, that give maximum protection to their civil rights and that respect their worth and dignity as human beings. Prisoners should have access to reliable health care.

Every opportunity should be afforded for prisoners to deal with any alcohol or drug dependencies, to form satisfying work habits, and to rehabilitate themselves.

Families of prisoners should be afforded access to visitation.

Prison labor should never be used as punishment. Prisoners should have the opportunity to do productive work voluntarily, under the same safety rules, working hours, and pay scales that apply outside prison. Inmates should never be a source of cheap labor for either government or private industry, and should not be used to break strikes.

9. Reintegration into Society

To minimize the chances that they will reoffend after release from jail or prison, former inmates should receive suitable support and counseling from probation or parole staff or from adequately trained volunteers. Financial assistance, job counseling, employment, and social opportunities should be tailored to the needs of the former inmate and his or her family.

10. Prison and Jail Construction and Privatization

Incarceration dehumanizes both the keepers and the kept, disrupts the families of those incarcerated, and fails to rehabilitate. FCL opposes further prison construction, larger prison budgets and expanded correctional bureaucracies. Because the lives and welfare of prisoners are a public responsibility, prisons should not be operated by profit-making firms.

11. Capital Punishment

Quakers are morally and religiously opposed to the idea that anyone, including the state, has the right to take a human life, and FCL supports total abolition of the death penalty. The death penalty has not been demonstrated to prevent or deter crime; it is unfairly applied; judicial mistakes do occur; it violates UN treaties and international standards.

12. Mental Illness and Criminal Proceedings

The present inadequate funding of mental health programs has led to the incarceration of individuals who loiter, panhandle, frighten, or annoy others as an outgrowth of a mental illness or disability.

Mental illness and its effects should not be treated as a crime, and people who suffer mental illness should not normally be incarcerated; instead, they should be treated for their condition. If a mentally ill person is prosecuted for a crime, that individual's right to treatment, both before and after trial, must be respected even if custodial institutions are inconvenienced. This includes the right to be free of restraints and

isolation used as forms of punishment or for the convenience of the staff. Forced medication should be given only as an emergency measure when the person is believed to be in immediate danger. Under no circumstances should an inmate be forced to undergo controversial procedures such as shock therapy, and consent to any such therapy should be based on the inmate's prior consultation with at least two psychiatrists of the person's choice.

A patients' rights advocate who is independent of the treating and custodial agency should have routine access to all persons in custody who have mental illness.

