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REFORMING **JUVENILE JUSTICE** IN MICHIGAN

"I offer encouragement to all those who are convinced that a just and necessary punishment must never exclude the dimension of hope and the goal of rehabilitation."
—Pope Francis, Address to U.S. Congress, September 24, 2015

DIFFERENTIATING ONE GENDER FROM ANOTHER HAPPENS rather quickly for the naked eye. Body shapes and sizes, vocal tones, hair length, and stature are typical indicators that tell a male apart from a female. Men and women are created by God with natural biological differences that complement each other. Just as men and women possess identifiable characteristics that distinguish one from the other, so too do youths and adults differ in many ways. Setting aside obvious visual dissimilarities, youths and adults differ in the manner by which they think, reason, decide, and act. Whereas a healthy 54-year-old may realize the consequences of a decision, a troubled 14-year-old doubtfully possesses the same cognitive ability. Simply put, a 14-year-old does not think the same way as a 54-year-old.

The development of the brain and the time it takes to mature fully is human nature. This was the justification behind the 2012 *Miller v. Alabama* United States Supreme Court ruling, which held that mandatory sentences of life without the possibility of parole are unconstitutional for juvenile offenders. The decision, which was supported by the U.S. Conference of Catholic Bishops, recognized that a mandatory life without parole sentence eliminates the opportunity for the child to mature, to grow into a reasonably thinking adult, to express genuine remorse, and to be rehabilitated in order to positively contribute to society. *Miller* thereby set the tone for how the criminal justice system penalizes youth who commit serious crimes. By recognizing the mental differences between juveniles and adults, the Supreme Court promulgated a policy direction for state legislatures to evaluate how youth are sentenced in the criminal justice system.

Measures recently introduced in the state legislature have kick-started the process of reexamining juvenile justice in Michigan. In the mid-1990s the state passed a series of punitive laws that funneled thousands of youth into the adult criminal justice system. In addition to automatically considering all 17-year-olds as adults, Michigan expanded the number of juvenile offenses requiring an adult sentence and allowed children of any age to be criminally convicted and sent to prison. From 2003–2013, for example, over 20,000 Michigan youth were placed on adult probation, detained in jail, or imprisoned for a crime committed under the age of 18. The majority of the cases were for nonviolent offenses; some were as young as 10 years old. A disproportionate number were minority youths.

Adult probation and prison systems are not equipped to address the unique needs of youth. The majority sent to adult court in the past decade never received an education beyond the 11th grade or completed a GED. Over half entered the system with known drug or alcohol abuse issues and mental health concerns. Some 1,500 of those juveniles had at least one dependent. Once youth leave the corrections system the lifelong consequences can be devastating in terms of barriers to employment, education, and housing.[1] Without effective reentry and support services, young people are likely to find themselves in a revolving door to prison. Thus, policy makers and public opinion is shifting from the 1990s-era "tough on crime" mentality to now being "smart on crime." The purpose of this **focus** publication is to evaluate juvenile justice in Michigan and to present how the Catholic Church's teaching on Restorative Justice can contribute to policy conversations. ■

MOVING FROM **"TOUGH"** TO **"SMART"** ON CRIME

"The causes of crime are complex and efforts to fight crime are complicated. One-size-fits-all solutions are often inadequate."
—U.S. Conference of Catholic Bishops, Responsibility, Rehabilitation, and Restoration, 2000

QUESTIONING **"TOUGH ON CRIME"** POLICIES

CONCERNED WITH HIGH RATES OF JUVENILE CRIME, LAWMAKERS DURING THE late 1980s and 1990s created new policies that imposed harsher sentences, especially for juveniles who committed adult crimes. Michigan passed several of its "tough on crime" laws, such as those treating 17-year-olds as adults, between 1988 and 1996. As a result of those laws, Michigan juveniles are receiving or may receive adult sentences for certain crimes. Since 1996, 75 children under the age of 14 have been convicted as adults. Once a juvenile has been tried as an adult, they are not able to be tried in a juvenile court for a felony charge in the future, even if they were not convicted of the original offense.[2]

While Michigan's laws of the 1990s moved toward treating juveniles as adults, research now shows that there are significant differences in development, maturity, and decision-making between youths and adults. The National Academy of Sciences has said that rational decision-making and executive function in the frontal lobe are not fully developed until an individual's mid-20s. Other research has called juvenile involvement in crime "an extension of the kind of risk taking" found in their development and identity, especially when combined with other environmental factors, such as peer pressure and lack of family involvement.[3]

Juvenile crime certainly causes pain and suffering to individuals and communities, and therefore, the juvenile justice system must hold adolescents accountable for their offenses. At the same time, the system must also work to prevent youths from reoffending and ensure they are fairly treated.[4] The Catholic bishops in the United States have long pointed out that society "must never respond to children who have committed crimes as though they are somehow equal to adults—fully formed in conscience and fully aware of their actions."[5] The U.S. Supreme Court has recognized the impact of such science presented in several cases (*Roper v. Simmons, Graham v. Florida, and Miller v. Alabama*), and each of these decisions differentiates between adults and juveniles in terms of punishment in the criminal justice system.

Not recognizing the scientific differences between youth and adult offenders in the criminal justice system can have disastrous consequences. The federal Juvenile Justice and Delinquency Prevention Act requires youth held in jails, prisons, or other correctional facilities must be separated "by sight and sound" from adults to protect them from person to person contact. Unfortunately, often as a result, juveniles in adult facilities are kept segregated or in isolation, which can increase the risk of depression, anxiety, and self-harm.[6] National research shows that youth in adult prisons and jails are twice as likely to be beaten by staff, five times as likely to be sexually assaulted, and 36 times more likely to commit suicide than peers in the juvenile justice system.[7] In contrast, state juvenile facilities such as Bay Pines Center in Escanaba and Shawano Center in Grayling provide services such as mental health or substance abuse treatment, education, and vocational training.

ADDRESSING **"SMART ON CRIME"** AND RECIDIVISM

MANY LAWMAKERS AT THE FEDERAL AND STATE LEVEL HAVE RECENTLY TURNED to a different approach regarding corrections, recognizing that "tough on crime" initiatives are costly and recidivism, or the rate of reoffending, still remains high. Lawmakers have instead adopted a "smart on crime" approach, which refers to a more holistic view of addressing offenders and reducing incarceration rates through evidence-based programming. Instead of focusing strictly on punishment as a deterrent for crime, the approach seeks alternative sentencing for low level, nonviolent offenses, improves reentry programs for offenders returning to the community, and creates more opportunities for rehabilitation, while still holding individuals accountable for their crime. Policies such as these are especially important for turning around the lives of young people.

The Catholic vision of criminal justice similarly seeks to promote responsibility and provide an opportunity for rehabilitation. Additionally, the Church teaches that the justice system must ultimately "address crime in terms of the harm

done to victims and communities, not simply as a violation of law."[8] In terms of Restorative Justice, it is important that sentencing looks to restore healing to families and individuals while also providing opportunities for offenders to grow, mature, and find a life outside of crime.

States such as Texas have witnessed promising results from "smart on crime" alternative programming for offenders, both in terms of lower recidivism and cost savings. In 2007, Texas lawmakers provided more funding for rehabilitative and evidence-based community programs, setting aside new beds in treatment programs, intermediate sanction facilities, outpatient treatment programs, and pre-trial diversion programs for those with mental illness. From 2007 to 2015, the number of juveniles in prison went from 4,866 to 1,302.[9] In 2011, Texas was able to close one of their prisons for the first time in 166 years. In 2014, the overall recidivism rate had dropped from 28 percent before the reforms to 22.6 percent.[10] Understanding that the reasons for crime

are complex and the solutions for crime are varied, "smart on crime" measures are demonstrating their effectiveness for juvenile and adult offenders. ■

CURRENT LEGISLATION ADDRESSING JUVENILE JUSTICE

MICHIGAN LAWMAKERS HAVE INTRODUCED A BIPARTISAN PACKAGE OF BILLS addressing juvenile justice. Several of the proposed reforms confront problems created by the "tough on crime" mentality and seek to find alternative ways of considering juvenile crime and rehabilitation. Michigan Catholic Conference is supportive of many of these measures, including those which would:

- Return the age of juvenile court jurisdiction to 18. Currently, Michigan is one of a handful of states that allow 17-year-olds to be automatically tried as adults.
- Prevent youth under the age of 18 from being housed with adult prisoners. Current policy allows juveniles to be housed in the same facility with adult prisoners as long as they are placed in solitary or isolation to prevent adult contact.
- Allow a judge flexibility when considering a waiver request during sentencing to weigh equally a juvenile's mitigating factors that may include culpability, history of treatment participation, and availability of other options.
- Incentivize counties to engage in more rehabilitative services for offending youth by modifying the current state and county funding allocations to the Child Care Fund.

The legislative measures addressed here are a first step toward reforming the juvenile justice system in Michigan while at the same time holding youth responsible for their actions. Michigan Catholic Conference is also urging greater emphasis on policies that reduce the overrepresentation of minorities in the adult system and programming that prepares offenders to positively contribute to society upon their release from prison. ■

"Thank you for receiving me and giving me the opportunity to be here with you and to share this time in your lives. It is a difficult time, one full of struggles. I know it is a painful time not only for you, but also for your families and for all of society. Any society, any family, which cannot share or take seriously the pain of its children, and views that pain as something normal or to be expected, is a society 'condemned' to remain a hostage to itself, prey to the very things which cause that pain…"

—Pope Francis, Address at Curran-Fromhold Correctional Facility, Philadelphia, September 27, 2015

1. "Youth Behind Bars: The High Cost of Kids in the Adult Criminal Justice System," Michigan Council on Crime and Delinquency, 2014, http://goo.gl/8C6u0x **2.** Ibid **3.** "Reforming Juvenile Justice: A Developmental Approach," National Research Council, 2013, http://goo.gl/bofPGV **4.** Ibid **5.** Responsibility, Rehabilitation, and Restoration: A Catholic Perspective on Crime and Criminal Justice," USCCB, 2000, http://goo.gl/9Ip8Fy **6.** Supra note 1 **7.** Ibid **8.** Supra note 5 **9.** "How Solitary Confinement Makes Our Streets Less Safe," Texas Public Policy Foundation, 10/5/15, http://goo.gl/4mQ5Xv **10.** "Tough Texas Gets Results by Going Softer on Crime," Washington Post, 11/27/14, https://goo.gl/B4Wdmp **11.** Supra note 1

CONCLUDING **THOUGHTS**

POLICIES AND PROGRAMS THAT PREVENT CRIME AND INCARCERATION ARE critical toward distancing youth from the criminal justice system. Community programming, quality education, poverty assistance, and an introduction to alternatives to crime are imperative. Mentorships or vocational programs can help students learn new skills and become excited about their futures, free from crime. Once juveniles have committed crimes and are facing time in juvenile detention, residential programs and services are important to help juveniles rehabilitate and become productive citizens. As much as possible, having community and family support can help offenders in their turnaround. Unfortunately in some areas, facilities or prisons are distant from where the crimes were committed, making it difficult for families, friends, or faith leaders to stay in contact.

Across the country a growing number of states are investing more funding toward prisoner reentry services. According to the Michigan Council on Crime and Delinquency, nearly all incarcerated youth in the juvenile justice system will return to their home communities at some point. Without proper support, youth reoffend at a rate between 50 and 70 percent[11]. ■

ADDITIONAL **RESOURCES**

Campaign for the Fair Sentencing of Youth
Helps create a society that respects the dignity and human rights of children through a justice system that operates with consideration of the child's age, provides youth with opportunities to return to community, and bars the imposition of life without parole for people under age 18.
Call: 202-289-4677
Email: info@fairsentencingofyouth.org

Catholic Charities of Shiawassee and Genesee Counties
Prisoner Reentry Program: *Helps clients receive outpatient support as they re-adjust to living in society.*
Shiawassee: 989-723-8239
Genesee: 810-232-9950

Catholic Social Services of Washtenaw County
Prisoner Reentry Program: *Helps assimilate parolees and ex-offenders back into society. Promotes public safety by increasing success rates of prisoners returning to the community.*
Livingston: 517-546-7088, ext. 67115
Washtenaw: 734-327-9717, ext. 379

Diocese of Grand Rapids
Prison and Jail Ministry: *Provides a Catholic presence to the incarcerated within 24 correctional facilities within the diocese. Raises awareness of justice issues surrounding incarceration.*
Call: 616-475-1255

Diocese of Lansing
Office of Restorative Justice: *Serves all people in prison or jail in the diocese who seek the fellowship of Catholic priests and laymen working within their institutions. Works with men and women who are paroled into our communities and seek to reestablish normal patterns of life and work, and bear the stigma of ex-offender. Works with children of incarcerated parents, with victims, juvenile offenders, and others affected by the correctional system. Corresponds with inmates through its Prisoner Pen Pal Program.*
Call: 517-342-2495

Diocese of Marquette
Prison Ministry: *Serves the spiritual and religious needs of inmates in the correctional facilities within the diocese.*
Call: 906-227-9103

Georgetown University
Center for Juvenile Justice Reform: *Supports and educates leaders across systems of care to advance a balanced, multi-systems approach to improving outcomes for, and promoting the positive development of, youth at risk of juvenile justice involvement.*
Call: 202-687-4942
Visit: http://cjjr.georgetown.edu/

Michigan Council on Crime and Delinquency
Improves the effectiveness of policies and systems addressing the prevention and reduction of crime and delinquency.
Visit: http://www.miccd.org/

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