

# WORLD & NATION

## N.Y. bishops speak on criminal justice

ALBANY, N.Y. (CNS) — The criminal justice system's "almost exclusive dependence on incarceration" must be rejected in favor of an approach that emphasizes "healing for the victim; rehabilitation and reintegration for the offender, and safety and stability for society," the bishops of New York State said.

The bishops' statement, called "Restoring All to the Fullness of Life: A Pastoral Statement on Criminal Justice for the Jubilee Year," was released Oct. 30 by the New York State Catholic Conference in Albany.

The bishops called for a moratorium on executions leading to an eventual repeal of the death penalty in the state; modification of the mandatory sentencing provisions of the state's Rockefeller drug laws; and reconsideration of the use of "special housing units" that give inmates no human contact for 23 hours a day.

"Emotionally unstable and mentally ill inmates should only be assigned to segregated housing if there is direct evidence demonstrating that they are at risk of physically hurting staff, other inmates, or themselves," they said.

The statement was a follow-up to a 1982 document in which the New York bishops urged the state "to develop viable alternatives to what was at the time a dramatic increase in the state's inmate population, and the consequent rush to construct more prisons."

Among their recommendations at that time, they said, were "reasonable bail policies for those charged with nonviolent offenses; alternatives to incarceration for those convicted of nonviolent crimes; treatment programs, in place of or in conjunction with prison terms for offenders suffering from mental illness or substance abuse; and the chance for offenders to im-

prove themselves while incarcerated, through educational opportunities, adequate health care including psychiatric treatment where needed, and the opportunity for religious worship and spiritual growth."

"It is with sadness and concern that we note that unfortunately few, if any, of these recommendations were fully implemented," the bishops added.

Since 1982, they said, there has been "a continued and even more intense emphasis on imprisonment, as well as reinstatement of the death penalty" in 1995.

The bishops' latest statement highlighted several church-sponsored programs for offenders that "serve as model of treatment approaches" for the state.

These included Abraham House in the Archdiocese of New York, which substitutes treatment for incarceration; My Mother's Place and Providence House in the Brooklyn Diocese, which work to preserve family relationships between women inmates and their children; Rogers House, an independent outreach formerly run by Corpus Christi Parish in the Rochester Diocese, and Hope House in the Buffalo Diocese, which helps inmates return to their local communities; and the Altamont program and Arbor House Day Program in the Albany Diocese for inmates re-entering society.

"The successes generated by these programs offer convincing evidence that treatment works, and that development and support of such programs must be an essential component of an effective, restorative criminal justice system," the bishops said.

Victims of crimes are "best restored to wholeness through treatment of their physical and emotional injuries; assurance of corrective punishment for those who have done them harm; just compen-

sation when feasible; and a loving invitation to healing and forgiveness," they said.

The bishops also recommended "mediated face-to-face encounters," where possible, between crime victims and those who have injured them.

"Survivors of crime who participate in such healing processes can often experience empowerment, a reduced sense of fear and reduced desire for retaliation," they said. "Offenders may be more sensitized to the suffering their actions have caused, and perhaps moved toward rehabilitation through the forgiveness they experience."

In appealing for a moratorium and repeal of the death penalty, the bishops said capital punishment "offers retribution rather than mercy, and allows no possibility of rehabilitation and restoration."

They also criticized the double-celling of inmates in special housing units designed for one person, saying it "raises serious concerns about physical safety, and the potential for inmates to be victimized by their cellmates."

The bishops said 23,000 people are currently in prison for drug violations under the Rockefeller drug laws, many of them nonviolent, first-time offenders.

"Incarcerating them for long periods of time does not serve to enhance public safety, nor does it offer the most effective approach to rehabilitation and restoration," they said.

The New York bishops said, however, that government is not "the primary or exclusive agent of change" and reminded Catholics of "our own responsibility to be involved in this work."

"We also need to consider how we might incorporate restorative practices into our daily lives in our homes, schools, communities and workplaces," they said.

## El Salvador

Continued from page 1

Two high-profile Florida attorneys working pro bono on the case — Robert Kerrigan of Pensacola and Robert Montgomery of Palm Beach — said they believe the jury ultimately misunderstood their task in the case. Both men think "command responsibility," a military concept at the heart of the case, may have been lost or distorted toward the end of trial.

U.S. District Judge Daniel T.K. Hurley told the jury that under international and U.S. law, a military commander is obligated to control troops under his command and keep them from committing torture or extrajudicial killing.

But he also said the plaintiffs had to show that such activities went on in El Salvador at the time the churchwomen were slain, that the two Salvadoran officials should have known such actions were taking place and that neither tried to prevent them.

"The jury undoubtedly felt there needed to be a clear line (of accountability) from top to bottom, from the generals to the massacre," said Kerrigan. "We will file a motion for a new trial on the basis that the jury was confused on the legal doctrine of command responsibility."

In his closing argument, defense attorney Kurt Klaus compared his clients to the U.S. Founding Fathers in their struggle for democracy and said the plaintiffs had failed to show his clients had prior knowledge that five National Guardsmen were going to kill the churchwomen.

Montgomery said he was simply gratified to bring new information on the case to the American public. He said the case was a first under the U.S. Torture Victim Protection Act, which allows U.S. citizens to sue foreigners living in the United States for damages from human rights abuses committed in other countries. It will take more cases to test the parameters of the law, according to Montgomery.

Both Vides Casanova and Garcia face another trial before the same judge next spring. That case involves a Salvadoran doctor who claims he was tortured in El Salvador while doing relief work there in 1980, and an Salvadoran woman who said she was tortured and later miscarried as a result.

Meanwhile, the verdict in the *Ford vs. Garcia* case represents a loss for all Central American refugees, according to Father Frank O'Loughlin, a Palm Beach diocesan priest and longtime advocate for Guatemalan and Salvadoran refugees living in Palm Beach County.

Father O'Loughlin stated, "The case was basically that (these men) did nothing to stop the series of murders."

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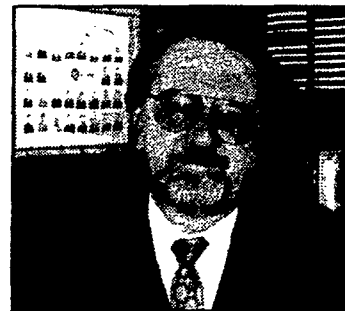
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