



Temple Rodef Shalom

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Criminal Justice Reform

The living room in my childhood home had a nice view of the San Francisco Bay. This is where we would sit by the fire in winter, and where I'd stand around the piano and sing with my sister and cousins during family gatherings. Looking out that window, right next to the terminal where my dad caught the morning ferry to work, I could see a big, lonely structure. All I knew about the place were the very basic facts: It was San Quentin, the maximum security California state prison that housed thousands of people, several hundred of whom were on death row.

I looked at those prison walls and courtyards every day, and I never saw a person. I was curious and puzzled. Shouldn't I know something about the people in that prison? Weren't they my neighbors, living two miles away as the crow flies? On this holiday of *Teshuvah*, repentance and forgiveness, my memory of that juxtaposition of physical proximity and relational distance brings up many questions. What is our role in another person's journey of *Teshuvah*? What is our obligation? What kinds of transgressions are we willing to forgive, and what do we demand of someone before they can be forgiven?

These questions can be both personal and societal. Every one of us has hurts we carry with us, and we have to decide how to respond to those hurts. Each of us also has a role to play in our society's system of punishment, rehabilitation and justice. As I speak with you today about this very sensitive and complicated topic of criminal justice reform, I recognize that not all transgressions are equal, nor can all be forgiven. At the same time, the purpose of Yom Kippur is to help us forgive as well as change, and to help us be a part of a community in which these goals are achievable.

The truth is that when I was 13 and my Chanukah presents sat stacked in that living room, life inside San Quentin was in turmoil. It was overcrowded, and people were rioting and assaulting each other.¹ The warden himself had just called the prison "a monstrosity" and a "time bomb" waiting to explode. Knowing this now just underscores how oblivious I was to the struggles, dangers and injustices that occur inside our criminal justice system. As Americans, it's our responsibility to know. And as Jews, the Torah tells us, *Lo ta'asu avel bamishpat*, you shall do no injustice in matters of law. It's our duty to do something about it.

This is a hard topic for many of us to relate to, and one few of us have much personal experience with. I hope that sharing with you my own experience as a victim of a violent crime might help to bring us closer to these questions.

One night, when I was 21 and a student at UC Berkeley, I was beaten and mugged. My friend and I were going out for sundaes at Fentons Creamery in Oakland. We stopped on the way so I could get some cash from an ATM. We didn't realize we were in a dangerous neighborhood. As I walked back and reached for the car door, I blacked out, and woke up in the hospital. I learned that a group of young men and women had knocked me out with a bottle and kicked me on the ground until my incredibly brave friend Shirley somehow got them to leave us alone.

My injuries were a concussion, black eyes, stitches and some broken teeth. I stayed home from college for a bit to rest and get lots of love from my family and friends. A couple of weeks later, I was well enough to return to school. It was bizarre and lucky that, having been unconscious, I remembered nothing from the attack.

As the weeks went by, I learned that two of the youths were caught. I was set to appear in court and testify, even though I didn't know anything. But on the morning of the hearing, it was canceled. The teenage boy and girl had pleaded guilty and would serve time in juvenile detention.

My friends asked me, was I angry? Yes, I was. I thought about the contempt with which my life had been treated. I felt the people who did that should pay a heavy price. But I was also confused. I had been told that these two kids who were caught were the youngest in the group. As far as I knew, they were not the instigators. Did they actually attack me themselves? I also wondered what other things were going on in their lives that led them to be on this street, with this group, and to become part of this crime. I wondered who their lawyers were and what kind of choice they had been offered in their plea deal. I wondered what would happen to *them* during their time in detention? How would this moment of their childhood affect the trajectory of *their* lives?

Thankfully, most of us never have an experience like mine. But there are members of our congregation who have been much *more* deeply touched by the criminal justice system, both as a victim and an offender. There are two sides to the commandment, *Tzedek tzedek tirdof*, Justice, Justice you shall pursue. Judaism is not only about compassion – the Torah holds that transgressors must be held to account, and *chesed*, compassion, must be balanced with *din*, judgment. But those who commit wrongful acts must be punished morally and fairly. I've spoken with members of our own temple community, and I know firsthand that the treatment they have received from the justice system has not always been fair or right. That is even truer for people who live in the more vulnerable communities of Virginia and around the country. We need more justice in the justice system.

The young man and woman who assaulted me were incarcerated for their crime in 1991, right in the middle of a trend over the last forty years, in which the number of American citizens in prison or jail grew by 500 percent. Today, 2.2 million Americans are incarcerated, which is about one out of 100 adults.² That rate is five to ten times higher than other democracies. We also must recognize the racial

dimension to this crisis. In Virginia, blacks make up 19 percent of the general population, and 58 percent of the prison population, a disparity that cannot be explained by a similar difference in crime rates. The system that provides for these citizens' pretrial process, incarceration, and reentry is overtaxed and underfunded. It's also structured by policies that have profound effects on outcomes.

One of the first challenges that confront a defendant is bail. For many years, those close to the system have understood the simple discrimination that if you have money to post bail, you can go free, and if you don't you'll get stuck in jail just because you're poor. Over 30 percent of people in jail nationwide are there because they could not afford to post bail.³ Once in jail, you can lose your job or fail out of school, lose custody of your children, or incur debt – even if you are innocent or will eventually avoid jail time for your offense. Any one of these things could destroy the balance that is keeping a person's life in order. This system has created a billion-dollar industry in America, of bail bond companies with names like Jailbreakers, Bad Boys & Freebird Bail Bonds who collect a 10 percent fee and don't have to put up any money. In the state of Maryland alone, over five years, these companies collected more than 75 million dollars in bail fees from people who were never found to have done anything wrong.⁴ This study helped lead Maryland to enact bail reform last year.

Last month, a group of clergy from VOICE, our 50-congregation interfaith advocacy network, met with Governor Northam and discussed bail reform as part of a larger, multi-year project to address mass incarceration in Virginia. We have also agreed to work on changing the fact that if you fail to pay a court fee, you can have your driver's license revoked. Then, you can't get to work, and thus begins a downward spiral that could see you ending up in jail.

In addition, while Virginia recently raised the dollar amount of a theft that triggers a felony charge from \$200 to \$500, our felony threshold is still among the lowest in the nation. Imagine if your 15-year-old nephew, a good kid who's going through a challenging year or two of rebellious behavior, got caught stealing an iPhone. Would you want him to have a felony conviction on his record? In Virginia, if you're over 14, that conviction is permanent and can be viewed by colleges, government agencies and potential employers. We need to give people, especially kids, a chance to learn their lesson and move on with their lives. For kids and adults, this low felony threshold means more jail time, more overcrowding and harder paths back into society. The governor agrees we need to raise it further.

If we are going to maintain the momentum we have created on these reforms, we will have to get involved with advocacy. We need your help with that, including showing up on Sunday, October 21, for a VOICE gathering with the governor in Northern Virginia. He told our group in Richmond last month that the reason he is working with VOICE is last year we brought 1,500 people to meet with him, on a Sunday afternoon, instead of watching the Redskins' game. When we show up, we compel our leaders to listen.

There are many other concerns that need attention, indeed some of the most important ones that will take more time to tackle, from prosecutorial discretion, to mandatory minimums, to the use of solitary confinement. We don't yet have a reporting law in Virginia, so we don't know exactly how solitary is used here. But there is such a law in Maryland. 50 percent of Maryland's prison population is in solitary at some point each year, and the average length of time they spend there is 45 days. 45 days, spending 23 hours a day in a 6 foot by 9 foot cell, possibly with bright lights at all times and nothing to read: do we believe that time spent like this will help with rehabilitation? In Virginia prisons, according to a recent ACLU report, the average total time a person spends in solitary confinement is 2.7 years. While the commonwealth has recently taken significant steps to reduce its use of solitary, this report tells us there is still a very long way to go.

Another area is reentry. Some of our own members are volunteering to help citizens of Virginia after they serve time in prison or jail. This part of our justice system is tragically neglected: after people are released, they need help so they can stay outside the system and lead productive lives. When we fail to do that, we do a terrible disservice to them and to our whole society. Our team at TRS has been helping this year with a job fair for returning citizens that will happen next month. Dozens of employers will be there, as well as volunteers to provide help with resumes and interview skills.

Our own Reform Jewish Movement encourages us to advocate on all these issues on the local and state levels, because that's where most of the laws are that affect mass incarceration. On the federal level, the URJ urges us to lobby Congress for the stalled, bipartisan bill for sentencing reform to become law.

In the many years since I was mugged in Oakland, I honestly haven't thought that much about it. I finished college, went to rabbinical school, got married and had kids. But not long ago, sitting at Starbucks, I got a call on my cell phone. It was from a government official in Oakland. He wanted to ask me about that young woman, who must now be around 40. She had applied for a job involving children. Did I have anything I wanted to say, as they evaluated her qualifications to work with kids? I had a choice. What role did I want to play in this woman's journey? I told the official that I wished her well. I believe that, as lawyer and activist Bryan Stevenson said, "We are all more than the worst thing we have ever done."

Tomorrow afternoon, we'll read the book of Jonah. This book really could have been called Nineveh. The people of Nineveh are the ones who do terrible things. God threatens them with destruction, and they repent and are forgiven. But the book *is* really about Jonah, God's reluctant messenger. Why does Jonah resist bringing God's warning to Nineveh? Does he assume this whole nation will never be able to change? Does he think none of those people should have an opportunity to attempt *Teshuvah*?

What's the worst thing you have ever done? A lie that caused lasting hurt; betrayal of trust, a failure to do something you really should have done? What's the worst thing someone has done to you? There are wrongs that are hard to forgive or even that cannot be forgiven. But when it is possible, can we begin to see an act in the larger picture of a person's life; can we begin to understand; can we allow for growth? What is our role in another person's journey?

On Yom Kippur, as we examine our own lives, and nurture our relationships with those close to us, let us make room, too, for people we may not know. As far away as we feel from another person, whatever barriers keep us from seeing into his or her life, we are still all connected, and Judaism teaches us we are all responsible for one another. Every person deserves a chance to be written in the book of life, not to be known only for the worst thing we have ever done. The Torah requires us to hold transgressors to account, and every society must punish those who break the law. At the same time, we owe it to victims, offenders and every other member of our society to be aware of what the system looks like on the inside, to do something to make our justice system truly just.

¹ [New York Times](#)

² [The Sentencing Project](#)

³ Criminal Justice Policy Program at Harvard

⁴ [Maryland Office of the Public Defender](#)