



# Law and Order? Or: How We Keep People Safe

Texts compiled by Rabbi Lev Meirowitz Nelson and Rabbi Alex Weissman

Modern American policing has its origins in slave-catching patrols, the quelling of strikes and labor activists, and anti-immigrant sentiment, with significant influence from military and counter-insurgency thinking. This has been documented at length by scholars and was summarized elegantly by Harvard history professor Jill Lepore in her July 2020 *New Yorker* article, "[The Invention of the Police](#)." In the current climate of police violence, particularly against people of color; political campaigns calling for law and order; and activist calls to defund the police, how might Jews respond? The following sources suggest an approach that flows from classical Jewish sources, through a lens informed by contemporary progressive values.

## I. *Shoftim* and *Shotrim*

There's no getting around the fact that the Torah commands us to appoint *softim* (judges or magistrates) and *shotrim* (the word in modern Hebrew for police). These verses are codified in countless halachic texts; Maimonides' formulation, below, is typical.

### Deuteronomy 16:18-19

You shall appoint *softim* and *shotrim* for your tribes, in all the settlements that the ETERNAL your God is giving you, and they shall govern the people with due<sup>1</sup> justice. You shall not judge unfairly: you shall show no partiality; you shall not take bribes, for bribes blind the eyes of the discerning and upset the plea of the just.

יח) שֹׁפְטִים וְשׁוֹטְרִים תִּתֶּן לְךָ בְּכָל  
שְׂעָרֶיךָ אֲשֶׁר ה' אֱלֹהֶיךָ נָתַן לְךָ  
לְשִׁבְטֶיךָ וְשִׁפְטוּ אֶת הָעָם מִשֹּׁפֵט  
צָדִק:  
יט) לֹא תִטֶּה מִשֹּׁפֵט לֹא תִכִּיר  
פְּנִים וְלֹא תִקַּח שֹׁחַד כִּי הַשֹּׁחַד יַעְוֶר  
עֵינַי חֲכָמִים וְיִסְלֹף דְּבָרֵי צְדִיקִים:

- From these verses, how do you understand the role of the *softim* and *shotrim*?
- How do you understand the relationship between the first and second verses? For instance, does the second expand on the first, limit it, does one rely on the other?

<sup>1</sup> This is the NJPS translation. Everett Fox translates "equitable judgment" for *mishpat tzedek*. He likewise renders *tzedek tzedek tirdof* "Equity equity you are to pursue."

From the earliest layers of interpretation and through centuries of halachic codification, there is an understanding that the *shotrim* use force to ensure the public's compliance. Maimonides' codification serves as an example:

### Maimonides, Laws of the Sanhedrin 1:1

...“Shoftim” are the judges who remain in the courthouse, and litigants come before them. “Shotrim” have a stick and a whip and stand before the judges [and] who roam around in the marketplaces and the streets, and who go into stores to set prices and measures, and to inflict corporal punishment on transgressors. And all of their deeds are governed by the judges, and whenever they see a transgression, they bring that person to the court where he can be judged according to his deed. (See also Talmud Sanhedrin 16b with Rashi's comment and Sifrei Devarim 144:6).

שופטים אלו הדיינים הקבועין  
בבית דין ובעלי דינין באים  
לפניהם, שוטרים אלו בעלי מקל  
ורצועה והם עומדים לפני  
הדיינים המסבבין בשווקים  
וברחובות ועל החנויות לתקן  
השערים והמדות ולהכות כל  
מעוות וכל מעשיהם ע"פ  
הדיינים וכל שיראו בו ערות דבר  
מביאין אותו לבית דין ודנין  
אותו כפי רשעו.

- From your reading of the Torah's verses, does Maimonides' interpretation seem self-evident or inevitable?
- How might you generalize *shoftim* and *shotrim* as foundational concepts in society?

Of course, we know from contemporary experience that calling the police--particularly when a person of color is involved--can have deadly consequences.

## II. Should I call the police?

One possible way to resolve the gap between the Torah's commandment and our lived experience is to posit that *Jewish* police are expected to meet stringent ethical standards, while the rest of the world is not. Rabbi Chayim David Halevi (see section III, below) articulates this view, though the experience of Palestinians, African asylum seekers, and others with the Israeli police gives us serious pause. The following passage from the Talmud offers a snapshot of how the Talmudic rabbis related to the local authorities.

### Talmud Gittin 7a

Mar Ukva [the Exilarch in Babylonia] sent [a letter] to Rabbi Elazar [in Eretz Yisrael]: [With regard to] people who stand

שלח ליה מר עוקבא לר'  
אלעזר בני אדם העומדים

over and torment me, and I have the power to deliver them into the hands of the government, what [is the halakha]?

עלי ובידי למסרם למלכות מהו?

[Rabbi Elazar] scored parchment and wrote to him: "I said: I will take heed to my ways, that I do not sin with my tongue; I will keep a curb upon my mouth, while the wicked is before me" (Psalms 39:2). [i.e.,] Even though "the wicked is before me," "I will keep a curb upon my mouth."

שרטט וכתב ליה (תהלים ט, ב) אמרתי אשמרה דרכי מחטוא בלשוני אשמרה לפי מחסום בעוד רשע לנגדי אע"פ שרשע לנגדי אשמרה לפי מחסום

He sent word to him [again]: They are tormenting me a great deal and I cannot stand them. [Rabbi Elazar] sent to him [in response]: "Resign yourself to the ETERNAL, and wait patiently [*hitcholel*] for [God]; do not fret yourself because of he who prospers in his way, because of the man who brings wicked devices to pass" (Psalms 37:7). [This verse indicates:] "Resign yourself to the ETERNAL," [i.e., do not do anything,] and [God] will strike them down as many corpses [*halalim*]. Rise before and stay later than them to the study hall, and they will disappear on their own. The matter emerged from the mouth of Rabbi Elazar, and the thief was placed in a neck iron [*kolar*, as one sentenced by the government].

שלח ליה קא מצערי לי טובא ולא מצינא דאיקום בהו שלח ליה (תהלים לו, ז) דום להי והתחולל לו דום להי והוא יפילם לך חללים חללים השכם והערב עליהן לבהמ"ד והן כלין מאיליהן הדבר יצא מפי ר"א ונתנוהו לגניבא בקולר

- Why do you think Rabbi Elazar gave the ruling he gave?
- Setting aside the problematic theology that God will protect us and we need not do anything, what ideas about police does this text suggest?

It is always valuable to look at a piece of Talmud in its context, since the Talmud works associatively and the surrounding texts can color the way we understand a section. Immediately before our passage, the Talmud quotes three different rabbis (Rav Hisda, Rav Yehuda in the name of Rav, and Rav Abahu) saying "A person should never impose excessive fear upon the members of the household." Consider that in light of the following:

## Jill Lepore, summarizing Hannah Arendt, "The Human Condition"

In the [Greek] polis, men argued and debated, as equals, under a rule of law. Outside the polis, in households, men dominated women, children, servants, and slaves, under a rule of force. This division of government sailed down the river of time...Kings asserted a rule of force over their subjects on the idea that their kingdom was their household.

- How do the comments of the three rabbis shape your understanding of the exchange between Mar Ukva and Rabbi Elazar?
- What is the role of fear in policing?
- How does Arendt's observation fit in?

In the passage following our Talmudic text, the rabbis discuss two prohibitions that were enacted after the destruction of the Temple in Jerusalem as a sign of mourning: a ban on singing and one on crowning grooms with garlands.

- Does this context add any new perspective to your understanding of the Mar Ukva/Rabbi Elazar text? To your thinking about police and their role in society?

### III. Restrictions on police

Given that, for now, police are a feature of our society, can restrictions or reforms reduce their harmfulness? Rabbi Chayim David Halevi (1924-1998), the Sephardic Chief Rabbi of Tel Aviv, believed so. The following excerpts from his responsum *Aseh Lekha Rav* 3:48 offer both concrete suggestions and a general approach to what police are and who they should be.

#### Chayim David Halevi, *Aseh Lekha Rav* 3:48

(Translated by Rabbi Jill Jacobs and Rabbi Aryeh Cohen)

It is completely clear that arrest is the beginning of the process of judgment. For this reason, we will begin with an elucidation of this topic in halakhah, which incidentally is one of the most difficult problems that has occupied us recently. How is it possible to prevent distress and pain to those who are innocent, on whom suspicion falls, in cases in which it eventually becomes clear that there was no basis for this suspicion. Let's take this case as an example: A person respected in his neighborhood and among his peers, whom the police suspect per

ברור ביותר, שהמעצר, הוא ראשית הליכי הדין. ולכן נפתח בבירור נושא זה בהלכה, שאגב, הנו אחת הבעיות הקשות שהרבו להעסיק אותנו לאחרונה. כיצד ניתן למנוע עגמת נפש וצער מאנשים חפי פשע, הנופל עליהם חשד, שמתברר לבסוף שלא היה לו כל יסוד. נקח לדוגמא מעשה שהיה: אדם נכבד בשכונתו ובחברתו, החשד ע"י המשטרה בעקבות מידע שנמסר

information that has been given to them. This person is arrested and brought to court, and an arrest warrant issued against him. In the end, it is proven that there was no basis for suspicion, and the person is released. But he complains bitterly—and rightly so: Should a person be arrested on the basis of information such as this? Smearing his name and causing incalculable damage! Is it possible to repair this type of burden? ...

One who makes an arrest is dealing with a person who, according to the law, is still innocent—this is before the person has stood in judgment, and before his guilt has been proven. For this reason, the arrest is a violation of the freedom of a person, who is presumed innocent. But in order to allow for the interrogation of the suspect, and for bringing him to court, we have to permit his arrest...

How is it possible to prevent distress and pain to those who are innocent, on whom suspicion falls, in cases in which it eventually becomes clear that there was no basis for this suspicion?... The requirement of police personnel [to have] a stronger base for their suspicion is very just—it is exceedingly clear that this is something that depends on very careful consideration, and also on legal knowledge.

- Halevi identifies the main harm to an arrested person as to their dignity and reputation. How might Halevi's argument have shifted if he were aware of the statistics on the number of deaths caused by police, either during arrest or in jail?

#### IV. What else could *shotrim* be?

*Shotrim* appear in other Biblical verses, apart from the most famous one quoted above. In each, their place in society and their function seem somewhat different. Examine the selection of four excerpts below and see what roles you can extract besides the image of a modern police officer. Could the Torah's commandment to establish *shotrim* be fulfilled through some other modern social institution?

לה. האיש נעצר, והובא לבית המשפט, ואף הוצאה נגדו פקודת מעצר. לבסוף הוכח כי לא היה שום יסוד לחשד והאיש שוחרר. אך הוא קובל במרירות ובצדק רב: האם על סמך מידע כזה עוצרים אדם, מכפישים שמו וגורמים לו נזק בל ישוער, האם ניתן בכלל לתקן עול מסוג זה...

המעצר מתיחס לאדם שבעיני החוק הוא עדיין זכאי, היות וטרם עמד לדין וטרם הוכחה אשמתו. ולכן, הרי הוא פגיעה בחירותו של אדם שהוא בחזקת חף מפשע, אלא שכדי להבטיח חקירתו של החשוד והבאתו בפני בית הדין, יש הכרח לאפשר מעצרו....

כיצד ניתן למנוע עגמת נפש וצער מאנשים חפי פשע, הנופל עליהם חשד, שמתברר לבסוף שלא היה לו כל יסוד... התביעה מאנשי משטרה לבסס חשדותיהם ביתר שאת, היא מאד מוצדקת, אך ברור ביותר שזה דבר התלוי בשיקול דעת מעמיק, וגם במדת השכלה משפטית.

## Exodus 5:14-15, 20-21

And the *shotrim* of the Israelites, whom Pharaoh's taskmasters had set over them, were beaten. "Why," they were asked, "did you not complete the prescribed amount of bricks, either yesterday or today, as you did before?" Then the *shotrim* of the Israelites came to Pharaoh and cried: "Why do you deal thus with your servants?... As they left Pharaoh's presence, they came upon Moses and Aaron standing in their path, and they said to them, "May the ETERNAL look upon you and punish you for making us loathsome to Pharaoh and his courtiers—putting a sword in their hands to slay us."

(יד) וַיִּכּוּ שְׂטָרֵי בְנֵי יִשְׂרָאֵל אֲשֶׁר שָׂמוּ  
עֲלֵהֶם נֹגְשֵׁי פְרַעֲהַ לְאָמֹר מְדוּעַ לֹא  
כִלִּיתֶם חֻקְכֶם לִלְבֹּן כְּתִמּוֹל שְׁלֹשׁם גַּם  
תִּמּוֹל גַּם הַיּוֹם :  
(טו) וַיָּבֹאוּ שְׂטָרֵי בְנֵי יִשְׂרָאֵל וַיִּצְעֲקוּ  
אֶל פְּרַעֲהַ לְאָמֹר לָמָּה תַעֲשֶׂה כֹה  
לְעַבְדֶּיךָ :  
(כ) וַיִּפְגְּעוּ אֶת מֹשֶׁה וְאֶת אַהֲרֹן נָצְבִים  
לְקִרְאָתָם בְּצֵאתָם מֵאֶת פְּרַעֲהַ :  
(כא) וַיֹּאמְרוּ אֲלֵהֶם יְרָא ה' עֲלֵיכֶם  
וַיִּשְׁפֹּט אֲשֶׁר הִבְאִשְׁתֶּם אֶת רֵיחֲנוּ בְעֵינֵי  
פְרַעֲהַ וּבְעֵינֵי עַבְדָּיו לְתֵת חֶרֶב בְּיָדָם  
לְהַרְגֵנוּ :

## Numbers 11:16-17

Then the ETERNAL said to Moses, "Gather for Me seventy of Israel's elders of whom you have experience as elders and *shotrim* of the people, and bring them to the Tent of Meeting and let them take their place there with you. I will come down and speak with you there, and I will draw upon the spirit that is on you and put it upon them; they shall share the burden of the people with you, and you shall not bear it alone.

(טז) וַיֹּאמֶר ה' אֶל מֹשֶׁה אֶסְפֶּה לִּי  
שִׁבְעִים אִישׁ מִזִּקְנֵי יִשְׂרָאֵל אֲשֶׁר יָדַעְתָּ  
כִּי הֵם זִקְנֵי הָעָם וְשֹׁטְרָיו וְלִקְחָתָּ  
אִתָּם אֶל אֹהֶל מוֹעֵד וְהִתְנַצְּבוּ שָׁם  
עִמָּךְ :  
(יז) וַיִּרְדְּתִי וְדִבַּרְתִּי עִמָּךְ שָׁם וְאַצְלִיתִי  
מִן הָרוּחַ אֲשֶׁר עָלִיךָ וְשִׁמַּתִּי עֲלֵיהֶם  
וְנָשְׂאוּ אִתָּךְ בְּמִשָּׁא הָעָם וְלֹא תִשָּׂא  
אֶתָּה לְבַדָּךְ :

## Proverbs 6

6 Lazybones, go to the ant; Study its ways and learn. 7 Without leader, *shoter*, or ruler, 8 It lays up its stores during the summer, Gathers in its food at the harvest.

(ו) לֵךְ אֶל נְמִלָּה עֲצַל רְאֵה דַרְכֶיהָ וְחַכֶּם :  
(ז) אֲשֶׁר אֵין לָהּ קָצִין שֹׁטֵר וּמִשָּׁל :  
(ח) תִּכְוִן בִּקְצִין לְחִמָּה אֲגַרָה בְּקָצִיר  
מֵאֲכָלָהּ :

## I Chronicles 27:1

The number of Israelites—chiefs of clans, officers of thousands and hundreds and their *shotrim*<sup>2</sup>, who served the king in all matters of the divisions, who worked in monthly shifts during all the months of the year—each division, 24,000.

וּבְנֵי יִשְׂרָאֵל לְמִסְפָּרָם רֹאשֵׁי הָאֲבוֹת וְשָׂרֵי  
הָאֲלָפִים וְהַמְּאוֹת וְשֹׁטְרֵיהֶם הַמְּשָׁרְתִים  
אֶת הַמְּלָךְ לְכָל דָּבָר הַמְּחַלְקוֹת הַבָּאָה  
וְהַיִּצָּאת חֹדֶשׁ בְּחֹדֶשׁ לְכָל חֹדֶשׁ הַשָּׁנָה  
הַמְּחַלְקֹת הָאֲחֹת עֶשְׂרִים וָאַרְבָּעָה אֲלָף :

<sup>2</sup> NJPS translates "clerks," drawing on the linguistic connection between *shoter* and *shtar*, a legal document.  
T'ruah: The Rabbinic Call for Human Rights ▪ 266 West 37<sup>th</sup> Street, Suite 803 ▪ New York, NY 10018  
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## Jill Lepore, “The Invention of the Police”

To police is to maintain law and order, but the word derives from *polis*—the Greek for “city,” or “polity”—by way of *politia*, the Latin for “citizenship,” and it entered English from the Middle French *police*, which meant not constables but government.

- How does Lepore’s etymology map onto the instances of *shotrim* you examined above? How do these texts open up new possibilities?

### V. A vision for the future

As we work towards transforming our society, one of the pressing questions will be what constitutes safety and how we secure it for all people. Moses’ charge to the scouts whom he sends to the land of Canaan offer an interesting values reorientation:

#### Numbers 13:18

...and see what kind of country it is. Are the people who dwell in it strong or weak, few or many?

Rashi:

WHETHER THEY ARE STRONG OR WEAK — He gave them a sign: if they live in open cities they are strong, since they evidently rely on their own strength, but if they live in fortified cities they are weak (see Midrash Tanchuma, Sh'lach 6).

וְרֵאִיתֶם אֶת-הָאָרֶץ מֵהַהוּא וְאֶת-הָעָם  
הַיֹּשֵׁב עָלֶיהָ הֲחֹזֵק הוּא הֲרַפָּה הַמְעַט  
הוּא אֲסֻרָב:

רש"י

החזק הוא הרפה - סימן מסר להם,  
אם בפרזים יושבין, חזקים הם  
שסומכין על גבורתם, ואם בערים  
בצורות הם יושבין, חלשים הם:

- How does Rashi’s explanation jive with your first assumption about the Canaanite cities?
- Consider that Rashi lived through the Crusades, during which much violence was directed by both quasi-governmental and non-governmental forces towards the Jews. How might that experience shape Rashi’s interpretation here?
- Which would you rather live in, a walled city or a city without walls? What constitutes a strong community?
- How might these texts shape a new vision for contemporary society?

Supplement: A Very Brief History of Policing, based on Jill Lepore's "The Invention of the Police." (Quotations from Lepore.)

- **13th century:** In England, the constabulary is instituted to preserve "the king's peace."
- **1680:** Virginia slave codes authorize constables to lash any slave found off their master's property without permission and return them to their master.
- **1718:** New Orleans founded. The city slave patrol is called, in French, la police.
- **1829:** Robert Peel, British Home Secretary, creates the London Metropolitan Police "in the wake of a great deal of labor unrest, and after years of suppressing Catholic rebellions in Ireland."
- **1829:** In Boston, Black abolitionist David Walker publishes "*An Appeal to the Coloured Citizens of the World*," calling for violent rebellion. "The governor of North Carolina wrote to his state's senators, 'I beg you will lay this matter before the police of your town and invite their prompt attention to the necessity of arresting the circulation of the book.' By 'police,' he meant slave patrols: in response to Walker's 'Appeal,' North Carolina formed a statewide 'patrol committee.'"
- **1854:** Boston disbands its "city watch" and incorporates a police department. The anti-immigrant Know-Nothing party wins big in city elections.
- **1905:** "Industrialists in Pennsylvania established the Iron and Coal Police to end strikes and bust unions, including the United Mine Workers; in 1905, three years after an anthracite-coal strike, the Pennsylvania State Police started operations. 'One State Policeman should be able to handle one hundred foreigners,' its new chief said."
- **1909:** "Modern American policing begins" when August Vollmer becomes Chief of Police in Berkeley. He says, "For years, ever since Spanish-American War days, I've studied military tactics and used them to good effect in rounding up crooks. After all we're conducting a war, a war against the enemies of society.' Who were those enemies? Mobsters, bootleggers, socialist agitators, strikers, union organizers, immigrants, and Black people."
- **1965:** "Preparing for a Senate vote just days after the [Watts] uprising ended, the chair of the Senate Judiciary Committee said, 'For some time, it has been my feeling that the task of law enforcement agencies is really not much different from military forces; namely, to deter crime before it occurs, just as our military objective is deterrence of aggression.'"
- **Cold War:** The Office of Public Safety at the U.S.A.I.D. provides counter-insurgency assistance to the police in at least fifty-two countries, and training to officers from nearly eighty. "Counter-insurgency boomeranged, and came back to the United States, as policing."