We must face violent crime honestly and courageously if we are ever to end mass incarceration and provide survivors what they truly want and need to heal.

By Michelle Alexander
Opinion Columnist

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When Chicago’s police chief, Eddie Johnson, looked out at the sea of journalists to share the breaking news that Jussie Smollett, a well-known and beloved actor, had allegedly staged a violent racist and homophobic attack against himself, he said with great emotion: “Guys, I look out into the crowd, I just wish that the families of gun violence in this city got this much attention.”

Chicago is besieged by horrific levels of violence, including thousands of shootings and hundreds of homicides each year. More than 500 people were killed in 2018, down from 664 in 2017. This ongoing tragedy cannot be blamed on any lack of aggressiveness on the part of law enforcement. Indeed, if wars on crime and drugs, militarized policing, “get tough” sentencing policies, torture of suspects, and perpetual monitoring and surveillance of the poorest, most crime-ridden communities actually worked to keep people safe, Chicago would be one of the safest cities in the world.

Despite the abysmal failure of “get tough” strategies to break cycles of violence in cities like Chicago, reformers of our criminal justice system in recent years have largely avoided the subject of violence, instead focusing their energy and resources on overhauling our nation’s drug laws and reducing penalties for nonviolent offenses.

It’s not difficult to understand why. After all, violent crime was used by politicians for decades to rationalize “get tough” rhetoric, declarations of war, harsh mandatory minimum sentencing, and a prison-building boom unlike anything the world has ever seen. The tide has turned somewhat, but reformers are proceeding cautiously, reaching first for the low-hanging fruit.
Survivors themselves know this. That’s why fully 90 percent of survivors in New York City, when given the chance to choose whether they want the person who harmed them incarcerated or in a restorative justice process — one that offers support to survivors while empowering them to help decide how perpetrators of violence can repair the damage they’ve done — choose the latter and opt to use the services of Ms. Sered’s nonprofit organization, Common Justice.

Ms. Sered launched Common Justice in an effort to give survivors of violence — like herself — a meaningful pathway to accountability without perpetuating the harms endemic to mass incarceration. As a restorative justice program, it offers a survivor-centered accountability process that “gives those directly impacted by acts of violence the opportunity to shape what repair will look like, and, in the case of the responsible party, to carry out that repair instead of going to prison.” The people who choose to participate are victims of serious violent felonies — people who have been shot, stabbed or robbed — and who decide that they would prefer to get answers from the person who harmed them, be heard in a restorative justice circle, help to devise an accountability plan, and receive comprehensive victim services, rather than send the person who harmed them to prison.

Ninety percent is a stunning figure considering everything we’ve been led to believe that survivors actually want. For years, we’ve been told that victims of violence want nothing more than for the people who hurt them to be locked up and treated harshly. It is true that some survivors do want revenge or retribution, especially in the immediate aftermath of the crime. Ms. Sered is emphatic that rage is not pathological and a desire for revenge is not blameworthy; both are normal and can be important to the healing process, much as denial and anger are normal stages of grief.

But she also stresses that the number of people who are interested only in revenge or punishment is greatly exaggerated. After all, survivors are almost never offered real choices. Usually when we ask victims “Do you want incarceration?” what we’re really asking is “Do you want something or nothing?” And when any of us are hurt, and when our families and communities are hurting, we want something rather than nothing. In many oppressed communities, drug treatment, good schools, economic investment, job training, trauma and grief support are not available options. Restorative justice is not an option. The only thing on offer is prisons, prosecutors and police.

But what happens, Ms. Sered wondered, if instead of asking, “Do you want something or nothing?” we started asking “Do you want this intervention or that prison?” It turns out, when given a real choice, very few survivors choose prison as their preferred response.
This is not because survivors, as a group, are especially merciful. To the contrary, they’re pragmatic. They know the criminal justice system will almost certainly fail to deliver what they want and need most to overcome their pain and trauma. More than 95 percent of cases end in plea bargains negotiated by lawyers behind the scenes. Given the system’s design, survivors know the system cannot be trusted to validate their suffering, give them answers or even a meaningful opportunity to be heard. Nor can it be trusted to keep them or others safe.

In fact, many victims find that incarceration actually makes them feel less safe. They worry that others will be angry with them for reporting the crime and retaliate, or fear what will happen when the person eventually returns home. Many believe, for good reason, that incarceration will likely make the person worse, not better — a frightening prospect when they’re likely to encounter the person again when they’re back in the neighborhood.

Survivors are right to question incarceration as a strategy for violence reduction. Violence is driven by shame, exposure to violence, isolation and an inability to meet one’s economic needs — all of which are core features of imprisonment. Perhaps most importantly, according to Ms. Sered, “Nearly everyone who has committed violence first survived it,” and studies indicate that experiencing violence is the greater predictor of committing it. Caging and isolating a person who’s already been damaged by violence is hardly a recipe for positive transformation.

That said, Ms. Sered makes clear that she doesn’t believe that having been a victim of crime excuses acts of violence in any way: “When we hurt someone, we incur an obligation. Period.” In fact, it seems her greatest complaint about our system of mass incarceration is that it fails to take accountability seriously. Our criminal injustice system lets people off the hook, as they aren’t obligated to answer the victims’ questions, listen to them, honor their pain, express genuine remorse, or do what they can to repair the harm they’ve done. They’re not required to take steps to heal themselves or address their own trauma, so they’re less likely to harm others in the future. The only thing prison requires is that people stay in their cages and somehow endure the isolation and violence of captivity. Prison deprives everyone concerned — victims and those who have caused
harm, as well as impacted families and communities — the opportunity to heal, honor their own humanity, and to break cycles of violence that have destroyed far too many lives.

Ms. Sered acknowledges that we, as a society, are not yet prepared to apply restorative and transformative justice principles to all crimes of violence. Some people do need to be separated in order to keep others safe. But if we invest our resources in the healing, restoration and rebuilding of relationships and communities — and stop pretending that caging people on a massive scale makes our communities safer — we just might discover that we are capable of reckoning with one another.

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Michelle Alexander became a New York Times columnist in 2018. She is a civil rights lawyer and advocate, legal scholar and author of “The New Jim Crow: Mass Incarceration in the Age of Colorblindness.”

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