

Foreword

By David Dark

One goes looking for the real ones. Let me explain.

The real ones are people who listen when you're talking to them, I mean actually listening, not pretending to listen as they're really mentally forming the words they're going to say once you stop talking. The real ones don't presume they know what you're going to say before you say it. They know—or they've come to know—that even beginning to know another person takes time and patience, slow talking *and* slow listening. They know that to love a person is to love a process. They know this about themselves.

Preston Shipp is a real one. In this volume, he gives us the profound gift of describing—with candor, courage, and conscience—his own process, chronicling the drama of the difficult and sometimes humiliating moral realizations that brought him to where he is today.

As is the case for many white male Christian Southerners in these United States (I speak as one myself), revolutionary moral movements across the country and around the globe have provided Preston a lot of incoming data to process. He's well acquainted with the defensiveness and the sense of white male grievance that's been capitalized on by pundits, politicians, and preachers his whole life long.

He's partaken of the heady mix of what Flannery O'Connor called the "Christ-haunted" and not remotely "Christ-centered" South, with ample doses of *The Dukes of Hazzard*, *Miami Vice*, and *Star Wars* thrown in. And, as you'll see, he makes the most of all of it. He takes it all personally, as real ones are prone to do, treasuring it and bringing it to bear, and then some, on the sometimes-unflattering data of his own life.

As a former criminal prosecutor, Preston methodically explains his passion and reasoning for making decisions that proved catastrophically costly for people over whom he exercised an inordinate power he later abjured. He reckons with his own complicity as “a cog in a broken wheel” and takes stock of what a euphemism like “a day at the office” really refers to in the calculus of our so-called justice system. He recalls his way of once relishing his suit and tie as if they were armor plating and his smooth speech, which he now sees as entirely too smooth. He serves as an eloquent and persuasive witness to his own experience as someone for whom certain career successes were abject moral failures, crushing real people, beautifully complex people with hopes and dreams and stories to tell about what they’ve been through.

He even compares his own addiction to feeling effective and successful as the crime-fighting good guy to the desperate material need and bodily craving of drug dealers and addicts whom he personally put away. He also recalls the perverse logic of his handy-dandy rationalization: “If I didn’t do it, someone else would.”

Preston is hellbent on carefully circling back through all of this as if his soul depends on it. By the time we reach the end of his text, we see that it does.

Because never circling back on the hurt we’ve administered is, as Preston shows, a form of hell that spreads like a contagion. Hurt people hurt people, as the saying has it. But Preston has a new one: “Healed people heal people.”

And it’s here that he takes us into the righteous space of beloved community. And most helpfully, Preston names names. If you’ve been drawn into the crew of people, caged and formerly caged, and been in relationship with those caged and formerly caged in Tennessee, you’ll likely find some of them here. Tennessee-based singer-songwriter Julien Baker of boygenius says, “Punk teaches the same inversion of power as the Gospel. You learn the coolest thing about having a microphone is turning it away from your own mouth.” Preston manages that coolest thing by sharing the microphone with a great cloud of loving and mostly living people you’ll want to look up and possibly track down to enter the healing game he describes. The healing game that found *him*. The door to it is open right here in these pages.

What happened to Preston can happen to anyone. As he feelingly testifies, “Adversaries can become allies.” And getting born again is an everyday do-over type of deal. In this, Preston functions among us as an everyday mystic practitioner with stories to tell. I intend nothing highfalutin or pious when I put it this way, but hear this: Preston chooses confession and contemplation over defensiveness and self-justification. He knows a mind that won’t change is, in a deep sense, a goddamned mind.

This isn’t to say God punishes or condemns anyone’s mind. But, as Preston shows, the choice to *be* hard and to not yield or change course in the face of a moral realization—to not repent or confess—is a choice against wholeness and health and, if it helps to put it this way, salvation. It’s a choice *against* grace, a choice to be a *disgrace*. An actual disgrace to oneself and to others. Preston decided he was disgracing himself by wielding the power of accusation (a power manifested in the lynching of Jesus of Nazareth) and made the necessary changes. He documents that process here for all to see and consider.

I could go on and on. I want to celebrate Preston’s way of describing his first in-person meeting with men on Tennessee’s death row as reminiscent of young Anakin Skywalker being examined by the Jedi Council. I want to talk about how Preston found *me* and how I was myself drawn into these circles and how one evening the two of us spent in a discernment session with our friends at Riverbend Maximum Security Institution felt like a visitation of the Holy Spirit. But ... this isn’t the place for that.

This is the place for receiving the witness of Preston Shipp, a real one who, through the kindness of others, has journeyed his way toward becoming someone who’s perfectly useless in the strategies of abusive people. He’s a free and getting-set-free, healed and being-healed man. Heed the call for baseline moral seriousness he has heard and issues here. Hear his voice. Receive his witness.

— David Dark, Associate Professor of Religion and the Arts at Belmont University and author of *We Become What We Normalize*

[T]here must be a first step, a starting point from which a new approach to justice may begin. ... It is a step that the prophets, who see injustice clearly, provoke us to. ... This first step is confession.

— Randy Spivey, from the essay,
“Questioning Society’s Criminal Justice
Narratives”¹

¹ Randy Spivey, “Questioning Society’s Criminal Justice Narratives” in *And the Criminals with Him: Essays in Honor of Will D. Campbell and All the Reconciled*, eds. Will D. Campbell and Richard C. Goode (Eugene, OR: Wipf and Stock, 2012), 187.

The Beginning

While I was studying political science at a conservative Christian college called Lipscomb University in Nashville, I obtained a summer internship in the local district attorney's office. There I watched prosecutors in action. They gave orders to police officers, negotiated with defense counsel, questioned witnesses, argued cases in court, and comforted victims and their families.

I was sold. This was the career for me, the fulfillment of a childhood fantasy of working in law enforcement, putting bad guys behind bars. This was right in line with my understanding of justice as punishment, reinforced by my understanding of how God punishes sin. I was confident this was God's will for my life.

I'll never forget the trial of an especially heinous case during the summer of my internship. A man had punished a young child by forcing her into scalding hot water, resulting in severe third-degree burns. I had never before been exposed to such callous brutality. What kind of cold-hearted monster could torture a child? It was the job of the prosecutor to see that such cruelty is punished harshly, not only to vindicate the victim but to ensure that no one else gets hurt.

During a break in the testimony, I overheard the young prosecutor ask the defense attorney, "How can you defend such a miserable dirtbag and still sleep at night?"

How, indeed, I wondered to myself. And why would anyone choose to align themselves with such a violent abuser?

I determined then and there which side I would stand on. I wanted to be the voice of justice for victims by doling out retribution to violent criminals who preyed on others. I would wear the white hat by serving as a prosecutor.

Going into my senior year of college, I became laser-focused on this goal. I took the law school admissions test, got a decent score, and in the fall of 1999, enrolled at the University of Tennessee College of Law. I signed up for any class I thought might be helpful to

an aspiring prosecutor, including both sections of criminal law and procedure, evidence, and two sections of trial advocacy. I enrolled in a semester-long seminar on the death penalty. I even served as president of the Criminal Law Society.

I had never been so focused on a goal. I never forgot about that abused child. Every class got me closer to becoming a prosecutor who would pursue justice against anyone who broke the law and hurt others.

Law school tends to be an intense, rigorous experience, as Scott Turow recounts in *One L*, but I was pursuing my dream. Dreams don't come true unless you wake up and do the work. Every class I attended, every case I read, and every grade I earned got me closer to my goal.

After my second year of law school, I got a summer clerkship in the Knox County District Attorney General's office. Though I still had a year to go before graduating, I was sworn in as a special prosecutor to handle my own caseload.

I could hardly believe it. *I was doing it.*

I showed up each morning in a suit, just like those young prosecutors I so admired a few years before. I was mentored by a young assistant DA who was well-known for being tough as nails. She prepped me to be on my feet daily in the courtroom, making arguments, examining witnesses, consulting with law enforcement officers, negotiating plea agreements, and preparing witnesses to testify. Acting on her advice, in my spare time I studied the law, memorizing the statutory elements of various criminal offenses—such as theft, robbery, burglary, and assault—until I knew them like the back of my hand

My hard work was beginning to pay off. The career I had dreamed of was coming more clearly into focus.

Introduction

In 2004, just a stone's throw from where I grew up, worshiped, and went to school, a sixteen-year-old runaway was trapped in a nightmare I could never imagine. I grew up in a loving, stable family that attended church three times a week. She was a victim of sex trafficking. I knew nothing of violence, save an occasional scrap at school or a spanking at home. She had been raped at knifepoint. I was untouched by addiction. She was born into the chaos of drug and alcohol abuse, trauma, and neglect. Although we lived in the same city, our experiences could not have been more different. I knew nothing of her or her life. She was not part of my community. But one day, I would argue that she needed to spend the rest of her life in prison.

This is the job of a prosecutor, to make arguments to judges and juries about the fate of people you don't know. A day at the office can have permanent consequences for the defendants in the cases you're assigned. Prosecutors may argue that people they've never had an actual conversation with should spend a year, five years, ten, twenty, fifty years in prison. Then they go home, go to sleep, wake up, and make another argument about another person the next day. Often the only thing they know about these people is the worst thing they have ever done.

This was the world I lived in, the job I did ... and it made sense to me. Because I assumed that the people I made arguments against were bad and wrong, whereas I was good and right. The legal system in which I labored was the best system in the world. As a prosecutor, I promoted justice, so when I got up in the morning and went to sleep at night, I believed I was making the world a better place. I was going to have to learn from the very people I made arguments against that I did not even know what justice was, and that in order to make the world a better place, I would have to turn away from what I always wanted to be.

Life-Altering Decisions

This book describes my journey from serving as a successful career prosecutor in the Tennessee Attorney General's Office to becoming a friend and ally to people who are or have been incarcerated. I now advocate for sweeping criminal justice reform and an end to mass incarceration around the country. During this transition from an agent of retribution to an advocate for redemption, I have sojourned through deserts of doubt, mountains of regret, and swamps of my own prejudice. It has been a difficult road. In many ways, I feel I've gone from lost to found, but my reeducation is still ongoing and my journey far from over.

Others have written powerfully about the need for criminal justice reform and the critical need to protect the rights and dignity of those who are or have been incarcerated. I'm deeply indebted to authors like Michelle Alexander for her masterpiece, *The New Jim Crow*, and Bryan Stevenson for his bestseller, *Just Mercy*. They are both Black, trained defense attorneys, and uniquely qualified to teach with authority about America's original sin of racism and its ongoing impact on our system of laws, courts, and prisons.

Although I have been profoundly influenced by them, my experience is markedly different from theirs. First, I was a prosecutor. Unlike most other legal reformers, I didn't earn my stripes by fighting against an unjust, racist system. I was part of that system. From 2004 to 2008, I was a cog in a broken wheel that crushes individuals, families, and entire communities.

Second, I am a white man, and like most white men, my privilege has obscured my vision like a giant plank in my eye. I played a role, wittingly and unwittingly, in the systemic racism that fuels the machine. Once I started seeing more clearly, I watched disproportionate numbers of young men and women of color be fed through the gears, stripped of their personhood, and denied any true chance of bettering themselves or society.

Third, I am a product of white evangelicalism. I was raised in and trained to seek God's will in every aspect of my life. Although it took a while to feel it, there was a tension between my faith and my career. My job as a prosecutor to seek punishment often ran contrary to the teachings of Jesus, who offered forgiveness to and even identified

himself with the very people I had aligned myself against. He opposed every unjust status quo—relentlessly, unapologetically—whereas I worked to maintain them. Why was I ever content to listen to sermons and sing songs about mercy and forgiveness and redemption on Sundays, then serve as an agent of vengeance the rest of the week?

Something had to give.

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Part One
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Retribution:
Institutionalized Vengeance

Chapter 1

The Power of the Prosecutor

Taking on the bad guys was my childhood dream. Even as a boy in the 1980s, I had a strong sense of right and wrong, fair and unfair, and a desire to defend people who were mistreated or taken advantage of. This sense of justice was reinforced by my religious upbringing. My parents, Mike and Julia Shipp, raised me and my younger sister, Emily, in a conservative Christian denomination called the Church of Christ. We went to church three times a week—Sunday morning for worship and Sunday school classes, Sunday night for another worship service, and Wednesday night for a midweek gathering with more Bible classes and often a fellowship meal. I was active in the church youth group, which meant plenty of camps and retreats. Church was my place. Church people were my people.

Education was important to my parents, and they wanted to give Emily and me every opportunity to succeed. Therefore, they sacrificed in order to enroll us in private Christian schools. In addition to studying math, English, and history, we had daily Bible classes and weekly chapel services. I was a Bible Bowl champion.

The Bible is chock-full of stories of a vengeful God who punishes wrongdoers. There are more than 30 crimes in the Bible that carried the death penalty, including murder, adultery, striking or cursing one's parents, idolatry, violating the Sabbath rules, and blasphemy. Lest we think God got soft between the Old and New Testaments, there is a story in the Acts of the Apostles in which God strikes a couple dead for lying to the church about how much money they put in the collection plate. The Bible is where we get the phrase, "an eye for an eye, and a tooth for a tooth." Hours listening to sermons

and sitting in Bible class confirmed that harsh retribution against people who break the law is indeed Biblical.

Many afternoons I came home from that Christian school on the Antioch side of Nashville and flipped on the TV for some law-and-order drama. My parents loved *Perry Mason*, *Matlock*, and other courtroom mysteries, but I craved a little more excitement. These were the days of *Magnum, P.I.* and *The A-Team*.

My absolute favorite of the 1980s crime shows was *Miami Vice*. What could possibly be cooler to an eight-year-old boy than cops in a black Ferrari chasing bad guys through the palm-tree-lined streets of Miami? I loved the flashy clothes, the MTV-inspired soundtrack, and the cigarette boats tearing through the foamy waves. For those who may not remember, Don Johnson and Philip Michael Thomas played a couple of tough undercover narcotics cops in south Florida. Beneath the pastel designer jackets they carried guns, always a breath away from a shootout with drug kingpins and smugglers. Like all heroes, they put their lives on the line to protect society.

How would it feel, I wondered, to work on the side of law and order, making society safer by putting criminals behind bars?

Ten years later, when I saw prosecutors at work, I got my answer .

After I married my college sweetheart, Sherisse Herring, attended law school, clerked for two years for a judge, and welcomed our first child, Lila Joy, to the world, I accepted a position as a prosecutor in the Tennessee Attorney General's Office.

This was nothing short of my dream job, the position I had coveted since seeing those prosecutors in action a few years earlier. I went to law school solely to become a prosecutor. Now I was seeing that dream come to fruition, confirmed on my new business cards: Preston Shipp: Assistant Attorney General. I wore this label proudly, convinced I was part of a justice system that protects law-abiding citizens. I thought of myself as one of the good guys. I believed prosecutors always wore the white hats. Sure, the machinery of American justice groaned and lurched along at times, bogged down by arcane wording and rules, but I was confident we were rumbling toward a better future for our children, one founded on law and order.

So early in my career, I had no idea that a case I was destined to work on would one day garner national attention; prompt tweets

from Rihanna, Kim Kardashian, and Lebron James; and draw me into the spotlight while turning me inside out and threatening my very livelihood. I could not have anticipated my confidence ever turning into regret or my pride giving way to shame.

No, at this point in my life and career, there was no cause for anything but celebration. Sherisse and I were in a season of new beginnings, wrought with sleepless nights, joyous surprises, and toddler milestones. Lila Joy, true to her middle name, was a delight. My family and my career were just as I'd hoped they would be.

Although I knew the system was not perfect, (what system is?), it was the best system in the world, and my commitment to it was unwavering. I firmly believed in the process of constitutional rights, laws, and punishment designed to protect society, vindicate victims, and hold offenders accountable.

"You do the crime, you do the time" isn't just some pithy slogan; it's the criminal justice system in a nutshell.

Here there is not much room for the observation that a large percentage of violent offenders are themselves victims of violence. Tough-on-crime rhetoric seldom fails to acknowledge that, just as a disease cannot be cured by treating the symptoms, crime cannot be prevented without addressing the conditions in which it thrives. None of this factored into my mentality as a prosecutor, in which the easiest way to do the job is to keep things black and white.

I had much to learn—and to unlearn—and, as the great Vietnamese Buddhist teacher Thich Nhat Hanh said, "For things to reveal themselves, we need to be ready to abandon our views about them."¹

I was not there yet.

Actually, I wasn't even getting started.

The Most Powerful Actor in the System

Very early in my career I began to comprehend the true power wielded by prosecutors. As Michelle Alexander wrote, "It is the prosecutor, far more than any other criminal justice official, who holds the keys to the jailhouse door. ... The prosecutor is also free to

¹ Thich Nhat Hanh, *Being Peace* (Berkeley, CA: Parallax Press, 2009), 50.

file more charges against a defendant than can realistically be proven in court, so long as probable cause arguably exists—a practice known as overcharging.²”

I once prosecuted a case in which two young men got into a bar fight. Both had had way too much to drink. After a few quick, clumsy punches, the smaller of the two scurried out to the parking lot. The larger man stumbled after him. But the smaller guy had retrieved a tire iron from his truck to even the odds. At this point, the larger man grabbed a revolver from his waistband and fired a shot at the smaller man as he approached. The smaller man fell to the ground. He was ultimately taken to the hospital and treated for a gunshot wound to the leg. The cops who questioned the men and interviewed the available witnesses heard various, sometimes conflicted accounts of what happened. It was up to me, the prosecutor, to sort out who would be charged and with what crime.

Should they both be charged with aggravated assault, for example, as they both had used deadly weapons? Or only the one who actually got a chance to use his? Or should the man with the gun be charged with attempted murder? It was up to me, the prosecutor, to answer these critical questions.

I might decide that the man who fired the shot was acting in self-defense, as he only did so when the other man was approaching him with a tire iron. In that case, under Tennessee’s stand-your-ground law, the man with the gun would have no duty to retreat before using deadly force. Therefore, no criminal charge against him would be warranted. What about the man who went and got the tire iron?

“He knocked out one of my teeth,” the man had told the cops. But eyewitnesses said the fight was over when he left to get a weapon. Should he be charged?

I had to make these decisions; there is no appeal or further recourse.

Suppose I, having sole discretion over the charging decision, concluded that the man with the tire iron needed to be charged with aggravated assault, a felony punishable by several years in prison, because by arming himself with a weapon he caused a relatively harmless scuffle to escalate into a potentially deadly situation.

² Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Color Blindness* (New York: New Press, 2020), 102.

The power of the prosecutor does not end there.

Once the charge was brought, I, as prosecutor, had sole authority to decide whether to make a guilty plea offer and what it would be. Should I consider offering a lesser charge than felony aggravated assault?

“C’mon,” the tire iron man’s defense attorney argued, “look at the size of the other guy! He’s like the Hulk! My client only went to get the tire iron to protect himself.”

Maybe the defense attorney was right. Maybe I should cut the guy a break. He did get shot in the leg, after all. Maybe I should offer to let him plead guilty to misdemeanor assault and serve a year on probation if he would waive his right to a trial.

Such is the power of the prosecutor. He or she alone has the authority to put in motion the gears of the criminal legal system, directing the machine in a fateful direction before a judge or jury or even defense attorney ever becomes involved in the case. The impact of these initial decisions cannot be overstated. The power to decide whether to bring criminal charges, what charges to bring, and whether to make a guilty plea offer is the power to dramatically affect the trajectory of other people’s lives.

Over forty years ago, Chief Justice Joe Henry of the Tennessee Supreme Court commented on the prosecutor’s immense decision-making powers in *Pace v. State*, 566 S.W.2d 861, 867 (Tenn. 1978):

He or she is answerable to no superior and has virtually unbridled discretion in determining whether to prosecute and for what offense. No court may interfere with his discretion to prosecute or not to prosecute, and in the formulation of this decision he or she is answerable to no one. In a very real sense this is the most powerful office in Tennessee today. Its responsibilities are awesome; the potential for abuse is frightening.

These words were particularly sobering to me in my role as prosecutor. I did not want to take lightly such a weighty responsibility. Once handed this amount of power, I wanted to wield it wisely—as an ethical lawyer, a husband and father, a man of sincere faith, and a public servant.

Stacked in My Favor

My first taste of power and success came during the summer after my second year of law school, when I got a clerkship with the county prosecutor's office. Despite the nerves and anxiety, I wore my suits and ties like armor for battle. I faced off with seasoned criminal defense lawyers, negotiated plea deals, and conducted scores of hearings. Of the cases I tried during these months, I lost only one. However, that win/loss ratio wasn't due to me being some kind of prosecutorial prodigy.

No, as the prosecutor, the deck was simply stacked in my favor.

In civil court, the parties square off on mostly equal terms. Mr. Jones's controversy with Mr. Smith is styled *Jones v. Smith*. In the world of criminal law, on the other hand, things are entirely different. The prosecutor, the most powerful actor in this drama, is not even a party to a criminal case, and neither is Mr. Jones, the actual victim who suffered the harm or loss. Instead, the theoretical "victim" in a criminal case is the entire state itself, whose laws were violated. Prosecutors are agents and representatives of the state, and have all of the state's resources at their disposal. The style of a criminal case, therefore, is *State of Tennessee v. Smith*. The power imbalance between the prosecutor and the defendant, reflected in the way the cases are styled, has enormous practical consequences.

Many defendants, unable to pay hefty lawyer fees, have only the aid of a public defender or one appointed by the court. Whereas prosecutors have at their immediate disposal the aid of an army of police investigators, the state crime laboratory, and experts in toxicology, ballistics, or forensics, for the defendant, any additional resources sought—such as independent testing of evidence, expert witnesses, or mental evaluations—must be requested by the defendant's lawyer in a motion and approved by the judge.

If the person charged with a crime cannot afford bail, consider the disparate impact of the passage of time on the defendant and the prosecutor. A delay of six months has little to no impact on the prosecutor, who simply moves on to other cases. For the defendant, on the other hand, a delay of six months means lost wages, separation from family, and the trauma of being incarcerated prior to a finding of guilt. Being incarcerated pretrial also creates a powerful incentive for defendants to accept a plea deal that releases them onto probation,

even in cases when they may be innocent. Prosecutors can therefore leverage a defendant's desire to simply get out of jail to secure a guilty plea.

The disparity in power and resources between the defendant and the prosecutor simply cannot be overstated. Early in my career, I saw nothing wrong with this. Suited up as a prosecutor during that summer in Knoxville, I was certain the police officers and I were the white knights. We were the ones promoting justice and punishing the bad guys. Our motives were pure, our cause righteous. It would have been foolish not to use all the tools at our disposal.

Years later, my success as an Assistant Tennessee Attorney General was no less remarkable. I served as an appellate prosecutor, handling criminal appeals that flowed into our office from across the state of Tennessee. My job in case after case after case was to argue that the convictions and sentences people received were legally sound.

During my time as an appellate prosecutor, I wrote briefs in nearly three hundred cases, ranging from driving under the influence to first-degree murder. I loved the law, with all its nuances and intricacies. I made my arguments to the Court of Criminal Appeals, Tennessee Supreme Court, and federal courts, and they rarely decided against me.

Choices Come with Consequences

The first new leaves were blooming on the spring trees when a banker's box landed on my desk. Like many cases before it, it was full of court transcripts, pleadings, trial exhibits, and crime-scene photos. The defendant in the case was a sixteen-year-old runaway who had been tried as an adult; convicted of first-degree, premeditated murder; and sentenced to fifty-one years in prison. The young defendant had appealed the conviction and sentence, and the case had been assigned to me as the representative of the state.

The law is a tough business, and lawyers are trained to avoid emotion, as it could cloud our judgment and objectivity. The system makes frequent use of case numbers or simple labels like "defendant" to facilitate the distance lawyers are told to keep from the people whose fates they argue over. Therefore, this banker's box, despite it involving a child convicted of murder and sentenced to life in prison,

was unremarkable to me. It was just another case, another brief I had to write.

I lifted the lid from the box and began spreading its contents on the large wooden desk in my office. Time to get to work.

My office was in the John Sevier State Office Building and overlooked James Robertson Parkway in downtown Nashville. On the other side of the building stood a statue of Sergeant Alvin York. Sergeant York is a state hero, one of the most decorated soldiers of World War I, and an embodiment of the spirit that has led to Tennessee being dubbed the Volunteer State.

From my corner office in this building over the previous few years, I had been trying to do my part as well, investing myself in work that mattered. I wasn't exactly arrogant, *per se*, but I did believe I was making a difference, which is all I ever wanted. I didn't want to just go to any old job, make money, and eventually retire. Anybody could go into finance or marketing. Any lawyer could draft a will or a contract. I wanted to do something that I felt was really significant. When a person is assaulted or robbed or killed, it is significant. How the person who is responsible for causing the harm will be held accountable and how the rights of the people who suffered the harm will be protected are matters of grave consequence. We look to prosecutors to help resolve these critical questions. This career would never be boring or inconsequential.

As an Assistant Attorney General, I served under the Tennessee Attorney General, the state's chief law-enforcement officer. The Attorney General represented the people of Tennessee in all kinds of matters of public interest, from enforcement of environmental laws and child-support actions to protecting consumers against predatory schemes and prosecuting antitrust violations. The Criminal Justice Division of the office handled statewide criminal prosecutions and appeals.

This is where I stepped in.

I considered myself a tough but fair man. When I began working on a case, I assumed the conviction and sentence were proper. After all, the American system of justice—with its constitutional rights, presumption of innocence, and requirement of proof beyond a reasonable doubt—is widely assumed to be the best in the world. However, should I find faults in any case, justice demanded that I

concede error. I wasn't ignorant of some flaws in our legal system, particularly when it comes to how we treat at-risk youth.

The previous evening, I had read a bedtime story to my four- and one-year-old daughters, kissing Lila Joy on the cheek and swaddling Ruby Faith in her infant blanket. Sherisse and I adored them, just as my parents had adored me as a boy on this same side of town. But I knew not everyone was so fortunate.

Kids who didn't have the benefit of a stable family, who lived in poverty and were victims of abuse and trauma, are disproportionately represented in the prison system. Tragically, race also plays a significant role in which kids get swept up into the criminal legal system. In the case of the sixteen-year-old runaway who had been convicted of killing a man, all these factors were present.

By the time I was assigned the case, four years had passed since her initial arrest, two years since her conviction; she was now twenty years old. Average life expectancy for a female in the United States is seventy-nine years. Given that she would not even be eligible for review by the parole board until she had served fifty-one years, she would be sixty-seven before she even had the possibility of going free. This "life" sentence may as well have been a death sentence. By that time, my own daughters would be middle-aged women, hopefully with treasured memories of dances, college classes, honeymoons, new babies, and family vacations to the beach, the Grand Canyon, and Disney World.

It seemed so unfair, for someone so young to have already been doomed to life in prison. Even the toughest prosecutors hate to see teenagers make decisions that ruin the rest of their lives. The system I worked in could seem harsh at times. However, justice demanded that when people made choices that hurt others, they must be punished. The law is clear, actions have consequences

This girl, although she was very young, had taken a life, and she had a history of truancy, theft, and assault. Crime-scene photos revealed in graphic detail how the worst of her choices—to go with a man who was willing to pay her for sex—had resulted in the death of forty-three-year-old Johnny Allen. The murder occurred in the same part of town where I was raised, and despite questionable patterns in his personal life, Mr. Allen didn't deserve to die in a pool of his own blood. There was no bringing him back, and his friends and

relatives were left to bear this grievous wound. They were victims looking to the state to bring about justice. It certainly wasn't always easy or pretty, but this is what I had signed up for when I determined to be a prosecutor.

I pulled the box closer and fished out the next set of documents.

Trials, Pleas, and Appeals

It wasn't within my purview to take issue with the findings of the trial judge and jury. I wasn't there to retry cases. Sorting out the truth of guilt and innocence had already been done when the conviction was secured. I wasn't paid to ask, in the case of the sixteen-year-old, why she had dropped out of school and moved in with a sex trafficker who got her hooked on drugs and made her have sex with men more than twice her age.

No, on appellate review, justice is all about adhering to the correct process.

Was she given a fair trial? Was evidence improperly admitted against her? Were her constitutional rights or any rules of procedure violated?

These are important questions. Despite everyone's best efforts, trial court practice can be a bit haphazard and frenetic. With the trial judge making rulings about the admissibility of evidence on the spot, there is an element in trial practice of flying by the seat of one's pants. To complicate matters further, jurors are not lawyers. They are not trained to decide complicated legal questions.

For these reasons, a convicted defendant has the right to appeal a conviction and sentence and have the case reviewed by a higher court. In addition to filing written briefs, they can request oral argument before the Court of Criminal Appeals or before the Tennessee Supreme Court.

Guilty pleas resolve the overwhelming majority of cases, so an appeal often marks the first time lawyers for the defendant and for the state really go toe-to-toe. Even after cases are decided by a jury, the appeal is a whole new ball game. Each party submits a detailed written brief applying legal precedent to the facts at hand. Both make nuanced arguments as to why the court should either deny relief by affirming the conviction and sentence or grant a new trial and send the case back to the lower court.

As we will see, the question of whether justice was done is largely a matter of whether all the procedural rules were followed. Therefore, the defense attorney typically argues on appeal that some rule violation by the cops, the prosecutors, or the judge merits reversal of the judgment. Perhaps a police officer took a statement without first advising the defendant of his or her constitutional rights, or searched the defendant's residence based on a warrant that listed a different address. Maybe the prosecutor made an improper inflammatory statement to the jury, or the judge increased the sentence based on an inappropriate aggravating factor.

A defendant may raise a host of errors in an attempt to gain relief from his or her conviction and sentence.

I loved appellate work. My typical day consisted of reading the opposing counsel's legal brief, studying the trial court transcript, and researching the legal issues presented. I spent a great deal of time reviewing relevant statutes and case law. I then drafted my own brief arguing the state's position that there were no errors—or, if there were errors, they did not affect the overall fairness of the trial.

This was not shoot-from-the-hip work. The ethics board and the Supreme Court had no patience for sloppy lawyering. Each brief I submitted to the courts needed to be carefully researched and crafted, temperate and refined.

Playing My Part

Most legal dramas and movies locate all the action in the trial courtroom. There, lawyers handle cases, cross-examine witnesses, make impassioned arguments to the jury, and showboat for the news cameras. They are the heroes of shows like *Law & Order* and movies like *A Few Good Men*, in which Tom Cruise skillfully breaks down Jack Nicholson on the witness stand by demanding, "I want the truth!"

Who can forget Matthew McConaughey in *A Time to Kill*, standing before an all-white Mississippi jury, pleading the case of a Black defendant who had murdered the two white men responsible for raping and torturing his little girl, asking them to close their eyes and imagine the crime from his point of view.

"Now," McConaughey urges, "imagine she's white."

In law school, I envisioned playing my part in such tense trial court scenes, jurors hanging on my every word; but real life wasn't the movies. My role as an appellate prosecutor was less dramatic and more academic. I didn't question many witnesses or negotiate with defense counsel. I spent a lot of time researching the law and crafting legal arguments to support the state's position.

Whereas trial lawyers are frequently in the courtroom, I averaged only two or three oral arguments a month. Still these court appearances were one of the best parts of my job, and I soon discovered I was in my element advocating the state's position. There were no jurors or witnesses present at an appellate argument. It was just the professionals, the defense attorney and the state's attorney arguing finer points of the law before a panel of judges.

For me, this was the legal profession at its best.

After the defense attorney finished his argument and went back to his seat at his table, it was my turn. This was the sweetest part of my job. All eyes were on me as I stood, buttoned my suit jacket, gathered my notes, and approached the podium.

I always began, "May it please the court, Preston Shipp, arguing on behalf of the state of Tennessee."

After I sailed through my presentation, the judges frequently peppered me with questions. They wanted to see how well I commanded the facts of the case and how knowledgeable I was about the law. If they tried to shoot holes in my argument, I had to defend my position—or potentially see all my work go to waste.

It was exciting as a young lawyer to match wits with opposing counsel, to prove myself before a group of judges, with the ultimate goal of vindicating society by punishing criminals. It was like a game of chess, as I saw it, and I loved to expose with surgical precision the weaknesses in the other side's case. If the case involved novel legal issues, it was even more gratifying to know the court's opinion would be published as legal authority that was binding on Tennessee courts going forward.

Of course, I was aware that the fate of real people was on the line, but lawyers are trained to maintain a professional distance from the people affected by their cases. Lawyers are advocates who represent the interests of their clients. My client was the state of Tennessee. I

was always prepared, confident, and fully expected to win on behalf of the citizens who expected justice to be done.

The primitive roots of the adversarial system are found in the medieval practice of trial by battle, in which two parties or their representatives resolved a dispute through combat. The last man standing was declared the victor. Through competition, the truth was made manifest.

Today, although blood is no longer spilled, this adversarial nature is still evident in our criminal justice system. A local Nashville law firm even advertises itself as “gladiators in suits.”

One side wins. The other loses.

The Art of Compartmentalization

Alone in my office near the state capitol, I studied the transcripts from the murder case involving the sixteen-year-old. Of course, the odds were stacked against her. Nationwide, over 80 percent of appeals are unsuccessful. For an appellate court to find reversible error is to admit there’s been a breakdown somewhere in the process, and it’s not often the wheels of justice grind to a halt and go into reverse. More than likely, she would be punished for the next fifty-one years.

My religious upbringing taught me all about forgiveness and redemption. I learned that God loves us like a good parent and is willing to forgive our sins and have a relationship with us. In the gospels, Jesus preached and modeled mercy, saying that he did not come to condemn the world but to save it. I learned to sing hymns like “Amazing Grace” that praised God for his willingness to pardon our sins. This was all foundational to my Christian faith.

Though I was a Christian, I worked as a prosecutor. Many of my colleagues were Christians as well. I did not perceive any conflict between those two worlds. My faith—the religious compartment—was grounded in forgiveness. I knew that we all have sinned and fallen short of God’s glory, we are all in need of mercy and grace, and God makes redemption available to all. This does not negate the need for a system of laws and punishment. After all, the Bible also states that the law was made not for the righteous, but for lawbreakers. My job as a prosecutor went into this separate compartment, in which law, not grace or mercy, was controlling. I saw no contradiction in a belief

in forgiveness and redemption at the spiritual level and punishing criminals at the worldly level.

Sitting at the computer in my office, trial transcripts and exhibits spread across my desk, I began crafting the state's response to the sixteen-year-old's appeal. Like all the defendants in my cases, I had never met her. I didn't know her story or background. If I had passed her in a hallway, I would not have even recognized her. Yet I was part of the brigade that would determine her fate for decades to come.

In my brief and later before the appellate judges, I argued persuasively that her appeal must be denied. In a callous disregard of human life, she had murdered and then robbed a man. In her own words, she had "executed" him. The evidence against her was sufficient to sustain the conviction for first-degree murder. There was no legal justification for wasting resources retrying the case. She had received due process in accord with her constitutional rights. Counsel had been appointed to her and argued her case, with a neutral judge presiding, and a jury of her peers had delivered its unanimous verdict. That verdict—guilty of first-degree, premeditated murder—mandated a life sentence, which in Tennessee was fifty-one years. Although she was only sixteen years old, she had committed the most heinous crime in the criminal code, and in the eyes of the law, she deserved every month, week, and day of those fifty-one years in prison.

This conclusion gave me no joy. Without question, it was a heartbreaking situation. As a prosecutor, however, I was simply a minister of the law. Therefore, I did not stop to think about my personal feelings about any of my cases. My job was to apply the law impartially to vindicate the victim, promote public safety, and ensure accountability for wrongdoing ... which I had done. I believed in the system and was confident that I was on the right side of justice. Tomorrow, I would move on to the next case. It would be many months before the Court of Criminal Appeals rendered its final decision. The legal system often moves at a glacial pace, grinding even time beneath its wheels.

After a couple of weeks of hard work, I finally put the finishing touches on my brief and filed it with the court. I shut down my computer and headed home, threading my truck through the heavy

Nashville traffic, past trees newly alive with vibrant spring foliage. The days were growing longer now. Our city's tallest structure, known locally as the Batman building, gleamed in the afternoon sun.

At home, I dropped onto the sofa with Sherisse after dinner to watch a new crime drama called *Breaking Bad*, in which the hero was anything but. Already, the heaviness of working on a murder case was fading from my thoughts.

I leaned my head back and took a deep breath. "The girls about ready for bed?"

"Lila and Ruby are waiting for their bedtime story."

A smile spread across my face. I gave Sherisse a kiss, then stood to attend to my fatherly duties.

The work of justice was not always black and white. Not every story had a happy ending. However, my goals of protecting the public from violence, holding people who caused harm accountable, and vindicating victims and their families were honorable. Society depends on people who are devoted to enforcing the law. This is what I had dreamed of doing since I was a kid. This was work that mattered. Now, as an Assistant Attorney General and appellate prosecutor, I had done my job faithfully, served my community, and fulfilled what I took to be my God-given tasks. Before long, I myself would hit the pillow, knowing I would sleep well.