

New York - Calling 311 And Its Halachic Ties

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By: Exclusive to VIN News By Rabbi Yair Hoffman

New York - It is known as the Citizen's Service Center in the halls of New York City government. It is a quick and anonymous way to report anyone who is ostensibly doing something illegal. Is someone running an illegal business next door to you? No problem. Dial 311. The problem is that, from a Torah perspective dialing these three harmless-looking digits can also be an instant way in which to lose one's Olam HaBah [See Shulchan Aruch Choshain Mishpat 388:9].

Indeed the Gemorah in Rosh HaShana describes the horrifying Gehenam-filled fate of someone who engages in Mesirah. The Shach (Yore Deah 388:53) cites a number of authorities (Tosfos and Hagaos

Ashri) that someone who actually converted to another religion is better off than someone who engaged in Mesirah.

Is it ever permitted to dial the three digits? Yes, but being that the repercussions are so fraught with danger, it is better not to make that judgment call oneself and only do so after consulting heavily with a qualified Posaik. So when is it permitted?

The Shulchan Aruch (as amended by the Shach in 388:12 and 10) rules that if a person is causing significant distress to an individual it is, nonetheless, completely forbidden to perform a Mesirah. If, however, the entire community is suffering then, after the person is warned (see Vilna Gaon and Sanhedrin 72b), they may report the offender.

There are a number of questions. What is to be considered "significant distress?" The example cited by the Ramah is that the person is engaging in counterfeiting and will thus endanger the community.

It would seem that the "significant distress" should be similarly significant. Issues of violence and sexual abuse, of course, are significant. Indeed, even if it is just to one individual, the issue of Pikuach Nefesh may be involved and a call would be required under such circumstances.

What about threatening Mesirah? There is a story going around (we all certainly hope that it is not true) that a woman wanted a day care center to take in her child and was told that there was no more room.

She then told the operator that if they did not take in her child, she would promptly report them to the authorities. Rav Dovid Morgenstern Shlita, a Rav and Posaik in Yerushalayim and the right-hand man of Rav Elyashiv Shlita ruled that there is absolutely no heter to cause someone such an anxiety even by threatening to do a Mesirah. Indeed, the Maharik (Shoresh 126) rules that someone important who threatens to do a Mesirah is forbidden to give testimony and is considered Pasul Le'Aidus.

How about jailing an ex-spouse who has not kept her agreement for visitations? Or how about jailing a non-paying ex who is behind in alimony or child support? It is difficult to see how any of these can

be justified halachically and it is also difficult to imagine if either of them will see any Olam HaBah.

Can these people do Teshuvah? In the HaGaos Ashri (Chapter Zeh Borrer) there is an indication that if someone does the requisite Teshuvah and also obtains the forgiveness of the person who he or she

informed upon, then their Olam HaBah can be restored. It seems clear, however, that one without the other would not be sufficient.

In conclusion, the issue is one that is fraught with danger and if anyone values his or her portion in the world-to-come, such a drastic step should only be taken after consultation with leading Poskim, and after the person has been sufficiently warned. If there is no time for a warning, the leading Poskim should be consulted as to what to do.

The Ramah rules that in such circumstances the report may, nonetheless, be made.