

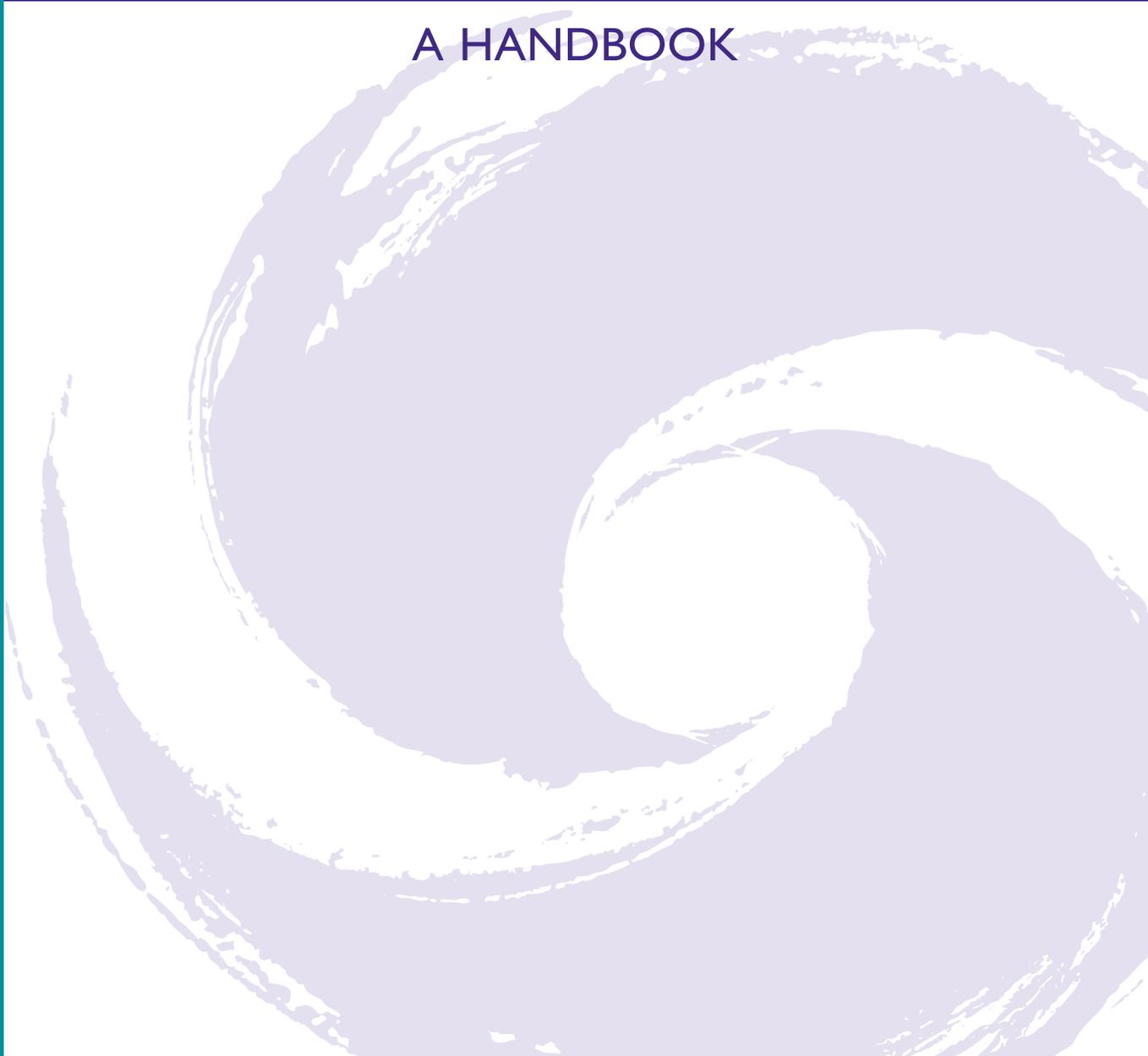


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Responding to Clergy Misconduct

A HANDBOOK



Responding to Clergy Misconduct:

When prevention fails and a faith leader violates the boundaries of a pastoral or teaching relationship, a judicatory or organization must be prepared to respond. A complaint of misconduct requires response and action for, the complainant, the faith leader, and the congregation or organization are all in need of response and action. The complaint needs to be investigated and adjudicated; the congregation or organization also needs support to deal with the confusion, grief, and anger in order to move towards healing and restoration.

Responding to Clergy Misconduct lays out the basic principles of analysis of ministerial misconduct: who, what, when, and where. It offers the basic principles for response to complaints and the conceptual framework to navigate the process of response. The handbook is non-denominational and not intended to represent the teachings of any particular denomination or movement in matters of doctrine or morals.

An invaluable resource for judicatory leaders, committees and commissions who are addressing complaints of clergy misconduct. Includes extensive, comprehensive and essential resource with reference materials, detailed appendices and case studies.

*For information about our prevention resources and curriculum addressing Healthy Boundaries for Clergy and Spiritual Leaders, please visit our website at **FaithTrustInstitute.org/healthy-boundaries***

RESPONDING TO CLERGY MISCONDUCT

A Handbook

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PREFACE



It is clergy misconduct when any person in a ministerial role of leadership or pastoral counseling (clergy, religious, or lay) engages in sexual contact or sexualized behavior with a congregant, client, employee, student, or staff member (adult, teenager, or child) in a professional relationship. Such misconduct is a violation of the ministerial relationship in which a person in a position of religious leadership takes advantage of a vulnerable person, instead of protecting her/him.

Responding to Clergy Misconduct is intended as a handbook for use by leaders in judicatories or seminaries to help you prepare to respond to complaints of clergy misconduct. It reflects our experience at FaithTrust Institute working with judicatories and seminaries since 1983. It reflects our belief that our religious institutions have a moral responsibility *and* the capacity to respond justly and fairly to repair the brokenness caused when a faith leader betrays the trust of his/her people.

One of the contradictions in this whole effort that can complicate matters is that we, as faith leaders, are being called upon to police ourselves. Within our institutional settings, we are confronted with a complaint against someone we probably know, have worked with, and may even trust. Yet we have to proceed without bias to call one another to account if harm has been done. In this sense we are expected to protect our institution from the consequences of misconduct by one of its leaders, which may bring us to the point of confronting a friend or colleague. However, the integrity of the ministerial relationship and of our religious institution is at stake. We are called to step up and act.

Perhaps it goes without saying that throughout all of this process, common sense is critical. Every policy has to be interpreted, and some degree of common sense is called for. Most importantly, we need clarity about our agenda. (See Section 3: "What Is Your Agenda?")

Lastly, this process need not be adversarial. We need to remember that the complainant is one of us who believes she/he has been harmed by a faith leader (who is also one of us). The complainant is disclosing something very painful and asking her/his faith community to respond with compassion and with justice. She/he is not the enemy, but rather a courageous person who is giving us an opportunity to restore the integrity of the ministerial relationship. Although she/he brings us bad news of a possible betrayal of trust by one of our leaders, we must resist the temptation to "shoot the messenger."

In this handbook, we are laying out the basic principles of analysis of ministerial misconduct: who, what, when, and where. We then offer the basic principles for response to complaints. We believe that if you have a conceptual framework in front of you, your judicatory or seminary will be able to navigate the process of response.

This handbook, like other presentations and publications of FaithTrust Institute, are non-denominational; that is, while consistent with Jewish and Christian traditions, they are not intended to represent the teaching of any particular denomination or movement in matters of doctrine or morals.

Throughout this handbook, we use the phrase “clergy and other ministers” or “faith leaders” to refer to those persons who act as representatives of churches and synagogues in any capacity—lay or professional (for example, pastor, rabbi, deacon, priest, cantor, youth minister, camp counselor, pastoral counselor, parochial minister, bishop, or choir director). We have chosen to use the adjective “ministerial” to refer to the relationships of authority and trust in which these persons are involved. We recognize that there is no term that applies universally to those who act as representatives of churches and synagogues in all capacities.

When we use the phrases “congregant/client” or “congregant/staff member,” we are using these phrases as a shortened form of the phrase “congregant, client, employee, student, or staff member.” Readers should keep in mind that we are referring to ministers’ relationships with anyone whom they serve or supervise, not just the groups explicitly mentioned (as in “congregants/clients or congregants/staff”).



“I would be true, for there are those who trust me;
I would be pure, for there are those who care;
I would be strong, for there is much to suffer;
I would be brave, for there is much to dare;
I would be brave, for there is much to dare.”

“I Would Be True,” a hymn by Howard Arnold Walter, 1917

SECTION 1

BACKGROUND OF THE ISSUES



Introduction: False Shepherds and True Shepherds

The starting point for the discussion of clergy misconduct must be the texts that are the foundation of any faith community. Sadly, too often this is the last place to which a judicatory turns for guidance. Yet in Hebrew and Christian texts, we find the naming of the sin of misconduct by leaders, the direction for response, and the promise of justice and healing. Without a doubt, we read of the complexity of circumstances that echoes our own experiences.

The overall framework that guides our reading of the texts and formulating of policies is our understanding of power and vulnerability within the ministerial relationship. Although the fact of an inequality of power when a vulnerable person seeks help from one who has resources creates the possibility of violation and abuse, it does not predict it.

If the faith leader has healthy boundaries, is alert and aware, and is committed to the integrity of the relationship, the relative imbalance of power in the relationship is only a fact, not an excuse to take advantage. The integrity of the relationship is sustained.

If the faith leader does not have healthy boundaries, is unaware, insensitive, and disregards the integrity of the relationship, the relative imbalance of power is a fact that creates an opportunity to take advantage of someone who may be vulnerable.

It is this second situation that calls for a response from the faith community. Most of our people trust us as their faith leaders simply because we have been trained and called forth for leadership. When we violate boundaries and betray the trust of an individual, we also betray the entire faith community. The bonds of relationship that hold us together are ruptured.

The texts that we provide here contrast the False Shepherd and the True Shepherd.

Ezekiel 34

¹ The word of the Lord God came to me: ² Mortal, prophesy against the shepherds of Israel: prophesy, and say to them—to the shepherds: Thus says the Lord God: Ah, you shepherds of Israel who have been feeding yourselves! Should not shepherds feed the sheep? ³ You eat the fat, you clothe yourselves with the wool, you slaughter the fatlings; but you do not feed the sheep. ⁴ You have not strengthened the weak, you have not healed the sick, you have not bound up the injured, you have not brought back the strayed, you have not sought the lost, but with force and harshness you have ruled them. ⁵ So they were scattered, because there was no shepherd; and scattered, they became food for all the wild animals. ⁶ My sheep were scattered, they wandered over all the mountains

and on every high hill; my sheep were scattered over all the face of the earth, with no one to search or seek for them.

⁷ Therefore, you shepherds, hear the word of the Lord: ⁸ As I live, says the Lord God, because my sheep have become a prey, and my sheep have become food for all the wild animals, since there was no shepherd; and because my shepherds have not searched for my sheep, but the shepherds have fed themselves, and have not fed my sheep; ⁹ therefore, you shepherds, hear the word of the Lord: ¹⁰ Thus says the Lord God, I am against the shepherds; and I will demand my sheep at their hand, and put a stop to their feeding the sheep; no longer shall the shepherds feed themselves. I will rescue my sheep from their mouths, so that they may not be food for them.

God, the True Shepherd

¹¹ For thus says the Lord God: I myself will search for my sheep, and will seek them out.

¹² As shepherds seek out their flocks when they are among their scattered sheep, so I will seek out my sheep. I will rescue them from all the places to which they have been scattered on a day of clouds and thick darkness. ¹³ I will bring them out from the peoples and gather them from the countries, and will bring them into their own land; and I will feed them on the mountains of Israel, by the watercourses, and in all the inhabited parts of the land. ¹⁴ I will feed them with good pasture, and the mountain heights of Israel shall be their pasture; there they shall lie down in good grazing land, and they shall feed on rich pasture on the mountains of Israel. ¹⁵ I myself will be the shepherd of my sheep, and I will make them lie down, says the Lord God. ¹⁶ I will seek the lost, and I will bring back the strayed, and I will bind up the injured, and I will strengthen the weak, but the fat and the strong I will destroy. I will feed them with justice.

¹⁷ As for you, my flock, thus says the Lord God: I shall judge between sheep and sheep, between rams and goats: ¹⁸ Is it not enough for you to feed on the good pasture, but you must tread down with your feet the rest of your pasture? When you drink of clear water, must you foul the rest with your feet? ¹⁹ And must my sheep eat what you have trodden with your feet, and drink what you have fouled with your feet?

²⁰ Therefore, thus says the Lord God to them: I myself will judge between the fat sheep and the lean sheep. ²¹ Because you pushed with flank and shoulder, and butted at all the weak animals with your horns until you scattered them far and wide, ²² I will save my flock, and they shall no longer be ravaged; and I will judge between sheep and sheep.

²³ I will set up over them one shepherd, my servant David, and he shall feed them: he shall feed them and be their shepherd. ²⁴ And I, the Lord, will be their God, and my servant David shall be prince among them; I, the Lord, have spoken.

²⁵ I will make with them a covenant of peace and banish wild animals from the land, so that they may live in the wild and sleep in the woods securely. ²⁶ I will make them and the region around my hill a blessing; and I will send down the showers in their season; they shall be showers of blessing. ²⁷ The trees of the field shall yield their fruit, and the earth shall yield its increase. They shall be secure on their soil; and they shall know that I am the Lord, when I break the bars of their yoke, and save them from the hands of those who enslaved them. ²⁸ They shall no more be plunder for the nations, nor shall the animals of the land devour them; they shall live in safety, and no one shall make them afraid. ²⁹ I will provide for them splendid vegetation so that they shall no more be consumed with hunger in the land, and no longer suffer the insults of the nations. ³⁰ They shall know that I, the Lord their God, am with them, and that they, the house of Israel,

are my people, says the Lord God. ³¹ You are my sheep, the sheep of my pasture and I am your God, says the Lord God. (NRSV)

In Hebrew scripture, the prophet Ezekiel (Chapter 34) describes the false shepherds. These are the shepherds that meet their own needs by taking from the flock they are supposed to be shepherding and that fail to protect and care for the flock, which is their job. Ezekiel bemoans all of this and is clearly speaking to the public figures of his day using the shepherd metaphor—effective no doubt because the people knew that the customary practice for shepherds was that they did not take sheep from their own flock for their needs. The point was that the shepherd was entrusted with the care of the flock in order to insure the well-being of the whole community, who relied on the flock as a resource. God condemns the false shepherds for their disregard of the well-being of the flock and for their misuse of their roles. Then, ironically, the text (v. 23) says that God will establish David to be the real shepherd. Let's look at David.

2 Samuel 11

¹ In the spring of the year, the time when kings go out to battle, David sent Joab with his officers and all Israel with him; they ravaged the Ammonites, and besieged Rabbah. But David remained at Jerusalem.

² It happened, late one afternoon, when David rose from his couch and was walking about on the roof of the king's house, that he saw from the roof a woman bathing; the woman was very beautiful. ³ David sent someone to inquire about the woman. It was reported, "This is Bathsheba daughter of Eliam, the wife of Uriah the Hittite." ⁴ So David sent messengers to get her, and she came to him, and he lay with her. (Now she was purifying herself after her period.) Then she returned to her house. ⁵ The woman conceived; and she sent and told David, "I am pregnant."

⁶ So David sent word to Joab, "Send me Uriah the Hittite." And Joab sent Uriah to David. ⁷ When Uriah came to him, David asked how Joab and the people fared, and how the war was going. ⁸ Then David said to Uriah, "Go down to your house, and wash your feet." Uriah went out of the king's house, and there followed him a present from the king. ⁹ But Uriah slept at the entrance of the king's house with all the servants of his lord, and did not go down to his house. ¹⁰ When they told David, "Uriah did not go down to his house," David said to Uriah, "You have just come from a journey. Why did you not go down to your house?" ¹¹ Uriah said to David, "The ark and Israel and Judah remain in booths; and my lord Joab and the servants of my lord are camping in the open field; shall I then go to my house, to eat and to drink, and to lie with my wife? As you live, and as your soul lives, I will not do such a thing." ¹² Then David said to Uriah, "Remain here today also, and tomorrow I will send you back." So Uriah remained in Jerusalem that day. On the next day, ¹³ David invited him to eat and drink in his presence and made him drunk; and in the evening he went out to lie on his couch with the servants of his lord, but he did not go down to his house.

David Has Uriah Killed

¹⁴ In the morning David wrote a letter to Joab, and sent it by the hand of Uriah. ¹⁵ In the letter he wrote, "Set Uriah in the forefront of the hardest fighting, and then draw back from him, so that he may be struck down and die." ¹⁶ As Joab was besieging the city, he assigned

Uriah to the place where he knew there were valiant warriors.¹⁷ The men of the city came out and fought with Joab; and some of the servants of David among the people fell. Uriah the Hittite was killed as well.¹⁸ Then Joab sent and told David all the news about the fighting;¹⁹ and he instructed the messenger, “When you have finished telling the king all the news about the fighting,²⁰ then, if the king’s anger rises, and if he says to you, ‘Why did you go so near the city to fight? Did you not know that they would shoot from the wall?’²¹ Who killed Abimelech son of Jerubbaal? Did not a woman throw an upper millstone on him from the wall, so that he died at Thebez? Why did you go so near the wall?’ then you shall say, ‘Your servant Uriah the Hittite is dead too.’”

²² So the messenger went, and came and told David all that Joab had sent him to tell.²³ The messenger said to David, “The men gained an advantage over us, and came out against us in the field; but we drove them back to the entrance of the gate.²⁴ Then the archers shot at your servants from the wall; some of the king’s servants are dead; and your servant Uriah the Hittite is dead also.”²⁵ David said to the messenger, “Thus you shall say to Joab, ‘Do not let this matter trouble you, for the sword devours now one and now another; press your attack on the city, and overthrow it.’ And encourage him.”

²⁶ When the wife of Uriah heard that her husband was dead, she made lamentation for him.

²⁷ When the mourning was over, David sent and brought her to his house, and she became his wife, and bore him a son. (NRSV)

2 Samuel 12

¹ And the Lord sent Nathan to David. He came to him, and said to him, “There were two men in a certain city, the one rich and the other poor.² The rich man had very many flocks and herds;³ but the poor man had nothing but one little ewe lamb, which he had bought. He brought it up, and it grew up with him and with his children; it used to eat of his meager fare, and drink from his cup, and lie in his bosom, and it was like a daughter to him.⁴ Now there came a traveler to the rich man, and he was loath to take one of his own flock or herd to prepare for the wayfarer who had come to him, but he took the poor man’s lamb, and prepared that for the guest who had come to him.”⁵ Then David’s anger was greatly kindled against the man. He said to Nathan, “As the Lord lives, the man who has done this deserves to die;⁶ he shall restore the lamb fourfold, because he did this thing, and because he had no pity.”

⁷ Nathan said to David, “You are the man! Thus says the Lord, the God of Israel: I anointed you king over Israel, and I rescued you from the hand of Saul;⁸ I gave you your master’s house, and your master’s wives into your bosom, and gave you the house of Israel and of Judah; and if that had been too little, I would have added as much more.

⁹ Why have you despised the word of the Lord, to do what is evil in his sight? You have struck down Uriah the Hittite with the sword, and have taken his wife to be your wife, and have killed him with the sword of the Ammonites.¹⁰ Now therefore the sword shall never depart from your house, for you have despised me, and have taken the wife of Uriah the Hittite to be your wife.¹¹ Thus says the Lord: I will raise up trouble against you from within your own house; and I will take your wives before your eyes, and give them to your neighbor, and he shall lie with your wives in the sight of this very sun.¹² For you did it secretly; but I will do this thing before all Israel, and before the sun.”¹³ David said to Nathan, “I have sinned against the Lord.” Nathan said to David, “Now the Lord has put away your sin; you shall not die.¹⁴ Nevertheless, because by this deed you have utterly scorned the Lord, the child that is born to you shall die.”¹⁵ Then Nathan went to his house. (NRSV)

This is a well known story. King David spots Bathsheba and wants to have sex with her. He sends for her and impregnates her. We are not told how she felt about any of this, but consent is not apparent.

Now she is pregnant, and David believes he has to cover this up. He sends for Bathsheba's soldier husband who is away fighting the war. Uriah comes to David, who rewards him and tells him to go home and have sex with his wife. Uriah refuses because his comrades are still fighting and he does not feel that he should take advantage of this special treatment. The next night David got him drunk, but still Uriah did not go to his wife. David's plan to get Uriah to have sex with his wife in order to appear to be responsible for her pregnancy failed.

His next plan was to send Uriah back to the front with instructions to his commander that he be put in the front line where he would surely be killed. The report came back that he was in fact killed in battle. Bathsheba mourned for the loss of her husband. David then sent for her and married her so that the child she bore then was assumed to be his.

The ethical analysis of this situation follows in the text: God was not pleased with David, and God sent Nathan to confront him. See how Nathan frames the confrontation. He does not talk about adultery or even about sex. He talks about power.

He tells David a story: There was a rich man and a poor man. The rich man had many sheep. The poor man had one lamb that he had bought and raised in his family. She was "like a daughter to him," the text says. The rich man had a visitor and instead of taking one of his own sheep to provide for the visitor, he instead took the poor man's lamb to be the meal for his guest.

David responds with anger and condemns the rich man to death, adding that he should restore the poor man fourfold what he took from him. Nathan responds with those now classic words, "You are the man."

God's confrontation of David was delivered through Nathan. The story of the rich and poor man is the heart of the ethical analysis here. David is called to account not for having sex per se, but for misusing his power over and over to take things that were not his: Bathsheba herself and Uriah's life. His sin is *theft*, and theft was only an option for him because he was King. Few others could have accomplished these deeds with impunity.

Nathan is unrelenting in his call to accountability, and the consequences he pronounces are far reaching: "The sword shall never depart from your house." David finally gets it and confesses his sin. Nathan tells him that he will not die because of God's mercy, but that his child will die, which happens right after birth. David is held accountable and experiences consequences. The misuse of power is punished.

However, David is respected and revered, a hero to his people, a charismatic leader chosen by God. This image of David makes this story all the more important to our faith communities. One who brings great gifts to leadership can also be one who betrays the trust of his/her people on his way to breaking at least four of the Ten Commandments. Thankfully, God sent Nathan to confront David, speaking truth to power.

For those of you who are using this handbook to guide your responses to complaints of clergy misconduct, you are the Nathans in our midst, called and sent by God to see clearly, to name unequivocally, and to act to make justice and bring healing to the faith community.

The Moral Issues

For those who are survivors of abuse by clergy or other trusted helpers, there is often an attempt to articulate the experience in moral terms. Frequently, survivors use such phrases as “what I lost” to describe the consequences of the betrayal of trust they experience. In this they are reaching for a moral norm by which to establish the wrongness of their experience. Of course the flaw here is that this language of “loss” completely avoids agency or responsibility on the part of the perpetrator. The passive voice of loss ultimately reflects on the survivor and her/his carelessness in “losing” something valuable.

This is not surprising within a patriarchal context in which support for placing responsibility for an offense (betrayal of trust and violation of boundaries) on the person with power (parent, teacher, clergy) is unlikely, but it seriously distracts from a viable ethical norm that should focus on theft. This is not to revert to the property discussion above, but rather to acknowledge that something is in fact taken from the victim by the perpetrator that does not belong to him/her. It is not the property of one’s “sexual goods,” but rather the trust that the victim carries in one’s world, in relationships, and also in one’s future. The sexual abuse of a child means that that child’s future is dramatically impacted and, for better or worse, will probably require some expenditure of energy and resources as an adult to address the childhood experience. A child’s future is stolen by sexual abuse. This does not mean that it cannot be recovered. However, if it weren’t for the actions of an adult who took something that did not belong to him/her, this child would have a very different future ahead.

Sexual abuse or a sexual attack makes it clear that something has been taken away. Someone has taken another’s power away. Someone has stolen another’s bodily integrity. The power to decide, to choose, to determine, to consent, or to withhold consent in the most concrete bodily dimension all vanish in the face of a rapist or child molester. The poem “Stolen, Not Lost” written in 1993 by Marian Lovelace, a survivor of childhood abuse by multiple Catholic priests, illustrates the distinction:

Stolen, Not Lost

I learned a valuable lesson today about responsibility.
I now know where to leave the shame and blame.
I am beginning to discover the truth—
Many of my precious gifts were stolen, not lost!

You stole my unquestioned belief in my Heavenly Father’s love;
You stole the preciousness of solitude in God’s presence.
You stole the joy of coming together to share Eucharist.
You stole my reverence for the deep meaning of a church family.
You stole my ability to be quiet and hear God’s voice.

You stole my belief in the phrase “God answers prayers.”
 You stole the joy I felt in calling myself—“Christian.”
 You stole my ability to find comfort in going to confession.
 You stole my innocence and twisted my trust in mankind.
 You stole my hope for a better tomorrow and instilled doubt.
 You stole my love of life and wanting to live.
 You stole my belief in the basic goodness of people.
 You stole a significant part of my childhood and adolescence.
 You stole my desire to become a loving adult woman.
 You stole my voice and my actions that screamed a loud “NO.”
 You stole my right to claim my justifiable anger at abuse.
 You stole my right to easily risk council without suspicion.
 You stole the inner peace I experienced entering God’s house.

You stole my many treasures and the blame and guilt is yours.
 Someday you will answer to God for your many thefts.
 Someday justice will be based on the evilness of your actions.
 Today I leave the responsibility at your feet, where it belongs.

Today I was given a profound gift and hope for tomorrow.
 I was helped to see your behavior in the truest light.
 I choose not to be forever damaged by your multiple thefts.
 I choose to fight to regain my stolen gifts, as that is my right.

I will grieve those stolen gifts that will always be blemished.
 I will strive to be wiser and not cynical because of your thefts.
 I will go forward strengthened in faith as I know the truth—
 So many of my precious treasures were *stolen, not lost!*

The sin of sexual abuse brings us back to the Ten Commandments. It is not the Seventh Commandment, “You shall not commit adultery,” that should concern us. The problem with sexual violence is not that it represents sex outside of marriage. Rather, it is the Eighth Commandment, “You shall not steal” (Deuteronomy 5:19 and Exodus 20:15). It is the theft by the assailant of the security and well-being of the victim, the betrayal of trust, and the theft of her/his future. Let’s be clear. It is not property theft, i.e. the taking of the property belonging to the male head of household. It is the theft of the sense of self of the person who is abused. Her/his boundaries are violated, trust is betrayed, and relationships are often broken by the theft of the abuser.

John 10:1-10

¹ “Very truly, I tell you, anyone who does not enter the sheepfold by the gate but climbs in by another way is a thief and a bandit. ² The one who enters by the gate is the shepherd of the sheep. ³ The gatekeeper opens the gate for him, and the sheep hear his voice. He calls his own sheep by name and leads them out. ⁴ When he has brought out all his own, he goes ahead of them, and the sheep follow him because they know his voice. ⁵ They

will not follow a stranger, but they will run from him because they do not know the voice of strangers.”⁶ Jesus used this figure of speech with them, but they did not understand what he was saying to them.

⁷ So again Jesus said to them, “Very truly, I tell you, I am the gate for the sheep.”⁸ All who came before me are thieves and bandits; but the sheep did not listen to them.⁹ I am the gate. Whoever enters by me will be saved, and will come in and go out and find pasture.

¹⁰ The thief comes only to steal and kill and destroy. I came that they may have life, and have it abundantly. (NRSV)

In Christian teaching, Jesus establishes trust as fundamental to his message. The one who enters by the gate is the shepherd, appointed to care for and protect the sheep. If Jesus is the gate, then we are offered this model for the ministries we carry out. Jesus contrasts this role with that of the thief who “comes only to steal and kill and destroy.” How does the thief gain access to the sheep? By pretending to be a trustworthy shepherd.

Psalm 23

- ¹ YHWH, you are my shepherd—
I want nothing more.
- ² You let me lie down in green meadows;
you lead me beside restful waters:
- ³ you refresh my soul.
You guide me to lush pastures
or the sake of your Name.
- ⁴ Even if I’m surrounded by shadows of Death,
I fear no danger, for you are with me.
Your rod and your staff—
they give me courage.
- ⁵ You spread a table for me
in the presence of my enemies,
and you anoint my head with oil—
my cup overflows!
- ⁶ Only goodness and love will follow me
all the days of my life,
and I will dwell in your house, YHWH,
for days without end. (Inclusive Bible)

The image of the sheep and shepherd appear regularly in both Hebrew and Christian scriptures. Clearly, this image and metaphor carried great meaning. Here in Psalm 23, we have the description of God as the Good Shepherd, which is also a description of ministry for those of us called into leadership as shepherds. We have a description of the safety and reassurance that come with living in God’s house.

Commentary by Rabbi Mark Dratch

It goes without saying that no one is perfect. Every human being makes mistakes, suffers failures, and behaves improperly: “For there is not a righteous person upon earth, that does good, and does not sin” (Ecclesiastes 7:20). And those in positions of leadership and power face even greater challenges than do the masses. They are fallible. At times they are unable to fulfill properly the demands of their positions or to resolve appropriately the tensions and conflicting demands of their congregations. They are subject to temptations like every other human being, and sometimes, like others, they succumb. At times they are unable to withstand the enticements and trappings of their offices. The Torah itself hints to us that our leaders will certainly fail: “When the leader sins” (Leviticus 4:22) it says, not “if.”¹ Nevertheless, imperfection and error do not automatically disqualify a person from serving in religious leadership—otherwise, we would have no leaders.²

All the same, religious leadership demands a high level of integrity. Religious leaders are moral and spiritual exemplars, representatives of God to the people they are charged to teach, inspire, counsel, and lead. The behavior of any religiously observant person—but especially that of a spiritual leader—is especially sensitive to being a *Kiddush Hashem* (a sanctification of God’s Name) as well as its converse, a *hillul Hashem* (a desecration of God’s Name). Their successes and their failings can and do reflect on the One they represent and impact the religious behaviors and beliefs of their adherents and students, both positively and negatively. When leaders are guilty of desecrating God’s Name, they betray God and foster disillusionment and even cynicism in the community. It is for this reason that the Talmud reminds us that when learned, religiously observant people are honest and pleasant, others are impressed with them and the spiritual tradition they represent. Conversely, when such people are dishonest or discourteous—to say nothing of abusive—others blame the tradition and God that they claim to represent.³ When spiritual leaders cross inviolable boundaries, they bring discredit to their calling and should be held accountable publicly. In fact, “wherever there is desecration of God’s Name, honor is not extended, even to a rabbi.”⁴

Leaders must be accountable for their wrongdoings. Allowing them or enabling them to violate the authority and privilege of their positions without any restraint or accountability undercuts the community’s trust, undermines adherence to the community’s values, alienates congregants’ from God, and allows victims to be continually and systemically revictimized by those individuals, institutions, and movements whose duty it is to protect them.

Spiritual leaders are charged not only with teaching and preaching the wisdom of their faith, they are to model, through their behavior, its spiritual and moral lessons as well. Thus, the Talmud describes Rabbi Yehudah’s dilemma whether or not to excommunicate a rabbi “whose reputation was objectionable.” “To excommunicate him [we cannot],

¹ See Rashi to *Horayot* 10b, s.v. *shani*.

² The Talmud, *Yoma* 22b, dictates appointing as leader only those who “carry a basket of reptiles on their backs,” i.e., those with proverbial skeletons in their closets which serve as preventatives to excessive self satisfaction and arrogance.

³ Talmud, *Yoma* 86a.

⁴ Talmud, *Berakhot* 19b.

as the rabbis have need of him [as a capable teacher]; not to excommunicate him [we cannot] as the name of Heaven is being profaned.” Citing the verse “For the priest’s lips should keep knowledge and they should seek Torah at his mouth; for he is a *malakh* of the Lord of Hosts” (Malachi 2:7), the sage Rabbah bar Hanna instructed him to excommunicate this rabbi. The word *malakh* can be translated in two ways: angel and messenger. On the one hand, “if the clergy is like an angel of the Lord of Hosts, they should seek instruction from that clergy; but if [that clergy] is not [like an angel], they should not seek instruction.”⁵

Spiritual leaders must be more than just experts in ritual, bible, and theology. They must be, first and foremost, moral exemplars. After all, the study of religious texts is much more than an intellectual exercise, and spiritual leaders are more than just university professors. While one does not necessarily expect moral greatness from a professor of chemistry or literature, one absolutely requires it of religious teachers. How can clergy preach about repentance or ethics, if they themselves are unrepentant or unethical? How can they exhort others to be empathetic and charitable, if they are cruel or selfish? How can they represent a kind, compassionate, and loving God if they are abusive? How can they bring others to a love of God, when their actions undermine divine values and teachings and serve to frustrate and alienate those who seek their guidance? This moral standard is a *sine qua non*.

On the other hand, spiritual leaders are not angels—and elevating them to superhuman status is itself a problem; they are “merely” messengers of God. Congregants disillusioned by a failed leader need to be helped to understand that the fault and betrayal lie with the fallible and flawed human messenger, not with God and God’s teachings. They need to distinguish between God and the messenger. They need to understand when faith doctrines have been misinterpreted and misapplied so as to enable and perpetrate abuse. Their faith should not be undermined, but strengthened as they take ownership and responsibility for their relationship with God.

R. Abraham Isaac Kook, the first Chief Rabbi of Israel, described himself—and, by extension, every rabbi—as an *eved le-avdei Hashem*, a servant of the servants of God. As such, he taught that the prime responsibility of clergy is for the physical, emotional, and spiritual well-being of the members of their community. At times, this mandate calls for protecting the reputation of the faith community at large and defending its leadership and institutions. At other times, however, it means taking serious stock of those very same leaders and institutions in order to make certain that they are upholding and furthering this mandate. If problems are uncovered, they must not be dismissed or hidden. In every case, the circumstances surrounding allegations and suspicions must be evaluated and determinations made as to how to properly respond.

When spiritual leaders have violated the appropriate boundaries that define the respectful and proper relationship between them and their congregants, considerations for the welfare of the victims and the well-being of the community are priorities. The protection of the vulnerable and the innocent is always the first concern—what kind of community would it be otherwise?—and innocent individuals may never be sacrificed on the altar of institutional or denominational self interest. In this way, all members of the community—the servants of God, as well as the servants of those servants—will fulfill

⁵ *Mo’ed Katan* 17a.

the biblical admonition that calls on each of us to sanctify the Name of Heaven, “And [God] said to me, ‘You are my servant, O Israel, in whom I will be glorified’” (Isaiah 49:3).

Conclusion

The discussion of misconduct by faith leaders rests squarely in the context of our understanding of ministry, teaching, and leadership within the various faith communities. Within this context, our goal is to maintain the integrity of the ministerial relationship and protect the vulnerabilities of those with whom we minister.

It is imperative that those of us in ministry recognize the power that we have, that is given over to us by those whom we serve, and that we accept the responsibility of maintaining healthy boundaries in all our ministerial relationships. When we violate the boundaries of these relationships, we misuse our power and take advantage of others. When we do this, we shall be called to account.

This handbook offers the background, the ethical and theological understanding, and the guidance for responding to the disclosure of a violation of boundaries by a faith leader.



“Being appointed spiritual leader, undershepherd, and herald of the good news of the Son of God is an awesome commission from God. . . While outwardly church bodies may grant met the authority to function in such a position, the ultimate authority is an inner one . . . To undertake such a vocation for light and transient reasons, to use it as a quick leap to prominence or as gratification for a boundless and pathological egocentricity is to profane it. Persons who are pursuing answers to life’s most imponderable questions, who are sorting out alternate lifestyles and competing paths to fulfillment, who are yearning for fellowship and conciliation with God, who are seeking strength sufficient to follow Jesus deserve to find something better than an imposter masquerading as God’s servant.” Samuel D. Proctor, in *We Have This Ministry: The Heart of the Pastor’s Vocation*, pp. ix-x

The Scope of Ministerial Misconduct

Each individual faith leader is faced with ethical expectations in a professional role. These expectations include maintaining healthy boundaries in ministerial relationships, keeping confidences, and managing funds with integrity.

Each individual faith leader is also faced with his/her own personal ethical challenges. Thus, violations of personal relationships (e.g. domestic violence, incest, adultery), driving while intoxicated, or cheating on income taxes are personal ethical issues. This personal misconduct may or may not compromise one's ministerial leadership.

For example, if a pastor is arrested for driving while intoxicated when he is on vacation driving his own car, this is a personal ethical issue for him. If he is arrested for driving while intoxicated when driving the church van, this is a professional ethical issue for him. Both are very serious; both could have caused harm to others. The ethical concern for the church, however, is his professional misconduct. His personal misconduct is also a concern in that it may indicate a substance abuse problem. If he is willing to acknowledge this and seek help, his personal misconduct does not necessarily compromise his role as a faith leader.

The policies of the congregation, judicatory, or seminary should address professional ethical expectations rather than personal ones. Thus, the focus of this handbook is on professional ethics for faith leaders and the responsibilities of congregations, judicatories, and seminaries to have clear policies and to respond to violations of these policies.

Assumptions



“Surely there is no one on earth so righteous as to do good without ever sinning.” Ecclesiastes 7:20

This Is about All of Us

- This is about all of us. We all have various relationships with congregants, staff, students, volunteers.
- This is about all of us. We all have experienced sexual attraction to congregants and those with whom we work.
- This is about all of us. We all have experienced sexual come-ons from congregants and those with whom we work.
- This is about all of us. We all have been tempted or have crossed boundaries with congregants and those with whom we work.
- Some of us have been abused by a minister or other authority figure.
- The work of ministry is intimate. We are intimately involved in the lives of those whom we serve or supervise. We have unique influence and access.
- Every day we are challenged to maintain the integrity of our ministerial relationships.

Sex Is a Wonderful Gift from God

- We are blessed with a longing for emotional and sexual intimacy.
- We are blessed to find an intimate relationship with an equal; we are blessed when we each choose the other.
- We suffer when sex is misused to dominate and control.
- We suffer when boundaries are crossed without choice, when power alone shapes a relationship.

Ministry as a Profession

Some faith leaders resist considering themselves “a professional.” They have negative associations with the category of “professional.” They see “professionals” as formal, aloof, uninvolved, uncaring—all of which contradict their sense of themselves as faith leaders.

But in fact, the term “professional” traditionally means something very different. In all of the helping professions (medicine, teaching, ministry, law), it assumes:

- A sense of calling
- Specialized knowledge acquired through training
- Standards for performance
- Accountability to those who are served
- Power and authority to be used in the interest of those served: “unique access and influence” (a fiduciary role)

This understanding of the values of the professional can help us place our role as faith leader in the context of the community’s well-being and our accountability to the community.

Power in Ministry: A Neutral Fact of Life

- Power can be used to control others, to preserve privilege, and to sustain the hierarchy to which it is accountable.
- Power can be used to provide leadership and to protect the vulnerable; it originates in the call of the community and is accountable to the community.
- Power can be used as a co-creative force to produce.

The Bottom Line

- It’s never okay to violate the boundaries of a ministerial relationship.
- It’s always our responsibility as leaders because under usual circumstances, we are in a position to set and maintain these healthy boundaries.
- It’s never simple because circumstances are always complicated.

Our goal in better understanding ethics, boundaries, and power is to be clear about the bottom lines that help us maintain the integrity of our ministerial relationships.

Who Are Sexual Abusers in Ministry?

Sexual abusers within the ministry exhibit a wide range of behavioral and personality traits. They cannot be characterized by a single list of traits; they cannot be identified through psychological testing. Rather, these abusers fall along a continuum. At one extreme is the type we call “the wanderer;” at the other extreme is “the sexual predator.” Anyone who is sexual with a child is by definition predatory.

It is important to note that the effect on the victim is not determined by the type of abuser. Abuse by a wanderer can be just as damaging as abuse by a sexual predator. We need to understand who abusers are in order to address their misconduct directly and to hopefully prevent them from causing harm to anyone else.

WANDERERS ←.....→ PREDATORS

What Traits Differentiate Them?

Wanderer	Wanders across boundaries and lacks awareness or judgment
Predator	Is predatory, sociopathic and lacks conscience

What Is the Prognosis for Change?

Wanderer	Fair to good, if highly motivated to change and if able to fully take responsibility for his/her misconduct when confronted
Predator	Poor to fair, even if highly motivated to change; unlikely to take responsibility for his/her misconduct when confronted

Traits Common to Most Clergy Abusers

- Controlling, dominating
- Limited self-awareness
- Limited or no awareness of boundary issues
- No sense of damage caused by own behavior
- Poor judgment
- Willingness to risk everything
- Narcissistic
- Limited impulse control
- Limited understanding of consequences of actions

- Often charismatic, sensitive, talented, inspirational, and effective in ministry
- Motivated by desire for power/control/sex
- Sense of entitlement: “the rules don’t apply to me;” assumes perks that come with the position

Behaviors Common to Most Clergy Abusers

- Often seek out vulnerable people
- May attract vulnerable people
- Secretive
- Manipulative
- Will minimize, deny, rationalize, and blame when confronted
- Often isolated from colleagues

Approximate Gender of Known Abusers of Adults (Gary Schoener)

- 70% male against female
- 20% female against female
- 5% male against male
- 5% female against male



“There is no need to demonize the abuser. But it is imperative that we call him/her to accountability.” Marie M. Fortune

Having a basic understanding of who abusers are is important to any judicatory leadership trying to discern their response to a complaint.

In evaluating information from the investigation, a committee may be presented with a “he said/she said” situation. The allegations from the complainant are often denied by the accused faith leader. A committee with little understanding about the characteristics of a professional who inappropriately crosses boundaries and causes harm is most likely to **consider this situation from his/her own perspective**. For most of us, that means that since we are not sociopathic, we tend to view the world with some sense of conscience. This means that when we do something that is hurtful or harmful to another person, we feel bad and want to rectify the situation. We also know that we couldn’t lie about what we did.

When we listen to a colleague, whom we have known and perhaps trusted in the past, emphatically deny all the allegations of the complaint, **we are likely to believe that person because we can't imagine that he/she would lie.** The problem is that if this person is sociopathic, lying is not a problem and his/her agenda at this point is to control and manipulate the process in order to minimize negative consequences to him/herself. A judicatory committee charged with adjudication has to understand that things are not always as they seem and be able to carefully judge the information before them.

In addition, committees are often tempted to send an accused faith leader to a therapist and to ask the therapist to determine whether or not this person is an abuser. A therapeutic evaluation cannot answer this question. The question before the judicatory committee is: **Did this faith leader do the things alleged by the complainant?** Did he/she engage in the alleged behavior that would violate the policy? This is a question of violating the ethics policy. The committee is not looking for a clinical diagnosis; it is making a judgment on whether or not the policy was violated based on the evidence. (See "Guidelines for Assessing Evidence" below)

Once the complaint is adjudicated, i.e. the committee has determined that the misconduct did occur and did violate the policy, then a clinical assessment may help determine disciplinary actions. Under this circumstance, if the faith leader acknowledges his/her misconduct, takes responsibility, and is willing to address his/her boundary issues, clinical treatment may be useful. (This is a possibility with "wanderers.")

If the faith leader is unable to acknowledge his/her misconduct or take responsibility, and is unwilling to address his/her boundary issues, clinical treatment will not be useful. (This is a probability with "predators.") (See "What Is the Prognosis for Change?" above) Clinical treatment is not meant to convince someone they have a problem with their professional boundaries. It is meant to be a resource to someone who knows they have a problem.

Who Are the Victims?

ANYONE can be taken advantage of by a faith leader regardless of age or circumstance.

VULNERABILITY makes people susceptible to victimization. It also makes them susceptible to coercion and manipulation by someone they trust.

Children or teens are particularly vulnerable due to:

- Age, size, lack of awareness or knowledge, lack of experience
- Sexual abuse or domestic terror in the home
- Dependence on adults due to:
 - The need for adult approval
 - An instinctive trust of adults
 - A reliance on adults' interpretations of feelings, thoughts, and experiences
 - A special relationship with the adult involved

Adults are particularly vulnerable due to:

- Lesser power, gender, fewer resources, emotional needs, in crisis, history of abuse expectations, and feelings about minister:
 - May trust in faith leader as a respected authority figure
 - May assume clergy and other ministers are safe people to confide in because of their position (or because of celibacy for Roman Catholics)
 - May be attracted to the minister's sensitivity, caring style, charisma, or power
 - May attempt to sexualize the relationship

Survivors of clergy sexual abuse and boundary violations report these attempts by abusers to manipulate them:

- "After I told him about the sexual abuse by my father, he said we needed to re-enact it in order for me to get over it. . ."
- "He was the first person to take me seriously as an intellectual person, who would teach me the Torah. . ."
- "I wanted a spiritual mentor. She was good at that. So I decided I had to take the whole package."
- "I didn't want to do what he asked me to do, but he said it would help my marriage problems. I trusted him."

- “He said, “Think of me as Jesus and you are Mary Magdalene.””
- “She said that she was the vine and I was the branch, that I needed her in order to know God.”
- “He said we should ‘sin boldly so that grace may abound.’”
- “No harm, no foul. But he said it was our special secret.”

Tragically, the moral agency and otherwise good judgment of the congregant, client, or student is compromised by the manipulation of the trusted leader who serves as the person’s moral guide. If the individual has initial moral qualms, they are quickly dispensed with by the faith leader. “But what about my marriage?” “Don’t worry, this will help to save your marriage and that can’t be wrong.”

The congregant, client, or student may initially be a willing participant in the faith leader’s misconduct. The fallacy is that he/she is a consenting participant because consent is not an option in a relationship where there is an imbalance of power. For most people, this finally becomes apparent; this is when the congregant, client, or student begins to blame themselves, doubt God, and feel confused and powerless. She/he *may* think about disclosure.



**The responsibility for maintaining the integrity
of the ministerial or teaching relationship
fundamentally lies with the faith leader or teacher.**

Any Person + Vulnerability + Sexual Abuser + Secrecy = Victimization

The question that confronts us is how do we interrupt this equation? We have two options. First, we can remove the sexual abuser to try to insure that this person is not in a position to take advantage. However, sometimes we miss that opportunity. Then it is important that we remove the secrecy that the abuser seeks to establish in order to deny him/her the advantage. We do this by discussing the problem of boundaries for faith leaders openly and widely with laypeople and by providing access to a judicatory’s policy. Information and awareness deny the secrecy required for manipulation and coercion.

What It Is and Is Not

When we hear a rumor about clergy sexual boundary crossing, how is it usually labeled?

- “an affair”
- “an indiscretion”
- “a lapse of judgment”
- “a mid-life crisis”
- “sexual addiction”
- “adultery”
- “he’s a player”
- “true love”
- “therapy for the congregant”
- “a problem with his zipper”
- “involvement with an intern”
- “betrayal of celibacy”

Although each of these labels communicates that the faith leader in question has allegedly crossed sexual boundaries (i.e. we all know what it means), none of these labels really adequately describes what the faith leader has done.

If we are to realistically intervene and confront misconduct, we have to be clear about what it is. **The way we frame and define ministerial misconduct will determine how we respond to it.**



Often a judicatory policy will frame the clergy misconduct as “adultery” and make this the ethical basis for addressing it. There are several problems with this: first, it does not adequately describe the ethical violation; second, it then addresses only married clergy; and third, it does not allow for attention to the victim of the misconduct.

“Adultery” is a matter of personal misconduct, but not professional misconduct. As such, it is very significant for the minister and his/her partner; it is a violation of their relationship. Adultery is the *result* of the professional misconduct, and the professional conduct of our leaders should be the primary concern for the faith community. The harm done to the faith leader’s partner and family is collateral; the original sin here is ministerial misconduct and harm to congregants or students. (See Section 2: “Ethical Analysis: What’s Wrong with Ministerial Sexual Abuse?”)

This kind of language both describes the who, what, when, and where and takes a moral position. For example,



It is clergy misconduct when any person in a ministerial role of leadership or pastoral counseling (clergy, religious, or lay) engages in sexual contact or sexualized behavior with a congregant, client, employee, student, or staff member (adult, teenager, or child) in a professional relationship. Such misconduct is a violation of the ministerial relationship in which a person in a position of religious leadership takes advantage of a vulnerable person instead of protecting her/him.

Ministerial relationships look like these:

- A congregant seeking guidance from a minister
- An altar server serving a priest
- A church/synagogue employee in relation to her supervisor
- A parent volunteer in relation to the youth minister
- A child in relation to his Bible School teacher
- A student intern supervised by a senior minister
- A synagogue secretary in relation to the rabbi
- A volunteer coordinator for religious education in relation to his/her minister
- A child in relation to a deacon in her church

Remember our goal within our faith communities is:

To maintain the integrity of ministerial relationships and to protect vulnerable persons such as congregants, clients, employees, students, staff, and others.

Sexualized Behavior

Since human beings are sexual by nature, all human interaction has a sexual dimension. However, people can choose whether or not to make that sexual dimension overt—that is, they can choose whether or not to “sexualize” the interaction.

Sexualized behavior is the kind of behavior that communicates sexual interest and/or content. To put it another way, it is what people do when they want to “sexualize” a relationship—that is, when they want to add a sexual dimension to it.

Sexualized behavior includes a whole range of behavior: verbal and non-verbal (physical). Sexualized behavior may be a look, gesture, touch, verbal expression, mode of speaking, conversation topic, written communication, or pictorial depiction. It is often culturally specific, i.e. what is regarded as “sexualized” behavior in one culture may not be in another culture. For example, physical affection such as handholding in public is considered “sexualized” in western cultures. Thus, two persons of the same sex holding hands in public suggest a gay or lesbian relationship. In China, this is not true. Same sex handholding in China is not sexual, although opposite sex handholding is sexual and frowned upon.

Sexualized behavior in itself is neither good nor bad, right or wrong, ethical or unethical. Sexualized behavior takes on ethical implications when viewed through the situational lenses of ethics, community standards, setting and relational context, and the balance of power in the relationship. What is perfectly appropriate conduct between spouses or partners is inappropriate between rabbi and congregant, teacher and student, pastoral counselor and client.

Sexual Harassment in the Workplace or in Education

The term sexual harassment through common usage has become a label for an unwelcome sexual advance. The unbidden conduct may occur in an environment where the community has set an ethical standard that deems demonstration of sexual interest in that setting to be inappropriate. Indication of sexual interest may be uninvited and unfitting because of the power imbalance between the initiator and the receiver. If the initiator is more powerful, this situation may give the appearance of the sexual advance being coercive or exploitive. Coercion and exploitation may be typically antithetical to community standards. What happens when there is no community standard, when this behavior is accepted by the community as a norm? Then it is a challenge to create a new community norm that is willing to name the coercion and interrupt it.

Faith communities serve multiple functions within the social fabric of a community and therefore present complex situational contexts. Congregational life addresses social, cultural, educational, vocational, and spiritual needs of congregants. Within these diverse contexts, participants expect to be treated in accordance with the professed moral standards of their religious tenets. Unhealthy cultural practices may be enmeshed in the religious tenets.

Congregants tend to view the congregational body and worship space as sanctuaries from that to which they are exposed in secular arenas. The violation of sexual boundaries is generally not what people anticipate when they worship, minister to others, or seek ministry for themselves. Thus, the implicit community standard is that sexualized behavior is out of place in the sacred space and is outside the bounds of congregational life and the practice of ministry.

Although the term sexual harassment is commonly used to mean unwelcome sexual advance, the term actually refers to a particular legal standard in civil rights law in the workplace and education. States and the federal government have set a legal threshold for sex-based conduct that is not permissible in workplaces and educational settings. The sex-based conduct must be severe and persistent enough to adversely impact the complainant's terms and conditions of employment or educational opportunity. Severe sex-based conduct would be sexual assault, other non-consensual physical contact, intimidation, uninvited sexual solicitations, pornographic pictures, and obscene words or gestures. Persistent conduct generally means conduct that occurs over a period of time, usually months or years (except in the case of sexual assault in which one occurrence is sufficient to meet the threshold).

The following is the definition of sexual harassment in the workplace that violates civil rights:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when this conduct explicitly or implicitly affects an individual's employment, unreasonably

interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment.¹

Sexual harassment may happen between a boss/supervisor and employee or between coworkers of equal status. Note that "working environment" applies equally to paid employees, volunteers, and contractors.

It is important for faith communities to distinguish between sexual harassment as a description of conduct that has no place in the context of congregational life and the practice of ministry, and sexual harassment that violates a person's civil rights in the workplace of the faith community or in the educational setting of the seminary. Faith communities are urged to interrupt or contain violations of sexual boundaries that happen in their midst before this misconduct becomes severe or persistent (and potentially legally actionable). Having a sexual harassment policy and complaint procedure will explicitly articulate the community's stance regarding this conduct and inform congregants of the avenue to pursue corrective action.

Clarifying this terminology also reminds us that the policy needs to address the violation of the ministerial relationship *and* possible sexual harassment within the workplace of the religious institution. The policy should cover both, but separately because state law may not cover betrayal of the ministerial, professional relationship, though it will cover workplace sexual harassment issues.

¹ According to Peter Rutter (*Sex, Power & Boundaries*, New York: Bantam Books, 1996. P 9) this definition was established by Eleanor Holmes Norton, commissioner of the US EEOC in 1980 under President Carter, and it is still being used today. The "reasonable woman" standard is used to establish "hostile or offensive working environment." See also http://www.eeoc.gov/types/sexual_harassment.html for current information.

Relationships: Professional and Personal

Professional, pastoral relationship: A relationship whose purpose is to meet the congregant/client's need for ministerial (professional) assistance or service. Under the best of circumstances, these relationships are marked by clear, healthy boundaries *and* warmth, caring, concern, and sensitivity.

The job of the faith leader is to attend to the needs of the congregant or student. There is a fiduciary aspect to this relationship: the faith leader, who has greater resources than the congregant/student, is expected to act in the best interests of that person.

The needs of the congregant/student are primary, and the needs of the faith leader are secondary. This does not mean that the faith leader is expected to respond to all of the expectations of the congregant/student, but rather that her/his pastoral or educational needs are primary in the relationship. It also does not mean that the faith leader has no needs here. He/she has legitimate professional needs in this relationship: the need to be involved in meaningful service, to be adequately compensated, to receive constructive feedback, to receive time off for self-care. One's personal needs for affirmation, love, sex, should be met in one's personal relationships.

The faith leader holds significant power in the ministerial or teaching relationship, i.e. he/she has resources (knowledge, expertise, experience, access to other resources) that the congregant/student wants to access. This does not mean that the congregant/student is powerless; it does mean that she/he is likely to be vulnerable in this circumstance and trusting of the integrity of the faith leader. Certainly, some lay people in leadership also hold the power to hire and fire a faith leader, which can make for a challenging dual relationship.

There are some appropriate boundaries that should not be crossed in a ministerial or teaching relationship. Sexual and emotional intimacy are high on that list. The reason is that crossing these boundaries fundamentally changes the nature of the relationship to one of mutual intimacy that compromises the possibilities of a safe ministerial or teaching relationship.

The faith leader is primarily responsible for the boundaries in the ministerial or teaching relationship. In other words, ordinarily he/she has the capacity and resources to establish the parameters of the relationship so as to respect the vulnerability of the congregant/student. Even if the congregant/student pushes the emotional/sexual intimacy boundaries, the faith leader is usually in a position to maintain the boundaries.

For the faith leader, some emotional distance is important in healthy boundaries. This does not equate with being cold and aloof. Rather, it is about staying clear that their story is not our story. We may care deeply about their struggles and concerns, but this emotional involvement is different than that which we have with our own family or partner.

Self-disclosure on the part of the faith leader should always be preceded by clarity of purpose. The purpose should have to do with the well-being of the congregant/student, not with our need to share our emotional struggles. Self-disclosure can be a very important pastoral and teaching tool as long as we stay clear that this is its purpose. We should also be careful about disclosure of other people's lives. Obviously, we should keep the things that congregants/students share with us confidential, but we should also be careful about our own families. For example, although one's children are often a goldmine of stories for sermons, we need to respect their privacy as well.

Faith leaders do have a fiduciary responsibility. This means that we are entrusted with the well-being and circumstances of our congregants/students. They give this to us assuming that we will protect their vulnerability and act in their interests. To be a fiduciary means that we will act in their best interest even if it isn't really in our own best interests. For example, it may be in our interests that an individual remain in a leadership role in our congregation, but it is in her/his best interest to take a new job in a new city.

Personal, intimate relationship: A relationship whose purpose is to meet the personal needs of the people involved.

Contrast the ministerial, professional relationship with one's personal, intimate relationships. A personal, intimate relationship may include coldness, indifference, insensitivity, and even cruelty. In other words, it is not the *type* of relationship that determines its qualities.

Two partners in an intimate relationship mutually serve the needs of each other. Both persons' needs are legitimate. Meeting those needs requires negotiation and compromise. Ideally, both partners share the power and resources of the relationship, i.e. they are peers to one another.

There are important boundaries: financial, physical, sexual, and emotional. Each person can hopefully be clear about needs, expectations, and limitations, e.g. the need for private time apart from one's partner; possibly the expectation to retain control over one's finances. Both partners share responsibility for attending to these boundaries and renegotiating as needed.

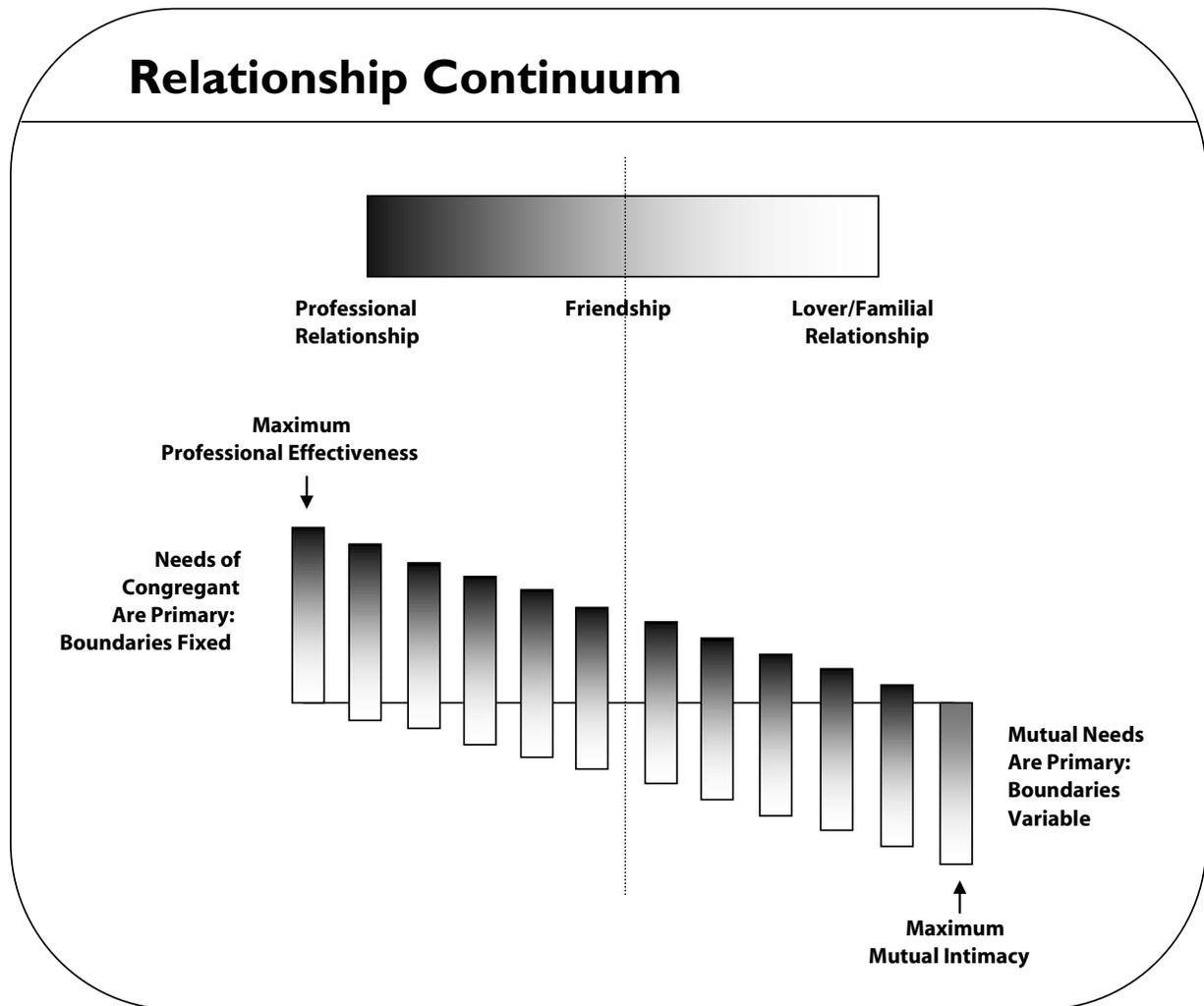
Ideally, in an intimate relationship, there is emotional intimacy, trust, and open communication. Self-disclosure holds the possibility of allowing one to be fully known by one's partner. There may be limits, e.g. parts of one's history that a person does not share until a deep trust is established.

There is not a fiduciary responsibility in the same sense as there is in a ministerial relationship. Our own interests are a legitimate consideration within an intimate, family relationship. Although we may have a similar responsibility for the care of vulnerable family members, such as children or elders, we are called upon to balance the needs of those who are vulnerable with our own needs.

Professional vs. Personal Relationships

This graph provides in a limited way some understanding of the impact of increased personal intimacy (emotional and sexual) on a pastoral, professional relationship. An increase in personal intimacy begins to compromise the effectiveness of our helping relationship. We begin to focus on our own needs for intimacy and lose sight of the responsibilities of our leadership role.

Once we make a significant move toward increased personal intimacy, we cannot really retreat back to a more professional relationship; it's like trying to unring a bell.



Dual Relationships

A dual relationship or multi-relationships are ones in which a person attempts to fulfill two or more roles with the same person—for example, to have a professional and a personal relationship with the same person. In other words, it's when we are in a situation in which we are playing two or more very different roles. This could be a peer relationship concurrent with a professional relationship or even a professional relationship that is also reversed, such as a therapist seeing a client while the client is providing financial counsel to the therapist as a client.

Sexualized behavior within a professional relationship, or any attempt to sexualize a professional relationship, automatically creates a dual relationship—namely, a relationship between a professional and a congregant/client *and* a relationship between intimate partners.

Examples of Dual Relationships:

- A seminary professor who has an affair with one of his students
- A Ph.D. student and his adviser who are “drinking buddies”
- A therapist who attempts to treat a close friend
- A physician who attempts to treat a family member
- A medical researcher who uses one of her employees as a subject in a research project
- A teacher, whose child is a student in the school in which he teaches, in relation to the school's principal
- A minister who seeks financial advice from one of her congregants/clients, who is a stockbroker
- A rabbi who dates one of his congregants
- A minister who becomes a close family friend of a family in her congregation
- A minister who serves as pastor to his/her own family

When a minister attempts a dual relationship with a congregant, client, employee, student, or staff member, the ministerial or teaching relationship is in jeopardy. If the attempted dual relationship includes sexualized behavior, the congregant/client may experience a betrayal of trust on several levels. The congregant/student loses the ministerial relationship on which he/she has relied, often resulting in spiritual, emotional, psychological, and sometimes physical suffering.

The Dilemma

Dual relationships are a fact of life for most of us. If we are faith leaders in a congregational setting or seminary and live in the community with our congregants, we are especially likely to be both a minister and a customer or client of the same person. While it is not possible to always avoid dual relationships, it is important that we recognize and manage them.

This is not something that most people have even thought about before. Education and clarity with congregants or students can help to address the challenges of dual relationships and lessen misunderstandings. Both parties can then share understanding of these circumstances and the management together with a shared sense of the importance of this effort.

Where a dual relationship is unavoidable, we recommend a frank discussion about its reality and the challenges that this represents to both parties. Hopefully, this will help both people be aware and manage healthy boundaries between them.

SECTION 2

ETHICAL ANALYSIS – POWER AND VULNERABILITY



Social Location Facts of Life

Sources of Power and Vulnerability		
	SOURCES OF POWER	SOURCES OF VULNERABILITY
ROLE	role of minister; a professional	role of congregant/client
AGE	adulthood	youth/old age
GENDER	male	female
SEXUAL ORIENTATION	heterosexual	lesbian/gay/bisexual/ transgendered
RACE	Anglo	person of color
PHYSICAL RESOURCES	ability, large physical size, physical strength	disability, small size, physical weakness
ECONOMIC RESOURCES	wealth, job skills, credentials	poverty, lack of job skills, lack of credentials
INTELLECTUAL RESOURCES	information and knowledge, access to information	lack of information and knowledge
PSYCHOLOGICAL RESOURCES	breadth of life experiences, stability	inexperience, lack of coping skills, abuse history
SOCIAL RESOURCES	support, community, contacts, achievement, status	isolation
LIFE CIRCUMSTANCES	security, well-being	need, crisis
FAITH TRADITION	Christianity	Judaism, Islam, Buddhism, Hinduism, others

This chart describes much about who we are in relation to others. It maps out our social location. It is descriptive, but not proscriptive. Some of the “facts” in this chart describe our experiences as groups within dominant cultures that result in various forms of oppression, i.e. the “-isms” (racism, classism, sexism, heterosexism, clericalism, agism, ablism). These categories are unjust, but nonetheless do still exist. Other categories simply are facts of life. Even as we work to end the “-isms,” all of these categories still shape who we are as individuals and in relationship with others.

- Who in your life has more power and resources than you do?
- Who in your life has less power and resources than you do?
- Who in your life has relatively equal power to you, someone you consider a peer?

Consider your own power/vulnerability in light of the above categories. Did you have trouble thinking of someone in any category? Why?

Power disparities among us are real and constant. Some constitute the “-isms.” As people of faith, it is our job to lessen the power disparities between and among us that are unjust and subject to change. However, some vulnerabilities are always with us: e.g. youth or old age. It is also our job to protect and not take advantage of those who are vulnerable.

Some of us have significant resources in the **Sources of Power** column. We need to divest ourselves of privilege, not of power. Privilege is the use of power at expense of someone less powerful. For example, when was the last time you parked in the disabled parking space if you are able-bodied? If we have resources, we should be using those resources to open doors, build bridges, share access, and treat individuals justly.

Pretending we don’t have the resources that we do have accomplishes nothing. If we become powerless, we cannot act to bring change. I was standing with an African American friend on the street in Hong Kong trying to flag down a taxi. Several empty cabs passed us by. We figured out what was going on and how racism was at work, so she stepped over to the building while I hailed the cab. We needed the resource of the cab. I was the one who could access it. My pretending I didn’t have access to it would not have helped us get where we were going.

Is it possible to be in a just, ethical relationship with someone where there is a clear difference of power (e.g. teacher-student)? Yes, absolutely. The difference in power does not determine that the relationship will be abusive or exploitative. Neither does a peer relationship guarantee the absence of abuse. Clarity of role and purpose, trust, and integrity are what assures us that any relationship can be just and ethical.



“The gospel calls us to a stance, a position, that is beyond immediate cultural background. My old seminary dean, Thomas Graham, used to say that faith was ‘reason gone courageous.’ Our culture is a given; we are all children and products of it. But having said that, culture is not a prison. It does not have to restrict us; it does not have to circumscribe us. If the gospel is not able to get us beyond our culture, it is not gospel at all, because there is no pure gospel in any one culture. It does not matter if the good news of the gospel is bad news in the culture. We are not owned by our culture; it is a secondary identity over which we rank the demands of God.”

Gardner C. Taylor in *We Have This Ministry: The Heart of the Pastor’s Vocation*, p. 5

Some of us who entered the ministry in the ‘70s (both women and men) did so with the hope of helping our religious institutions move away from hierarchy and the misuse of power by clergy and faith leaders. Our analysis at that time focused on “power” as the problem. To solve this problem, we sought to deny our power. We were naïve. The analysis is more complicated.

Men who are faith leaders often talk about not “feeling” powerful in ministry, which simply means that they don’t feel “in control” of their people. This “feeling” denies their real power as a faith leader, and denial of one’s power and resources is the first step towards misuse of that power.

Women who are faith leaders more often talk about “not wanting power.” This arises from the mistaken belief that “power” is bad and we shouldn’t have any. Again, this analysis denies our real resources and our role as faith leader that can very easily lead us into wandering behavior.

Faith leaders have power and resources that are valuable tools if we are to be in leadership. The ethical question is how we use these resources in relation to the people we serve and work with. Recognizing and acknowledging our resources is the foundation for maintaining healthy boundaries in ministerial relationships.



“If the problem is oppression (abuse, exploitation, etc.) the solution is justice, not virtual mutuality.”

Marie M. Fortune

Power of the Ministerial Office

Faith leaders:

- Usually have theological education and training
- Represent God
- Are guardians of sacred symbols, rites, and rituals
- May be viewed as vessels or channels for divine power
- Are congregants' resource for the mysterious aspects of God and the meaning of life
- Interpret sacred texts
- Define the moral context of congregants' circumstances
- Initiate pastoral contact
- Have access to people in vulnerable circumstances
- Are set apart by ordination, consecration, commissioning, or licensure to be leaders within a faith community
- Have consistent access to an audience
- Have the ability to influence others
- Have the ability to draw people
- Engender congregants' loyalty and trust

Power is:

- **Relational.** We have power/resources in relation to someone else. I may have more power than my grandnephew and less power than my Board President.
- **Contextual.** Power and/or resources depend on context. I may have power/authority vis a vis the congregant listening to my sermon or student hearing my lecture, who becomes my TA.
- **About Resources.** What we have or don't have materially, psychologically, socially.
- **Neutral.** Power is neither good nor bad. Like fire, it can cook a meal or burn down a house.

Vulnerability is:

- The absence of resources.
- **Relational.** We are vulnerable in relation to a particular person. I am vulnerable to my therapist in ways I am not as director of my agency.
- **Contextual.** Vulnerability depends on a context in which we have fewer resources. The Board of Trustees/Dean of Faculty can take steps to have me fired.

Consider the following situations and assess the risk of sexual boundary violations as you think about power and vulnerability:

1. A 14-year-old female Vietnamese refugee with limited English language skills and her 45-year-old Anglo, English-speaking pastor

A dramatic difference in power and resources creates high risk for predatory boundary crossings.

2. A 29-year-old African American social worker in crisis over the recent death of his brother and his 32-year-old African American priest

Similarity of power and resources (these men would be peers except for situation and pastoral role) creates high risk of wandering boundary crossings.

3. A 25-year-old Jewish male who has discovered his wife is abusing drugs and who knows little about addiction or treatment and his 35-year-old female rabbi to whom he goes for counsel

What factors most shape the relative power and vulnerability?
 What change in circumstance would drastically change the power and vulnerability situation?
 If the male chose to assault the rabbi, his gender and physical strength would probably make him the more powerful one.

4. A 40-year-old Anglo female chairperson of the organizations' Board of Directors and the 32-year-old Latino Executive Director of the organization (faith-based non-profit)

How could this be risky for either person? The Chairperson is in a position to take advantage of the Executive Director because she has power over his employment status and racial privilege. The Executive Director could take advantage of the Chairperson and then deny his actions accusing her of racism. Either way plays into historical realities of racism in the U.S.

5. A 23-year-old youth minister and the president of the Deacon Board

This is probably the youth minister's first job in a church. The President of the Deacon Board is likely to be older and have status as a layleader. This could be a classic sexual harassment in the workplace situation.

6. A 30-year-old woman who is emotionally 16-years-old asks her rabbi to help convince her parents she can live on her own

Because of her disability and her need for specific help from her rabbi, she is especially vulnerable.

The Dilemmas of the “-Isms”



“There can be no healing without justice and justice requires courage.”

“Not in My Church” DVD from FaithTrust Institute

Even the most effective policies and procedures do not always suffice. Sometimes intervention fails because the “-isms” prevent an effective response. For example, what about “desperate” single women and “sexually promiscuous” teenagers? How are stereotypes and prejudice hindering their stories from being heard or believed? When the complainant is a person of color and the ministerial abuser is white, or when the complainant is a lesbian or gay person and the ministerial abuser is heterosexual, is it possible that a complaint will not be taken seriously? Instead, the system may rally to protect the white or heterosexual minister and disregard the complaint against him/her as unimportant.

Effective intervention may also be deflected if either the abuser’s community or the victim maintains silence about the abuser’s actions. This is especially likely in communities where the intervention is perceived as coming from “outside,” e.g. within a gay or lesbian community, within a racial or ethnic minority community. In these cases, where the policies and procedures regarding abuse may be perceived as written “outside” the community and where the abuser would be called to account by a body outside the community, the community may rally to protect the abuser from what it perceives as discrimination or oppression by the (outside) majority. At the very least, the community may maintain that the policies and procedures regarding abuse are imposed from outside and therefore do not apply to them.

In these cases, the victim(s) who press(es) charges or brings a complaint against someone in the community may be ostracized or pressured to maintain solidarity with the community. This dynamic has been described as “shooting the messenger;” that is, instead of the abuser being blamed, the person who brings the “news” of the abuse is blamed. The community maintains silence in an effort not to “betray” one of their own.

For instance, if an ethnic minority woman is involved in a sexual relationship with her minister, it is highly unlikely that she will disclose the abuse, especially if he is a prominent member of the community. If she does speak out about the abuse, the community may not support her. They might even condemn her.

Likewise, if a gay or lesbian minister is involved with a congregant who wants to confront the minister, the congregant will often hesitate because he/she will be concerned about protecting

the gay or lesbian minister from the church or synagogue's homophobia or because the congregant does not want to "come out" by making the complaint.

What can be done in such cases? First, we can be sensitive to these realities. Rather than responding with incredulity or anger, we need to recognize that silence is an understandable response to the dominant society's long-standing oppression of minority subgroups. The silence on the issue of ministerial abuse is a misguided attempt to protect its members against injustice and discrimination.

The concerns about the institution's racism or homophobia/heterosexism are very real. It is certainly possible for a false accusation to be motivated by racism or homophobia. Someone may try to use a policy or procedure as a means to attack or undermine a minister, e.g. an outspoken leader. We must certainly be vigilant in preventing policies/procedures from being misused in this way. However, when an allegation of professional misconduct on the part of a minister of color or a gay or lesbian minister is true, it is not racist or homophobic/heterosexist to call that person to account. It is only racist or heterosexist if the policies and procedures are applied to ministerial abusers who are of color or lesbian or gay, but not to other ministerial abusers.

Second, we need to develop leadership within every community that is concerned about the impact of ministerial abuse, so that the policies concerning sexual abuse reflect the commitments of the community rather than something imposed from the outside. In other words, we need to insure that there is ownership of the policies and that usually means everyone is invited to the table when policies are developed.

Racism and homophobia/heterosexism can contribute to maintaining silence about abuse. For example, if a mainline Protestant church receives a complaint regarding a minister of color who is accused of sexual involvement with a congregant, church officials may be reluctant to investigate because of the possibility that they will be accused of racism if the minister is found guilty. Similarly, fear of accusation of homophobia/heterosexism could keep a church committee from investigating a complaint against a gay pastor, or board members' own homophobia might make them reluctant to hear the complaint of a male congregant against a male faith leader.

When a denomination or local congregation refuses to address the abusive and unethical conduct of a minister for fear of being called racist or heterosexist, it ignores the experience of victims who are most likely members of the very same minority community as the minister. In its effort to avoid being racist or heterosexist, the institution is only avoiding a difficult confrontation and ends up being racist or heterosexist by not addressing the victimization of women of color, children of color, or lesbian or gay congregants or staff members.

But having said this, we cannot assume that the institution has license to pursue complaints involving persons of color or gays and lesbians without consideration of the painful reality of racism and heterosexism. We must still examine our racism and heterosexism and then proceed. Our best protection against racism and homophobia/heterosexism is to let our goal of justice-making for victims guide our policies and actions.

Ethical Analysis: What's Wrong with Ministerial Sexual Abuse?

Why is it wrong for a faith leader to be sexual with someone whom he/she serves or supervises? The essential harm is that of violating boundaries within the ministerial relationship and thus betraying a trust. The congregant or student may fear saying “no” to the minister for fear of jeopardizing the ministerial relationship and wanting to please the minister.

1. It is a violation of role.

The ministerial relationship presupposes certain role expectations: the minister is hired and expected to bring certain resources, talents, knowledge, and expertise to serve the best interests of the congregant, staff member, student. Sexualized behavior is not part of the ministerial role. The minister has a fiduciary responsibility. (See Ezekiel 34)

The minister is in the role of a fiduciary, one who is entrusted with resources that belong to another. In the ministry context, the minister is entrusted with the spiritual well-being of congregants. The fiduciary has a duty to act in the best interest of the one that has given the trust even if such action is not necessarily in the personal interest of the minister. In the ministry context, this duty is an ethical obligation.

2. It is a misuse of authority and power.

The role of faith leader carries with it authority and power (resources) and the responsibility to use these resources to the benefit of those who call upon the minister for assistance. This role can be misused (intentionally or unintentionally) to initiate or pursue sexual/emotional boundary crossings with congregant, staff member, etc. Even if the boundary violation is initiated by the congregant, staff member, etc., it is still the responsibility of the minister to maintain clear boundaries for the sake of everyone involved. (See 2 Samuel 11)

Examples of misuse of authority and power:

- Overcoming a congregant's will by using guilt or manipulation
- Using spiritual language to shame a congregant into compliance
- Exploiting a congregant's desire for the minister's attention or approval
- Making claims of special knowledge of God's mind and desires
- Shunning or withholding spiritual blessing in response to a lack of compliance
- Misinterpreting doctrine or sacred texts to distort meaning

3. It is taking advantage of vulnerability.

One is vulnerable to another person when one has less power/fewer resources than that person. Congregants, staff, and students are by definition vulnerable to their minister. This does not mean that they are powerless, but it does compromise their moral agency. Due to multiple circumstances, they may be manipulated, deceived, and taken advantage of by a minister who seeks out those who are vulnerable. For a minister to exploit vulnerability in this way is to violate the mandate to protect the vulnerable from harm. This mandate derives from both Jewish and Christian traditions of hospitality.

4. It is an absence of meaningful consent.

Meaningful consent to sexual activity requires equality that makes real choice possible. Meaningful consent assumes the absence of any constraint, subtle coercion, or manipulation. The imbalance of power/resources in the ministerial relationship precludes this equality, even when the two persons see themselves as “consenting adults.” If they are not peers, then there is no meaningful consent. Compare David and Bathsheba in 2 Samuel 11 to the relationship between lovers in the Song of Solomon.

It is these four aspects that determine that misconduct is a violation of boundaries and trust in a ministerial relationship and thus a source of harm to individuals. The harm extends to the congregation as well. Members are victims too. They have experienced “theft” and betrayal as individuals and as a congregation. As a faith community, they experience the shame of the fallen leader. Some leave and go to another congregation or stop going to services all together. There is collateral damage everywhere.

Finally, all of this severely compromises the mission of the faith community. As an institution, the church or synagogue loses credibility in the wider community. It becomes the object of disdain, and critics cry hypocrisy. If the faith community responds poorly or does not respond at all, then it often becomes the object of legal action that may result in financial losses that then further undermine the mission.

The brokenness is substantial; the wound is deep and cannot be healed lightly; the consequences are wide and stretch into the future. Fortunately, the teachings of our faith traditions offer us guidance to acknowledge the brokenness and make justice and healing.

SECTION 3

RESPONDING TO MISCONDUCT

What do we do when someone comes forward alleging boundary violations, misconduct, and abuse by a faith leader? No one wants to face this situation and yet every judicatory or seminary must be prepared for it because it will happen. This section will discuss the theological foundations of our responses as well as the practical, procedural concerns. It is intended to provide the big picture concepts from which a particular judicatory or seminary can shape its own process.

But first, here is a statement from Rebecca Bell who is a survivor of abuse by a United Methodist pastor. Fortunately, she found support along the way so that she not only survived, but emerged on the other side with a sense of blessing. She reminds us that *it is possible* for a faith community to face a complaint of misconduct by one of its own leaders, deal with it, and seek to restore the integrity of the ministerial relationship while bringing healing to the survivor(s).

Praise God From Whom All Blessings Flow: How Church Leaders Were Helpful in Emerging from Clergy Sexual Abuse

Rebecca Bell

My story of emergence from clergy sexual abuse is one of blessing: for in suffering and despair I came to know the God that lives in the unfathomable depths of despair and brings us to Light; the Light of Jesus the Christ, whose healing practices were made flesh in those who accompanied me, and my husband and me as a couple. In telling my story to them, they became witness to the “Fruits of the Spirit” that Paul speaks of in his Letter to the Galatians—an incredible healing balm of hope and redemption cultivated in-relation.

My perpetrator, a United Methodist pastor, admitted he “set eyes on me the first day he met me,” which he noted was the first day of his new assignment. I was director of a youth handbell choir and later the youth group, a lay speaker, and involved in other aspects of church life. I was married, the mother of two young children, and working as a nurse. I grew up with a faith community being a substantial part of my upbringing during the ‘60s and ‘70s. My father was a long time lay elder in the Reformed tradition and thus very active in the leadership of the church. My mother sang in the choir, as did my brother and I. I participated in youth group throughout middle and high school. Life at home was strict, and I experienced physical abuse not infrequently; yet at the time, I thought it was just something everybody experienced. The message that “God will punish you” was a very common accompanying phrase to the abuse.

I felt called to ministry from the time I was about twelve. Yet, this would not be, so I chose the “second best thing,” nursing. When our oldest child was two, my husband and I moved from our home state of New Jersey to New England in the mid 1980s, leaving behind family for a new life. One of the first things we did was join a church to establish some roots. Our perpetrator would be moved to this parish six years later from another parish where, we eventually learned, he had committed several previous offenses.

Amidst the throes of establishing a work and home life and making new friends, I found myself feeling adrift—perhaps even depressed although I didn’t know it at the time. My childhood theology wasn’t working for me, my marriage was flat, and this new pastor seemed to have a new view of God that was offering me some hope. In short order, we began to meet regularly for counseling and spiritual direction. I was overjoyed to think someone finally understood me, as my husband was not someone I felt I could share these things with. I shared intricate details of my frustration in my marriage, too, and my personal history of abuse. This “spiritual friendship”—as it became known to everyone in the church, including all our close friends whose relationships we had formed *because of* the church—lasted over three years before anything officially sexual happened. In the meantime, he gave me writings, books, and other gifts. He was grooming me.

Concurrently, my perpetrator befriended my husband. He found out my husband loved to fish, especially with his dad—but that he was no longer able to do it since we moved away. He invited Peter up to his summer camp, and the two fished together for years. I was glad for this extension of the “spiritual friendship,” of course, and oh-so-grateful for our “pastor’s” Christian hospitality and being a father figure to my husband.

The intricate “web” that our perpetrator spun served to relax boundaries and create a sense of “normalcy,” both cognitively and affectively, especially within a faith community where the message is to be “like family.” Indeed, it can become incestuous. This “perfect storm” was created in order for my perpetrator to engage in a formal sexual encounter when I agreed to attend a national conference with him, only seven months before his retirement. When I returned, I was dazed, confused, and wrought with deep feelings for him as well as guilt, blame, and shame. When I tried to end it, he told me that “when I got him, I got all of him.” It was an ultimatum. This very publicly known relationship had now entered a new domain. How was I to get out without risking shame, blame, and guilt?

Eventually, I did. As fate would have it, I was invited by the pastor to preach on the concept of health ministry at another faith community because I had received my graduate certificate in parish nursing a few years prior. The irony was that this community was where my perpetrator and his wife worshipped when not at their summer place. The current pastor began to observe controlling behaviors on the part of my perpetrator around the same time I ended the relationship. I disclosed the abuse two months later to this current pastor, the same day I told my husband. From this time forward, the confusion and inner turmoil that I faced was nothing short of insurmountable.

How were church leaders helpful?

The “Fruits of the Spirit” are considered to be nine attributes of Christian character that should be practiced collectively to live a Christ-like life to promulgate healing and shalom to those wounded of body, mind, and soul. Clergy malfeasance affects every part of a human being, most especially one’s soul. Using each holy attribute as a guidepost has helped me to better reflect on what actions by church leaders were helpful for both me and my husband in surviving the abuse and the processes leading to justice. The leaders in consideration are the Bishop, the pastor, lay leader, Counsel for the Church, other local church leaders, the District Superintendent, and the Response Team.

Love.

The most critical and crucial component in helping a survivor of clergy abuse is *to be believed*. It is vital to their existence. Love them back into existence by hearing their story and believing what you have heard and learn to become an advocate. At the time I disclosed to my new pastor with my husband present, it was he who named it an abusive situation. We had no understanding of that prior. The lay leader believed me immediately and met with us and the pastor to discuss strategies for our safe and continued participation there.

Joy.

The trauma victims experience leaves them with little joy and limited resources to find it, especially now that their faith and trust has been broken. Walk with them and celebrate anything they deem worthy of being happy about, such as sleeping through the night, experiencing worship without weeping, taking Eucharist for the first time after a long absence, completing a week at work without calling in sick. Our lay leader did this weekly, finding anything to keep us on a healing track. The Bishop acknowledged my healing experience, singing in a Methodist-based event out-of-state. He also prayed for us at the end of each phone call, which helped ground us at a time when faith belief was uprooted and in turmoil.

Peace.

Peace, peace...there is no peace when you have emerged from clergy sexual abuse, unless persons offer themselves freely like Jesus and guide you to living waters. The Bishop was consistently sensitive to my/our pain, especially when I had suicidal thoughts after the failed Just Resolution attempt and corresponding contentiousness on the part of the abuser. Our lay leader accompanied us greatly during this time of despair. My current pastor wished to move on after some time, and the response team encounters became more of a struggle due to the abuser’s demands and some members of the team sympathizing with him.

Patience.

Survivors will need to tell their story over and over again, and they do not need to hold it in confidence! We are all different, but when victims emerge from clergy sexual abuse they are operating in a trauma/survival mode, and therefore their intuition, instincts, and clarity are

in a heightened state. If you are not certain you comprehend the complexity of this situation, be willing to learn it from her/they or quickly find resources to help you understand the complexity of this abuse. Our Bishop was patiently willing to field as many calls from us as we felt we needed to make. So was the General Secretary of the Commission on the Status and Role of Women, who became involved just prior to the first Just Resolution and stayed consistently in touch with us. Listen to what we have to say; no one would make this up. Honoring this frightening space takes patience on your part.

Kindness.

Realize that the faith community will most likely scapegoat the victim and sympathize with the abuser. A member of the Worship Arts committee listened and believed me. On the other hand, the youth leader and several others who were close friends with the abuser walked out of worship when references to clergy sexual abuse were mentioned, sending a clear message to others who respect him on how to understand this situation. Kindness is practiced toward the survivors when persons choose to accompany them in their pain and shame, blame and guilt, and acknowledge that what the abusive pastor did was wrong, and that this is never consensual. I wished this statement of truth was said from the pulpit clearly, but it never was.

Goodness.

Use the word “courage” in affirming the survivor for coming forth, which is what the District Superintendent said after the disclosure meeting, as did the lay leader in several later church communications. As a victim, you don’t come to own it until much later. My pastor acknowledged my tendency toward lifelong learning and academics and suggested I create a resource table for the church on clergy sexual abuse. This healing gesture affirmed me in a very meaningful way. Every time I looked at the table, I felt affirmed in the Light of the truth.

Faithfulness.

Sympathy with the perpetrator runs deep in church “families.” Church members stood up in church and asked that we “forgive and move on.” Be sensitive and empathic theologically. Do NOT push the subject of forgiveness unless your theology is very clear about what it is and what it is not. Part of the abuse of power I experienced was an abuse of theology followed by an abusive theology to justify the abuser’s actions over and over again, even after this became public. Our current pastor conducted an adult learning study on forgiveness to help the faith community grow through this with sound theology. Be not afraid to contextualize clergy sexual abuse with the Lectionary texts, when appropriate. Name clearly the importance of walking with the victim(s), in being the Christ for them, should this happen. Our pastor was not always clear on this at times; our lay leader was more so in his absence. However, this may have encouraged the divisiveness.

Gentleness.

When the victim seems anxious or out of control, reassure her—as my Bishop did—that you are doing all you can for her. Be specific. Understand that most victims will suffer from PTSD (post-traumatic stress disorder); this cannot be stressed enough. They don't want to be like this. Help them to find hope by taking time to listen to where they are at and respond accordingly.

Self-control.

If you have anger issues surfacing due to your colleague's malfeasance—or for other personal reasons, seek collegial support or find professional help, or both. Clergy abuse among adults is first and foremost about power, and unresolved anger is about power. The “sex” part is only a symptom of a power and control issue. Self-care is the first step of prevention and is imperative for personal and communal healing and growth.

When the Counsel for the Church became involved in the autumn of this case, her no-nonsense assessment of the perpetrator's guilt and subsequent harm—and her insight on how to resolve with appropriate consequences to attain justice—enlisted an incredible feeling of validation, hope, and restoration of trust in a faith that values justice and mercy above all. We now believe she was the miracle we had been praying for to attain closure over what became a thirteen-month timeframe. Her unwavering, compassionate presence encompassed all the fruits of the spirit, without any doubt. We felt believed, validated, affirmed, and vindicated all at once. It was redeeming in the end.

What Is Your Agenda?

The greatest challenge for a judicatory or seminary in facing the misconduct of one of its leaders is to decide what its agenda is. What are we trying to do here? What are our values and priorities? We do have choices. Unfortunately, our default position is often the same as other institutions: raise the drawbridge and “protect” the institution from challenge, ignore our theology, try to “make this go away.”

The real tragedy of this “institutional protection agenda” is that it is a lose-lose proposition. In the end, it doesn’t protect the institution. Look around at how many judicatories are bankrupt because they chose this agenda and almost always lose in civil litigation. In addition, this agenda does further harm to survivors, abusers, and congregations. It extends the brokenness caused initially by one person to the entire institution.

Congregants and students understand that there are individual abusers within our religious institutions. They even understand that they may at some point fall prey to one of them. But when that happens, they still trust the institution to act to protect them and others, to call the abuser to account, and to support them in their healing.

When the institution then betrays their trust in order to “protect” itself, their betrayal is magnified. Only then does a victim/survivor consider civil action. Only when the institution fails to provide a healing response does the victim/survivor feel that he/she has no other option.

We have another choice in responding. The “justice-making agenda” is a win-win. When the institution keeps faith with its members, responds quickly and appropriately to a complaint, and, as necessary, takes action to protect people in the future, the victim/survivor is well served, the institution maintains its integrity, the abuser is called to repent, and there is the possibility of healing the breach caused by the ministerial abuser.

Choosing the justice-making agenda requires conscious attention. It does not come naturally. It requires that we stay grounded theologically, that we act in faith, not in fear. In the end, it is the right thing to do; it can bring some healing; and it will cost less in the long run. Hence, a win-win.

Here are your options:

INSTITUTIONAL PROTECTION	JUSTICE-MAKING
Use of Sacred Texts (e.g. Romans 2)	
“judge not ...”	hypocrisy
Language	
“an affair,” “an indiscretion”	ministerial misconduct
Lawyer’s Role	
protect institution from victims/survivors	make justice for survivors
Policy	
protect institution from liability	hold abusers accountable
Liturgy or Ritual	
to “heal the wound lightly”	name the sin, grieve, bring healing, make justice
\$\$ Money \$\$	
defend the institution in civil litigation, pay lawyers	restitution for survivors, prevention training

Theological Foundations for a Response to Clergy Misconduct

Any attempt by a judicatory or seminary to engage in response to clergy misconduct involving sexual abuse must be grounded in theology. This is one of the biggest mistakes that institutions make when they set out to establish policy and procedures to address complaints; they focus most of their energy on the nuts and bolts of policy and have their lawyers carefully review the particulars, and then finally, at the end, tack on a supposed theological justification.

Rather, we need to *begin* with our theology and traditions, using this as a valuable resource to guide us in the on-the-ground response to complaints of misconduct.

This process will be different for each judicatory or seminary because each will highlight different theological principles. However, the process is important.

For example, for Jews, Rabbi Mark Dratch reminds us:

All the same, religious leadership demands a high level of integrity. Religious leaders are moral and spiritual exemplars, representatives of God to the people they are charged to teach, inspire, counsel, and lead. The behavior of any religiously observant person—but especially that of a spiritual leader—is especially sensitive to being a *Kiddush Hashem* (a sanctification of God’s Name) as well as its converse, a *hillul Hashem* (a desecration of God’s Name). Their successes and their failings can and do reflect on the One they represent and impact the religious behaviors and beliefs of their adherents and students, both positively and negatively. When leaders are guilty of desecrating God’s Name, they betray God and foster disillusionment and even cynicism in the community. It is for this reason that the Talmud reminds us that when learned, religiously observant people are honest and pleasant, others are impressed with them and the spiritual tradition they represent. Conversely, when such people are dishonest or discourteous—to say nothing of abusive—others blame the tradition and God that they claim to represent.¹ When spiritual leaders cross inviolable boundaries, they bring discredit to their calling and should be held accountable publicly. In fact, “wherever there is desecration of God’s Name, honor is not extended, even to a rabbi.”²

Leaders must be accountable for their wrongdoings. Allowing them or enabling them to violate the authority and privilege of their positions without any restraint or accountability undercuts the community’s trust, undermines adherence to the community’s values, alienates congregants’ from God, and allows victims to be continually and systemically revictimized by those individuals, institutions, and movements whose duty it is to protect them.

¹ Talmud, *Yoma* 86a.

² Talmud, *Berakhot* 19b.

For Christians, many denominations point to general expectations of clergy in their policies and doctrines, such as avoiding “conduct unbecoming the ministry.” While this language is not adequate for a policy, it does suggest a high standard of integrity in ministry.

Jesus said to his disciples, “occasions for stumbling are bound to come, but woe to anyone by whom they come! It would be better for you if a millstone were hung round your neck and you were thrown into the sea than for you to cause one of these little ones to stumble.” Luke 17:1-2 (NRSV)

Jesus was very clear that his followers could be the source of not only misdirection, but also harm to those they serve. Jesus continues in Luke 17:3-4:

“Be on your guard! If another disciple sins, you must rebuke the offender, and if there is repentance, you must forgive. And if the same person sins against you seven times a day, and turns back to you seven times and says, ‘I repent’, you must forgive.”

Jesus mandates confrontation of any follower who sins by causing harm, and forgiveness is tied to repentance by the abuser. (See “On Forgiveness, Repentance, and Reconciliation” below)

There is no question that the prophets call leadership to repent:

“Therefore I will judge you, O house of Israel, all of you according to your ways, says the Lord God. Repent, and turn from all your transgressions; otherwise, iniquity will be your ruin. Cast away from you all the transgressions that you have committed against me, and get yourselves a new heart and new spirit! Why will you die, House of Israel? For I have no pleasure in the death of anyone, says the Lord God. Turn, then, and live!” Ezekiel 18:30-32 (NRSV)

For victims, God promises justice in the parable of the widow in Luke 18:1-8 and also in the Psalms.

“For God did not despise or abhor the affliction of the afflicted; God did not hide God’s face from me, but heard when I cried out. . . The poor shall eat and be satisfied; those who seek God shall praise God. May your hearts live forever!” Psalm 22:24, 26 (NRSV— inclusive)

“For you have delivered my soul from death, my eyes from tears, my feet from stumbling. I will walk before God in the land of the living.” Psalm 116:8-9 (NRSV)

There is also a word of caution for the faith community, calling us to account for our fear and inadequate responses to harm among us.

“Is there no balm in Gilead? Is there no physician here? Why then has the health of my poor people not been restored?” Jeremiah 8:22 (NRSV)

“They have treated the wound of my people carelessly, saying, ‘Peace, peace,’ when there is no peace. They acted shamefully, they committed abomination; yet they were not at all ashamed, they did not know how to blush.” Jeremiah 8:11-12 (NRSV)

“. . . but let those who boast, boast in this, that they understand and know me, that I am God; I act with steadfast love, justice, and righteousness in the earth, for in these things I delight, says our God.” Jeremiah 9:24 (NRSV)

One of the theological aspects that is frequently overlooked by judicatories, congregations, and seminaries is the pastoral and practical importance of justice-making in response to clergy sexual abuse. Our best teachers about this are survivors of clergy sexual abuse. When asked, they quite often know what they need for their own healing, and they also intuitively know that their faith community should be able to provide it. They are correct.

When survivors ask for things like:

- “I want to tell my story to the Bishop.”
- “I want my abuser held accountable and never to be able to do this again.”
- “I want compensation for my medical and therapy bills.”
- “I want to return to seminary and complete my education.”
- “I want the congregation to know what really happened.”
- “I want you to listen and not be afraid of me.”
- “I want his name taken down off the building honoring him.”

They are asking for justice. These are concrete, reasonable responses that we can make, once a complaint is adjudicated, to bring real healing to survivors and their families.

As we have listened to hundreds of survivors seeking healing in past years, we began to realize that their needs fell into seven categories listed here.

The Elements of Justice-Making

1. Truth-telling

The victim/survivor needs to give voice to the reality of the abuse.

2. Acknowledging the violation

Someone who matters, like the judicatory, needs to hear the truth, name the abuse, and condemn it as wrong.

3. Compassion is to suffer with the victim

The powers-that-be need to listen to and suffer with the victim. Wait until later for the problem-solving.

4. Protecting the vulnerable

The powers-that-be need to take steps to prevent further abuse to the victim and others.

5. Accountability

The powers-that-be need to confront the abuser and impose negative consequences. This step makes repentance possible for the abuser.

6. Restitution

The powers-that-be need to make symbolic restoration of what was lost, to give a tangible means to acknowledge the wrongfulness of the abuse and the harm done, and to bring about healing (e.g. payment for therapy).

7. Vindication is not vengeance

It means to set the victim/survivor free from the suffering caused by the abuse. Some experiences of justice can vindicate the victim/survivor and free her/him to even consider “forgiveness.” (See “On Forgiveness, Repentance, and Reconciliation” below)

Clearly, in the elements presented here, the faith community has a major role to play. This is one place that we frequently, passively drop the ball. We wait . . . for the victim to go away? For the abuser to resign? For the victim to “forgive and forget?” And if we wait long enough, we will be looking at a lawsuit because this is the last recourse for a survivor who expects her/his faith community to actually do something about this betrayal of trust.

Few survivors actually experience all these aspects of justice-making. However, what is important is that they experience enough to be able to move forward in their lives and store these memories on their hard drive. This is “approximate justice;” less than they deserve, but enough to experience some vindication and healing.

It is up to the faith community to do everything it can to make this possible. This is clear in the seven elements; most of them fall to the powers-that-be. This is the work of the community of faith. We are called to heal the wound deeply. A scar will remain, but fullness of life can be restored.

In other words, this isn’t the work of the victim/survivor alone as she/he finds her/himself up against a powerful institution whose agenda may not include her/him. This is the work of the faith community and the institutional bodies that oversee it.



“There can be no healing without justice.
And justice requires courage.”

Marie M. Fortune

For further discussion, see Marie M. Fortune, *Is Nothing Sacred? The Story of a Pastor, the Women He Sexually Abused, and the Congregation He Nearly Destroyed* (United Church Press: 1999, pp. 113-120).

On Forgiveness, Repentance, and Reconciliation (For Christians)



“Be on your guard! If another disciple sins, you must rebuke the offender, and if there is repentance, you must forgive. And if the same person sins against you seven times a day, and turns back to you seven times and says, ‘I repent,’ you must forgive.”
Luke 17:3-4 (NRSV)

Forgiveness is a real stumbling block for most Christians primarily because we do not have a deep understanding of its meaning and place in our theology. For many victims and survivors of abuse, forgiveness is a place they do not want to go. For many a congregation or judicatory, it is the first thing they have to offer a victim/survivor: “Don’t you think it is time you forgave him?” In this case, it is usually an attempt to avoid their hard work of adjudicating a complaint and calling an abusive faith leader to account.

Timing is everything. Forgiveness should be the final option in a process of justice-making, accountability, and healing. In other words, if a survivor experiences some sense of justice from their faith community, she/he may be freed to forgive, i.e. to let go of the omnipresence of this memory and get on with her/his life.

Forgiveness of sexual abuse within a ministerial relationship is not a matter of forgetting the experience, nor is it a matter of saying that the behavior was acceptable. When a person whom one has trusted and turned to for spiritual leadership takes advantage of his/her position by becoming sexually involved, it is usually a traumatic experience, not an experience one can forget. And it is always unethical.

The preconditions of forgiveness are:

- The victim/survivor must have experienced sufficient justice.
- The victim/survivor must be empowered through God’s grace.
- The victim/survivor must have experienced sufficient healing to be able to let go of the anger and pain.

Without these conditions, forgiveness will not be authentic; it will be an attempt to forgive, an effort at forgiveness, a going through the motions. Authentic forgiveness can take place only when the survivor has experienced sufficient justice, grace, and healing to be able to let go of her/his anger at the abuser. This forgiveness frees the survivor to reclaim her/his power and self-worth to recover that which was stolen.

For the abuser, repentance is not merely a matter of confession, apology, or the intention not to repeat the offense. To repent means to turn around, to change one's behavior and/or one's life so that one will never repeat the offense. As Luke 17:1-4 makes clear, the survivor's obligation to forgive is dependent upon the abuser's repentance. A survivor need not forgive unless she/he sees that the abuser is truly repentant.

What are the signs of true repentance by the perpetrator?

- The abuser takes the steps necessary for justice-making to make amends for the abuse, including restitution, acknowledgement, and a genuine apology.
- The abuser identifies the beliefs and attitudes that lie behind his/her abusive behavior, and rejects those beliefs and attitudes.
- The abuser becomes aware of the needs that lie behind his/her abusive behavior and finds ethical ways of meeting those needs.
- The abuser identifies the conditions that allowed the abuse to happen and avoids those conditions to prevent future abuse.

For the judicatory or congregation, every effort must be made to insure that the abuser will not re-offend regardless of the abuser's response to being called to account. This is very important for the survivor's healing and sense of justice, but is also critical to the safety of the faith community. This usually means that the minister is removed and his/her credentials are taken away. If he/she retains credentials, then there is serious supervision and oversight of any future ministry.

Reconciliation is the restoring of right relation between minister and congregant/client and the congregation. This may involve restoring the trust that was violated and restoring the broken relationship on new terms, or it more likely means clearly ending the relationship.

Reconciliation cannot happen without justice first being made. Even when justice is made, however, reconciliation will not necessarily come about. Reconciliation may not mean renewal of any type of relationship between minister and survivor. This is entirely up to the survivor. She/he may forgive, i.e. let go of the immediacy of the betrayal and pain she/he has experienced, and then choose to walk away. The issue is reconciled, and the relationship is over. Both minister and survivor are freed to get on with their lives.

See Fred Keene's article, "Structures of Forgiveness in the New Testament," in the Appendices.

Basic Guidelines Concerning Policy and Procedures

In preparing or revising a policy and procedure statement for your judicatory or seminary, we urge you to do four things:

1. **Revisit your mission statement.** This will help you ground your response to complaints of misconduct in the overall mission of your faith community or seminary.
2. **Take the time to reflect together theologically.** As we have suggested above, the values and teachings of our traditions provide primary direction in operationalizing our response to misconduct.
3. **Review the options for “What is your agenda?”** and make an intentional choice.
4. **Review your polity** so that you integrate your procedure into your existing polity and loci of authority within your faith community.

Effective intervention is based on policies that clearly state 1) the boundaries of ministerial conduct—what is and what is not appropriate behavior for clergy and other ministers in their relationships with congregants, clients, employees, students, and staff members—and 2) fair procedures for investigating allegations, adjudicating formal complaints, and either exonerating or disciplining ministerial abusers.

1. **The purpose of a policy and procedure** adopted by a judicatory, congregation, or seminary to address sexual abuse by faith leaders is to provide a mechanism to respond to a complaint of unprofessional and unethical conduct on the part of someone who is credentialed and authorized to function on behalf of that body.

The policy and procedure should be fundamentally fair to all parties and should assume good faith on the part of the complainant and innocence on the part of the accused until the matter is investigated and adjudicated.

A CAUTIONARY NOTE

The biggest temptation for judicatories or seminaries when faced with a complaint about clergy or faculty misconduct is to try *to avoid adjudication*. This means avoiding making a judgment call as to whether we believe the complaint is true or not true. Here are some of the avoidance strategies we often see (and do not recommend) in policies and implementation:

Informal Intervention: Attempt an initial response to “resolve the conflict” between complainant and accused faith leader. Remember, in most cases this is not a “conflict,” although it creates conflict. It would be like approaching a burglary where someone broke into your house and took your possessions as a “conflict” between two equal parties. Rather, the complaint is that a faith leader violated someone’s boundaries and the judicatory or seminary policy. The questions for the leadership are 1) did this violation take place, and 2) is this the person who did it?

Referral to a Therapist: Ask someone else to decide if this accused faith leader is an abuser or not. The same analogy applies: in a burglary, refer the accused to a therapist to answer the question, “Does this person seem capable of being a burglar?” This is not the question at hand; rather, did the violation occur, and is this the person responsible? It is not a mental health issue, but a question of conduct. Once the complaint is adjudicated, we might consult a therapist with expertise in boundary violations to help assess what the next steps should be.

Decide Not to Decide: In a “he said, she said” situation, to simply decide “we don’t have enough evidence.” This is usually decided without any real investigation and translates into taking no action. This is unacceptable. (See “Complaint > Investigation > Adjudication” and “Guidelines for Assessing Evidence” below)

The policy and procedure should then authorize steps to either exonerate the accused or discipline him/her and to insure that he/she is restrained from doing further harm to other people.

2. **Policies and procedures should be publicized** at the congregational and denominational/movement levels and in seminaries in the context of an educational presentation.

It is especially important that the policies and procedures for making complaints be publicized periodically and be readily available to church/synagogue members both in hard copy brochures and on websites.

3. **Policies and procedures must be clear** enough for church/synagogue members, who may not be experts on legal or administrative procedures, to be able to understand and to follow.
4. The **tests of any policy or procedure** concerning sexual abuse in the ministerial relationship should be:
 - Is it clear, fair, and consistent with the values and mission of the faith community it represents?
 - How does it feel to complainants who may be victims and survivors? Does it communicate a clear understanding of the problem and help bring healing and justice for them?
 - Does it have the capacity to hold perpetrators accountable?
 - Does it have the capacity to determine a false allegation and subsequently exonerate the accused faith leader?
5. In order to insure that a policy or procedure measures up to these tests, it is important that survivors (i.e. persons who have experienced abuse by clergy and are not currently engaged in an active case) be included on **any committee charged with writing or revising policy and procedures** concerning sexual abuse in the ministerial relationship. Their insights can be invaluable.
6. If **criminal charges** are filed, the judiciary and congregation should cooperate with the prosecutor's investigation. Do not try to shield an accused minister from investigation. It may be advisable to hold the judiciary procedure until the criminal charges have been resolved. But remember, if the accused is acquitted by the court, this is not a reason to cease ethics investigation or avoid disciplinary action. The evidentiary standard in criminal court is higher than in civil cases and hopefully higher than in your policy. (See "Guidelines for Assessing Evidence") The misconduct may not have been criminal, but it still may have violated your policy and the minister in question may still represent a risk to the health and safety of the congregation.



WHEN IN DOUBT, ASK YOURSELF

Ultimately, how will our action/inaction bring healing for the survivor(s) and accountability for the offender? How will it help make justice and restore the integrity of the ministerial relationship?

Basic Components of Effective Policy and Procedures

Procedures for dealing with complaints of sexual abuse in the ministerial relationship must be **fair**; they must be **clear**; and they must be **followed carefully**.

Basic components of effective procedures include the following:

1. **The “policy”** portion should specify the behaviors that are not acceptable in the ministerial role. A more general reference, such as “conduct unbecoming the ministry,” is not adequate. In any case, it is not likely that there will be consensus on what “conduct unbecoming the ministry” means.

This policy should be limited to the denomination’s responsibility for the conduct of ministers in the ministerial relationship, i.e. in their professional roles. It is not appropriate to address personal sexual ethical issues in this policy. If you so choose, those issues may be addressed in a separate code of conduct.

Language such as the following is preferable:

“Sexual contact or sexualized behavior between a clergyperson/ teacher and a congregant, client, student, or employee with whom the faith leader has a professional, pastoral relationship is unethical and unprofessional behavior and shall be deemed clergy misconduct. Clergy misconduct involving sexual abuse is defined as sexual activity or contact (not limited to sexual intercourse) in which the faith leader or pastoral counselor takes advantage of the vulnerability of the congregant, student, client, or employee by causing or allowing the client, congregant, student, or employee to engage in sexual behavior with the faith leader or pastoral counselor within the pastoral or teaching professional relationship.”

This language both defines the misconduct and asserts it to be a violation of ministerial ethics. This then becomes the standard against which you would judge a complaint of misconduct. Did the alleged offender engage in this behavior that you have defined to be unethical?

2. **Procedures for making complaints** should designate a specific person by title or role within the judicatory to whom church/synagogue members can make their complaints. The procedure should require that in the case of a complaint on behalf of a child, the congregation or judicatory should make an immediate report to the law enforcement.

3. **Procedures must provide for due process** in assessing a complaint. “Due process” means that the steps of the procedure are reasonable and fair. The procedure must be unbiased and protect the rights and interests of both the complainant and the accused.

 **A CAUTIONARY NOTE**

Concerns about “due process” can sometimes become a smokescreen for inaction. The purpose of “due process” is to insure that the process is fair and transparent to that the outcome has integrity. Unfortunately, we have seen cases where the understanding of “due process” by the adjudicating body has meant that they allowed the accused faith leader to control the process and negotiate the outcome. This clearly favors the accused faith leader and rarely leads to a just outcome. The adjudicating body controls the process and finally decides whether someone retains his/her credentials for ministry.

The other smokescreen that sometimes arises here is the decision, based on “due process,” to not pursue a complaint because it might “damage the reputation” of the accused faith leader. The possibility of a false allegation of misconduct faces all of us. As a public figure, it is a risk that comes with the job. If we are falsely accused, we need to know that the procedure, with “due process,” will allow us to defend ourselves and prove our innocence of the charges. Then the faith community should provide the means to exonerate the person falsely accused.

4. **Post adjudication.** If, after an investigation, the allegations of ministerial misconduct are inconclusive or unsubstantiated, steps must be taken to restore the accused minister’s credibility. For example, if the minister chooses, the results of the adjudication could be sent out to the congregation or published in appropriate denominational media.

If the allegations of ministerial misconduct are validated, steps must be taken to:

- Discipline the offending minister. (See “Disciplinary Process” below)
- Protect and restore survivors, including having the abuser provide restitution where appropriate.
- Seek to restore the integrity of the ministry.

- Seek to restore the congregation in which the offense(s) occurred, including notifying the membership of the findings and the disciplinary action taken and providing education and an opportunity for open discussion. (See “Response to the Congregation/Organization” below)
- In the future, only consider restoring the offending minister to professional health if requirements are met.
- Ensure that appropriate information regarding the faith leader’s offense(s) is given to any other church/synagogue to which the minister may move and to the denomination or movement.

5. Procedures should be established at the denominational or movement level for disclosure of information:

- Maintain an open personnel record in order to respond to future requests for references.
- Provide information about the ministerial abuser to any new congregation to which he/she may be assigned or may move. In the case of churches that do not have a denominational structure, every effort should be made to communicate this information to the new congregation.

 **A CAUTIONARY NOTE**

The information that needs to be provided is fairly simple: The nature of the complaint filed against the faith leader, the resolution of the complaint, and the action by the judicatory or seminary should remain in the faith leader’s personnel file and available for future reference. The particulars about the misconduct and the identities of the complainants should not be available unless there is good reason in the future request for reference information.

- 6. Congregations and denominations or movements should develop hiring procedures that require the disclosure of previous complaints,** including actions taken and the determination of findings, as well as a full criminal background check (in some states, this is required by law) prior to hiring. A release of information from the candidate for any position must be acquired before performing the criminal background check. If the candidate refuses to provide this release, you then have important information about him/her.

Roles in Response

It is critical that judicatory or seminary staff and volunteers be clear about the roles they are playing in response to a complaint. Sometimes your polity will dictate this; for others, there is flexibility. Often the confusion of roles or conflicts of interest in roles are roadblocks to successfully processing a complaint. Here are some things to consider as you determine roles both in your policy and also in your implementation of procedures in response to a complaint.

1. Judicatory Executive or Bishop (or Dean of a Seminary)

You have to decide what your job is within your polity or institutional structure. For example, if, as Bishop, you are a pastor to pastors, then you will not be able to oversee the process of responding to the complaint. I also suggest that you don't take on an advocacy role for the accused, but try to remain neutral even as you attend to the players involved. If you have a significant prior relationship with the complainant or the accused, you may need to step out of the process and designate others to implement the process in order to avoid a conflict of interest. Also, I caution against seeing your role as "protecting" your institution against the complainant in an adversarial way. (See "Legal Counsel" below)

However, if you decide that your responsibility is the overall health and well-being of the judicatory or seminary and the effective implementation of the policy and procedures you have adopted, then be clear about that in relation to both the complainant and accused. You are the neutral party committed to the integrity of the process. Designate, but oversee staff and volunteers carrying out their responsibilities.

Once the complaint is adjudicated, you are still responsible for implementing the outcome. If the complaint is valid and discipline is required, it is your job to follow it through. If the complaint is invalid and exoneration is required, it is your job to follow that through.

2. Response Team

A number of judicatories and some seminaries have created something often called a "Response Team" as part of their process in responding to a complaint. This is another place where there can be confusion.

It is *not* the Response Team's responsibility:

- To "handle" this complaint, i.e. to "make it go away"
- To "protect" the institution's assets or reputation

A Response Team can be a valuable resource if they are 1) well trained and

2) clear about their role. Their role should generally be as a well-informed resource available to:

- Designate an advocate for the complainant, i.e. someone who helps the complainant navigate the system and who clearly acts in her/his interest rather than the institution's interest
- Be an educational resource to the local congregation or organization where the accused was employed to provide support and education about the nature of abuse by faith leaders

3. Investigation Team (See “Complaint > Investigation > Adjudication” below)

This is a separate person or persons whose job it is to gather information regarding the allegations of the complaint.

Preferably, this is an outside consultant with expertise (a legal background would be helpful; a background in clinical therapy would not necessarily be helpful) who can come in, interview the appropriate people, request possible evidence (e.g. date books, emails), organize this information, and present it to the Adjudication Committee of the judicatory or seminary. This person would be compensated for their services. The fact that they would have no association with individuals in the judicatory would be an advantage in minimizing possible bias. They would not be serving as legal counsel.

To carry out this task, you may decide to appoint individuals within the judicatory or seminary as volunteers.

- **Advantage:** No expense.
- **Disadvantages:** It's asking a lot of your volunteers/staff, and they probably won't have the expertise needed to accomplish the task.

4. Adjudication Committee (See “Complaint > Investigation > Adjudication” below)

This is the group of persons who are formally authorized within a judicatory to hear the evidence, adjudicate (i.e. decide the validity or non-validity of the complaint), and then make recommendations regarding discipline, exoneration, or other action.

This committee should correspond with the persons who already have the authority and responsibility to grant or remove credentials of clergy or other authorized ministers. Within the seminary, it should likewise be those who have responsibility for hiring and firing.

Some judicatories already have a structure in place for a judicial review or church trial. Their authority and responsibility are usually clearly laid out.

The most important thing about the Adjudication Committee's role is that everyone is clear that it is only up to this body to “adjudicate” the complaint, i.e. to decide whether they believe the allegations are true and are covered by

your policy. This adjudication task is not up to the investigator, the Response Team, the Executive, the insurance company, a therapist, or legal counsel.

The simple question the Adjudication Committee is trying to answer is:

Did the accused minister engage in conduct that violates the policy that established ethical standards for ministers?

Intentions, rationalizations, explanations, or extenuating circumstances are fundamentally irrelevant to the adjudication process.

5. Legal Counsel

Legal counsel can be a vital resource in responding to a complaint, but only if both the lawyer and the institution are clear about roles and expectations.

Too often in the past, a judicatory or seminary has turned to their lawyer to “handle this,” which has resulted in the lawyer assuming his/her role is to protect the assets of the institution from the complainant. Ultimately, this has not served the real or perceived interests of the judicatory or seminary.

Your process in response to a complaint of ministerial misconduct should be driven by:

- Your goal to protect the integrity of the ministerial relationship and to protect those who may be vulnerable
- Your commitment to a fair and just process
- Your theology and values to interrupt harm and to confront injustice
- A commitment to support those who have been harmed by one of your leaders with justice and healing
- A commitment to call to repentance one among you who has caused harm

If you hire an attorney, you should be hiring him/her to help you implement these goals, using your policy and procedures to be sure that you are careful in your process and that the outcome has integrity.

If, on the other hand, you “turn this problem over to counsel,” he/she will not be implementing these goals, which will mean:

- Denying pastoral contact with the complainant
- Withholding information
- Denying any acknowledgment of a finding that the complaint is held valid
- Denying restitution

All of these responses greatly increase the likelihood that the complainant/victim

will not find what she/he needs and deserves from the judicatory or seminary (See “Elements of Justice-making” above) and will therefore have no choice but to pursue civil litigation.

A CAUTIONARY NOTE

As we have seen in recent cases, judicatories or seminaries are often found liable for significant sums of money in addition to lawyers’ fees. In most cases, these costs are unnecessary if the institution had simply stayed focused on the goals listed above. A lawyer who is experienced and well-informed and who has a clear mandate from his/her client (the institution) can save you a lot of money and help do the right thing, which ultimately serves the long-term interests of your judicatory or seminary.

6. Therapist/Consultant

A judicatory committee may decide it wants to consult with a therapist as part of its process. The question is why? What role are you asking that person to play?

Sometimes the committee wants the accused, who may be denying the allegations, to be evaluated by a therapist to determine if he/she is an abuser. This is a mistake. Therapists who have expertise in boundary crossing and abuse will generally refuse to play this role. **Having a therapist evaluate the accused is an attempt to avoid having to consider the evidence and *adjudicate* the complaint.**

In the disciplinary phase (after adjudication), a judicatory may consider requiring therapeutic work on the part of the abuser in order to be considered for reinstatement as a minister. A competent, experienced therapist may agree to take this on *if* the abuser fully and unequivocally acknowledges the misconduct and takes responsibility for it. This evaluation is then to determine what kind of abuser he/she is and whether or not therapy would be helpful.

If the abuser is a wanderer, therapy may be a useful rehabilitative resource. However, if he/she is a predator, therapy will be of little value to change behavior.

 **A CAUTIONARY NOTE**

Do not try to use a therapist to help determine whether an allegation is true, i.e. whether these events actually happened. You are not trying to determine whether the accused faith leader has a personality making him/her likely to violate boundaries. You are trying to determine if he/she violated boundaries and violated your policy.

7. Insurance Agent

If your judicatory or seminary has insurance regarding professional malfeasance, which it should have, then notify your insurance agency immediately once a complaint is filed. (See “A Checklist for a Draft of Policy and Procedures” below)

The same principle applies here that we discussed above in regard to legal counsel. Do not drop the complaint in the insurer’s lap with the directive to “handle this.” Be clear ahead of time about how you expect to work with the insurer. You have insurance so that you can afford to provide for the material needs of those who have been harmed by a faith leader. If you have coverage for a complaint, the insurer should help to compensate the victim for pain and suffering experienced. This sum will generally be far less than the settlement reached as a result of a civil suit.

A Checklist for a Draft of Policy and Procedures

1. **Do you have a policy statement** clearly indicating the conduct considered unethical by the judicatory or seminary?

2. **Does your procedure:**
 - Identify persons who will receive the initial complaint?
 - Provide for the immediate notification of your insurance carrier?
 - Provide a mechanism for third party complaints?
(See “Third Party Reports to Judicatories: How Do We Process Them?” below)
 - Designate in advance a person to report the alleged abuse to legal authorities for complaints involving the abuse of children?
 - Request a written complaint from the complainant?
 - Identify persons to meet with the accused minister and present the complaint?
 - Request a written response from the accused?
 - Provide a means to inform the complainant of the accused’s response?
 - Avoid asking the complainant to meet with the accused minister unless he/she requests such a meeting?
 - Provide a means to notify the local congregation or organization’s leadership of the complaint, the procedure, and timeline?
 - Provide a means to suspend the accused minister with or without pay and without prejudice during the investigation process?
 - Engage an investigator to commence an investigation as quickly as possible?
(See “Complaint > Investigation > Adjudication” below)
 - Clearly name an authorized body within the judicatory to oversee the implementation of the procedure and to adjudicate and possibly discipline the faith leader against whom the complaint was brought?
(See “Roles in Response” above)
 - Provide a means to exonerate the minister if the allegations of ministerial misconduct are not substantiated?
 - Provide a means to discipline the ministerial abuser if the allegations are substantiated?
 - Provide for gradations of discipline in order to respond appropriately to the particular circumstances?
 - Delineate an appeals process that the accused minister can employ?

3. Is your judicatory committed to:

- Presuming innocence until the accused is proven guilty?
- Presuming good faith on the part of the complainant?
- Preserving the privacy of the complainant(s) throughout the process and beyond unless she/he requests otherwise? To disregard the complainant's privacy is to revictimize him/her. (See "Confidentiality vs. Secrecy" below)
- Keeping careful records of all actions and conversations?
- Passing along determinations to the denomination or movement?
- Avoiding negotiation or making deals with ministerial abusers?
- Using the policies and procedures rather than attempting to "settle this quietly?"
- Notifying the congregation/organization of the determination of the complaint, including the nature of the complaint and the consequences imposed on the minister?
- Offering the congregation/organization education about sexual abuse by clergy and an open discussion in order to help them process the disclosure of abuse?
- Making your policy and procedure easily accessible in print and online for your members?

A CAUTIONARY NOTE

Confidentiality vs. Secrecy

Another place where judicatories are tempted to get off track is in their understanding and invocation of "confidentiality."

Confidentiality has to do with stewardship of information.

We may be given information in confidence, which means that we are entrusted with overseeing that information. There may be circumstances that require that we disclose or discuss this information. For example, if a congregant shares a personal crisis, we may need to consult with a colleague about how best to support this person. We do not need to disclose names or particulars in order to get the assistance we need to be helpful to someone else.

A **secret** means not disclosing any information regardless of the context. For example, we are planning a surprise birthday party for a colleague, and it's a secret.

The questions in regard to confidentiality are with whom do we need to share information and what information do we share in order to carry out our pastoral and ethical responsibilities?

In responding to a complaint of misconduct, the process should be confidential, but not secret. Confidentiality is intended to protect the process, but once the process is completed, people need to know what happened. This insures the integrity of the process. Confidentiality is never intended to protect a faith leader who is found guilty of misconduct from the consequences of his/her actions.

In the process, information should be shared on a “need to know” basis. Who needs to know that an investigation of this particular faith leader is going on? The accused, the leadership of the congregation, organization, or seminary where this person is employed, the complainant, and the judicatory leadership. Who needs to know the identity of the complainant(s)? Probably only the accused and the members of the adjudicating committee, unless the complainant wants to self-disclose in other settings, which is her/his right.

The expectation that the accused faith leader not disclose or discuss the identities of the complaint(s) may need to be made clear to him/her. Too often we have seen the accused name the complainant(s) and proceed to trash them in the community as part of his/her effort to derail the investigation.

Post-adjudication, if the complaint is upheld, the identity of the faith leader needs to be shared with the appropriate people, including the congregation, the judicatory, and the denomination or movement. The identity of the survivors does not need to be shared unless they so choose. In addition, survivors should not be asked to agree to a gag rule as a condition of resolution. This does not help with their healing process. It was their experience of abuse, and they should be free to talk about it.

Third Party Reports to Judicatories: How Do We Process Them?

When a faith leader violates the judicatory's policy, which delineates unprofessional conduct involving sexual contact with congregant, client, employee, or student, the recipient of this conduct may come forward and make a complaint to the judicatory. The judicatory procedure will most likely request that the complainant present a written, signed complaint that states her/his allegation of misconduct on the part of the faith leader.

This statement then becomes evidence that, along with any other evidence or complaints filed by other complainants, will be used by a committee to adjudicate the complaint, i.e. to determine whether or not the judicatory or seminary policy has been violated.

One of the common concerns expressed by those who are developing or implementing denominational or movement policies on clergy sexual abuse is the question of "what do I do when I indirectly receive information about a clergyperson or faculty member engaging in unprofessional conduct?" There are several different circumstances under which this might occur:

- 1. Rumors:** Second- or third-hand rumors may be passed to a judicatory administrator. It is virtually impossible to act on information that is presented only as a rumor. It is important to try to acquire some actual evidence or a first-hand report in order to activate the procedure. One must always be cautious about rumors because they may represent malicious false reports. On the other hand, an administrator would do well to attend to rumors as a signal to pay close attention to future reports about a particular situation.
- 2. First-Hand Information from a Third Party:** In this situation, someone may come forward with information based on their witnessing a faith leader in violation of the judicatory policy, e.g. being sexual with a congregant or client. The third party may be willing to file a complaint, but the recipient of the sexual contact by the clergyperson may have no interest in a complaint. The person involved with the minister may see her/himself as a "consenting adult" in a sexual relationship with the clergyperson and in no way a *victim* of clergy abuse.

This circumstance should not limit the process of the judicatory in investigation and adjudication of the third party complaint. The question for consideration is: Did the clergyperson violate the policy of the judicatory? The third party report of *first-hand* information is important evidence. The absence of a "victim" is not relevant and should not deter the judicatory from pursuing the case.

However, it must be first-hand information, i.e. conduct on the part of the faith leader that was actually seen or heard by a third party.

- 3. A Confession by the Clergy person without a Victim's Complaint:** Likewise, the question here is: Is there evidence that the judicatory policy prohibiting sexual contact between the clergy person and the congregant has been violated? Certainly, the acknowledgement by the faith leader that he/she has engaged in this activity is the best evidence available.

In circumstances of first-hand information from a third party and a confession by the clergy person without a victim's complaint, the judicatory procedure should be implemented in order to adjudicate the individual case.

Occasionally, there will be a complainant who comes forward and shares her/his experience with a judicatory administrator, but is then unwilling to file a formal written, signed complaint. This unwillingness is usually the result of her/his fear of confronting the abusing minister or of that person knowing her/his identity. However, the complainant wants some action; in short, in coming forward she/he wants this misconduct to stop.

It is important to help the complainant understand why the written, signed complaint is important and that it will expedite the process.

The administrator might also ask the complainant if she/he knows of others with similar experiences. Would she/he contact any of those persons and ask them to come forward? Would she/he be more comfortable filing a complaint if there were others doing so as well?

Some policy/procedures have allowed for the bishop or administrator to file the formal complaint on behalf of the victim if he/she is convinced the complaint's veracity and of the necessity to protect the victim through anonymity. A policy can provide for this option for the bishop or administrator to be the third party complainant, which would then trigger an investigation.

The question that always challenges the judicatory administrator or committee is what will be the result of their not acting on information that comes to them, which may later result in someone else being abused. This also becomes a question of legal liability. Did you choose not to act on information you had and was someone else harmed as a result?

Complaint > Investigation > Adjudication

When a congregant/student comes forward to disclose that she/he has been subjected to boundary violations by a faith leader, she/he should immediately be connected to the designated person to receive a complaint. That person should respond with sensitivity and assurance that the congregation/judicatory/seminary takes this matter seriously and will respond. The complainant should receive a copy of the policy and an overview of what will happen. She/he should be informed that a written complaint is required to begin the process.

Ultimately, the adjudication process should answer two questions:

1. Does the alleged conduct by the faith leader represent misconduct as defined by the policy itself?

The Adjudicating Committee reviews the policy, evaluates the situation within the context of the policy, and analyzes whether the totality of the circumstances indicates that the conduct falls within the policy prohibitions.

For example, if the complaint alleges that the minister was intoxicated at the New Year's party at a congregant's home, this would not be covered and should be addressed in some other way. If, however, the complaint alleges that the minister was intoxicated and made sexual advances toward a congregant, then we have an allegation of conduct prohibited by the policy.

In some cases, although the presenting problem may be couched in terms of sexual harassment or sexual abuse, the conduct may not fall within those prohibitions, but may be problematic nonetheless. Systemic or organizational issues may contribute to the problem. In such cases, the judicatory may refer the matter to the appropriate body for consideration and may implement any recommended corrective actions to resolve the problem.

2. If the alleged conduct by the faith leader is covered by the policy, then is the allegation substantiated, unsubstantiated, or inconclusive? Do you believe this actually happened?

The answer to this question will come from an investigation (i.e. a gathering of facts and information) and an adjudication process in which the evidence is weighed and a judgment is made by the committee authorized to carry out this function.

Engaging a neutral expert to do the investigation is preferred. If the results of the investigation are to be trusted by all parties, it should be done by someone who does not have relational or collegial ties to any of the parties, has the professional expertise to perform such work, and is compensated for the work. A sexual harassment or sexual abuse complaint is not the time to

save budget dollars by having a volunteer conduct the investigation. However, if the judicatory or seminary chooses to appoint a committee to do the investigation, it is crucial that these persons be adequately trained and are not associated with the accused or the complainant.

Ideally, the judicatory or seminary should engage an investigator as promptly as possible, and the investigator should begin the inquiry within a few days after receipt of the written complaint.

The investigation will cover the circumstances of the complaint, the people directly involved, and anyone who may have first-hand knowledge of these circumstances or other relevant information. The investigator is looking for information that would confirm or deny the allegations of the complaint. He/she might request copies of correspondence (e.g. emails, letters), calendars, or diaries. Since others in the congregation may have had similar experiences with this minister, this is also the time to review any previous inconclusive complaints in this congregation, to discover whether the minister had any complaints at other places where the minister served, and to investigate whether the minister has any relevant criminal or civil charges.

The investigator presents the information to the Adjudication Committee, which weighs the factual findings and decides whether the accusations of sexual harassment or sexual abuse are substantiated, unsubstantiated, or inconclusive.

Guidelines for Assessing Evidence

Remember, in assessing the evidence presented to support a complaint, the goal is to determine whether the judicatory policy regarding ministerial conduct has been violated.

For example, if the policy is descriptive of the behaviors considered unethical (sexual contact or sexualized behavior with congregants, clients, employees, students, or staff), then the committee's job is to assess: Does this behavior fall under the policy and did it take place? If it did, then the policy was violated, and the procedure provides for the next steps. (See "Complaint > Investigation > Adjudication" above)

Sometimes an abusing minister will acknowledge some sexualized behavior and then insist on making an explanation about how and why. For example, "She came onto me;" "He's an adult and knew what he was doing;" or "I was just teaching her about sexuality to enhance her marriage."

These explanations are irrelevant to the determination of the committee. If the policy is clear about the nature of the unethical conduct and about the responsibility of the minister to maintain the boundaries of the ministerial relationship, then the only relevant question is:

Did the behavior take place?

The committee should determine its standard of evidence prior to adjudicating a complaint. In other words, how much evidence will convince them that unethical behavior did in fact occur?

The legal standards are instructive on this point.

- In a criminal proceeding, the standard is "**beyond a reasonable doubt**," which means that 90 percent of the evidence must support the complaint. The reason for this high standard in our legal system is that a criminal conviction usually carries with it incarceration, i.e. the denial of one's freedom, so we must be very certain of the accused's guilt.
- In a civil proceeding, the standard is "**a preponderance of the evidence**," which means that at least 50 percent of the evidence must support the complaint. In other words, is it more than likely that the behavior occurred than that it did not occur?

Since the action of the judicatory is not a criminal proceeding and our concern is to determine whether there was a violation of the ministerial relationship, the civil standard is quite adequate for our purposes. **The committee needs to be clear on this before it begins hearing evidence.** In making your assessment, be aware of the following:

1. **An abusing minister will frequently minimize, lie, and deny** when first confronted with the complaint.

2. If there are **multiple complaints** about the same minister, this is convincing evidence! However, one complaint is enough cause to pursue the matter—i.e., implement the procedures—and one complaint validated is enough cause to discipline the minister.
3. **Look for a pattern.** Determine whether the accused minister’s alleged behavior, the alleged incidents, and/or the situations of the complainants are consistent with what you know about abusers. If a pattern is evident, this is convincing evidence.
4. **Ask the accused directly** about specific alleged behaviors. For example, “Did you have sexual intercourse with her?” “Did you ever kiss her and put your tongue in her mouth?” “Did you ever offer him alcohol and show him pornographic movies in your office?” “Did you have oral sex with her?” Surprisingly, when asked directly and specifically, some abusing ministers will admit the behaviors.
5. **Do not get hooked** if the accused asserts that he/she is being “victimized” by the investigation. If an accused burglar complained that he/she was being victimized, would you stop the investigation? The process of being called to account may be extremely painful for an abusing minister, but this is not victimization.
6. When it becomes a matter of the complainant’s word against the accused’s word, **do not stop the process.** You must reach a judgment based on the “**preponderance of evidence**” and based on the **possibility of future professional misconduct** by that minister. Remember, your first obligation is to protect those who are vulnerable to clergy and other ministers.
7. Finally, this is a critical decision for the judicatory or seminary. **If you decide that the accused minister did not violate the policy and you return him/her to their position of trust and he/she then abuses someone else, the institution faces significant legal liability. You had a chance to stop this person, and you didn’t.**



“Recognition of sexual molestation in a child (or sexual abuse of an adult) is entirely dependent upon our willingness to entertain the possibility that the condition may exist.”

Suzanne Sgori, M.D.

“Finally, we must decide based on the evidence, am I comfortable with this person serving as a faith leader to my mother, my brother, my partner, my child?”

Marie M. Fortune

Disciplinary Process

If the **Adjudication Committee** decides the sexual harassment or sexual abuse accusations are substantiated, the disciplinary process begins. There should be several levels of possible disciplinary action available to the committee. (See Section 1: “Who Are Sexual Abusers in Ministry?”)

A Reprimand: This disciplinary action is appropriate for a complaint in which the behavior is “wandering” and represents poor judgment, and the minister clearly acknowledges and takes responsibility, is apologetic, and can learn from his/her mistake.

A Suspension: This disciplinary action is appropriate for a complaint in which the behavior is serious and perhaps represents a pattern or indicates other problems (e.g. substance abuse), and the minister acknowledges and takes responsibility, realizes the gravity of his/her behavior, and is willing to accept therapeutic help to address the problem(s) in addition to restrictions imposed by the judicatory or seminary. At this point, the minister might make restitution to the person who he/she harmed.

A suspension can be lifted and standing restored. However, the judicatory or seminary must be clear about the requirements placed on the minister before it will consider restoring credentials or employment. Even if the minister has fulfilled every requirement, the judicatory must still make a judgment call as to whether they believe this person is now able to minister effectively. Supervision of the minister should continue.

Termination of Standing: This disciplinary action is the most severe discipline that the judicatory can impose. The judicatory permanently removes the credentials of the minister to practice within that denomination or movement or seminary. This discipline is appropriate for child molesters and most other predators.

Some argue that it is better to suspend rather than terminate the credentials of an abuser to allow the judicatory or seminary to “keep an eye” on this person and control his/her behavior. Otherwise, the predator is released into the community with no supervision.

This suggestion only has merit if the minister will in fact be closely supervised *and* denied access to vulnerable people in the congregation or seminary. This is extremely hard to insure.

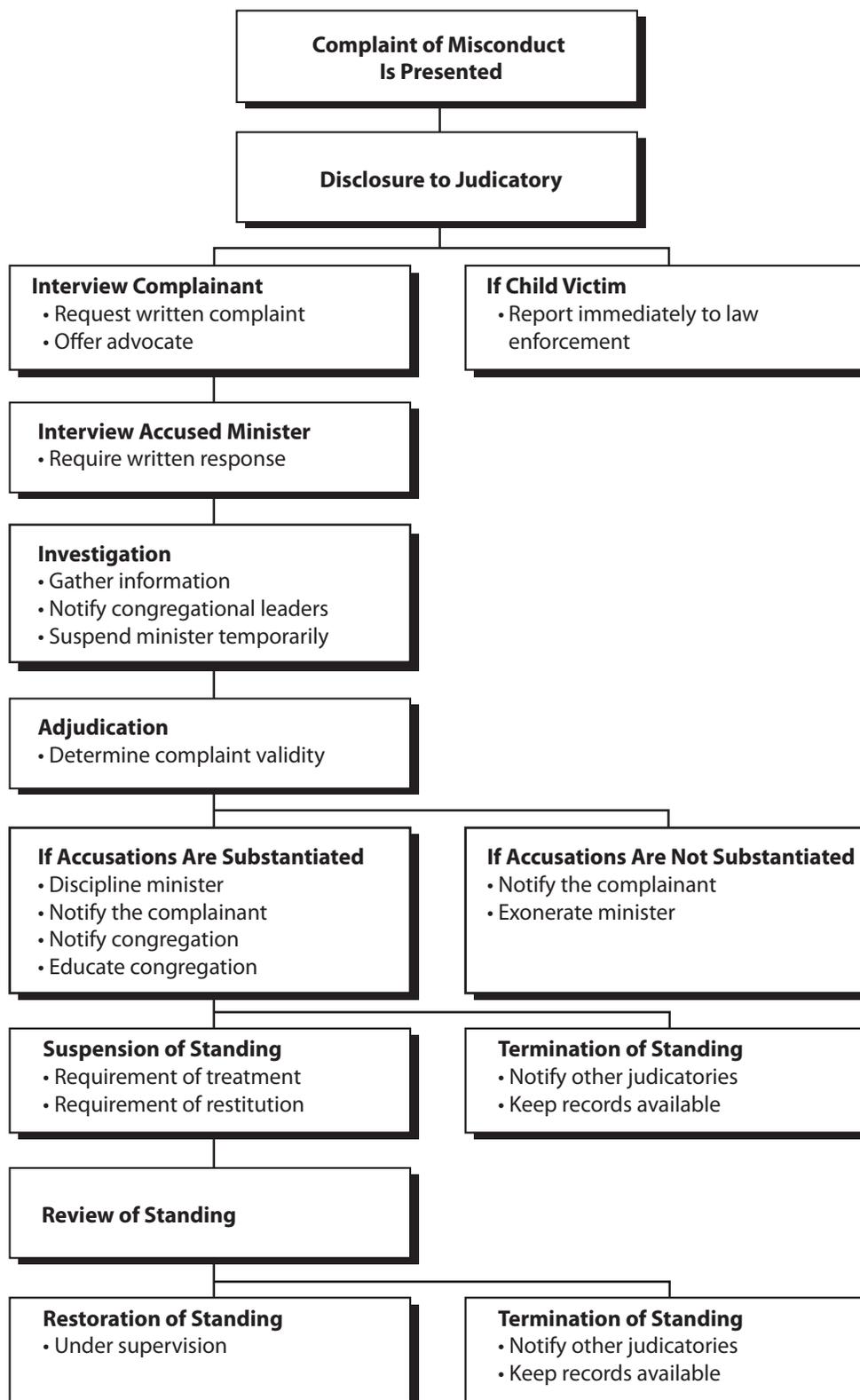
The risk for the judicatory or seminary is that the minister will still have credentials that he/she will use to continue to gain access to vulnerable people and thus will continue to abuse.

The legal liability here is huge. You had the chance to stop him/her in your setting and did not.

The final step after termination is to notify other judicatories within the denomination or movement that this step has been taken and that this person no longer serves as a faith leader

here. The national office needs to track this information. Some denominations or movements publish this action along with the comings and goings of authorized ministers. This action should not be kept secret. The faith leader has no right to privacy here. His/her records should remain available for any future reference checks, making it more difficult for the minister to move to another denomination.

Basic Flowchart of Procedures for Adjudicating Complaints



To Use or Not Use Mediation

Some judicatories have adopted mediation as the Option A response to a complaint of clergy misconduct. The thinking here is that mediation can help “resolve” this “conflict” between minister and congregant. When this doesn’t work, then they go on to Option B and adjudicate the complaint. This strategy on the part of a judicatory represents an inadequate understanding of mediation.

Mediation is a dispute resolution process whereby a neutral person (someone who is impartial and unbiased about the situation and the parties involved and has no direct interest in the outcome) helps the parties in conflict to discuss their issues and the possibilities of working through their conflict. One may hear mediation commonly referred to as an alternative dispute resolution, or “ADR,” method. This process is used in various contexts to resolve situations that have turned into a conflict.

The dispute may be a war of words, a disintegration of a relationship, a legal battle, a fistfight, or an armed conflict. In addition to the neutrality of the third party intervener, the other major principles of mediation include the parties’ freedom to decide whether to participate (and to what extent), the parties’ ability to speak for themselves rather than only through representatives, and the parties’ ability to make free and informed decisions. If used appropriately, mediation process *may* be used effectively to resolve some complaints made against clergy or teachers.

Consider this scenario. A minister/spiritual teacher becomes emotionally involved and sexually intimate with a congregant/student. The congregant/student realizes he/she is entangled in an inappropriate relationship and brings it to the attention of the body that authorizes the minister’s credentials. The accused minister is loved by many and has been a successful leader. Therefore, the authorizing body wants to handle this matter with as little disruption to the community’s equilibrium as possible.

Some believe the accusation may just be a “misunderstanding.” To minimize the damage of a scandal, the authorizing body invites the congregant/student to participate in a mediation session with the minister/teacher. The congregant/student declines participation and wishes to press forward with a formal complaint. The authorizing body is dismayed by the refusal to mediate and fears the congregant/student may have unreasonable demands.

What is askew in this picture? The answer lies in the underlying reasons for the proposed mediation.

In the scenario above, the authorizing body is afraid an ethics complaint would create controversy for a popular minister and be disruptive to the congregation. Mediation is

suggested as a way to keep the matter confidential and dispose of the complaint as quickly as possible. If an authorizing body suggests mediation *before* it has investigated the allegations, it is inappropriately using mediation to avoid action.

The situation described above is not a “conflict” between two equal parties. One party who has greater power in the relationship has taken advantage of the other party. This is potentially a violation of the judicatory policy on clergy misconduct.

Avoidance of addressing this violation has devastating consequences for the complainant and the community. It frustrates the complainant’s efforts to regain his/her sense of power by standing up to the accused and encouraging the community to confront the alleged offender and hold him/her accountable. Avoidance suppresses allegations that others may have and may put others in harm’s way. The authorizing body may unwittingly collude in maintaining a minister’s destructive behavior pattern and enable the minister to hide behind a cloak of legitimacy.

When an authorizing body has assessed the results of a thorough investigation, mediation between the minister and the complainant may be appropriate *if* the facts reasonably indicate that professional boundaries were not crossed and a misunderstanding occurred between the persons involved. This might be the case if, for example, there are differing cultural expectations about certain behaviors. An Anglo minister might insist on shaking hands with a Korean congregant, who views this as an inappropriate greeting.

Mediation in this situation would enable the complainant and the minister to discuss the issues that brought them to this point, gain a better understanding of one another’s perspective, and make decisions about their future interaction. To preserve the integrity of the process and any outcomes, neither party should be shamed or coerced into participating.

Returning to our scenario above, the authorizing body causes an independent investigation to be conducted after the complainant declines mediation and the evidence substantiates the complaint of sexual abuse. **Is it appropriate for the authorizing body to suggest mediation before taking disciplinary action?** This is unlikely. The answer to this query depends on the motivation for suggesting mediation at this stage and what the authorizing body expects to accomplish. Mediation may be appropriate if the authorizing body wishes to have a facilitated discussion with the complainant without the accused minister’s participation concerning the impact of the situation, the alternatives for disciplinary action, and the alternatives for restitution. Using mediation to avoid taking disciplinary action or to mitigate discipline is an inappropriate use of the process. This avoidance undermines the ethical foundation of the community’s sexual abuse policy, procedures, and disciplinary actions. Pressing for a mediation session with the accused minister’s participation would also be undesirable unless requested by the complainant.

Our scenario poses one final question. **What about mediation between the complainant and the offending minister after adjudication and disciplinary action?** Restorative Mediation is a type of mediation process used by some dispute resolution practitioners who mediate clergy

sexual abuse cases. The goal of this form of mediation is for the complainant and the offender (or, if the offender will not participate, then a responsible party) to engage in a process that will promote the complainant's healing. The complainant and offender (or responsible party) undergo extensive preparation before the mediation conference. The complainant must be emotionally ready to face the offender and identify what he/she needs to regain spiritual connection, safety, strength, and a sense of justice. The offender (or responsible party) must be prepared to face the complainant, listen to his or her account of the devastating impact of the abuse, accept responsibility for the actions and the harm caused, and make reasonable amends for the negative consequences suffered by the complainant. Since adjudication of the case has already occurred, the focus is on the complainant's healing and restoration.

Response to the Accused Minister

1. **Do not be surprised** by the accused's initial minimization or denial.
2. **Do not be thwarted** by the accused's threats to sue the judicatory for loss of livelihood or slander.
3. **Do not get hooked** by the accused's complaints of feeling "victimized."
4. **Do not negotiate or make deals** with the accused minister.
5. When appropriate, **do require treatment** from only a specialized, trained resource selected by the judicatory, not the minister.
6. **Do not allow** the minister to resign and give up credentials *before* the adjudication and then seal the records. If he/she decides to resign, keep the records open and clearly indicate that he/she resigned while under investigation. This is important and should be communicated to anyone in the future who seeks a reference on this individual.
7. **Do encourage or require restitution** to the survivor(s).
8. **Do not respond** with "cheap grace" or quick forgiveness.
9. **Do remember that unequivocal accountability** is the best means to bring an abusing minister to repentance.
10. **Do consider restoration of credentials or position.** For an abusing pastor to be *considered* for restoration to ministry, these minimum conditions should be met:
 - Unequivocal acknowledgement of responsibility for harm done to victim(s), with a letter of apology
 - Genuine remorse for harm done
 - Repentance—a fundamental change in behavior and understanding, which may be accomplished through appropriate therapy
 - Offering of restitution to survivor(s)

The way in which an abusing minister responds to the accountability process is the clearest indicator of his/her potential for restoration to ministry. Resistance, minimization, and rationalization are indicators that the minister will not be able to return to an effective ministry.

In considering a request for restoration to ministry, a judicatory leader or committee should consider this question:

Can you assure the congregation that this person will not violate the boundaries of the ministerial relationship through sexual abuse again?

If you cannot (and this is very hard to ensure), the minister should not be placed in a position of trust again because the risk to the congregation is so great. The legal liability for everyone involved in allowing a known abuser to minister again is enormous if he/she abuses again.

11. **Do reach out to faith leader's family members** with care and concern.
12. **Do try to arrange for the financial support of the abusing minister's family** during a possible employment transition for the abusing minister.

Response to the Complainant

1. **Offer an advocate** during the investigation and adjudication phases.
2. **Offer outside counseling referrals.**
3. **Reimburse counseling expenses.**
4. **Offer opportunities to meet with other complainants.**
5. **Provide information** in a timely fashion. For example, return his/her phone calls as soon as possible.
6. **Communicate** in person, by phone, and by letter.
7. At the end of the process, after an abusing faith leader has been called to accountability, **express appreciation** to the complainant for coming forward and helping to restore the integrity of the ministerial relationship.

WHEN IN DOUBT, ASK YOURSELF:

How will this action/inaction affect the victim(s)?

How will it help make justice?

How will it bring healing to the congregation?

How will it bring repentance to an abusing minister?

How will it protect congregants/staff from further harm?

Response to the Congregation/Organization

1. In conjunction with local leadership, **communicate in writing** the findings and the actions of the judicatory **with every member of the church or synagogue**.

People need to have direct, formal information from the judicatory. The letter should clearly indicate the nature of the misconduct, but without details, and *should not* identify the complainant(s) unless they request so.

2. **Offer a trained consultant** (e.g. from the Response Team) to provide education on the topic of clergy misconduct/sexual abuse in the ministerial relationship. This will help attend to the congregation's grief, anger, and other reactions.

Education is key to the healing of a congregation whose fabric is often torn apart by the disclosure of abuse by their faith leader. In the absence of understanding what this means, it is common for members to pick sides based on their experiences, which are usually their positive experiences of the popular faith leader "who could not possibly have done these things." They generally don't know who the complainants are and so they can easily demonize and blame them for this uproar.

Basic education can equip members to better understand and deal with their feelings. We recommend the following resources, which are available at www.faithtrustinstitute.org:

- *Not in My Church* (DVD)
- *Not in My Congregation* (DVD)
- *Is Nothing Sacred?* (Book)

An Acknowledgement of Brokenness, A Promise of Wholeness

Acknowledgement

O God, we acknowledge in Your presence and in the company of this community that among us there are those who have experienced the pain of victimization; that among us there are those who have victimized others; that among us there are those who have stood by and been complicit in this harm done. We pray that You will be present with all of us as we go forth.

Amen.

Silent	I am a victim, a survivor of sexual abuse;
Reflection	I am one who has harmed others who were vulnerable to me; I have been a bystander when sexual abuse occurred.

Litany

Leader	“My God, my God, why have You deserted me? How far from saving me, the words I groan!” <i>Psalm 22</i>
People	“O God, how much longer are the wicked, how much longer are the wicked to triumph? Are these evil men to remain unsilenced, boasting and asserting themselves? God, they crush Your people, they oppress Your hereditary people murdering and massacring widows, orphans and guests.” <i>Psalm 94</i>
Leader	“House of Israel, in future I mean to judge each of you by what you do—it is the Lord God who speaks. Repent, renounce all your sins, avoid all occasions of sin!”
People	Shake off all the sins you have committed against me, and make yourselves a new heart and new spirit! Why are you so anxious to die, House of Israel? I take no pleasure in the death of anyone—it is the Lord God who speaks. Repent and live!” <i>Ezekiel 18</i>
Leader	“They dress my people’s wound without concern: ‘Peace! Peace!’ they say, but there is no peace. They should be ashamed of their abominable deeds. But not they! They feel no shame, they have forgotten how to blush.” <i>Jeremiah 8</i>
People	“Is there no balm in Gilead anymore? Is there no doctor here? Then why does it make no progress, this cure of the daughter of my people?” <i>Jeremiah 8</i>
Leader	“For I am God, I rule with kindness, justice, and integrity on earth: yes, these are what pleases me—it is God who speaks.” <i>Jeremiah 9</i>

- People “For God has not despised or disdained the poor in their poverty, has not hidden God’s face from them, but has answered them when they called... The poor will receive as much as they want to eat. Those who seek God will praise the Lord. Long life to their hearts!” *Psalm 22*
- All “For God has rescued me from death, my eyes from tears, my feet from stumbling. I will walk in God’s presence in the land of the living.” *Psalm 116*
- Options for Reading 2 Timothy 1:5-7, 11-14; Micah 6:6-8

Quiet Reflection

- Prayer Spirit of the living God, we give thanks for the gifts of justice, mercy, and forgiveness, the tools with which we can pursue wholeness and restoration. For those among us who have been harmed by one who represented You, we pray for strength and courage. For those among us who have harmed another, we pray for repentance. For those among us who have closed our eyes and our ears to this suffering, we pray for guidance and the courage to act. For all of us here gathered, we pray for You to open our hearts to new understanding and our hands to new action. Give us strength as we respond to Your call to confront the power of evil within and among us and to work for justice, healing, and wholeness of life.
- Amen.

All scripture passages are adapted from the Jerusalem Bible (inclusive).

APPENDICES

Curlin, William. **“Statement Concerning Child Sexual Abuse: St. Joan of Arc Church.”**

Diocese of Charlotte, NC, March, 1995.

This statement read by Bishop Curlin to the parishioners of St. Joan of Arc Church represents a strong effort to speak as a pastor and an administrator directly to families affected by sexual abuse by priests. Notably, this was in 1995 before the disclosures in the Archdiocese of Boston.

Evinger, James S. **“Report, Investigation and Disposition of Formal Cases of Ecclesiastical Sexual Misconduct: A Quantitative Study,”** *Journal of Religion and Abuse*, Vol. 2, No. 4, 2001.

This article summarizes research examining handling of complaints of clergy misconduct in the Presbyterian Church USA in the northeast US over a six year period. It provides a look at some of the patterns and challenges in judicatory responses.

Fortune, Marie M. **“Reporting Child Abuse: An Ethical Mandate for Ministry,”** in Anne L. Horton & Judith A. Williamson, eds., *Abuse and Religion*, 189-198. DC Heath: Massachusetts, 1988.

This article discusses the basic issues facing clergy when they suspect or become aware of the abuse of a child.

Fortune, Marie M. **“Informal, Mediated Processes in Response to Complaints of Clergy Misconduct,”** Occasional Papers: Clergy Misconduct #2, FaithTrust Institute, 1995.

This article discusses some of the problems associated with attempts to address a complaint of clergy misconduct informally.

House, Deborah M. **“Why Not a Gag Order??!!”** FaithTrust Institute, 1993.

This article discusses why agreeing to a “gag order” in a settlement with a judicatory may not be in the best interests of a complainant.

Jorgenson, Linda M. **“Rehabilitation of Sexually Exploitative Therapists: A Risk Management Perspective,”** *Psychiatric Annals* 25:2/February 1995, 118-122.

This article offers a framework for risk management and rehabilitation of professionals focusing on therapists. The insights of work in the other helping professions can be instructive to work in ministry.

Keene, Frederick W. **“Structures of Forgiveness in the New Testament,”** from Carol J. Adams & Marie M. Fortune, eds., *Violence Against Women and Children: A Christian Theological Sourcebook*, 121-134. Continuum, New York: 1995.

This article on forgiveness in Christian scripture is fundamental for Christians in addressing the challenges and possibilities of forgiveness in the face of sexual abuse.

Knudsen, Chilton R. **“Pastoral Care for Congregations in the Aftermath of Sexual Misconduct.”** Episcopal Diocese of Chicago, Chicago, IL, 1992.

This article offers an overview of the issues facing congregations following the disclosure of clergy misconduct.

Knudsen, Chilton R. **“Trauma Debriefing: A Congregational Model.”** *MCS Conciliation Quarterly*, Spring 1991, 12.

This article suggests some important steps in supporting a congregation in its acknowledgement of clergy misconduct and in its healing in the aftermath.

Schoener, Gary Richard. **“Assessment & Rehabilitation of Psychotherapists Who Violate Boundaries with Clients.”** Walk-In Counseling Center, Minneapolis, MN, 1998.

This article provides a clinical overview of assessment and rehabilitation options for therapists who engaged in misconduct. Schoener also works with clergy and pastoral counselors.

Daniel 13:1-63: Susanna and the Judgment of Daniel from the Jerusalem Bible.

This passage appears either in the Apocrypha or at the end of the Book of Daniel depending on the version of the Bible. It is yet another excellent story from scripture describing misconduct by those in power and the mistreatment of victims who disclose.

“The Hippocratic Oath,” No.1 of Ludwig Edelstein, trans., *Supplements to the Bulletin of the History of Medicine*, Baltimore: John Hopkins UP, 1943.

The Hippocratic Oath is the first record of an ethical code for helping professionals and remains a standard in its simplicity and directness.

Bishop William Curlin's Statement Concerning Child Sexual Abuse

St. Joan of Arc Church
Asheville, North Carolina
March 4 and 5, 1995

One of the privileges, that I have enjoyed during my first months as your new bishop, is visiting parishes throughout the diocese. Everywhere I travel I meet wonderfully kind and generous people. My visits to St. Joan of Arc Parish have revealed your deep concern for the needs of all within your parish family. This is proven by your special ministry to those with AIDS and their loved ones.

As your bishop, I have the blessing of sharing with you many of the happy and wonderful events of your lives. However, as with every family, there are times when I must share your burdens and sorrows.

Today is an occasion for sorrow for me as your bishop. I am here because of my learning of the pain created by a former pastor of St. Joan of Arc Parish, the late Father William Kuder. Although he has been dead for thirty-five years, his memory lives on. Some of you will remember him as a priest who gained your trust and friendship. For others Father Kuder is only a name from the past.

The purpose of my visit today is to apologize to the members of St. Joan of Arc Parish and to all former members for the hurt caused by the reprehensible behavior of Father Kuder. While many revered him as a devoted pastor, he was sexually abusing some of the young children in this parish community. We know that there are today middle-aged men who once were victims of Father Kuder during the years they were approaching puberty.

Some may ask: "Why bring this up now after so many years following Father Kuder's death? What good can be accomplished by such a revelation?" Let me assure you that the victims of Father Kuder and their families have never ceased to feel the intense pain he brought them. Their Calvary has lasted a lifetime and continues to this very day.

Although Father Kuder was a priest of the Diocese of Raleigh when all of North Carolina comprised one diocese, I am presently the bishop of the Diocese of Charlotte. As your bishop, I believe that it is very important that I be here today and offer a public apology and express my deep sorrow to all who have suffered because of Father Kuder's abuse of his priestly office. As a church we must stand together, priests and laity, and declare our determination that this evil will never happen again.

You may ask what the Diocese is doing to prevent this evil? Let me clearly state that the church will not and cannot tolerate this evil. Our diocesan policy against child abuse, formulated in cooperation with all the dioceses in the Atlanta Province, is published every year in "The News and Herald" for all to read. It mandates that if an allegation of sexual abuse is made against a

priest, he will be immediately removed from his ministry and given intensive examination and testing to determine his culpability. If found guilty of child abuse, the priest will be expelled from priestly ministry and never again allowed to exercise it. The diocese will always work in full cooperation with civil authorities in a case of child sexual abuse, we can allow no less than zero toleration for this evil.

Our diocesan policy against child abuse is required study by all employees of the diocese. They must also sign a document that testifies that they have never been charged with criminal offense, especially against children. This is also a requirement for all clergy who are applying for ministry in this diocese.

To prevent any possibility of candidates for the priesthood being ordained with this major flaw in their character, all applicants seeking entrance into our vocation program must first undergo intensive psychological testing and evaluation. Only then will they be considered for acceptance as a candidate.

Priests, deacons and religious in the Diocese of Charlotte are required to annually participate in a program that will help them recognize the danger signs of child abuse and how to prevent it. This program is also mandated for all teachers and all volunteers who work in diocesan programs that serve youth.

A committee has also been established to address any allegation of child abuse by a priest or employee of this diocese. All are well qualified to advise me concerning this serious matter. Among their number is a counselor, a psychiatrist, and a victim of child abuse. All are married with children. This committee is free to seek other professional assistance.

As members of the church, all must share responsibility for seeking to prevent the sexual abuse of children. Mothers and fathers are especially encouraged to provide their children with careful instruction concerning sexual abuse. They must teach their children to always be aware of the difference between good and bad acts, especially bad acts directed towards them. Parents must listen to their children and respect their honesty. Children must be assured that their parents trust and believe in them.

What of those adults, who as children, were once the victims of Father Kuder? Told years ago and convinced that somehow they were guilty of sin, many have chosen to internalize their undeserved guilt. As has proven true in so many sexual abuse cases, they have never told anyone but have lived alone with their horrible secret. They did not want to reveal their shame. For those who were victims, I assure you that you were innocent of all sin. You were a child who was abused and molested by a man who hid behind his priesthood and took advantage of it to use you for his personal pleasure.

I anguish in spirit for Father Kuder's taking away your childhood; but he must no longer rob you of your adulthood. The church stands ready to help you. Catholic Social Services is prepared to offer needed counseling; or you may wish to choose a non-related church counselor. You know your pastor to be a devoted priest who enjoys much esteem in this community. He stands ready to help you. As the shepherd of the diocese, I am also here to help.

This assistance is also extended to the families of the victims of Father Kuder. We want to provide what help you need for healing without endangering your privacy. If there are others that you know might possibly be affected, but are not hearing my words today, I hope you will want to share this with them. But do it in a kindly matter, not at all threatening to them. Your contact may be an opportunity for them to restore wholeness to their lives.

Indeed, every member of St. Joan of Arc Parish must feel the pain of today's announcement. The Apostle Paul reminds us that where one suffers we all suffer. Yet, this is a strong parish where people have proven their love for one another as brothers and sisters in Christ. I know that you will support one another in helping to heal the pain, hurt, doubt, confusion, and whatever is a manifestation of this now common knowledge of Father's Kuder's sexual abuse of children.

I know of no sorrow like the sorrow I share with you today. Bishop Joseph Gossman, the Bishop of Raleigh, joins with me in offering a sincere and heartfelt apology to the victims and their families who have suffered as a result of Father Kuder's evil actions. Although none of us can erase the past, we can work together to prevent such a crime happening again.

The news media continues to remind us that pedophilia is spread throughout society. It exists even in families and organizations dedicated to youth. This is why I again plead with you that all work together to attack this evil.

Allow me to speak on behalf of my brother priests. I have known many dedicated and holy priests throughout my life. They often labor for years in hidden and difficult missions. Most have never asked for nor received recognition for a lifetime of unselfish service. No one can adequately measure the sacrifices they make. The Diocese of Charlotte is blessed with many such priests. Like their Master, they heard His call and have come "to serve and not be served." How painful for them to discover that a brother priest has failed to live up to his priestly vocation. They know that such an evil is the exception and not the rule among priests. For them one priest's failure is one too many for the church. His fall from grace too often brings undeserved ridicule and humiliation to the vast majority of dedicated and zealous priests. They unjustly pay the price of another man's betrayal of his priesthood. This is why I plead with you to offer your priests needed prayers and words of encouragement. Good priests are hurting.

Pray also for your bishops. Although Bishop Gossman and I were not members of this diocese when Father Kuder committed his evil deeds, we are now your bishops. We share your pain; we too share your need for prayer and support.

Last Wednesday we marked our foreheads with blessed ashes as a sign of our public commitment to die to sin and to live a new life in Christ. Through forty days of Lent we seek through prayer and penance to be reconciled with God and with one another. With faith in the grace of this Holy Season may we find renewed peace and joy that Easter can bring to all who put their trust in God.

Diocese of Charlotte, NC

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Report, Investigation and Disposition of Formal Cases of Ecclesiastical Sexual Misconduct: A Quantitative Study

James S. Evinger

ABSTRACT. Very little quantitative documentation exists about the responses of religious communities to formal cases of sexual misconduct. This paper presents a study of reports, investigations and trial dispositions in one U.S. denomination. Data was gathered on cases in an eight-state region in a six-year period. Results support three principal conclusions: reasonable, qualified interpretations can be derived from this type of analysis; the evidence does not support some leaders' assertions of reality-based concerns that are invoked as rationale for not proceeding with an investigation of, or disciplinary trial; the results clarify the limits of this type of information in regard to understanding sexual misconduct in religious communities.

The struggle to hold individual perpetrators accountable for egregious acts of sexual misconduct in religious communities inextricably requires holding those communities accountable for constructive acts to pursue truth, make justice, promote healing of victims and prevent recurrence (Fortune, 1989, 1992). As a result of initiatives ranging from education to litigation, numerous religious communities over the last decade studied the issues, adopted policies that prohibit sexual misconduct, required participation in prevention training and implemented background checks and screening procedures (Office of the General Assembly, 1991; Committee on Sexual Exploitation, 1997).

Despite such constructive steps, very little has been documented about how religious communities respond to formal sexual misconduct cases. Empirical data about investigations and the disposition of cases is seriously lacking to date. This paper reports findings of a study designed to build a base of information about quantifiable components of sexual misconduct cases in religious communities.

BACKGROUND

Because hardly any data has been reported about the investigation and disposition of misconduct cases, it is important to establish points of departure for an initial line of inquiry. The primary starting points for this study were direct observations of formal misconduct cases and an extensive literature review.

Direct Observation

Ecclesiastical Leaders. Quantifiable elements appear frequently as thematic content in concerns expressed by ecclesiastical leaders who argue against conducting a formal investigation of

sexual misconduct. This observation is based on 10 ecclesiastical cases of sexual misconduct in which the author has participated or consulted in six U.S. states and in two denominations. Resistance manifested as assertions of reality-based content appears in the following statements that were made by leaders during the early stages of case investigations:

- “Can’t we just handle this administratively? A case will be too costly to afford.”
- “We don’t want to air our dirty linen in public. If the press finds out about this, they’ll be all over it.”
- “Going ahead with an investigation just gives incentive to angry women to harass their pastor by making false accusations.”
- “There’s no point in pursuing an investigation. [The person accused] will quit the Church before submitting to a trial.”

While there may be other sources at the root of their resistance, the quantifiable content of the leaders’ unsubstantiated statements can be studied to assess how realistic these overt concerns are. Being able to respond to resistance with accurate information was a catalyst to conducting this study.

Victims. Quantifiable elements also appear in the recurring questions of victims in the previously mentioned 10 cases. Content-based concerns are expressed in their following questions:

- “Is this situation unique? Does this happen to anyone else? Is there any precedent?”
- “What is likely to happen in the next phase of my case? What was the outcome in other cases like mine?”

At one level, these questions were a search for reassurance that the victim was not responsible for the conflict and pain generated by the case. At another level, the questions were a search for a cognitive frame of reference that would assist the victim to cope with the travail of a formal proceeding. At a third level, the questions were a search for a context that would help the person discover the spiritual meaning of this complex experience. Like the leaders’ statements above, the quantifiable content of the victims’ questions can also be studied. The potential of accurate information to empower a victim was the second catalyst to conducting this study.

Literature Review

A broad, interdisciplinary literature search was conducted in January, 1998, to discover what statistics on disciplinary cases of sexual misconduct had been published. Journals, books, dissertations and theses, and Internet sites were searched. Among 17 electronic database sources examined were ones dedicated to religion (ATLA Religion Database; Religion Indexes), law (IAC Legal Resources Index), social sciences (Social Sciences Abstracts; SocioAbs), women (Women ‘R’), periodicals (Readers’ Guide Abstracts), mental health (PsycFirst; PsycINFO/ PsycLIT Database), humanities (Humanities Abstracts) and graduate education (Dissertation Abstracts Online).

In 200+ publications and resource items on clergy sexual misconduct that were examined, only one mention of statistics about disciplinary cases was found. This brief reference was contained in a report of a survey of the members of the House of Bishops of the Episcopal Church in the USA that was conducted in the mid-1990s. Bishops were surveyed about charges of sexual harassment, exploitation and abuse that had come to them in the preceding five years. Bishops representing about 50% of the denomination reported that they had “dealt with 66 charges of sexual harassment, 99 charges of sexual exploitation and 105 charges of sexual abuse,” and that “approximately 25 [of the charges] had been found groundless...” (Committee on Sexual Exploitation, 1997). This was the extent of detail that was reported. A follow-up literature review in July, 2000, of another 100+ sources found no other reports of statistics about clergy sexual misconduct cases.

Methodologies

Anecdotal. The literature review also provided an overview of the various methodologies used to report and study sexual misconduct in religious communities, especially clergy sexual exploitation. The inquiry method most familiar and acceptable to religious communities is the anecdotal report and its case-based narrative format. A story is presented in detail sufficient to establish its authenticity and credibility, express the meaning of its themes or lessons, and establish its functional significance as a witness to truth. The anecdotal style was employed effectively by Poling (1999) in her sensitive compilation of first person narratives from six women who had been sexually abused by clergy. These stories vividly depict the grooming patterns of perpetrators, and clearly reveal the nature of the harms that accrue to victims.

The anecdotal method also lends itself to third person accounts. Drawing from her involvement as a consultant, Fortune (1989, 1992) wrote about a contentious case and provided a compelling conceptual analysis of it. That work is now a standard reference on clergy sexual misconduct. Graham (1992) also used the third person point of view to present a case of a recovering congregation and describe an original theoretical framework for congregational healing.

Empirical. A second methodological approach that is used less frequently than the anecdotal one relies upon formal empirical research design and technique. The design that is cited most frequently in the literature on clergy sexual misconduct is the direct self-report survey. Application of this method helped establish baselines for prevalence rates for perpetrators. In the pioneering study by Blackmon (1985), a multid denominational, regional group of clergy reported on their sexual involvement with people they encountered in their professional role. This approach was replicated nationally across denominational lines by Goetz (1992), and regionally among Southern Baptists by Seat et al. (1993).

The design has also been used to establish prevalence rates for victims. Majak (1991) described a national self-report survey of victims in one Protestant denomination, and Duckro et al. (1998) used the design in a national survey of the sexual victimization of Roman Catholic women religious.

Researchers outside the religious community have used an indirect report survey method as another way to measure the scope of the problem. Kuchan's (1989) survey gathered data from professional psychotherapists in Wisconsin whose patients had reported sexual exploitation by prior therapists and counselors, including clergy. This design was replicated in Rhode Island by Parsons and Wincze (1995), and in Western Australia by Wincze et al. (1996).

An emerging body of clinical literature also has utilized formal research designs in order to study mental health assessments and treatments of perpetrators. Levine et al. (1994) and Plante et al. (1996) used standardized psychological tests to analyze clergy offenders. Haywood et al. (1996) and Gonsiorek (1999) have reported on forensic psychological evaluations of abusive clergy.

Those studies using the methodological approach of empirical research were helpful in constructing a framework for this study. Survey methods offered the best opportunity to collect the targeted data.

Research Questions

The above points of departure led to three sets of questions to be researched. One set included the incidence of formal cases, sociodemographic descriptors of the principal parties and the role relationships between victims and perpetrators. Another set included the outcomes of disciplinary cases, including investigation, trial disposition and censure. A third set included significant non-ecclesiastical factors that may influence the conduct and disposition of an investigation or trial, specifically financial cost, media involvement and parallel litigation in a secular court system.

It is instructive to note a public statement that was released months after this study's research questions had been developed, the survey conducted and the results compiled. The statement identifies quantifiable concerns that are congruent with this research project. In August, 1998, participants in a retreat for women survivors of clergy sexual abuse released "An Open Letter to Religious Leaders" which called to accountability those in positions of power and responsibility (Retreat for Women Survivors of Clergy Sexual Abuse, 1998). The prophetic letter, self-described as a manifesto, listed 22 actions for religious leaders to take, including: "Provide an annual report on the health of the ministry or rabbinate which includes statistics on:

- The number of complaints received
- The number of complaints investigated
- The number of voluntary resignations associated with complaints
- The number of lawsuits initiated
- The number of complaints withdrawn
- A summary on the disposition of cases adjudicated or settled."

This letter reinforces the significance of the questions that were asked in the survey and underscores the hope that data collected and made available for review will function as a means to accountability.

Purpose

The purpose of this descriptive study was to compile and analyze quantitative data from disciplinary cases of sexual misconduct within one U.S. religious denomination. The term *sexual misconduct* is an inclusive reference to wrongful sexual-related behaviors committed by persons who are affiliated with the religious community and function in the role of clergy, employed staff, authorized leaders, volunteers or church members. These offenses are committed against participants in the denomination's congregations, administrative agencies or programs. Typical manifestations of *sexual misconduct* in religious communities include harassment, molestation, abuse and exploitation through misuse of office or role. A *disciplinary case* is defined for this study as an ecclesiastical action that begins with a formal allegation of sexual misconduct and leads to formation of an investigatory committee that has standing in the denomination's judicial process. This definition excludes incidences in which an administrative response team intervened but the matter did not progress to the point of a formal allegation being filed. Also excluded were cases in the disciplinary process which were active but had not been resolved judicially within the timeframe of the study.

METHOD

Focus and Scope

The focus and scope of this study were shaped by what would yield the greatest amount of reliable data. Drawing on this author's religious affiliation and professional standing, the Presbyterian Church (U.S.A.) was selected as the denominational focus for inquiry. The timeframe selected was 1992 through 1997, a six-year period beginning shortly after the Church adopted its first national policy on sexual misconduct in June, 1991. The timeframe also included the approximately 18-month period after an operationalized definition of 'sexual abuse' was added to Church law in June, 1996 (Office of the General Assembly, 1996).

The scope of the study was the Synod of the Northeast, a geographic region encompassing eight northeastern states (New Jersey, New York, Connecticut, Massachusetts, Rhode Island, Vermont, New Hampshire and Maine). A *synod* is the Church's intermediate governance unit, and is constituted regionally. The scope was based on this author's geographic proximity, a pragmatic factor that increased the likelihood of obtaining reliable data from informants.

At the time the study was conducted in 1998, the Synod of the Northeast was organized into 22 presbyteries. A *presbytery* corporately serves an alliance of local congregations, and is the governance unit to which clergy belong. The presbytery unit was a crucial component of this study. In a case of sexual misconduct, this unit is the primary agent for administering the denomination's judicial process. Constructed differently from either a bishop-centered model that exercises hierarchical authority, or a congregational-based system that defers to local autonomy, a presbytery's decision-making powers are shared by an equal proportion of laity and clergy. The 22 presbyteries in the Synod totaled over one-eighth of all presbyteries in the denomination (Office of the General Assembly, 1998a), and included one non-geographic ethnic presbytery formed of Korean congregations throughout the eight states.

The 22 presbyteries were comprised of 1,185 congregations whose members in 1997 totaled 251,540. The congregations in the Synod comprised over 10% of congregations in the denomination. The number of members in the Synod comprised almost 10% of those in the denomination. In these 22 presbyteries, the number of clergy totaled 2,374. They comprised over 11% of the denomination's clergy. Of the total number of clergy in the denomination, 20,858, the number of women clergy were 3,380. The clergy in this Synod comprised 16.2% of the denomination's total clergy, and approximately 22% of all clergy with active status (Office of the General Assembly, 1998b; Office of the General Assembly, 2000).

Informants

Because the Presbyterian Church (U.S.A.) conducts no standardized collection of data about judicial cases, it was necessary to determine independently the best sources of information for this study. Persons elected to the office of stated clerk in each of the Synod's 22 presbyteries were selected as the study's informants. The position of stated clerk includes structural and functional responsibilities both as corporation secretary and as interpreter of church law and procedure. This ecclesiastical position has direct access to the principal parties and records in Presbyterian judicial cases. By denominational protocol, any complaint of sexual misconduct that leads to a formal Church disciplinary case will involve the stated clerk in at least basic matters of communication regarding record keeping and procedure. No other position was as likely to have as comprehensive a base of detailed case knowledge.

This ecclesiastical office also was selected as informant because denominational law and norms emphasize that the stated clerk function impartially on behalf of all parties in all matters. It was reasonable to expect the person in this office to provide reliable, accurate information. It was highly unlikely that persons in any other denominational role in a case of sexual misconduct would be as impartial about the sensitive matters intrinsic to a case of misconduct.

Informants' participation in the study was voluntary. Anonymity was ensured by excluding personal identifiers from the data, and by not attributing an identifiable source for specific data.

Survey Instrument and Method

Because no published survey instruments for gathering data on disciplinary cases could be located in the literature search, an original 30-item instrument was designed to document quantifiable components of formal investigations and trials. Questionnaires were not encoded because the data requested was not confidential and did not require personal identifiers for the parties in the judicial cases.

Recruitment. The survey was mailed to the potential informants who were asked to reply by mail. Because the maximum number of informants ($n = 22$) was low, active follow-up measures were necessary to obtain a statistically significant rate of respondents. Follow-up mailings went to all that did not respond initially. Direct personal communication also was used to obtain questionnaires. Several questionnaires were returned with either data omitted, unclear responses and/or inaccuracies. Incomplete forms prompted telephone, mail, email and/or in-

person contact to obtain an amended, final survey with usable data. Distribution and collection of the surveys occurred over five months in 1998.

Returned survey instruments were used to identify those presbyteries in which an ecclesiastical trial for sexual misconduct had been conducted. This group of informants was re-contacted and requested to submit a copy of the formal trial decisions issued by the presiding judicial panels.

RESULTS

Informants. Table 1 displays the results of recruitment efforts. A total of 22 surveys were distributed and 17 were returned, yielding a strong response-rate of 77.2%. All 17 final versions contained complete data. The informants' presbyteries represented 940 congregations (79.3% of the Synod) that were comprised of 182,289 members (72.4% of the Synod). The number of clergy belonging to these presbyteries was 1,916 (80.7% of the Synod).

Of the five informants who did not submit questionnaires, three never responded to any initial or follow-up requests. Verbal promises to respond were made by two other informants, but after multiple contacts, neither submitted a survey instrument. Of the five informants who did not return a survey, none provided any explanation for lack of participation.

Table I. Incidence of sexual misconduct cases, 1992-97

1. Informants and informants' presbyteries		<i>n</i>	%		
Potential sample size of informants		22	100.0%		
Response rate: Complete surveys		17	77.2%		
Informants' presbyteries		<i>n</i>	% of Synod		
Congregations		940	79.3%		
Members in congregations		182,289	72.4%		
Clergy		1,916	80.7%		
2. Formal cases of sexual misconduct		<i>n</i>	%		
Presbyteries reporting		17	100.0%		
Presbyteries reporting a formal case(s)		11	64.7%		
Presbyteries reporting no case		6	35.2%		
Cases reported		17	100.0%		
3. Incidence of cases per presbytery		Presbyteries		Total cases	
Cases/presbytery	<i>n</i> = 11	%	<i>n</i> = 17	%	
1	7	63.6%	7	41.1%	
2	3	27.2%	6	35.2%	
3	0	0.0%	0	0.0%	
4	1	9.0%	4	23.5%	
4. Decade in which acts of commission occurred ^a		Acts of commission			
Decade	<i>n</i> = 24	%			
All decades pre-1970	0	0.0%			
1970-1979	6	25.0%			
1980-1989	6	25.0%			
1990-1997	12	50.0%			

^a In some cases, acts of commission occurred in more than 1 decade.

Note: Total of percentages may not equal 100% due to rounding.

(1) Incidence

Formal Cases. The incidence of cases per presbytery is displayed in Table 1. Of the 17 informants who responded, 11 (64.7%) reported a total of 17 formal cases of sexual misconduct within their 11 presbyteries during the period under review. Six informants (35.2%) reported that there had been no formal cases of sexual misconduct within their presbyteries. (Note that throughout the Results section, the total of percentages may not equal 100% due to rounding.) Two of the six commented that it had been 20+ years since a judicial case on any matter had been convened in their presbyteries. While one of the six did report a complaint that was handled by an administrative response team, this action was excluded from the study because no formal disciplinary process was ever initiated.

Of the 11 presbyteries, seven (63.6%) had one case each from 1992 through 1997. Three (27.2%) presbyteries had two cases each, and one (9.0%) presbytery had four cases.

Timeframe. Table 1 also displays the reported occurrences of sexual misconduct per decade. A decade was used to establish the timeframe of commission of acts of misconduct. In this Church's constitution, there is no statute of limitations on acts that constitute the offense of 'sexual abuse of another person.' For lesser acts of sexual misconduct, the statute of limitations is three years after commission (Office of the General Assembly, 1996). Informants cited 24 timeframes in which the 17 cases occurred. Six (25.0%) of the cases involved acts of commission in the 1970s, six (25.0%) cases involved acts in the 1980s, and 12 (50.0%) involved acts in the 1990s. None (0.0%) were reported for the decades before 1970. The *n* of 24 for timeframe of commission exceeds the *n* of 17 for cases because the acts of misconduct in some cases occurred in more than one decade.

(2) Sociodemographics of Principal Parties

The sociodemographic findings are displayed in Table 2. The term *principal party* in this study refers to the people at the core of a disciplinary case. The first set of persons who are a principal party consists of those identified as victims, and includes both confirmed and alleged victims. For the 17 cases, informants reported 31 victims.

The second set of persons who are a principal party consists of those identified as perpetrators, and includes both confirmed and alleged perpetrators. For the 17 cases, informants reported 16 perpetrators. One perpetrator was named in two of the cases.

Differentiation within each set of the principal parties correlates to the distinct stages of the judicial process. Because not all cases reached a formal conclusion or proceeded to adjudication at trial, not all alleged perpetrators are confirmed as guilty, and not all alleged victims are confirmed as having been victimized.

Table 2. Sociodemographic characteristics of principal parties

	Victim ^a		Perpetrator ^a	
	<i>n</i> = 31	%	<i>n</i> = 16 ^b	%
Gender				
Male	0	0.0%	16	100.0%
Female	31	100.0%	0	0.0%
Ecclesiastical role				
Clergy	0	0.0%	16	100.0%
Layperson	31	100.0%	0	0.0%
Capacity				
Had capacity	30	96.7%	16	100.0%
Lacked capacity	1	3.2%	0	0.0%

^a Alleged or confirmed.

^b 1 perpetrator was named in 2 cases. There are 17 cases and 16 perpetrators.

Note: Total of percentages may not equal 100% due to rounding.

Gender. Table 2 also displays the gender of the principal parties. In the 17 formal cases of sexual misconduct, there were a total of 31 people identified as victims of sexual misconduct. Of the 31 victims, 31 (100%) were female, and none (0.0%) was male.

Of the 17 cases, informants reported that all (100%) of the persons accused as perpetrators of sexual misconduct were male, and none (0.0%) was female.

Ecclesiastical Role. Table 2 also displays the ecclesiastical role of each principal party. Of the 31 known victims, 31 (100%) were laypersons, and none (0.0%) was clergy. In addition to persons who hold formal membership in a congregation, the term *layperson* also includes persons whom, while not formal members, are active as congregants in the mission and ministry of a congregation. The term also includes persons who are employed as staff members, but are not clergy.

Of the males formally accused as perpetrator, all (100%) were clergy, and none (0.0%) was a layperson.

Capacity. Table 2 also reports findings about the capacity of the principal parties. Of the 31 victims, 30 (96.7%) possessed capacity at the time the events of misconduct were alleged to have occurred. A person having *capacity* is defined in this study as being of legal majority age and possessing mental competency, i.e. is not a legal minor and is not impaired mentally, either by

cognitive disability or the influence of a substance like medication or alcohol. In one (3.2%) case, the victim, an adolescent, lacked capacity because she was of minority age.

All (100%) of the perpetrators were reported to possess capacity.

Other Characteristics. Other standard sociodemographic characteristics, e.g. age, family status, education, race/ethnicity or job status, were not compiled. Because this personal data was not consistently included as a formal part of the investigatory or trial processes, informants lacked access to this information about the principal parties.

(3) Status, Role and Relationship of Principal Parties

Victims per Perpetrator. Table 3 displays the reported number of victims for each of the 16 reported perpetrators. Informants identified 12 (75.0%) perpetrators as responsible one victim apiece for a total of 12 (38.7%) of the 31 victims. One (6.2%) person who was named as perpetrator in two cases was responsible for a total of two (6.4%) victims. Two (12.5%) perpetrators were responsible for three victims apiece for a total of six (19.3%) of all victims. One (6.2%) perpetrator was responsible for 11 (35.4%) of all victims.

Table 3. Principal parties

1. Victims per perpetrator				
Victims/perpetrator	Perpetrators		Total victims	
	<i>n</i> = 16	%	<i>n</i> = 31	%
1	12	75.0%	12	38.7%
2	1 ^a	6.2%	2	6.4%
3	2	12.5%	6	19.3%
11	1	6.2%	11	35.4%
2. Source of accusation				
Accuser	Victims ^b		Cases ^b	
	<i>n</i> = 31	%	<i>n</i> = 17	%
Victim: self-behalf	16	51.6%	11	64.7%
Other: victim's behalf	14	45.1%	8	44.4%
Accused: against self	3	9.6%	1	5.8%

^a Of 16 perpetrators in 17 cases, 1 was responsible for 2 cases.

^b Multiple sources of accusations account for numbers that exceed the *n* for victims and for cases.

Note: Total of percentages may not equal 100% due to rounding.

Source of Accusation. Table 3 also displays the sources of accusations of sexual misconduct. There are three categories of persons who filed the formal accusation of sexual misconduct.

One category consists of victims who, as members of the Presbyterian Church, had standing in the judicial process, and therefore the right to file an accusation. Of the 31 identified victims, 16 (51.6%) exercised this right and filed an accusation. The denomination also permits anyone with standing in the Church to file an accusation on behalf of another, including on behalf of non-members who have no standing. Informants reported that 14 (45.1%) victims had accusations filed on their behalf by other persons. In a third category, the person identified as the perpetrator took the uncommon action of filing a self-accusation against himself. This one (5.8% case) involved three (9.6%) victims. The fact that accusations originated from multiple sources accounts for numbers that exceed the *n* and percentages for both victims and cases.

Table 4. Structural role relationship(s) between principal parties

Structural role ^a of Perpetrator ^b to Victim ^b	Victims	
	<i>n</i> = 31	%
Church pastor to Congregant	26	83.8%
Church pastor as Counselor to Counselee	9	29.0%
Church pastor to Noncongregant	5	16.1%
Church pastor as Supervisor to Staff	5	16.1%
Moderator of Session to Member of Session	2	6.4%
Campus minister to Student	2	6.4%
Moderator of presbytery to Staff member	1	3.2%

^a In some cases, more than 1 role was active during commission.

^b Includes both those alleged and those confirmed.

Structural Role Relationship. Table 4 reports findings regarding the structural role relationships between the persons identified as perpetrators and victims. Informants reported seven types of role relationships, all of which are of unequal ecclesiastical status and power. They are listed here in the order of their frequency of occurrence. The minister/perpetrator's role is identified in relation to the victim's role at time of commission: church pastor to congregant, 26 (83.8%) of the victims; church pastor as counselor to counselee, nine (29.9%) of the victims; church pastor to noncongregant, five (16.1%) of the victims; church pastor as supervisor of church staff to church staff member, five (16.1%) of the victims; moderator of Session (the governing body of a congregation) to a member of the Session, two (6.4%) of the victims; campus minister to student, two (6.4%) of the victims; moderator of presbytery to a staff member of the presbytery, one (3.2%) of the victims. The term *congregant* is used to refer both to a member of a congregation and a non-member who is active in the congregation's mission and ministry.

A total of 50 ecclesiastical role relationships with the 31 victims were reported. The phenomena of multiple relationships was dramatically found in the case of one perpetrator who was involved in five different roles with one of his victims over a period of time that spanned two of his successive jobs. With another of his victims, he was involved in four different roles over a period of time that spanned two communities.

(4) Outcome of Investigations

Disposition. Table 5 displays the decisions made by investigatory committees. In each of the 17 cases, an investigatory committee was required to determine whether to file a formal disciplinary charge(s) with accompanying specification(s) as to person(s), wrongful action(s), time(s), place(s) and circumstance(s). Informants reported that charges were filed in nine (52.9%) cases, and were not filed in seven (41.1%). In one case (5.8%), the alleged perpetrator renounced the jurisdiction of the Church before the committee reached a decision. The act of *renouncing jurisdiction* was a voluntary choice by the accused to terminate his membership in the Church. This act immediately terminated the Church's jurisdiction over him, which, in turn, immediately ended the judicial process for all parties, including the victim.

For the seven cases in which an investigatory committee did not file a charge, informants provided written commentary and general explanations of circumstance and rationale. In one case, the committee chose to mediate the situation. In the other six cases, the investigatory committee did not find sufficient evidence or grounds to warrant filing charges. Several informants noted that while the investigatory committee found the witnesses credible and believed the allegations, the evidence was insufficient to meet the burden of proof at a disciplinary trial. The standard for proof in this denomination is 'beyond a reasonable doubt,' a high standard analogous to the one in a criminal case in secular law.

Informants were asked if a *false accusation* was involved in any of the cases in which a charge was not filed. They reported that no (0.0%) false allegations were made by any of the accusers. A *false accusation* is defined as an allegation with no substantive basis in fact that is made by an accuser whose intent was found to be malicious or hostile.

Table 5. Outcome of investigations

1. Investigation was conducted	<i>n</i> = 17	%
Decision to file charge(s)	9	52.9%
Decision to not file charge(s)	7	41.1%
Investigation was terminated pre-decision	1	5.8%
2. Decision to file charge(s)	<i>n</i> = 9	%
Case proceeded to trial	8	88.8%
Case did not proceed to trial a	1	11.1%
3. Decision to not file charge(s)	<i>n</i> = 7	%
Lack of sufficient grounds or evidence	6	85.7%
Case was mediated	1	14.2%
Accusation was determined to be false	0	0.0%
4. Investigation was terminated pre-decision	<i>n</i> = 1	%
Person accused renounced jurisdiction	1	100.0%

^a Person accused renounced jurisdiction.

Note: Total of percentages may not equal 100% due to rounding.

Renunciation of Jurisdiction. In the 17 cases reported, three (17.6%) persons who were accused renounced jurisdiction after the investigation had begun. One renounced before an investigatory committee decision was reached, as noted previously. Another renounced after a charge was filed against him, but before his ecclesiastical trial was convened. The third renounced after his trial was completed, and while the verdict of guilt was under appeal.

(5) Adjudication of Cases

Trial Outcomes. The outcomes for cases completed at trial are displayed in Table 6. Investigatory committees filed a formal disciplinary charge(s) and specification(s) for eight (42.1%) cases that were presented at seven trials. One trial combined two cases, i.e. two sets of charges and specifications against one person in relation to two victims were heard at a single trial.

The verdicts in the eight cases were: in six (75.0%) cases, the accused were found guilty of sexual misconduct; in no (0.0%) case was the person accused not found not guilty as charged; in the two (25.0%) cases against one person accused, the defendant was permitted by the judicial commission to plead *nolo contendere*, or 'no contest,' in both cases. While this offender would

admit to the accuracy of the facts as contained in the charges and specifications filed against him, he would not confess guilt in either a judicial or spiritual sense of the term.

Table 6. Adjudication of cases at trial

	<i>n</i> = 8 ^a	%
Judicial commission's finding on charge(s)		
Guilty as charged	6	75.0%
Not guilty	0	0.0%
Plea of nolo contendere accepted	2 ^b	25.0%
Form of censure imposed upon perpetrator		
Removed from ordained office: Permanent	2	25.0%
Removed from ordained office: Temporary	5	62.5%
Rebuked	1	12.5%
Post-trial action by perpetrator		
Did not appeal decision	5	62.5%
Did appeal decision	3	37.5%
Appeal upheld; conviction dismissed	1 ^c	12.5%
Conviction upheld; censure reduced	1	12.5%
Perpetrator renounced jurisdiction while the appeal was in process	1	12.5%

^a 8 cases were presented at 7 trials of 7 persons accused.

^b This plea was accepted for 2 cases that were heard at 1 trial.

^c Due to procedural error at the original trial, conviction was dismissed.

Censure. Table 6 also displays the forms of censure that were imposed by the judicial panels that conducted the trials. This denomination's constitutional rules for disciplinary censure are directed toward constructive criticism of an offender. The stated purpose of discipline is "correct or restrain wrongdoing in order to bring members to repentance and restoration" (Office of the General Assembly, 1996). The rules do not permit direct or overt punishment of the offender, nor do they allow for the imposition of involuntary restitution by the offender to the victim. (In retrospect, it was an oversight to not inquire about any occurrences of voluntary restitution.)

In the eight cases, judicial commissions imposed the following censures: in two cases (25.0%), offenders were permanently removed from ordained office, the highest degree of censure in relation to ordination of a minister; offenders in five (62.5%) cases were temporarily removed from ordained office, the next highest degree of censure; in one (12.5%) case, one offender received a rebuke, the lowest degree of censure. In three of the five cases in which temporary removal from office was imposed, perpetrators also were assigned to participate in therapeutic treatment and/or spiritual direction, and supervision during suspension from office.

Appeals. Appeals of cases completed at trial also are displayed in Table 6. In five (62.5%) of the eight cases at trial, offenders did not appeal the verdict, and in three (37.5%) cases, the offenders did. In the three cases in which the offenders appealed: one (12.5%) renounced jurisdiction while the appeal was in process, as noted previously; the conviction and case of one (12.5%) was dismissed on grounds of procedural error by the original judicial panel; the conviction of one (12.5%) was upheld, but his degree of censure reduced.

Trial Decisions. Of the eight cases presented at trials, informants submitted the formal trial decisions, including charges, specifications and censure, for six (75%) cases that were presented at five trials. It was anticipated that these texts would reveal patterns of how sexual misconduct had been conceptualized, and how those concepts had been applied to specific circumstances and patterns of behavior. However, the trial decisions revealed a wide range of variations between investigating committees regarding the wording of charges and specifications of sexual misconduct. The format used by judicial commissions to report their decisions also varied widely. The textual data was so idiosyncratic as to render it impervious to meaningful categorization or quantitative analysis.

(6) Non-ecclesiastical Factors

Table 7 displays the findings in regard to three non-ecclesiastical variables. Informants reported on the factors of financial cost, media involvement and parallel adjudication in secular courts.

Financial Cost. It was not feasible to obtain the complete cost to all parties in a disciplinary case of sexual misconduct. Because the research design intentionally precluded personal identifiers, there was no means to contact a person who was accused or found guilty. However, it was feasible to obtain a reasonably complete cost of a case to the presbytery involved. This data is significant because the presbytery unit is responsible for the greatest percentage of all costs incurred. These costs include: the work of the investigating committee in the pre-trial phases; the work of the prosecuting committee at trial, including its expenses for witnesses and lawyers; all of the judicial panel's expenses, including the trial and preparation of an official record of the proceedings; and, the presbytery's participation in any appeals proceedings. Under certain circumstances, the judicial panel may decide that the presbytery shall bear all or a portion of the accused person's defense costs for trial and appeals.

Table 7. Non-ecclesiastical factors

	<i>n</i> = 17	%
Cost of case to presbytery (\$)		
0 -- < 5,000	11	64.7%
5,000 -- < 10,000	4	23.5%
10,000 -- < 15,000	1	5.8%
65,000 -- < 70,000	1	5.8%
Media coverage		
Media was involved	1	5.8%
Media was not involved	16	94.1%
Parallel adjudication in secular court		
Yes	2	11.7%
Civil court	2 ^a	11.7%
Criminal court	1 ^a	5.8%
No	15	88.2%

^a 1 case involved both civil and criminal adjudications.

Note: Total of percentages may not equal 100% due to rounding.

Informants provided data about the known financial cost to the presbyteries involved. Of the 17 formal cases: 11 (64.7%) cost less than \$5,000; four (23.5%) cost between \$5,000-10,000; one (5.8%) cost between \$10,000-15,000; one (5.8%) cost between \$15,000-20,000; one (5.8%) cost between \$65,000-70,000. For the two cases that were presented at one trial, the individual cost was derived by halving the total of the two.

Media Involvement. Informants reported no media involvement in 16 (94.1%) of the 17 cases. There was media involvement in one (5.8%) case that involved parallel adjudication in a secular court system.

Parallel Adjudication in Secular Court. Of the 17 cases, informants reported that 15 (88.2%) had no parallel adjudication in a secular court system. Two (11.7%) reported cases that were involved in civil court proceedings, one of which also was involved in criminal court proceedings. One informant reported a matter that involved both civil and criminal court systems, but because no ecclesiastical case was ever initiated, the matter is excluded from this study.

DISCUSSION

Results of this study support three principal conclusions about the value of quantitative information gathered from formal cases of sexual misconduct. First, the results indicate that reasonable, qualified interpretations can be derived from this type of analysis. Second, they reveal that the evidence does not support several of the assertions of reality-based concerns that are invoked as rationale for not proceeding with an investigation of, or disciplinary proceeding on, misconduct. Thirdly, the results clarify the limits of this type of information in regard to understanding sexual misconduct in religious communities.

Reasonable, Qualified Interpretations

The results will support interpretations that are reasonably drawn, appropriately qualified and not overgeneralized. While it is accurate, for example, that in this sample 100% of perpetrators were male and clergy (Table 2), we know from anecdotal reports of women perpetrators that this figure would be lower if a national sample had been conducted. The sociodemographic results may, however, be cited to support anecdotal reports that the overwhelming preponderance of perpetrators is male and clergy, especially for non-Roman Catholic denominations. The sociodemographic results also support similar conclusions regarding the profile of victims as preponderantly consisting of women who are adults, possess capacity and are lay persons, especially in non-Roman Catholic denominations.

Results about the number of victims per perpetrator (Table 3) indicate that one-fourth of the perpetrators were responsible for three-fifths of the victims. This finding would support the conclusion that when an investigatory committee is examining a complaint from one alleged victim, it is prudent to anticipate the possibility of discovering multiple victims and a pattern of serial or cluster perpetration.

Results about the structural role relationships between the perpetrator and victim (Table 4) support the concept in the literature that there is a power differential based on role status between the principals. For more than 80% of the victims, their pastor was their perpetrator, and for nearly 30% of the victims, their pastor was also their counselor at the time of commission. The finding that 31 victims were engaged in 50 role relationships by 17 perpetrators documents that multiple, concurrent role relationships were present at the time of commission. These results endorse the conceptual framework that victims were vulnerable to exploitation because they had entrusted themselves to the authority and the fiduciary nature of the pastoral role, and that their vulnerability increased as the imbalance of structural power increased.

Given the limitations of this study's scope and sample size, caution must be exercised when using its data to support conclusions. It is important that those conclusions be tested against additional sources of data, including published reports and anecdotal case studies.

Resistance as Assertions of Reality-based Concerns

The results are significant for their potential to counter resistance to conducting formal investigations and disciplinary hearings or trials on allegations of sexual misconduct. The

data undercut the claim that cases are inevitably too expensive (Table 7). Nearly two-thirds of the cases cost the responsible governing body less than \$5,000, and nearly 90% costs less than \$10,000. While it is accurate that a few cases are very expensive and exceed \$50,000, most clearly are not. Rather than invoke cost as a reason not to investigate or proceed to trial, it would be more constructive to analyze the most costly cases to determine what factors drove the figures so high.

Fear of media coverage is another reason invoked to argue against investigation or adjudication. The results suggest that this probability is quite low for cases without parallel involvement in secular court systems (Table 7). Nearly 90% of the cases were handled apart from the secular system, a percentage that correlates to those cases that did not involve media coverage.

Another invoked concern that argues against investigation is a fear of false accusation that is driven by ulterior motives. The results suggest this possibility is quite low (Table 5). Not a single accusation made in any of the cases was determined to be false. While anecdotal reports confirm an occasional occurrence, the frequency of false accusations is not sufficient to justify inaction. The more important concern should be to train and support investigatory committees so that careful procedures that safeguard the rights of all parties are followed. It is better for all involved to expose and disprove a false accusation than to perpetuate rumors by failing to investigate.

A fourth invoked concern that argues against investigation or adjudication is the likelihood of the person accused renouncing jurisdiction, and thereby terminating the proceedings without resolution. The results indicate that renunciation was the outcome in less than 20% of the cases (Tables 5 & 6). This finding suggests that in the large majority of cases, the religious community can benefit by acting to investigate or convene a trial. These actions serve the purposes of discovering the truth, making justice, promoting the healing of victims and preventing recurrence. The potential gains from these constructive actions outweigh the potential losses caused by the occasional renunciation.

Clarification of Limits

The results clarify the limitations of working with quantitative information about formal cases of sexual misconduct in religious communities. It is impossible to conclude the degree to which these cases reflect the true occurrence of cases of sexual misconduct in the sample. There is no way to correlate the numbers reported by informants in this study to the number of victims who had a legitimate complaint but did not pursue ecclesiastical action. Anecdotal and published reports indicate many victims are afraid to come forward, and, if they did, there were numerous attempts to discourage their attempts to seek justice. The numbers also do not correlate to how fairly, sufficiently or effectively the cases were investigated and adjudicated at trial. Anecdotal and published reports suggest there are numerous instances in which ecclesiastical authorities could have done more to pursue the truth but did not.

The data identify a complicating factor when comparing these types of cases. Because the denomination does not have a highly codified system of procedure for disciplinary cases,

variation in the practice of secular law from state to state was a factor that influenced the way the ecclesiastical cases were handled. Informants' commentary revealed variations in the way charges and specifications were worded, how rules of evidence were interpreted and applied, and the way decisions by the judicial panel were constructed. While there is no basis to speculate how a particular case in one presbytery in one state would have been handled by a presbytery in another state, it is important to note that geographic variances are an influence.

CONCLUSION

This study provides new evidence that quantitative analysis of formal ecclesiastical cases is an important and underutilized source of information for religious communities about the disturbing phenomena of sexual misconduct. The study is a model of what is possible, and offers a starting point for expansion and refinement. The study also identifies challenges to conducting this type of retrospective analysis.

While beneficent intents, e.g. ensuring privacy of a victim and preventing further harm, are one reason to justify the high degree of confidentiality in an ecclesiastical case of sexual misconduct, the secondary effect is to perpetuate ignorance about the characteristics and dynamics of the phenomena. The lack of even impersonal quantitative data about these cases and how they are resolved contributes in negative ways to denominational cultures in which those cases originate. Lack of an adequate baseline of knowledge reinforces resistance to a healthy process of systematic review, careful assessment, thoughtful analysis and corrective change within religious communities. Captivity to ignorance impedes the work of justice, and delays recovery for both direct and associate victims. The results of this study reinforce the precept that it is constructive and in the self-interest of religious communities to examine and learn from their formal cases, and be held accountable for their responses.

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Reporting Child Sexual Abuse: An Ethical Mandate for Ministry

The epidemic problem of child abuse in the United States (physical, sexual, and emotional) presents persons in ministry with a challenge and an opportunity. When child abuse is disclosed, the religious leader can intervene with sensitivity and compassion to bring an end to this suffering, which has most likely been chronic. Yet intervention by a minister is not necessarily forthcoming because of hesitancy, confusion, lack of information, and ambivalence. Situations of child abuse are complex, and a minister may well try a private solution and avoid using other community resources, usually to the detriment of the child and the family.

An Ethical Mandate

The ethical mandate for Christian ministry in response to the abused child is rooted in Jesus' gospel teachings. In Matthew, Jesus points to the child as the one who is the greatest in the kingdom:

Whoever receives one such child in my name receives me; but whoever causes one of these little ones who believe in me to stumble, it would be better for him to have a great millstone fastened round his neck and to be drown in the depth of the sea. (Matthew 18:5-6, RSV)

Jesus is consistent in his assertion of the specialness and value of children in a cultural context that regarded children as property of their father. He also points clearly to the responsibility of those around children to care for them. This teaching must have been consistent with Jesus' understanding of the Hebrew custom of hospitality, in which the orphan, widow, and sojourner were identified as being the responsibility of the entire community, which was to provide for their needs and protect them. What is at stake here is these person's vulnerability, which is a consequence of their life circumstances. Children are by definition vulnerable and in need of care and protection by adults. When this care and protection are not provided by adults, and when those whose responsibility it is to protect are in fact the source of pain and abuse for the child, then someone else must act to provide for the child. Such is the situation faced by a religious leader to whom it is disclosed that a child may be abused.

The other ethical principal that applies here is that of "justice-making" in response to harm done by one person to another. Christian scripture here is very specific: "Take heed to yourselves if your brother sins, rebuke him, and if he repents, forgive him" (Luke 17:3, RSV). The one who harms another must be confronted so that he might seek repentance. Both Hebrew and Christian scriptures are clear that repentance has to do with change: "get yourselves a new heart and a new spirit!...so turn and live" (Ezekiel 18:31-32, RSV). The Greek word used for repentance is *metanoia*, "to have another mind." In this context of repentance, accountability, and justice, forgiveness and reconciliation may be possible. These should be the primary concerns of the religious leader.

Final Goals

As with all forms of family violence, child abuse requires an immediate response and a recognition of a larger context. The goals of any effective response should follow this order:

1. Protect the child from further abuse.
2. Stop the abuser's violence.
3. Heal the victim's brokenness and, if possible, restore the family relationships; if not possible, mourn the loss of that relationship.

Taking these steps in order provides the best possible opportunity for eventual restoration of the family. Until the first two goals are successfully accomplished, the third is unachievable. It is certainly possible to have the victim and offender living in the same place and giving the appearance of being an intact family, but unless the victim is safe and the offender has taken steps to stop the abuse, there is no restoration and no intact family.

In situations of child abuse, these goals can best be accomplished by the early reporting of suspected child abuse to legal authorities. Every state in the United States provides a mechanism at the state level for reporting, investigating, and assessing situations where children may be at risk. They also have the professional resources with which to assist victims, abusers, and other family members in addressing the three goals of intervention.

Reporting: Reasons to Report

1. Facts about child abuse:

Offenders will reoffend unless they get specialized treatment.

Offenders against children minimize, lie, and deny their abusive behavior.

Offenders rarely follow through on their good intentions or genuine remorse without help from the outside.

Treatment of offenders is most effective when it is ordered and monitored by the courts.

The pattern of the abuse must be broken in order to get help to the victim and offender.

Quick forgiveness of the offender is likely to be "cheap grace" and is unlikely to lead to repentance and change. These factors emphasize the need to use an external, authoritative, specialized resource in order to bring change for the family.

2. Access to specialized resources for treatment:

Unless the ministers are specially trained to provide treatment for victims and abusers of family violence, they alone are not an adequate resource to the family. The pastor's role is critical throughout, but the most important first step is reporting.

3. Access to a means to protect a child and require accountability from an offender:

The child protective service or law enforcement offices in a community are the only bodies authorized to investigate allegations of abuse, provide physical protection for a child, and restrain the behavior of an adult who is abusive

4. Deprivatizing the situations:

Involving the services of a community agency requires that the silence which has supported this chronic situation be broken. It is not simply a private, family matter; it is a community concern. The consequences can no longer be avoided. Again, this offers the best chance to provide help to a hurting family.

5. Setting a norm:

Involving of the wider community clearly communicates to all involved that the physical, sexual, or emotional abuse or neglect of a child is intolerable because children are important and it is our collective responsibility to protect them.

6. Mandatory:

In every state, persons in helping professions are mandated to report the suspicion of child abuse to the authorities. In some states, the religious leader is exempt from this requirement. In every state, any citizen *may* report suspected child abuse and not be liable for an unfounded report if the report is made in good faith. With or without a legal mandate, clergy should consider the weight of an ethical mandate to report.

Why Ministers May Hesitate

The ambivalence many ministers feel about reporting child abuse comes at the point when other considerations supersede the fundamental goal of protecting the child. Such things as protecting family privacy or the status of the adults in the family, fears of breaking up the family, or perceptions of the social service providers as punitive or insensitive to the religious beliefs of the family make it difficult for a religious leader to refer or report. Yet once ministers receive a disclosure, they have the authority and responsibility to protect children who cannot protect themselves.

Reporting: How-To's

Sometimes the hesitancy to report comes from a lack of understanding of what will happen once a report is made. Every state has a statewide agency responsible for child protection.¹ Generally, a report is made to indicate there is a suspicion that a child is being harmed. The religious leader need not have specific evidence and need not attempt to gather evidence or detailed information from the person who discloses. If it sounds as if abuse may have occurred and the child is still at risk, then the child protection agency should be notified. It will investigate the situation and assess the risk to the child. In some communities, it will encourage the alleged abuser to temporarily leave the home. Frequently, when there is no other available option, it will remove the child temporarily from the home. If there is evidence of abuse, it

will take the case to the prosecutor, who will then decide whether to file charges. Whether charges are filed or not, the child protection agency will offer counseling to the child victim and nonoffending family members. If the abuser is convicted, the court may mandate counseling as an alternative to prison time. Adults seldom serve time for child abuse convictions.

Problems and Suggestions

Another cause for hesitation in the religious leader is the fear that reporting will be perceived by abusers as turning them in and thus will damage, perhaps irrevocably, the pastoral relationship. Two factors mitigate against this fear. First, it is seldom the abuser who discloses; it is most likely the child/teenage victim or the nonoffending family member who calls for help. Second, the way in which the report is made significantly shapes the perception of the person who has disclosed.

For example, if a religious leader conveys any ambivalence to someone at the first hint of abuse by saying, “Don’t tell me anymore or I will have to report this,” the context is set for a punitive and secretive situation. The minister is also withholding possible assistance from the person who is seeking help. Further, it is not helpful for the minister to listen to a disclosure, never indicating that a report must be made, then wait until the person leaves to call and report anonymously. This may relieve the conscience, but does not help create a context in which the religious leader can continue to minister as a part of wider intervention.

Instead, it is helpful when hearing a disclosure to indicate that additional help will be needed in order to aid the victim, save the family, help the abuser, and so forth, and that the best resource to begin with is the child protection service. Suggest that the person who has disclosed call the agency with you present, and offer to be with them when the social service provider comes to talk with them. Help the person disclosing to understand that the child protection worker can provide much more in addition to what you can do and reassure the discloser that you will not desert him or her. Then seek to work *with* the child protective service worker to provide for the needs of the members of the family seeking help.

What to Expect with Disclosure/Reporting

Offenders will frequently be the last people you would expect to sexually molest a child. They may well be highly regarded, upstanding citizens who are active in the congregation. Do not allow your impression of these people in public settings to prevent you from entertaining the possibility that they may have molested a child.

Initially, the offender will usually deny all responsibility and will seek to discredit the victim’s story by attacking its credibility: “She lies about everything, but this is the most ridiculous one she’s told yet.” It is always tempting to believe the adult’s denial because our society has never taken children’s words very seriously.

Very rarely do victims falsely report an offense. If they have summoned the courage to tell someone about their situation, they almost always have been harmed by someone. Victims may also quickly recant their story because they feel extreme pressure from family members

and maybe even the offender to do so. Their recantation does not mean the abuse did not occur or that this person is now safe. Nonoffending family members (usually mothers) initially may not believe their child, but instead feel pressure to support the offender against the child. The mother may also be a victim of spouse abuse.

When a report is made to the legal authorities, chaos usually erupts, the whole family is in crisis. It may take several weeks for this very complex situation to be sorted out. The results of disclosure and reporting may not be a final resolution to the incestuous abuse situation in a family, but some attention to this matter is better than none.

Special Considerations

Confessions and Confidentiality

Many people in pastoral roles perceive a contradiction between their obligation to preserve confidentiality of communication with a congregant and their obligation to report the suspicion of child abuse. They see this contradiction as a conflict of ethical demands. Part of the perceived conflict arises from the interpretation of confidentiality and its purpose, particularly as it rests within the responsibility of the religious professional. The context for an analysis of these ethical demands is the understanding of confidentiality that comes to the religious professional from multiple sources.

The purpose of confidentiality has been to provide a safe place for a congregant or client to share concerns, questions, or burdens without fear of disclosure. It provides a context of respect and trust, within which help can hopefully be provided for an individual. It has meant that some people have come forward seeking help who might not otherwise have done so out of fear of punishment or embarrassment. Confidentiality has traditionally been the ethical responsibility of the professional within a professional relationship and is generally assumed to be operative even if a specific request has not been made by the congregant or client.

For the minister, unlike the secular helping professional, confidentiality rests in the context of spiritual issues and expectations. In Christian denominations, the expectations of confidentiality lie most specifically within the experience of confession. The responsibility of the pastor or priest ranges from a strict understanding to a more flexible one—from the letter to the spirit of the law. For example, for Anglican and Roman Catholic priests, the confessional occasion with a penitent person is sacramental; whatever information is revealed is held in confidence by the seal of confession, with no exceptions.² The United Methodist *Book of Discipline* does not view confession as a sacrament but states, “Ministers...are charged to maintain all confidences inviolate, including confessional confidences.”³ The Lutheran Church in America protects the confidence of the parishioner and allows for the discretion of the pastor: “no minister...shall divulge any confidential disclosure given to him in the course of his care of souls or otherwise in his professional capacity, except with the express permission of the person who has confided in him or in order to prevent a crime.”⁴ Even within Christian denominations, there is a range of interpretations of expectations of confidentiality which are not necessarily limited to the confessional occasion.

What Are Confidentiality and Secrecy?

It may be useful in this discussion to make a distinction between confidentiality and secrecy. Secrecy is the absolute promise never under any circumstance to share any information that comes to a member of the clergy; this is the essence of sacramental confession. But a commitment to secrecy may also support maintaining the secret of child abuse, which likely means that the abuse will continue. Confidentiality means to hold information in trust and to share it with others only in the interest of the person involved, with their permission, in order to seek consultation with another professional. Information may also be shared without violating confidentiality in order to protect others from harm. Confidentiality is intended as a means to help an individual get help for a problem and prevent further harm to herself or others. Confidentiality is not intended to protect abusers from being held accountable for their actions or to keep them from getting the help they need. Shielding them from the consequences of their behavior will likely further endanger their victims and will deny them the repentance they need.

In addition, confidentiality is not intended to protect professionals; it is for those whom they serve. It should not be used as a shield to protect incompetent or negligent colleagues, or to protect them from professional obligations. Thus, confidentiality may be invoked for all the wrong reasons and not truly in the interest of a particular congregant or of society. This was never the intent of this special provision of pastoral communication.

Disclosure within Different Faiths:

When a disclosure is made by an offender in a confessional setting, the religious leader has the opportunity to respond within the parameters of a particular faith's tradition while keeping in mind the overriding priority of protecting the child victim. For example, a Roman Catholic priest can hear the confession of a child abuser, prescribe penance to report himself to the child protective service, and withhold absolution until the penance is accomplished. Confession to a priest does not carry with it the priest's obligation to absolve in the absence of penitent acts. Confession opens the opportunity for the penitent persons to repent and to make right the harm they have done to others. Likewise, for a Protestant in a nonsacramental confessional situation, directives may be given and actions prescribed which include the abuser reporting himself to child protection services. If it is clear that the penitent will not follow the directive of the religious leader and self-report, then some Protestant ministers have the option and obligation to report directly. The vulnerability of the child and the significant likelihood that the abuse will continue supersede an obligation to maintain in confidence the confession of the penitent.

Cooperation-Working with Secular Service Providers:

In addition to a long-standing breach between religious and secular professionals concerned with mental health issues, some substantive concerns have often prevented ministers from working effectively with social service providers or therapists. All these concerns come to the fore when the issue of reporting child abuse is raised: separation of church and state, involvement of the criminal justice system, disregard of family's religious beliefs, and breaking up of families. While the state should not intervene with the practice of ministry, it does have the lawful responsibility of protecting children from harm. The church should see this as a common agenda and work with those designated to carry out this mandate. Even with its

multitude of shortcomings (not the least of which are sexism and racism) the criminal justice system can provide a mechanism to enforce accountability for offenders and should not be avoided to protect offenders from embarrassment or the serious consequences of their abuse. A family's religious beliefs deserve respect. But any effort by family members to use religious beliefs to justify abuse of a child or deflect intervention intended to stop abuse should be challenged by both religious and secular professionals. Finally, outside intervention to protect a child does not break up the family. The abuse which preceded the intervention broke up the family and endangered its members. Temporary separation of family members may well be the only possible means of healing and restoration, and should be used when appropriate.

Cooperation between religious and secular professionals expands the resources available to a family experiencing abuse. The special skills each can bring are much needed by family members. Religious leaders can concentrate on their pastoral responsibilities in concert with the social service provider, who can guide the intervention and treatment.

Conclusion

Situations of suspected child abuse are seldom simple and straightforward. Religious leaders should be guided by a commitment to the overriding priority of protection of children and by a clear sense of the limits of their own resources. The mechanism of reporting child abuse and the resources that follow from it are invaluable tools for the minister. Clarity of purpose will direct an ethical mandate to use every available means to stop the abuse of a child.

"Reporting Child Abuse: An Ethical Mandate for Ministry," by Marie M. Fortune, in *Abuse and Religion*, Anne L. Horton and Judith A. Williamson, eds. 1988. Reprinted with permission.

Notes

¹ Religious leaders should familiarize themselves with the child protective services office in their community. Some of the child protection programs do only investigation of possible abuse; others do both investigation and treatment. Ask about the specifics of the agency staff's approach to reports and the possible options available to them. Approach them as a professional ally and resource. Invite them to a discussion with local ministerial groups.

² See Seward Reese, 1963, "Confidential Communications to Clergy," *Ohio State Law Journal*, 24:55.

³ *The Book of Discipline of the United Methodist Church*, 1980 (Hasville, TN: United Methodist Publishing House), 220, paragraph 440.4.

⁴ *The Minutes of the United Lutheran Church in America*, the 22nd Biennial Convention, 1960, as quoted in Reese, *op. cit.*, p. 69.

Informal, Mediated Processes in Response to Complaints of Clergy Misconduct

Marie M. Fortune

A number of policy and procedure statements from denominational bodies that we have reviewed in recent years have focused their initial responses to complainants of clergy misconduct on informal or mediation responses. Most of the procedures provide for a second level or more formal and clear intervention *if the initial informal process doesn't work*. This informal process has created a lot of confusion for complainants (who expect such a process to respond to their needs) and for denominational leaders who bear responsibility for addressing complaints as well as for congregations and alleged abusive clergy persons.

There are a number of reasons that informal or mediation processes are not appropriate in response to situations of clergy misconduct.

1. "Informal" usually means secret. Oftentimes the goal of this process is to maintain the secrecy of the situation in order to protect the clergyperson or avoid embarrassment for the congregation. This secrecy prevents any real investigation of the complaint and hence any opportunity for possible other complainants to come forward. It also generally means that the clergyperson remains in his/her role with virtually no one in the congregation having knowledge about the complaint which means that other congregants may be harmed by the clergyperson during this period. This kind of secrecy (which should not be confused with confidentiality) is not in the best interest of the congregation nor does it facilitate adjudication of the complaint.
2. "Mediation" suggests that the situation is one of personal conflict between two persons with equal power who are seeking "resolution" together. In situations of clergy misconduct, this is not the case. A complaint of sexual abuse by the clergyperson (or of financial impropriety, e.g.) is not a personal conflict. The clergyperson and layperson (or staff member) do not have equal power in this situation. One person with greater power may have taken advantage of another person with lesser power. When mediation is used here, the message to the clergyperson is that a) he/she is not being held accountable, b) he/she is still controlling the process, and c) he/she has the prerogative to "negotiate" a "resolution" favorable to his/her interests. Ultimately this means that it is very unlikely that an offending minister will experience any significant negative consequences for their behavior. Invariably the complainant/victim does not experience any sense of justice.
3. An informal, mediation process requires the complainant to do all the work. The institutional representative (denominational administrator, e.g.) may call the two parties together, bring in the mediator and observe the process, but the complainant

alone is asked to confront the alleged abuser. The institution sits quietly, passively, and safely on the sideline never having to take an active role or take a position on the issue of abuse. The message to the complainant is that she/he is alone and that by default, the institution is standing with the clergyperson because this process is weighted in favor of the clergyperson.

4. The goal of this informal, mediated process is “resolution.” What does this mean, especially to the complainant/victim? To the institution, it means that the “problem,” i.e. the complainant, will go away and that the institution will not have to really do anything or take any action (such as disciplining the clergyperson). To the complainant/victim, it is very confusing. This process *looks* like an institutional response: it’s written down in the policy, it’s orchestrated by a denominational representative, it appears to give the complainant a chance “to confront” the alleged abuser. Yet the complainant/victim encounters the clergyperson denying, minimizing, or explaining away whatever it was that the complainant alleges. The complainant is left with no satisfaction that her/his experience has been acknowledged and the clergyperson is left unencumbered to continue with his/her behavior.
5. An informal, mediated process does not provide for protection of other vulnerable people in the situation. Because the process is privatized and focused on the complainant and clergyperson seeking “resolution,” there is no means to attend to the institution’s responsibility to insure that other vulnerable people are not harmed by the misconduct of the clergyperson (during or after the mediation process). Public safety needs to be a priority in whatever policy/procedure a denominational body utilizes.

Whenever I have encountered an informal, mediated process in denomination policy/procedures, I have asked, “well, does it work?” The consistent answer is “no, not really.”

Why Informal, Mediated Processes Don’t Work

1. There is no investigation or adjudication of the complaint. When a complaint alleges that a clergyperson has taken advantage of a congregant or staff member, such allegations must be investigated and adjudicated. In other words, some committee (empowered to act on behalf of the institution) must hear the complainant, investigate (i.e. try to find additional information which would support or refute the complaint), and then adjudicate. Adjudication means to judge the information presented and make a judgment as to whether or not the complaint is well-founded. In other words, does the committee believe the complainant? (The standard of proof utilized here should be the lesser legal standard of “a preponderance of the evidence” which means that it is more likely than not that the allegations are true. This is the standard that applies in civil litigation in the U.S. The criminal standard, “beyond a reasonable doubt” which means “virtually certain,” is not appropriate because it is a very strict standard intended to prevent incarceration of an innocent person.)

2. Adjudication appears to be the point of most resistance for denominational bodies. They don't want to make a judgment; they don't want to decide whether or not they believe the complainant. And they certainly don't want to take a public position in stating their judgment. In Christian context, many are quick to utilize a dubious interpretation of Romans 2:1 following that well-worn practice of partial citing of text: "Therefore you have no excuse, whoever you are, when you judge others;" sounds like "judge not at all," right? But it goes on: "...for in passing judgment on another you condemn yourself, because you, the judge, are doing the very same things." Actually this passage does tell us something about the hesitancy of some denominational leaders/committees to adjudicate complaints. If they are responsible for the same behavior, they have no right to judge others. This is hypocrisy. But this does not mean that the religious body has no responsibility to make a judgment in this matter.
3. Without adjudication, there is no confrontation of the abusive clergyperson. (Ironically, without adjudication there is also no vindication of a falsely accused clergyperson. Unless a judgment is made that the committee does not believe the complaint, they cannot clear the name of the clergyperson.) Without confrontation, there is no possibility of repentance. For Christians, Jesus' teaching as found in Luke's gospel is clear: "If another disciple sins, you must rebuke the offender, and IF there is repentance, you must forgive..."(17:3).
4. Without confrontation, there is no accountability. For the offending minister to be held accountable, he/she must experience:
 - a. Confrontation with the reality of his/her behavior and its impact on the victim(s) and congregation
 - b. Consequences (personal, profession, financial, etc.) These consequences are not punitive. But they convey a clear message that there is a cost associated with clergy misconduct. One cannot engage in these behaviors with impunity. Consequences are what finally gets the attention of abusers who are trapped in their own denial and minimization.
 - c. Limits on further access to vulnerable people--Ministry is a privilege, not a right. A clergyperson forfeits this privilege when he/she betrays the trust of a congregant. It is the responsibility of the denominational body to do everything possible to insure that an abusive clergyperson does not have access to vulnerable people in the future. (This is also the point of greatest potential liability for the denominational body.) These results of disciplinary process are the concrete manifestations of justice-making which remains the spiritual and theological foundation of a denomination's response to harm done by one of its representatives.
5. Finally, valuable time is wasted. Time and resources are misdirected and the lack of an outcome that satisfies the complainant/victim's desire for justice can result in increased frustration and disillusionment with the denominational process. Even if a policy/procedure provides for a next step of more formal intervention, it may not

be utilized by a complainant who by now feels unheard. This increases the likelihood that a complainant/victim will look outside the denominational process for some redress, i.e. will consider civil litigation.

Why Denominational Leaders Hesitate

The hesitancy on the part of the denominational body to respond initially (through stated policy/procedure) to a complaint of clergy misconduct with a clear intervention process probably rests on three motivations:

1. Fear and avoidance: Here the unstated goals are “how can we keep this quiet and resolve it without really doing anything?”
2. Distaste for disciplining its own leadership: No profession has taken on the task of self-monitoring without internal resistance. Yet the credibility of the profession rests on its willingness to monitor and discipline itself. If we cannot or will not do this, someone else will do it for us.
3. An unwillingness to acknowledge that the betrayal of the ministerial relationship is real, tangible harm to real people who are in fact victimized by the clergy person’s misconduct: This attitude is most evident in comments from denominational leaders referring to “so-called victims,” or suggesting rather bluntly that “it takes two to tango.”

As long as these attitudes and beliefs prevail, it is abundantly clear why a denominational body would seek to utilize an informal, mediated process rather than a clear, unequivocal intervention process in response to complaints of clergy misconduct.

A mediated process would be useful if a minister and congregant (or congregation) were in a dispute over theological interpretation, musical preferences for worship, or rewriting the constitution for the congregation. But what if the congregation believed that the minister had embezzled the congregation’s funds? This would not be a situation to be mediated. It would involve a clear complaint of ministerial misconduct and possible criminal charges.

It is critical that denominational bodies carefully consider the implications of the procedures they provide in response to clergy misconduct. In this regard, mediation is not recommended. Denominational bodies will ultimately save themselves time and resources and can potentially enhance the integrity of their organization if they can be clear and unequivocal in their commitment to stopping clergy misconduct and providing for the care and healing of victims/survivors and congregations.

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Why Not a Gag Order??!

Deborah M. House

What Is a Gag Order?

In cases involving sexual abuse by professionals (e.g., clergy, psychiatrists, etc.) in settlement negotiations often the Abuser or the entity that employs him (e.g., the church, hospital, etc.) (“Employer”) will seek to impose on the Victim what is commonly called a “gag order.” This is a written agreement that prohibits the Victim from speaking about the abuse or the settlement. It also may be called a “confidentiality agreement.” If the agreement is violated by the Victim then the Abuser or the Employer may take legal action against her. Such an action could include seeking damages from the Victim that might be extensive if the effect of the disclosure was to injure the reputation of the Abuser or the Employer.

Why Is a Gag Order Sought?

The primary reason an Abuser and an Employer seek a gag order is to protect their reputations. The Abuser wants to be able to practice in his field without any questions being raised about his integrity. He also may want to hide from other victims the fact that a settlement has been entered into with this Victim or the others might take action against him as well.

Similarly, the Employer wants to protect its reputation by not letting the world know that the Employer employed (or continues to employ) the Abuser. The Employer also doesn’t want anyone to know that it may have paid money to the Victim lest other victims seek compensation from the Employer as well.

Why a Gag Order May Initially Sound like a Good Idea, but Probably Is Not.

Although each Victim is different, recovery patterns are often very similar. Initially the Victim may be ready to take action against the Abuser, but she is ashamed of what has occurred and wants to hide the abuse. Therefore, the Victim feels like she has nothing to lose by agreeing to a gag order because the last thing she wants to do is tell anyone what has happened.

It is likely, however, that over time the Victim’s attitude will change, particularly if she has good therapy. These changes may take weeks or years. Shame will evolve into anger and the Victim will begin to understand and **believe** that she is not responsible for what took place. This may result in the Victim wanting to tell people what has happened to her as part of her healing process. If by the time she reaches this point the Victim has agreed to a gag order, then legally she will not be able to reveal her abuse and will be at risk if she does. Thus, an important part of her healing may be derailed.

Additionally, as a Victim recovers her objectives often change and expand. Initially a Victim may have only one aim, her own recovery. As time goes on it is likely that she will identify other goals important to her. Included among these are often protecting other women from her Abuser and generally taking action to change the system or the institution that facilitated the abuse. If the Victim has agreed to a gag order it will be very difficult, if not impossible, for her to pursue these goals. As a result, what might otherwise be a very healing and productive activity will be unavailable to her.

Why a Gag Order Is Generally a Bad Idea.

There are other reasons why a gag order may be a bad idea.

- If there is no public disclosure other potential or existing victims are not protected. The existence of the gag order may allow the Abuser to continue or initiate new abuse which is shrouded in secrecy.
- If other victims do exist they are more likely to come forward if another victim has done so.
- If the secret is perpetuated, the Employer can continue to deny that this type of abuse occurs. Consequently, the Employer does not take any action to stop it or to implement educational measures that might prevent it in the future.
- If the abuse is not publicly revealed to the congregation or other appropriate community, that population is also permitted to deny the existence of the abuse. This results in the problem not being addressed, the perpetuation of misguided stereotypes and beliefs and the creation of vulnerability for other potential victims. Moreover, because the community is also a victim of the Abuser only disclosure allows the community to begin its own healing process.

Is a Gag Order Ever Appropriate?

Given the above...probably not! However, there may be extenuating circumstances. For example, if a victim is desperately in need of financing for her therapy and has no alternatives, this might be such a compelling reason. Nonetheless, a gag order should not be agreed to unless the Victim is firmly able to resolve in her mind that whatever she is seeking in exchange for agreeing to the gag order is worth what she is giving up and will continue to be worth it in the future.

For example, the Victim should contemplate how she might feel if she later finds out there are new victims and she can't testify about her own experience with the Abuser to help them, but must stand by silently. Or suppose in the future she wants to reveal the matter to a new trusted friend, but legally cannot do so.

If having considered these and similar difficult questions the Victim decides to go ahead with the gag order, an effort should be made to carve out as many exceptions to the restrictions on disclosure as possible. Examples of these exceptions are those that would permit the victim to: (1) tell members of her immediate family; (2) confide in persons with whom the Victim has

privileged/confidential relationship (e.g., therapist, clergy within the context of counseling, attorneys, etc.); (3) testify in any action brought by the Victim to enforce the settlement agreement; and (4) testify in any future action brought against the Abuser involving abuse of another victim.

It should be noted that often, particularly as to an Employer, the concern is not so much that the misconduct of the Abuser remains confidential, but that the terms of the settlement remain confidential. This is particularly true of the amount of money paid to the Victim. This type of gag order, although restrictive, does not carry with it the significant problems outlined above. Therefore, it is less likely to be harmful to the Victim or other potential victims if an agreement of this nature is accepted because the abuse itself is not kept a secret.

Under all circumstances, any settlement agreement where sexual misconduct by a professional has occurred has significant legal implications which may not be readily apparent. Accordingly, the Victim would be unwise to agree to sign one without the advice of an attorney.

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Rehabilitation of Sexually Exploitative Therapists: A Risk Management Perspective

Linda M. Jorgenson, J.D.

Studies show that up to 12% of therapists admit to having sex with one or more of their patients.¹ Further studies indicate that between 38%² and 80%³ of therapists who engage in sexual contact with a patient become involved with one or more of their patients. Based on these figures, some commentators have suggested that “the best single predictor of exploitation in therapy is a therapist who has exploited another patient in the past.”⁴

What, if anything, can be done to prevent therapists from exploiting their patients again is a matter of dispute. Licensing boards often predicate their reinstatement of a therapist’s license on successful “rehabilitation.” Commentators, however, have long debated whether rehabilitation of sexually abusive therapists is possible. Given the propensity toward recidivism, rehabilitation of abusive therapists raises significant legal issues for both rehabilitation providers and subsequent employers of abusive therapists.

This article examines various legal theories under which persons or institutions providing rehabilitation services to abusive therapists may be held liable. The article also examines subsequent employers’ exposure to liability. Finally, this article presents a hypothetical therapist abuse case and proposed rehabilitation plan and discusses the factors that rehabilitation providers and subsequent employers should consider when assessing their risk of liability.

THE PROBLEM

Is Rehabilitation of Sexually Abusive Therapists Possible?

Studies of the incidence of sexual abuse address repeat offenses, not rehabilitation. Therefore, obvious questions remain unanswered. For instance, can rehabilitation reduce the number of repeat offenders? If so, are there reliable indicators for successful rehabilitation candidates? What type of rehabilitation plans are the most successful and why? Do reliable assessment protocols exist that can help answer these critical determinations?

¹ Spero & Jorgenson, PC 24 Thorndike St., Cambridge, MA 02141.

² Gabbard GO. *Sexual Exploitation in Professional Relationships*. Washington, DC: American Psychiatric Press; 1989:18.

³ Gartrell, NK, Herman JL, Olarte S, Feldstein M, Localio R. Psychiatrist-Patient sexual contact: results of a national survey. *Am J Psychiatry*. 1986; 143:1126-1128.

⁴ Holroyd JC, Brodsky AM. Psychologists’ attitudes and practices regarding erotic and nonerotic physical contact with patients. *Am J Psychiatry*. 1977; 134:843.

Some commentators argue that rehabilitation of abusive therapists is impossible, while others believe that some abusive therapists may be suited for rehabilitation.⁵ Assuming rehabilitation is to be attempted, the likelihood of its success must be assessed and an appropriate rehabilitation plan must be devised.

Has This Particular Therapist Been Rehabilitated?

Rehabilitation is a nebulous concept. In a case involving the rehabilitation of a prisoner, the court stated, “[m]an is not a machine which, when it malfunctions, can be tinkered with, repaired, and confidently put back into operation.”⁶ The court doubted the plaintiff’s own assertion that he had rehabilitated himself, stating, “rehabilitation cannot be accepted as a proven—or provable—fact.”⁷ In the realm of psychotherapy, there is a similar lack of consistent criteria for proving rehabilitation. The lack of reliable indicators, coupled with the documented propensity of abusive therapists to exploit more than one patient, makes rehabilitation a high-risk endeavor.

Licensing boards or private review committees have the difficult task of determining whether a therapist has been successfully rehabilitated. For example, in *Davis v Psychology Examining Board*,⁸ the licensing board required that the therapist prove he had been rehabilitated before it would reissue his license. The exploitative therapist had consistently denied his prior sexual contact with patients, and his rehabilitation provider informed the licensing board that he continued to deny any wrongdoing throughout his rehabilitation period. The licensing board found that the therapist had not been rehabilitated and refused to reissue the therapist’s license. The board commented that “[a] person who is engaged in sexually aberrant behavior would have to admit that the behavior actually occurred before any significant rehabilitation of that person could occur.”⁹

Against this backdrop of debate, rehabilitation remains a standard method for dealing with abusive therapists, thus opening the door for lawsuits against subsequent employers, rehabilitation centers, and therapists who treat the abuser. Once a “rehabilitated” therapist commits further abuse, liability can fall on others in addition to the offending therapist. Under certain circumstances, the rehabilitation provider could be liable to a subsequently abused patient. For instance, a United States District Court judge recently ruled that two insurance carriers were liable for a \$7.7 million settlement entered into between the operator of a rehabilitation center for pedophile priests and 25 subsequent victims of a priest treated at the center.¹⁰ In addition, a variety of legal theories exist for holding the subsequent employer of the seemingly rehabilitated therapist liable.

⁵ Bates, CM, Brodsky AM. *Sex in the Therapy Hour: A Case of Professional Incest*. New York, NY: Guilford Press, 1989.

⁶ Schoener, GR, Milgron JH, Gonsiorek JC, Luepker ET, Conroe RM. *Psychotherapists’ Sexual Involvement with Clients: Intervention and Prevention*. Minneapolis, MN: Walk-in Counseling Center; 1989:401-420.

⁷ Schoener, GR, Milgron JH, Gonsiorek JC, Luepker ET, Conroe RM. *Psychotherapists’ Sexual Involvement with Clients: Intervention and Prevention*. Minneapolis, MN: Walk-in Counseling Center; 1989:401-420.

⁸ *Diamond v Kenley*, 515 F. Supp. 1165, 1167 (E.D.Va 1981).

⁹ *Davis v Psychology Examining Board*, 431 N.W.2d 730(Wisc. Ct. App. 1988).

¹⁰ *Servants of Paraclete, Inc. v Great American Insurance Co.*, No. 93-236JB, 1994 US Dist. LEXIS 9536 (D.N.M. June 13, 1994).

LIABILITY OF REHABILITATION PROVIDERS

There are several theories under which rehabilitators could be liable for the injuries suffered by patients of rehabilitated therapists. First, rehabilitation providers can be liable based on their failure to provide proper treatment to the exploitative therapist. Second, they may be liable for failing to warn the abusive therapist's subsequent employees and patients of the therapist's record. Third, the provider may also be liable for a breach of a warranty if the provider guarantees that rehabilitation will occur or has occurred. Lastly, the rehabilitation provider may be directly liable for its own negligent failure to supervise an employee who provides inadequate rehabilitation treatment to the exploitative therapist. For example, the counselor may accept the therapist's account of treatment of various patients without obtaining corroboration or making further inquiries. The center may also fail to adequately supervise the counselor if, for example, it knows that the abusive therapist has deceived the counselor in the past and the rehabilitation clinic does not adequately monitor their relationship.

Rehabilitation providers could also be liable for the acts of its employee that result in harm to subsequent patients of the rehabilitation therapist. In this situation, the provider is not liable for its own negligence; rather, it is vicariously liable for the wrongs committed by its employee acting within the scope of employment simply because the provider employs that therapist to carry on the provider's business. This theory of liability is known as *respondeat superior* which means "let the master answer." Based on *respondeat superior*, a rehabilitation provider may be liable when an employee renders inadequate services and the therapist subsequently exploits another patient.

MINIMIZING THE RISK

In order to protect themselves from liability, employers should perform background checks on all potential employees, and may even be required to do so by statute. If they fail to investigate properly, subsequent employers could be directly liable for negligently hiring, retaining, or supervising the therapist, if the therapist abuses again.

Even if a therapist has never exploited a patient before, the employer may be liable for negligently hiring a therapist who is likely to exploit in the future. In *Moses v Diocese of Colorado*,¹¹ the employer, the diocese, had access to the abusive priest's psychological reports included in his employee file. These reports indicated certain psychological and character attributes that gave the diocese reason to believe that the priest should not have been permitted to counsel vulnerable individuals. Unfortunately, the priest did sexually abuse a woman whom he was counseling. The Supreme Court of Colorado held the diocese liable for the woman's injuries based on its negligently hiring of a priest whom they should have known posed a threat to parishioners.

Negligent hiring may also be found when employers fail to check with past employers or previous colleagues regarding the work performed by the applicant-therapist. These past employers and colleagues may have information vital to the well-being of future patients, even

¹¹ *Moses v Diocese of Colorado*, 863 P.2d 310 (Colo. 1993).

if a formal complaint was never filed or action was not taken against the therapist. Prospective employers should also investigate gaps of one or more years in the therapist's employment record because this may indicate that the therapist underwent rehabilitative therapy.

LIABILITY OF SUBSEQUENT EMPLOYERS

Employers may also be liable for negligently retaining, or failing to fire, an abusive therapist after they know or should have known of the therapist's abusive conduct. The court in *Copithorne v Framingham Union Hospital*,¹² for example, held that a hospital's failure to revoke the staff privileges of an employee, despite actual notice of prior acts of sexual misconduct, led to the plaintiffs injuries. Accordingly, subsequent employers must decide whether to terminate an employee when evidence of the employee's history of misconduct comes to light.

Employers may also be liable for the negligent supervision of employees. Negligent supervision can include failing to properly monitor a rehabilitated therapist in accordance with a probationary agreement, internal requirements, or public policy. Like the rehabilitation provider, the subsequent employer could be held liable for the acts of its employee/ therapist that result in harm to its patients, under the doctrine of *respondeat superior*. The employer could be held liable for the wrongs committed by the rehabilitated therapist, acting within the scope of employment, because the therapist is performing acts necessary to carry out the employer's business.

MINIMIZING THE RISK

Employers may take several steps to limit their exposure to liability for the acts of rehabilitated therapists. For instance, employers may implement rigorous monitoring techniques, solicit patient feedback, require regular reports from the abusive therapist's own therapist, or require peer reviews. Employers may also limit the therapist's practice to certain classes of patients.

For example, subsequent employers may prohibit therapists from treating the type of patient they had previously abused, or limit them to providing group therapy. Subsequent employers may require proof of rehabilitation before hiring an exploitative therapist or allowing the therapist to resume employment. Review committees are often established to handle complaints against therapists and to ensure that the therapists follow through with rehabilitation plans. Churches may also implement such review programs for abusive clergy members.

Will these affirmative efforts shield the employer from direct liability for negligent hiring, retention, or supervision? The answer depends on whether the employer breached its duty to its patients. Courts make this determination on a case-by-case basis.

THE CASE OF DR. D

The following is a hypothetical case involving an exploitative therapist, which demonstrates the various components of the disciplinary process and the difficulties inherent in devising

¹² *Copithorne v Framingham Union Hospital*, 529 N.E.2d 139 (Mass. 1988).

a foolproof plan for rehabilitation. Following the case, Patient B's attorney analyzes the rehabilitation plan.

The Facts

Dr. D, a psychiatrist, engaged in sexual contact with Patient A. During a hearing at the Medical Licensing Board, evidence was introduced showing that, from very early on in the therapy, Dr. D would hug Patient A during sessions. Other evidence showed that he had kissed Patient A on several occasions. Evidence further showed that approximately 4 years into the treatment, Dr. D began to engage in sexual intercourse with Patient A. Dr. D testified that there had been approximately seven acts of sexual intercourse.

Dr. D's forensic expert witness, Dr. E, testified at the board hearing that Dr. D's exploitation of Patient A was not motivated by an underlying personality disorder, but rather that Dr. D's behavior was unique to this patient, who was diagnosed as a borderline personality, and that the relationship was mutually exploitative. Dr. E stated, "I suspect Dr. D would still have some problems in treating borderlines, but...I feel safe in saying that I don't think it would lead to any sexual acting out with borderlines. The problem would be technical and involve the management of transference." Dr. E based this opinion, in part, on his understanding that Dr. D was engaged in ongoing individual psychotherapy. Evidence was presented at the hearing that Dr. D had, in fact, discontinued psychotherapy approximately 6 months prior to the hearing.

The Plan

The Board suspended Dr. D's license to practice medicine for 5 years, but stayed the suspension pursuant to a probation agreement worked out with Dr. D. The probation agreement provided that the Board would stay the suspension of his license if Dr. D complied with the following conditions:

1. That Dr. D agree to have his cases monitored for a period of at least 4 years, during which time he would meet with Dr. S on a monthly basis to review all his cases, with specific emphasis on his treatment of borderline patients and female patients.
2. That Dr. D not provide psychotherapy to female patients, age 50 or under, with the diagnosis of borderline personality disorder and that patients diagnosed with borderline personality disorder not constitute more than 10% of Dr. D's case load.
3. That Dr. D continue to receive training in psychotherapy.
4. That Dr. D continue to receive individual psychotherapy with his own therapist, who would submit written attendance reports to the board at least once every 6 months, and that Dr. D waive his privileges regarding these disclosures; and
5. That Dr. D agree to provide copies of the probation agreement and disciplinary sanction to all hospitals or other jurisdictions in which Dr. D desires to practice medicine.

The Repeat Offense

Subsequent to the license suspension, Ace Hospital hired Dr. D as a psychiatrist performing psychotherapy. While so employed, Dr. D engaged in a sexual relationship with another patient (Patient B). Patient B sued Dr. D and Ace Hospital. In determining whether or not his client had a viable case against Ace Hospital, Patient B's attorney asked the following questions: Did the rehabilitation plan meet the standard of care of a reasonable rehabilitation plan? If so, did the employer appropriately supervise the rehabilitation plan? If the answer to that question is yes, then should the employer have done more?

Legal Analysis of the Plan

In deciding whether the rehabilitation plan was proper, Patient B's lawyer looked at the specifics of the plan. The rehabilitation plan placed restrictions on Dr. D's practice. The plan required case monitoring, practice limitations, further education, personal psychotherapy, and that he provide a copy of the plan to the employer.

The first restriction required that Dr. S monitor Dr. D's cases for at least 4 years; it did not specify how Dr. S was to monitor the cases. Some questions that come to the lawyer's mind are: How was the supervising psychiatrist chosen? Was the supervisor a friend of the doctor? Was there some other connection between them? Is monthly monitoring enough for all patients to be reviewed? What was to be reviewed? Was only Dr. D's oral presentation of his cases to be reviewed or were his written notes to be reviewed also? The lawyer for Patient B now notes that perhaps Dr. S might also be liable for failing to provide adequate supervision.

The second restriction was on practice limitations. According to the plan, Dr. D should have practiced only in settings, where he could be monitored. What, exactly, does that mean? Was this the case at Ace Hospital? For example, did Dr. D provide treatment with a supervisor present? Was he required to report after each therapy session? The practice limitations also restricted Dr. D's female patients to those over 50 and restricted his case load of borderline patients to 10% or less. Who was to make this diagnosis? What was the rationale for this age cut-off? Did it matter if his patients of 50 looked like Joan Collins or Sophia Loren? Does this practice limitation provide any real protection to Dr. D's female patients?

The third component was that Dr. D should continue to receive training in psychotherapy. The plan did not specify what type of training. Dr. D was a well-trained psychiatrist who has been in practice for a number of years. What new substantive skills could he be expected to acquire?

The fourth requirement of the plan was that Dr. D receive additional personal psychotherapy. What was the purpose of the therapy? What were the goals? Who selects the therapist? How does this fit in as part of the plan? Is once every 6 months often enough for his therapist to report? Does it matter that Dr. D had to waive his privileges? Does it mean that his therapy has a limited chance of success?

The final requirement was that Dr. D must give a copy of this plan to any future employer. The plan did not mention that Dr. D had stopped his personal therapy in the midst of his

disciplinary hearing. Employers could argue that this information should have been made available to them. The plan required that Dr. D provide employers with the probation agreement and the disciplinary sanction. This should include information on which the sanction and agreement were based. On the other hand, Patient B's lawyer would argue that the results of the hearing are public record and the employer should have inquired further when it found out about Dr. D's probation agreement and disciplinary sanction.

CONCLUSION

The theories of liability described in this article and the example and analysis of a hypothetical treatment plan illustrate that rehabilitation providers and subsequent employers find themselves in not yet fully charted waters. Yet, rehabilitation continues to be the remedy of choice for most disciplinary and licensing boards. As a result, the psychotherapy community needs to provide for the rehabilitation of abusive therapists.

Because the recidivism rate is high among abusive therapists, rehabilitation providers must weigh the substantial risk of undertaking the rehabilitation against their ability to successfully treat the abusive therapists and develop ways to protect themselves against liability. Future employers also find themselves faced with difficult decisions in hiring or rehiring rehabilitated therapists. The therapeutic community's choice of rehabilitation as a remedy, however, demonstrates its belief that some therapists can be rehabilitated.

All parties involved in the rehabilitation of exploitative therapists should be fully informed of their potential liability. Rehabilitation providers and subsequent employers must understand the risk that unsuccessful rehabilitation poses to the therapist's future patients.

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Structures of Forgiveness in the New Testament

Frederick W. Keene

The relationship of forgiveness and repentance is among the most difficult concepts in Christian theology. The argument usually is carried out along the lines of whether repentance is required for forgiveness to be granted, or whether forgiveness is (or should be) granted unconditionally, with repentance required in order to recognize and accept the unconditional forgiveness. The first position usually is regarded as one taken by more “conservative” Christians and, biblically, is based on such texts as Mark 1:4 (Luke 3:3),

John the baptizer appeared in the wilderness, proclaiming a baptism of repentance (*metanoia*) for the forgiveness (*aphesis*) of sins.

The second position is usually regarded as more “liberal,” and finds its biblical roots in passages such as Mark 2:1-12 (Matthew 9:2-8, Luke 5:17-26), especially Mark 2:5,

When Jesus saw their faith, he said to the paralytic, “Son, your sins are forgiven (*aphiēmi*).”

This is a somewhat more nuanced position than the first. It finds much of its basis in Paul’s explicit assertion of unconditional grace, with a classic expression in Paul’s Tillich’s famous sermon, “You Are Accepted.” (Tillich [1948], 153-163)

With respect to forgiveness in human interactions, the model of forgiveness usually is taken to be that of divine forgiveness. This again raises the question as to whether repentance is required for forgiveness, the answer usually depending on the answer accepted with respect to divine forgiveness. Biblically, of course, this can be traced back to such passages as the Lord’s Prayer in the Sermon of the Mount, Matthew 6:12 (Luke 11:4),

And forgive (*aphiēmi*) our debts,
as we also have forgiven (*aphiēmi*) our debtors,

Where human beings are to model their forgiveness on divine forgiveness, and possibly find their access to divine forgiveness contingent upon their forgiving others. Snaith, for example, puts forward a version of the “conservative” stance by claiming that the “moral” of the parable of the Unforgiving Servant (Matthew 18:23-35) is that the person “who does not forgive can not repent.” (Snaith [1972], 86) The more “liberal” position, which posits unconditional divine forgiveness, runs into trouble here. It wants human forgiveness to be unconditional too, reading Matthew 6:12 as a description of how the petitioner is to emulate divine forgiveness, not as an expression of the contingency of that forgiveness. Unfortunately, though, the liberal also

tends to believe in justice. But if forgiveness is always to be available, would a requirement that the oppressed and the abused must forgive their oppressors and abusers be just, or even possible? In human interactions, does unconditional forgiveness conflict with a cry for justice-or to reverse the question, does an insistence on justice deny a requirement that the abused must forgive the abuser? These are hard questions, even if they often are raised by those who would support and protect oppressors and abusers, and who would never dream of claiming *divine* forgiveness is unconditional.

An alternative model to the “repentance required” versus “unconditional” models of forgiveness with respect to human interactions can be found by looking at the structure of the way the New Testament treats forgiveness. The development of this model looks briefly at the cultural anthropology of the New Testament world, but primarily examines the words for and ideas about forgiveness that occur in the texts themselves. Once this alternative model is set up, it becomes possible to reexamine justice and abuse issues.

The concept of forgiveness would have been difficult, and sometimes even dangerous, in the agonistic society of the first century Mediterranean world. One person forgiving another would have been seen as laudable only if the forgiver were in a higher socioeconomic position than the forgiven, and hence in a position to act as a patron. Even then, the receiver of forgiveness would have been expected to seek the forgiveness-that is, the receiver would need to offer to become a client, unless already born into clientship. This is because in an agonistic society an offer of forgiveness is a challenge to the honor of the person being forgiven, at least in the case of a male recipient (Malina [1981], 30-33, 79-82; Malina and Neyrey [1991], 49-52); it may have been a positive challenge, but a challenge nevertheless. Such a challenge from an inferior would be an insult, but from a superior or an equal could be accepted. It would depend on how it were proffered. Thus in the first century Mediterranean world, the problem with forgiveness would not be with whether repentance was required, either before it was offered or in order to accept it. The problem with forgiveness would lie in the context in which it was offered or available: who forgave, who was forgiven, and what was the nature of the relationship between them that caused the question of forgiveness to arise in the first place.

This cultural-anthropological picture points to a model of forgiveness, and possibly of repentance, that can be examined in terms of the words and the structures of the New Testament. The model would posit that, from the point of view of the New Testament, interpersonal forgiveness is possible only when, within the context of the interaction in which the question of forgiveness arises, the putative forgiver is more powerful than, or at least an equal of, the person being forgiven. In particular it is not possible from the point of view of the New Testament for one person to forgive another person of greater power. This would mean that if a tenant has a grievance against a landlord as part of their landlord/tenant relationship, the tenant not only is not called upon to forgive, but in fact cannot forgive the landlord so long as that relationship exists-and this is independent of whether or not the landlord “makes restitution.” It would also mean that if a man beats his wife, the battered woman not only is not required to forgive her husband, but in fact *should not* forgive him so long as the hierarchical power relationship exists within the marriage. The tenant can forgive a financial wrong only of a financial equal (or inferior). A wife can forgive a marital wrong only as a marital equal. Within

the Christian context, a landlord might be expected to forgive the debts of his tenants, but he can not and should not expect to be forgiven for any wrongs he has committed-unless, possibly, he ceases to be a landlord.

From a linguistic perspective, how does this model fit the New Testament? There are only three Greek words used for the verb “to forgive” in the New Testament: *aphiēmi* (afigmi) with its associated noun *aphesis* (afesiV); *charizomai* (carizomai); and *apoluo* (apolnw). *Apoluo* occurs in the sense of “to forgive” only in Luke 6:37c (twice). It usually means to dismiss or to divorce; it is used in Matthew 5:32, Luke 16:28 and in Mark 10:11-12 in the pronouncements on divorce. Divorce in the New Testament context being a hierarchical process controlled by the husband, Luke 6:37c would carry a connotation of the forgiveness coming from the more powerful person.

The predominant verbs of forgiveness are *aphiēmi* and *charizomai*. The words *aphiēmi* and *aphesis* occur with this meaning almost exclusively in the Synoptic Gospels and in Acts, while *charizomai* is almost exclusively Pauline. *Aphiēmi* and *aphesis* have two basic meanings which can be related. The first is an essentially juridical meaning of “to leave” or “to release.” This can be seen in Luke 4:18, “He has sent me to proclaim release (*aphiēmi*) to the captives.” This can be extended to many cases where someone or something is leaving, for example the earliest disciples leaving their livelihood to follow Jesus in Mark 1:18 (Matthew 4:20),

And immediately they left (*aphiēmi*) their nets and followed him,

And in Mark 1:20 (Matthew 4:22),

...and they left (*aphiēmi*) their father Zebedee in the boat with the hired men, and follow him.

The other meaning is essentially commercial, to remit or forgive, especially a debt. This carries over from both common Greek usage and from the LXX, and can be seen in Matthew 6:12 (Luke 11:14),

And forgive (*aphiēmi*) us our debts,
As we also have forgiven (*aphiēmi*) our debtors,

And in the parable of the Unforgiving Servant, Matthew 18:27 and 32,

...and forgave (*aphiēmi*) him the debt...I forgave (*aphiēmi*) you all that debt.

The two meanings can be seen to be related by the use of the noun *aphesis* to mean release from debt or obligation or penalty. (TDNT [1985], 48; Ringe [1985], 65-66) The use in LXX shows a shift from Hebrew words for forgiveness that connote a cultic removal and expiation of sin to Greek words that have juridical and commercial meanings of release or remission. This in turn gives a religious connotation to the secular words. (Ringe [1985], 65-66, 112-113) What should be noticed, however, is that the words for forgiving and forgiveness now have an implication of a more powerful being, whether God or a person, releasing another from a debt or an obligation

or a penalty. The term *aphesis ton hamartia*, forgiveness of sins, takes on an implication of a release from sin (or from the penalty of sinning) or a release from debt; it does not have an implication of a religious or a cultic cleansing.

Paul “prefers the verb *carizomai* [*charizomai*], ‘to be generous,’ perhaps because it stresses the generous and personal character of God’s action and avoids the juridical associations of *aphiemi* [*aphiemi*].” (Quanbeck [1962], 319) *Charizomai*, to give freely, is from the same root as *charis*, which is the word usually translated as “grace” in the Pauline literature. (TDNT [1985], 1298ff) In the New Testament, it occurs only in Luke, Paul, and the deuterio-Pauline literature. In secular Greek, it usually meant “to show pleasure” or “to show oneself to be pleasant.” (TDNT [1985], 1301) In Luke, it usually refers to favors granted to someone (TDNT [1985], 1304); in Acts 4:14, for example, it is said that Barabbas was released as a favor to the people,

But you rejected the Holy and Righteous One and asked to have a murderer given (*charizomai*) to you.

In fact, Luke uses *charizomai* in the sense of forgiving debts in Luke 7:42-43,

“...When they could not pay, he canceled [RSV: forgave] (*charizomai*) the debts of both of them. Now which of them would love him more?” Simon answered, “I suppose the one for whom he canceled [RSV: forgave] (*charizomai*) the greater debt.”

In the Lukan story of Jesus’ anointing by a woman. (We note, however, that when Jesus forgave the woman’s sins in Luke 7:47-48 he used *aphiemi* rather than *charizomai*.) For Paul, though, it is the giving freely part of *charizomai* that tends to be emphasized, as in Romans 8:32,

He who did not withhold his own Son, but gave [or delivered] him up for all of us, will he not with him also give (*charizomai*) us everything else?

This giving freely is almost always by God, and very rarely in the sense of “forgiving” anything, whether sins or debts.¹

For a concept that has achieved such prominence in Christian theology and piety, there are relatively few references to forgiveness of sins, with Jesus’ forgiving of another’s sins, or, especially after the Resurrection, a blending of these two categories in which God’s forgiveness is mediated in some way by Jesus. All of these references are of necessity hierarchical: within the context of the New Testament, God and Jesus are always in a (or the) position of power with regard to sin. Furthermore, the words used are almost always *aphiemi* or *aphesis*, giving this forgiveness of sin juridical or commercial overtones. When it comes to people forgiving other people, there are not very many references. When Synoptic parallels are taken together, there are seven such references in the gospels, and four in the epistolary literature.

One of the major themes in the treatment of forgiveness by human beings is its relationship to forgiveness by God. This can be seen in the forgiveness petition of the Lord’s Prayer, Matthew 6:12, Luke 11:4,

And forgive us our debts,
As we also have forgiven
our debtors.

And forgive us our sins,
for we ourselves forgive
everyone indebted to us.

This relationship can be expressed in several ways, depending on the bias of the speaker. Thus one can say that humans must forgive one another in order to be forgiven by God, or one can say that humans must forgive each other in order to be able to accept the forgiveness of God. The petitions, of course ask God to forgive human beings *because* they forgive others, leaving open the question of whether God would forgive humans if they did not forgive others. But the petitions do more than that: they set up hierarchy. In Matthew 5:12, the petition says that since “we” have forgiven (*aphiēmi*) our debtors (*opheiletes*), then God should forgive (*aphiēmi*) our debts (*opheile*). These all have a primary reference to commercial or financial terms, although they can be extended to cover spiritual usage, (TDNT [1985], 746-748) Luke does in 11:4 by asking God to forgive (*aphiēmi*) “our” sins (*hamartia*) as “we” forgive (*aphiēmi*) everyone who is indebted (*opheilo*) to us. To be indebted in a commercial transaction is to be in the inferior position; the creditor is in the position of power. Thus the hierarchy is that we forgive those over whom we have power; therefore we can ask God, who has infinite power, to forgive us. Nothing is said about those who have power over us and against whom we might have a grievance. In this situation, forgiveness flows down, from the more powerful to the less powerful.

Forgiveness continues to flow down from the more powerful to the less powerful in the discussion in Matthew 6:14-15 of the forgiveness petition from the Lord’s Prayer, and in the similar discussion Mark 11:25. (Mark 11:26, which carries the discussion forward along the lines pursued by Matthew is not admitted into most modern translations.) Here, instead of debts (*opheile*) or sin (*hamartia*), it is trespasses (*paraptomata*) that are to be forgiven (*aphiēmi*), but again in the line of the Father forgiving the person, who then forgives the trespasses of others.

This trend also is found in the unique saying in Luke 6:37-38a in the Sermon on the Plain,

Do not judge, and you will not be judged;
do not condemn, and you will not be condemned.
Forgive (*apoluo*), and you will be forgiven (*apoluo*);
give, and it will be given to you.

(Luke 6:37a parallels Matthew 7:11.) In each of these commands, the clause in the passive voice is in the “divine passive” used to avoid a direct reference to God. This would point to a replication of the power driven hierarchy already seen, except that the word for forgive/ forgiven used here is *apoluo*, not *aphiēmi*. In fact, this is the only place in the New Testament where *apoluo* is used to indicate forgiveness. It usually means “to divorce” or dismiss, and is the verb used in the divorce discourses in Matthew 5:31 and 19:7 and in Mark 10:4. Divorce was a purely hierarchical act in biblical times, of course, a fact pointed out in the divorce narratives. The man, who had all the power, could divorce his wife, but she did not have the power to give him “a bill of divorcement.” While a case can be made that Jesus allowed divorce if mutually agreed upon,² the meaning of *apoluo* contains no hint of mutuality; it was strictly a hierarchical concept where the one with power is the one who performs the action of the verb.

The gospels also treat the concept of forgiveness in two narrative complexes, Luke 7:36-50 and Matthew 18:21-35. Both contain parables or illustrative stories that, while capable of other interpretations, are used to carry on the discussion of forgiveness in the received redactions. The Lukan passage is Luke's treatment of what in the other three gospels is presented as the anointing at Bethany. A complete discussion of this passage is beyond the scope of this study; Ringe (Ringe [1983], 66-71) studies the Lukan passage, while Schussler Fiorenza³ has an excellent presentation of the Synoptic parallels. The Lukan presentation differs substantially from the others. It not only is removed in time—from the week before the Crucifixion to early in Jesus ministry—and place—from Bethany to Galilee—but also its entire emphasis is different. While the other three presentations emphasize the anointing, and the Synoptics play with the idea that the anointing of the head is both the anointing of the messiah/king and an anointing for burial, the anointing in Luke seems to be secondary. In Luke, the primary emphasis is on forgiveness: forgiveness of the woman, who in stark contrast to the other three gospels is described as “a woman of the city who was a sinner,” but also, in an illustrative story the forgiveness of debtors.⁴ The story is in Luke 7:41-43,

“A certain creditor had two debtors; one owed five hundred denarii, and the other fifty. When they could not pay, he canceled [RSV: forgave] (*charizomai*) the debts for both of them. Now which of them will love him more.” Simon answered, “I suppose the one for whom he canceled [RSV: forgave] (*charizomai*) the greatest debt.” And Jesus said to him, “You have judged rightly.”

The use of *charizomai* for debt cancellation is particularly noticeable here; it emphasizes the “free gift” part of the forgiveness, but does not disguise that Jesus is talking about creditors and debtors, and hence a hierarchy of power. Later in the narrative, when the discussion turns to the forgiveness of the woman's sins, Jesus ties it to the debt language by switching from *charizomai* to *aphiēmi* in vv 47-48,

“Therefore, I tell you, her sins, which were many, have been forgiven (*aphiēmi*); hence she has shown great love. But the one to whom little is forgiven (*aphiēmi*), loves little.” Then he said to her, “Your sins are forgiven (*aphiēmi*).”

This illustrates the hierarchical nature of forgiveness even when Jesus forgives sins: a “woman of the city who was a sinner” was near the bottom of any power hierarchy of the time, and Jesus, as a Teacher who was a guest, albeit mistreated, of a Pharisee, was well above her.

The other narrative complex, Matthew 18:21-35, includes the parable of the Unforgiving Servant (vv 23-34), framed by a passage (vv 21-22 and 35) paralleled by Luke 17:3-4,

The Peter came and said to him, “Lord, if another member of the church [RSV, NRSV margin: my brother] sins against me, how often should I forgive (*aphiēmi*) him? As many as seven times?” Jesus said to him, “Not seven times, but I tell you, seventy-seven [RSV, NRSV margin: seventy times seven] times.”

“Be on your guard! If another disciple sins, you must rebuke the offender, and if there is repentance, you must forgive (*aphiēmi*). And if the same person sins against you seven times a day, and turns back to you seven times and says ‘I repent,’ you must forgive (*aphiēmi*).”

In Matthew 18:21 the NRSV, presumably reacting to this passage coming at the end of chapter 18, much of which is devoted to “church” discipline, reads “member of the church”; the RSV (and the NRSV margin), reflecting the actual Greek, reads “brother.” (For consistency, the NRSV should read “a brother or a sister.”) This parallels “another disciple” in Luke 17:3. Here is one of the few cases where an absolute hierarchy is not set up; a “brother” or “another disciple” or “a member of the church” is neither above nor below the person offended, but is an equal. While forgiveness is neither expected nor required when the offender is higher in the power hierarchy—indeed, it probably is neither possible nor desirable—it is expected when the person is an equal in the power structure. This frame in Matthew is concluded at verse 35,

So my heavenly Father will also do to every one of you, if you do not forgive (*aphiēmi*) your brother or sister from your heart.

Here the NRSV goes back to its inclusive language convention, and continues to reinforce the idea of equality—but not of forgiving the more powerful. The rest of the verse is an effort within the context of the Matthean redaction to present a particular interpretation of the parable of the Unforgiving Servant.

Within the Matthean redaction, the parable of the Unforgiving Servant is a parable on the necessity of forgiving others.⁵ A lord (*kyrios*) forgives a slave with a large debt, but this slave refuses to forgive one of his debtors. This causes the lord to revoke the original forgiveness and turn the unforgiving slave over to the torturers. The verb “to forgive” is *aphiēmi* throughout, emphasizing the financial aspects. The story itself could hardly be more hierarchical, and the way Matthew presents it makes it an almost paradigmatic form of the forgiveness petition in the Lord’s Prayer.⁶ Yet again, forgiveness comes down from the most powerful to the least powerful—and if the progression is broken at one place it is broken everywhere. As Ringe puts it,

if one opts to live with the pattern of forgiveness, that choice must govern those situations from which one benefits as well as those where one’s own debt is insurmountable. (Ringe [1985], 95)

But the progression of forgiveness can be broken only by a more powerful person refusing forgiveness to a less powerful person. The progression of forgiveness does not move up the structure of power, only down.

The final example of humans forgiving humans within the gospels is also the only example that presents the question of one with less power forgiving those with relatively more power. It is Luke 23:34,

Then Jesus said, “Father forgive (*aphiēmi*) them, for they do not know what they are doing.”

One of the Last Words on the Cross.⁷ This is a situation where Jesus has no power; he is speaking from a cross about those who have crucified him. What is noticeable is that he does not forgive them. Instead, he asks his Father, he asks God, to forgive them. Having no power within the situation, he can not forgive. About the only way the structures of power can be invoked for forgiveness is the way Jesus chose: to ask God, who remains all powerful, to forgive. This

is the one place where, if Jesus wanted the weak to forgive the strong, he could have indicated it. He did not. He asked the strongest to forgive, and, being the less powerful, did not offer the forgiveness himself. The relative positioning within the power structures remain the same: only the more powerful can be expected to forgive. The less powerful are not expected to forgive, and, in the case of Jesus on the cross, do not forgive the more powerful.

Outside the gospels, there are only three references in the New Testament to interpersonal forgiveness; a fourth, II Corinthians 12:13, is a bit of sarcasm by Paul. All four of them are in Pauline or deutero-Pauline literature, and, as would be expected, all four use *charizomai* for the verb “to forgive.” The two deutero-Pauline occurrences are in the context of advice about church life. Ephesians 4:32,

...and be kind to one another, tenderhearted, forgiving one another, as God in Christ has forgiven you.

Comes at the end of a section beginning a v 25 with “for we are members of one another.” This is a setting of equality, as in Matthew 18:21-22, although the hierarchical emphasis, with the human forgiveness stemming from the divine forgiveness is there too. Similarly, the other deutero-Pauline reference, Colossians 3:13, also refers to the life of the church, as can be seen by beginning at v 12,

As God’s chosen ones, holy and beloved, clothe yourselves with compassion, kindness, humility, meekness, and patience. Bear with one another and, if anyone has a complaint against another, forgive each other; just as the Lord has forgiven you, so you also must forgive.

This is virtually the same as Ephesians 4:32: the equality due to church membership is there, but the hierarchy of power that governs forgiveness is also there. Any hint that the less powerful might be called upon to forgive the more powerful most emphatically is not there.

The remaining passage is the only place in the New Testament where Paul writes about forgiveness by humans, II Corinthians 2:5-11. Here he is addressing a specific incident that seems to have occurred during the period of contention between him and the Corinthian church documented in his Corinthian correspondence. This passage comes in a section of that correspondence that dates from the end of the period of contention, after Paul has brought the church back to his way of thinking. During the dispute, one of the members of the church seems to have affronted Paul in a manner sufficiently unpleasant to have caused the church to exact punishment (vv 5-6). The nature of the punishment is not specified; traditionally, it is held to have been some form of excommunication or “shunning” of the offender. Paul, magnanimous in victory, writes in this section that the congregation should now “forgive and console [the offender], so that he may not be overwhelmed by excessive sorrow” (v 7). Paul continues along this line, a few sentences later saying in v 10,

Anyone whom you forgive, I also forgive. What I have forgiven, if I have forgiven anything, has been for your sake in the presence of Christ.

Paul, now being firmly in the leadership position and wielding the power in the relationship, can and does encourage forgiveness. He nowhere indicates that anyone should forgive the more powerful, and, when in the weaker position in the course of the Corinthian dispute, never indicated that he was going to forgive those more powerful than he who had been so offensive to him. In this case, the only one from Paul's writings, the trend in the New Testament continues. Forgiveness is desired between equals in a relationship; when the relationship is unequal, only the more powerful are to forgive. If an offense is committed against the weaker by the more powerful, the weaker are not expected to be forgiving.

This model, based on the structure of forgiveness in the New Testament, is one where forgiveness occurs only when the parties involved possess equal power in the relationship where forgiveness is applicable, or else when the person with the grievance has the greater power within that relationship. Even Jesus in the one case where he was in the weaker position did not forgive those who both were more powerful and had harmed him. Instead, while on the Cross, he asked God-the most powerful-to forgive them. The fact that Jesus himself did not opt for forgiveness in this situation points to a further possibility, that forgiveness is not even possible when it is to go up the power structure. Surely the idea of a forgiving Christ would tell us that if he could he would forgive. But he did not, and thus no one should be asked or expected to forgive those who retain the power in a relationship where forgiveness might be applicable.

This model of forgiveness provides a tool for addressing several problems in contemporary and biblical theology. In particular, it provides a way of reconciling the apparent dichotomy between the supposed New Testament emphasis on forgiveness (and mercy) and the supposed Hebrew Bible emphasis on justice. In contemporary theology, this dichotomy is nowhere more apparent than in liberation theologies. As Ringe has put it,

...theologians of liberation...seem not to be drawn to the theological motif of forgiveness, and for very good reason...it is heard as a word that would whitewash past abuses whose present consequences continue to be felt. (Ringe [1985], 95)

This, of course, is a point of view not unique to liberation theologies; any theology "from the underside" which takes seriously the conditions of the abused, the hurt, those in pain, will look with much suspicion on almost all treatments of forgiveness. The model of forgiveness explored here would, for example, put the lie to the male clergy who counsel and preach to abused women that they "must forgive." In the social and political arena, forgiveness would be "far from becoming an easy or cheap route of escape for the privileged," (Ringe [1985], 95) as opposed to the way it is commonly preached in American churches.

This model would allow theologians of liberation to address the idea of forgiveness with some specificity within the context of justice. To receive forgiveness, to be forgiven, the powerful would have to do more than "make restitution"; they would have to give up their power. From a Christological point of view, of course, the relinquishing of power at the Cross is the basic

requirement of salvation, but it goes beyond the Cross. To return to the Sermon on the Mount, forgiveness by others as well as by God is a prerequisite for worship, and hence for any true relationship with God:

So when you are offering your gift at the altar, if you remember that your brother or sister has something against you, leave your gift there before the altar and go; first be reconciled to your brother or sister, and then come and offer your gift. Come to terms quickly with your accuser while you are on the way to court with him, or your accuser may hand you over to the judge, and the judge to the guard, and you will be thrown in prison. (Matthew 5:23-25)

This reconciliation, which in this case requires forgiveness, must be sought out-first from equals, but then from anyone with a grievance. This forgiveness can be hoped for, and even expected, except from those further down the power scale. To receive forgiveness from them, power must be relinquished. If this relinquishing of power is to be given a name, it is the *metanoia*, the repentance, spoken of in the New Testament, or the “turning,” the *shub*, spoken of by the prophets.

This relinquishing of power, this *metanoia*, this *shub*, is what the theologians of liberation are talking about when they demand justice. It is the giving up of power that ties together forgiveness and justice. In this sense, the demands of forgiveness-whether *aphi mi* or *charizomai*-are the demands for *metanoia*, and for justice, the *mishpat* demanded by the covenant through the prophets, and brought about by a “turning” *shub*, back to God. The requirement for forgiveness and the requirement for justice become aspects of the same drive toward fundamental, radical change in the power relationships among people, a drive that can not help but be revolutionary in a real, material sense. The theologians of liberation have recognized this as part of the demand for justice. They also have recognized that

to move too quickly to “forgiveness”...without addressing the way the patterns of oppression have become institutionalized, risks simply perpetuating the status quo. Before “forgiveness” can find its way back into the lexicon of liberation, it must be linked to justice. (Ringe [1985], 94)

In the requirement that power be relinquished for forgiveness to occur, the link between forgiveness and justice can be established.

Use of this model of forgiveness can be made more focused and given greater specificity and individuality by looking at a specific issue, the recovery of those who have been sexually abused as children. This is an area where the question of relative power is at its starkest, and where the church commonly sides with the abuser and bludgeons the survivor with a doctrine of premature forgiveness. The worst cases of the church siding with the abuser, of course, come in cases of clergy sexual abuse. In these cases the common reaction is for the laity to make excuses for the clergy, often acting as if the survivor were the perpetrator-or just treating the survivor as a liar. The church as an institution tries to protect the clergy by reassigning them to other parishes, as the Roman Catholic dioceses of Chicago and of Labrador have done in recent years, or by devoting its pastoral resources to caring for them at the expense of the victims and

survivors. After treating the survivor as though she were at fault, the church then compounds the damage by telling her that she should forgive her abuser. This last is an actual act of abuse by the church itself.

If the church feels that the survivor should forgive her abuser, then, in cases of clergy sexual abuse, it has but one choice. No matter what the ecclesiastical tradition, no matter what official or traditional doctrine of ordination a church as an institution may hold, the reality of the relationship between clergy and laity is one of relative power, with the clergy holding the power of priest and/or pastor.⁸ So long as the clergy/laity relationship exists, the power relationship also exists, and forgiveness of a clergy sexual abuser by the survivor can not, and should not, occur. If the church counsels forgiveness, then the church has but one choice: strip the abuser of his ordination. It should be emphasized that this is not intended as a *punishment* for the clergy. It is a requirement that allows the survivors to forgive, and hence allows the clergy to receive forgiveness. An implication of the New Testament structure of forgiveness is that sexually abusive clergy should be stripped of their status as ordained members of the church.

The power relationship between abuser and abused can be seen in the common example of father/daughter incest. The forgiveness of the father by the daughter typically can not occur until the relative power relationship has been reversed, when the daughter has reached adulthood and the father has reached old age. This may or may not be a psychological requirement. Only when the patterns of power are reversed can the act of forgiveness be considered.

This requirement that the patterns of power be reversed is the kind of change, of turning around, of *metanoia* or of *shub*, that is meant by repentance. It would then be what Jesus is getting at in Mark 10:21 when he tells the rich man⁹ to “sell what you own, and give the money to the poor, and...follow me,” and later notes (v 25) that “it is easier for a camel to go through the eye of a needle than for someone who is rich to enter the kingdom of God.” In this sense, repentance is required for forgiveness to occur, at least between people. But repentance is not required of everyone; it is required only of those with power,¹⁰ any power.

San Bernardino, California

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Notes

¹ Rudolf Bultmann, who also wrote the article on *aphi-emi/aphesis* in TDNT, noted in 1941 that Paul never uses the phrase *aphesis ton hamaria*, forgiveness of sins, "though it reappears in the deutero-Pauline literature; see e.g., Col 1:14; Eph 1:7," (Bultmann [1961], 32, n. 1) Paul does use something similar in Romans 4:7-8,

Blessed are those whose iniquities are forgiven (*aphi-emi*),
and whose sins are covered;
blessed is the one against whom the Lord will not reckon sin.

But this is in a quotation from Psalm 32:1,2 (LXX). Knox and Reumann suggest that Paul is reminded of this because the commercial term "reckoned," *logizomai*, in Romans 4:5 reminds Paul of these two verses

(Knox and Reumann [1991], 213 NT) They pick up on this from v 8 (Psalm 32:2), but could also pick up on it from *aphi-emi* in v 7 (Psalm 32:1).

The poetry of the Hebrew Bible works by placing ideas in parallel; a line of poetry which carries on a pair of parallel ideas or images is called a *bicolon*. The bicolon in v 7 puts “forgiven” in parallel with “covered,” but there is a larger parallelism between vv 7 and 8 that carries the idea forward (this literary device is discussed both by Miller [1986], 33ff, and by Alter [1985], 10ff) by making it more pointed. “Blessed are those” is refined down to “Blessed is the one” and “inquiries are forgiven” and “sins are covered,” both in the divine passive, are treated more pointedly by “against whom the Lord will not reckon sin.” If “reckon is a commercial term, it makes the meaning of the commercial term “forgiven” (*aphi-emi*) more pointed.

² Countryman, p 180, presents arguments that, when carried to their conclusion, would imply this.

³ Schussler Fiorenza, pp 128ff; the Synoptic parallels are Mark 14:3-9 and Matthew 26:6-13. John’s version is John 12:1-8.

⁴ A careful reading of the four anointing complexes gives the strong feeling that there are two events in Jesus’ ministry reflected here. One is along the lines of Luke’s story, where a woman, probably a prostitute, seeks forgiveness, wetting Jesus’ feet with tears and wiping them with her unbound hair. The other event is the anointing at Bethany story, along the lines of Mark and Matthew. Luke (or his tradition) seems to have conflated the anointing into his story. John seems to have taken these two versions and changed the woman to Mary of Bethany, keeping the detail of unbinding her hair to wipe away the expensive nard makes little sense; see Brown, pp 447-44. Fitzmyer takes a different approach, suggesting that the anointing of the feet is more likely to be original because it makes so little sense, and hence was probably changed, possibly in the oral traditions, to the more reasonable anointing of the head; see Fitzmyer, pp 683-692.

⁵ Some, such as Snaith, would go farther and read the parable as showing the necessity of repentance; he puts it that “there can never be forgiveness without repentance” while the parable shows that one “who does not forgive cannot repent”; see Snaith, p 86. This raises the question of the nature of repentance as well as its necessity.

⁶ Matthew’s interpretation of this parable is basically unsatisfactory, although it does reinforce the point of this study. Matthew identifies the lord (*kyrios*) of this story with God, always a dubious practice when interpreting parables. He then is forced into a reading where God reneges on forgiveness at the first mistake the servant makes in not extending forgiveness himself. This is hardly the action of a faithful God.

An alternative reading can be constructed by looking at the phenomenal size of the first slave’s debt; ten thousand talents can be put into perspective by noting that the annual revenue of Herod the Great, with all of his famous building programs, never exceeded 900 talents. A king who could forgive such a debt can not be just an earthly king, but can only be messianic. But even the messianic king can not be relied upon to remain faithful. Thus the parable would be a warning against the expectation of a messianic king. (I would like to thank William R. Herzog II of Colgate Rochester Divinity School for introducing me to this reading.)

⁷ The NRSV margin indicates that this verse may not belong in the Gospel of Luke.

⁸ This is discussed in detail in Fortune, pp 99ff; see especially chapter 6, “Doing Justice and Mercy,” pp 108-129.

⁹ The parallels are Matthew 19:21 and Luke 18:22. Note that this is a rich man in Mark, a rich young man in Matthew, and a rich ruler in Luke. He is nowhere a “rich young ruler.” The variation in his description seems to point to the evangelists’ struggle to define the nature of repentance. Mark and Matthew see him as rich; Luke adds the idea of direct power by making him a ruler.

¹⁰ I write this in Southern California as the Rodney King riots of 1992, the most destructive and bloody urban violence in contemporary American history, are winding down. I find myself drawn to the writings of Hosea, Amos, and Jeremiah to witness to an entire society in need of forgiveness, forgiveness it can not receive because it is unable and unwilling to reverse the patterns of power. The relinquishing of power can be a corporate as well as an individual requirement.

Pastoral Care for Congregations in the Aftermath of Sexual Misconduct

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General Guidelines

1. If congregations do not go through an intentional, sensitively planned healing process, they are likely to suffer significant impairment to their community in the months and years to come. They will probably experience some or all of these symptoms:
 - a. Mis-directed anger at church staff, at judicatory staff members, at “afterpastors” (those who follow an offender), at lay leadership.
 - b. Reactivity in the form of making unwise or hasty decisions.
 - c. Ongoing divisions within the congregation.
 - d. Depression and malaise-people unwilling to expend energy on the day-to-day life of the congregation.
 - e. Excessive preoccupation with caring for the offending pastor (and pastor’s family) with less regard for other injured parties.
 - f. Loss of members/income which does not resolve in the usual “recovery period” (6-12 months) for these losses.
 - g. A climate of anxiety, gossip and conjecture resulting from understandable attempts to find out “what happened?”
 - h. Conscious or unconscious embarrassment, leading to isolation from the surrounding community and from other congregations.
 - i. “Sexualization” of the congregation, in which undue attention is given to matters of human sexuality.
 - j. Congregational conflicts which symbolize the pain; for example, conflicts about the priority of children’s ministries, about job/role descriptions, about the external appearance of the church building, about the newsletter, about worship practices, about “boundaries” like keysto the building, office hours, outreach, etc.
 - k. Nostalgia and mourning about times past-an earlier era long before this recent problem emerged-or the idealization of a previous pastor.
 - l. Suspicion about new ideas, new programs, new forms of ministry.
 - m. Despair about the future of the congregation; and the resultant fear of making commitments or taking risks.

It just doesn't work to attempt to gloss over/sidestep the healing process. Symptoms such as those listed above may persist for years.

2. Even if congregations resist an intentional healing process, they will complain later that "nothing was done to help us" if no healing process is inaugurated.
3. The congregation needs to know as much as possible about the situation in which they find themselves. Of course, there are obvious limits (especially regarding the privacy of those who have reported the misconduct), but congregations can be told SOMETHING. Where this cannot happen because of the REAL threat of legal action (not the imagined threat), they can be told precisely that.
4. Congregational pastoral care in this circumstance is a TEAM EFFORT. The team may include mental health/addictions professionals (especially of those with family systems expertise), denominational personnel, clergy from nearby congregations, religious education specialists, attorneys and (as appropriate) law enforcement professionals.
5. It is VITAL that the team include both men and women; both lay and ordained persons; people of varying ages and socio-cultural perspectives (reflecting the nature of the congregation's membership).
6. A "Trauma De-Briefing Model" should be used as a guide for the congregational disclosure. Make sure to have "caring listeners" available at such an event, and see that the congregation's leadership plays a role in planning/presenting this initial session.
7. Be prepared for the possibility of media coverage. See the attached suggestions regarding media relations. It is important that a spokesperson be appointed and all media contacts be referred to the spokesperson.
8. Post or distribute a list of resources in your local community for people to contact if they have need for individual consultation or counseling. Alert those resources about the situation.
9. To assure the congregation that fairness and justice concerns have been addressed, make available to them all Policy and Procedure materials which detail the processes of investigation and intervention in matters of sexual misconduct.
10. Congregations may need some focused education on the ethics of ministry (including the issues of the power invested in the ministerial office, issues of fiduciary trust, issues of Christian community life, etc.).

11. Educate the congregation about the healing process itself-the stages of grief, the variety of responses, the kind of feelings and fears they might expect within the congregation. See the attachment on the DIMENSIONS OF CONGREGATIONAL HEALING and suggestions for its use.
12. Plan at the beginning for follow-up. Never assume that the work is done just because there has been one meeting. It is the time AFTER the information is communicated to the congregation that is most critical to their healing process. It is the INFORMATION they receive which constitutes the crisis, whether the misconduct is recent or in the past history. Crisis moments provide a “window of opportunity” for healing and transformation.
13. No congregation that I know of has ever complained that “too much was offered to us” for their healing process. Err on the side of offering more rather than less opportunity to discuss, process and accept/integrate the experience.
14. Lay leaders who have lived through sexual misconduct experience in other congregations can sometime be useful resource people in working with newly informed churches. Of course, such resource people need to have moved through their own healing and integration if they are to be helpful and clear.
15. Church leaders who are committed to a healing process will continue to need consultation as the process continues. This consultation should be funded and supported by both the congregation and the judicatory as a shared commitment.

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Trauma Debriefing: A Congregational Model

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Critical incidents and traumatic events, whatever they may be, have well-documented consequences, both immediate and delayed. When a group, such as a congregation, experiences a trauma, the impact upon the congregation is likely to be an assortment of these symptoms:

- A loss of energy, a feeling of paralysis
- Distrust of leadership (often projected onto future leadership)
- Divisions within the group
- Isolation and withdrawal of some group members
- Anger displaced onto unrelated issues or out of proportion
- A conspiracy of silence about the traumatic event
- Despair about the group's future
- Blaming and distortions of responsibility for the event
- Seeking a "quick fix" without thoughtful reflection
- Difficulty making normal and necessary decisions

All of these constitute a corporate response to the trauma, and will be carried into subsequent years unless the trauma is processed and integrated into the congregation's life. The parallel of destructive "family secrets" is obvious.

We have learned that a useful model for early congregational work at integrating a trauma is that of "debriefing" drawn from disciplines which do crisis counseling. A trauma debriefing experience is:

- A structured, directed process for processing factual data;
- An opportunity to accept the reality and chronology of events;
- A chance to ventilate the feelings present during the trauma;
- Exploration of the repercussions and

- Consequences of the event;
- The search for a context and a perspective on the trauma;
- An opportunity to plan further responses to the event; and
- A shared group experience.

A trauma debriefing allows participants to integrate the reality of the event with their own responses to the event. Our congregational trauma debriefing model has been shown to be an effective way to communicate data, surface feeling, and lead a congregation into the future unhindered by the past. I offer it here as a basic guide which we have found useful, from which others can tailor processes that suit their particular needs and contexts.

Debriefing Steps

1. Schedule the debriefing. This should be done as soon as possible, preferably within hours of the event (or the congregation's learning of the event). It is important to get as wide a participation as possible, so make certain everyone is aware of the debriefing (by using phone tree or overnight mail). Be prepared for a long meeting.
2. Select a leader or co-leaders. Make sure that the leaders have had experience with this kind of process. Visible, though not in the role of leader of this process should be the bishop or other denominational authority.
3. Hold the meeting in the church. This is important; it gives the message that "the church is a place for truth...we follow the One who described himself as Way, Truth and Life." Although an opening prayer is fine, do not make it a liturgical event.
4. Give greetings and introductions. The bishop (or representative) greets the attenders. One of the lay leadership also welcomes those present. Then move quickly to the leader's self-introduction.
5. Explain the process. The process is explained and guidelines for the debriefing are outlined.
6. Set ground rules for confidentiality. This matter will vary depending on the circumstances. What IS always important, however, is the assurance that no one will be placed in jeopardy because of any disclosures which may happen.
7. Present basic facts. Questions, notes on paper at an easel, and a summary all help to encapsulate the facts of the situation. The purpose here is to give all those present a common record of the traumatic event (a so-called "consensual reality"). This is NOT a time for feelings to be expressed, and the group may need some direction to hold those until the next phase.
8. Invite expression of feelings. With as complete a record as possible of the event, the leader now invites the expression of feelings. No feelings, however trivial,

intense or unusual, are to be discounted. The feelings are simply to be collected and heard; no effort should be made to fix, soothe, or smooth over the expressed feelings. People may need to be directed and supported in expressing their OWN feelings (not the feelings of someone else).

9. Discuss repercussions. The leader then asks for those present to turn their attention to the repercussions of the event. What might the future look like? This step bridges the trauma with the ongoing life of those involved in the trauma. This may be a time to explore some of the issues for the congregation in the near future. These may be listed on newsprint or summarized verbally.
10. Seek a context and perspective. This next step is likely to come naturally, but may need the leader's direction. Here people are invited to place the event within a context or perspective. In this phase, there may be expressions of confusion or helplessness. There may be some curiosity about how other groups resolve an event of this sort. In this phase, people may have an awareness of a paradox: Why do bad things happen? How can it be that such a talented leader could be involved in misconduct? Why do things like this happen in a church? Where does responsibility lie? What about the resources of our faith?
11. Plan for the future. As the final step this includes the scheduling of a follow-up session one or two months into the future. Planning also includes a discussion of ways in which the pastoral needs of the congregation are to be met. Planning further includes a description of resources available to people who may need counseling or other specialized attention.
12. Have available on-site professional listeners. For the immediate need of those present, a debriefing team should include some trained crisis professionals who are available at areas in the church building so that individuals or groups may process their feelings further. These professionals are simply present to listen and support people in integrating the trauma.
13. Debrief the team and evaluate the process. At the meeting's end, the debriefing team should meet. This final debriefing of the team is helpful in planning the follow-up monitoring of the congregation: Are there issues which need further clarification? Are there factors which require special ongoing attention? What does the lay leadership of the congregation require? Either at this point or at another time, there should be an evaluation of the congregational meeting itself.

Congregational Follow-Up: The First Year

Even with the best of care, a congregation which has experienced clergy sexual misconduct will need an ongoing program of support and assistance. This need is especially critical in the first year. Whether acknowledged or not, this year will be devoted to a healing process, in which the congregation will slowly integrate the reality of its experience into its story. If such integration does not take place, the congregation may continue to suffer from the symptoms of early trauma.

After the first congregational meeting or meetings about the incident(s) of clergy sexual conduct, follow-up may take any of several forms:

1. Meetings between denominational staff and lay council to assess the healing process of the congregation.
2. Conversation with church staff (including an interim pastor where present) as to their observations.
3. Study groups which consider the issue of clergy ethics (perhaps by reading a selected book for discussion).
4. Congregational self-evaluation (including the use of a questionnaire or survey instrument).
5. Congregational focus groups which address the question, "Where are we now in our process of moving ahead?"
6. Formation or appointment of a committee on congregational life, charged with the task of assessing needs and planning programs for continued healing.

Some congregations which have worked through a history of clergy sexual misconduct take up special vocation in the related area: offering their experience and expertise to other congregations; sponsoring programs on ethics and sexuality; offering their building to groups addressing issues of sexual abuse. These are signs that the congregation has indeed moved into the redemptive activity of letting its own pain be a gift for others.

Perhaps most heartening are those congregations which have taken a clear-eyed look at clergy-congregation relations. While each cleric is responsible for his/her own behavior, there are congregational factors which contribute to a climate in which clergy sexual misconduct happens. These congregations commit themselves to provide:

- *Honest feedback to leadership through regular evaluation*
- *Time off and continuing education to reduce the risk of burn-out or isolation*
- *Benefits packages which allow clergy to consult with professional caregivers when needed.*
- *Support for clergy family life and maintenance of boundaries between home and church.*

7. The so-called "new" issue of clergy sexual misconduct presents the entire church with an opportunity to come to new levels of clarity about expectations of the clergy, professionalism of the clergy, relationships between men and women and children. Indeed, it is an arena to explore the shared nature of ministry itself.

Assessment and Rehabilitation of Psychotherapists Who Violate Boundaries with Clients

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Preface

Presented to the Norwegian Psychological Association in Oslo, Norway - 3 & 4 September 1997. This is a revised version of a paper entitled "Assessment, Treatment, & Supervision of Professionals Who Engaged in Boundary Violations" which was presented at the 1st Australian & New Zealand Conference on Sexual Exploitation by Health Professionals, Psychotherapists, & Clergy, held 12 April 1996 at the University of Sydney, Sydney, Australia. Edited by AdvocateWeb, with permission from the author.

Introduction

Prior to the last decade sexual misconduct and related boundary violations by counselors and other professionals was often treated with an attitude of tolerance. Offending professionals received mild discipline, returned to practice while receiving some sort of psychotherapy or counseling and possibly supervision of their work. Typically no formal assessment was done to determine rehabilitation potential. A number of psychotherapists and counselors were apparently willing to undertake the treatment of such cases with only limited knowledge of the original offenses and without a clear plan for how a repeat of the behavior was going to be prevented. The focus of such therapies was whatever the offending professional wanted to discuss. Often the professional misconduct received little or no attention. The etiology of the unprofessional conduct might not even be identified. Professionals often were deemed "cured" after a course of therapy which largely addressed distress and/or depression which was secondary to having faced discipline.

Even when a more targeted approach was taken to the planning of a rehabilitation effort, a subsequent employer, board of licensure or registration, or college might undermine the plan. It is quite common, even today, for example, for a practitioner to be required to obtain a clinical internship or a very formal type of supervision but be unable to do so. The practitioner then appeals to the licensing or regulatory authority which relents and allows a lesser level of training or supervision. For example, in a case described by Bates & Brodsky (1989, p. 80):

But the board did not hold to the original five mandates. The results of the psychological evaluation ordered in the first mandate may not have offered great promise for rehabilitation. The second mandate had to be altered: Dr. X could find no clinical internship program that would admit him... They lifted the requirement of a clinical internship. In its place, they set out a requirement that Dr. X practice under the supervision of a licensed psychologist for 2 years, or at least 1500 hours per year.

In many situations in the USA and Canada licensure and regulatory boards have designed rehabilitation plans without an independent outside assessment (Gonsiorek & Schoener, 1987). As such it is difficult to judge situations in which some sort of therapy and/or retraining and supervision have been prescribed and failed to prevent a reoccurrence of the offense. Margaret Bogie (personal communication), former Executive Director of the American Psychological Association Insurance Trust has expressed chagrin at the degree to which some prestigious practitioners with good reputations have been willing to vouch for offending practitioners as “cured” or “safe” after a course of therapy which was neither focused on the original offense nor part of a true *rehabilitation* plan. While in the cases she reviewed the subsequent offense typically did *not* involve a repeat of the original sexual misconduct, it *did* involve some sort of boundary violation or non-sexual misconduct.

More disturbing than cases involving professionals who have offended against adult clients have been those involving child or adolescent victims. In a surprising number of cases I have review from the 1970’s and even the 1980’s, a professional therapist or counselor with little or no experience with pedophilia has provided some sort of psychotherapy or counseling and then pronounced the offender as unlikely to reoffend. The most visible of such cases involved civil suits against churches which have typically focused attention on institutional negligence and cover-up, almost wholly ignoring careless work and decision making by counselors and therapists who have issued these warranties (see for example Berry, 1992; Burkett & Bruni, 1993).

Despite the general disgust about pedophilia, health care professionals charged with sexual contact with children or adolescents often also get the “benefit of the doubt.” In one, sexual contact with young boys by a pediatrician was ruled to be outside the scope of medical practice (and therefore not covered by professional liability insurance) even though it occurred in the doctor’s office at the end of examinations. (**Smith v. St. Paul Fire & Marine Ins. Co., 353 N.W. 2d 130, Minn. 1984**, see also Bisbing, Jorgenson & Sutherland, 1995). In this case, Board of Medical Examiners was petitioned by a large number of signatories to not take away his license because of fear of losing their only pediatrician—a sad consequence of the difficulty of rural America to find enough physicians. While more shocking when it involves the abuse of children, community support for some offenders and opposition to efforts at regulatory board

discipline are another problematic facet of the challenge presented by the abusive health care professional. Olsen (1989) provides a fine study of one such case, that of Dr. John Story, in his book **“DOC” The Rape of the Town of Lovell.**

Last but not least, in recent years regulatory bodies in North America have been experimenting with “boundaries training” and boundaries and ethics coursework to supplement, or replace personal therapy for offenders. This use of a broader range of interventions has been embraced by a major study done for the Maryland General Assembly (Nugent, Gill & Plaut, 1996). Recently debate as to the value and efficacy of this practice become a public issue in the **New York Times Magazine** story *Dr. Smith Goes to Sexual-Rehab School* (Abraham, 1995).

Misuses of Rehabilitation

While it might seem reasonable to presume that *rehabilitation* involves an attempt to alleviate conditions which led to the original misconduct so that the likelihood of a repeat offense is greatly lessened or eliminated, the term is often used to mean other things.

Hall (1986, p. 295) noted that members of psychology licensure boards in some states favor a “rehabilitation” approach because psychologists “that lose their licenses may practice under another title, without being subject to a professional conduct code and thus might cause more public harm.” These observations are consistent with Brodsky’s contention that:

“Rehabilitation as it is sometimes now practiced serves more as a minor form of punishment, perhaps to expiate the guilt of the offending therapist and, maybe even more, of the sanctioning committee or court. (Brodsky, 1986, p. 164)

Descriptions of licensure board actions in the literature do not describe rehabilitation plans that are based on formal assessments (see for example Sinnott & Linford, 1982). Plaut and Foster (1986) reported on the case of a therapist who had sexually abused several clients. He lost his license for a year, was referred for therapy and supervision, and agreed to some limitations on his case load. No mention is made of any formal outside assessment and the remedy is not characterized as *rehabilitation*, although it was obviously intended as such. All major task force studies, the most recent of which was done for the Maryland General Assembly (Nugent, Gill, & Plaut, 1996) have concluded that this situation needs improvement.

While there is some literature on impairment in trainees and students, it is generally silent on sexual misconduct by trainees. This should not be surprising given the lack of attention paid to dealing with sexual feelings in the professional relationship (Schoener, 1989b) prior to some recent contributions (e.g. Edelwich & Brodsky, 1992; Epstein, 1995; Pope, Sonne, & Holroyd, 1993). Even today the literature provides scant evidence of training efforts which adequately address this issue—a program at the Student Counseling Bureau at the U. of Calif - Davis (Rodolfa, Kitzrow, Vohra, & Wilson, 1990), a course at the Calif. School of Professional Psychology - San Diego (developed from a Ph.D. dissertation by Steres, 1992), and a most extraordinary course in the Psychiatry Residency Program at Jefferson Medical College in Phila. (Gorton, Samuel, & Zebrowski, 1996). Sanderson (1989), writing in connection with a major task force study, recommends that training programs utilize the same policies and procedures for

trainees who have sexual contact with clients as are used for practicing professionals. Vasquez (1988), co-editor of an issue of the **Journal of Counseling and Development** devoted to the topic of therapist-client sex, takes the same position, recommending use of the assessment methodology described by Schoener and Gonsiorek (1988) in cases where trainees have had sexual contact with a client.

Objections to Rehabilitation

Some victims and victim advocates oppose rehabilitation, seeing it as a way of avoiding disciplinary consequences, or as not being sufficient to redress the harm done by the offender. Others, including some in the health care professions point to ill-fated efforts to treat and rehabilitate those who are not motivated, or are not able to change. I doubt that any among us would not challenge an attempt to rehabilitate a professional who did not: 1. admit guilt; 2. express remorse; & 3. indicate a strong desire to change. Likewise, we would require a competent and thorough evaluation which found the practitioner/pastor to be, at least in theory, potentially treatable.

Beyond the concerns voiced about the lack or inadequacy of assessments and trying to treat people who are not treatable, one author, Pope, has authored numerous publications which unequivocally oppose rehabilitation aimed at returning to practice therapists who have had sexual contact with a client, going so far as to declare that this represents a violation of the Nuremberg Code developed in response to Nazi experiments (see for example Pope, 1990; Pope, 1994; Pope & Vasquez, 1991; Sonne & Pope, 1991). Allowing rehabilitation is presented as equivalent to a pesticide regulatory board member (who is charged with protecting the public) minimizing the risks of the pesticide chlordane (Pope, 1994, p.37).

In one study, based on responses to the question “Do you believe that therapy mandated by licensing boards as a condition of therapists continuing or resuming practice tends to be effective?,” to which 34% of the respondents responded “absolutely yes” or “probably,” Pope and Tabachnick concluded that:

The failure of research, theory, and other factors to convince more than a third of the professional community that such interventions by licensing boards are effective seems to warrant a rethinking of policy and practice in this area (Pope & Tabachnick, 1994, p.255)

An examination of the data shows that 49.6% of the respondents indicated that they “don’t know,” while 12.2% indicated “probably not” and only 3.8% indicated “absolutely not,” suggesting that about half of the field doesn’t know enough to comment, or perhaps that the question is overly broad and presumes that one could generalize about something which needs to be determined on a case by case basis. To interpret the results as demonstrating a “failure....to convince” and to suggest that they “...warrant a rethinking of policy and practice...” (pp. 254-55) seems a somewhat convoluted way to view the data.

A keystone of this argument against rehabilitation is the repeated contention that there is supposedly an 80% “recidivism” rate among therapists who have had sexual contact with

clients, with reference being made to Holroyd & Brodsky (1977) who found that 80% of a group of psychologists who acknowledged sex with clients indicated that it had been with more than one. A second citation is to “data” cited in a brochure developed by the California Dept. of Consumer Affairs (1990) which does in fact give the 80% figure, but correctly labels it as the percentage of therapists in one study who acknowledged repeat offenses. This is simply another reference to Holroyd & Brodsky (1977). No mention is made of a far more recent study which found that only one third of psychiatrists acknowledge repeat offenses (Gartrell et. al., 1987), or similar data from Australian (e.g. Leggett, 1984) or British work (e.g. Jehu, 1994). A citation is also made to Butler’s (1975) Ph.D. dissertation which involved interviews with 20 therapists who admitted sex with clients, 75% of whom reported sex with more than one client, although 95% indicated that they did not want to do it again. It is unclear from the study whether this 95% who did not want to reoffend were, in fact, able to prevent a reoccurrence.

None of this data, of course, reflects on failed rehabilitation efforts per se. It does not represent “recidivism” in the usual meaning of the term—that is, repeat offenses following some intervention (either punishment, rehabilitation, or both). As noted earlier, even the case cited by Bates & Brodsky (1989) where there was a repeat offense following licensure board action, involved a failure to require adherence to the original rehabilitation plan. (Questions were also raised about the judgment exercised by various parties including three different supervisors.) Beyond the inadequacies in execution, there is a serious question as to whether rehabilitation efforts were even warranted in this case in the first place.

Ironically, Pope (1989) himself has proposed a theoretical model for rehabilitation and even a methodology (Pope, 1987) for developing “extensive and reliable resources for coping with sudden or unanticipated risks and temptations that may occur in the future.” I agree with some of Pope’s cautions about rehabilitation as well as the importance of putting client safety first. However, in the absence of clear data to argue for across-the-board rejection of rehabilitation, I can see no reason to depart from the requirements of both the standard of care and ethics codes that require that cases be individually assessed and that any recommendations be based on an independent professional evaluation.

Beyond the dictates of professionalism, there are additional issues which can be raised about any approach which relies on this type of generalization or which seeks some “across the board” solution to such a multifaceted phenomenon. Dr. Glen Gabbard, Vice President of the Menninger Clinic, for example, writes:

...any attempt to understand the phenomenon of sexual misconduct requires a detailed examination of the characteristics of therapists who have become involved in sexual transgressions. A fair-minded and scientific assessment of these therapists has been hindered in recent years by the increasing politicization of the problem of sexual misconduct. In some segments of the mental health professions there is an insistence on a “politically correct” view of the phenomenon that ascribes all sexual misconduct to evil and thoroughly corrupt male therapists (Gabbard, in press; Gutheil & Gabbard, 1992). This perspective may have particular appeal to other practitioners of psychotherapy, who can reassure themselves that those colleagues who transgress sexual boundaries have characteristics that set them apart from all other therapists. The problem can thus be solved by eliminating these “bad apples” from the various professions.

This politically correct model depends on the projective disavowal of the universal vulnerability to sexual transgressions that is inherent in anyone who practices in the mental health professions. The most sensible approach is to assume that we are all at risk for boundary violations under certain circumstances..... All systematic studies of psychotherapists who have been involved in sexual boundary violations indicate that sexual misconduct occurs among a diverse group of clinicians who become involved with patients for a variety of reasons. Any attempt to lump all the transgressing therapists into one politically correct category is reductionistic and misguided. Gabbard (1994, pp. 438 - 439)

Is Sexual Misconduct Different from Other Offenses?

The belief that sexual misconduct cases are sufficiently different from all other types of professional misconduct so as to require a completely different response is based on faulty assumptions:

- **That sexual misconduct is more harmful than other misconduct:** While more than 50% of legal costs on behalf of psychologists in the U.S. are accounted for by sexual misconduct cases, categorizing these cases as “sex cases” **does not mean that the sexual activity per se was the major cause of the damages.** It has been acknowledged in many such suits that the mishandling of transference or other breaches of duty were key causes of damages and that damage would have been done even had the sexual contact not occurred (Bisbing, Jorgenson, & Sutherland, 1995). **Nonsexual boundary violations per se can cause significant injury** (Simon, 1992, 1995), and a great range of non-sexual misconduct is present in most “sex cases” (Schoener, 1989a). **Poorly maintained professional boundaries, violations of confidentiality, business involvements with clients, providing services outside ones area of expertise, and many other negligent acts can and have caused serious harm. Professionals who violate trust in these ways require the same scrutiny as those whose misconduct includes sexual touch.**
- **That sexual misconduct is done predominately by sexual predators & compulsive sex offenders:** While some who have sexual contact with clients are sexual predators, many are not (see for example Gabbard, 1995a,b; Gonsiorek, 1987, 1995a; Medlicott, 1968; Olarte, 1991; Schoener & Gonsiorek, 1988, 1989; Schoener, 1995b; Streaun, 1993). As such, **across the board comparison with the traditional prison sex offender population or other groups has little utility and no scientific justification.**
- **That there is some clear and generally accepted definition of sexual misconduct—some clear place to draw a line between those who will be considered for rehabilitation vs. removed from the field forever:** If there is to be only a single approach to “sexual misconduct cases,” it would be critical to define what qualifies as a “sexual misconduct case.” Does a single inappropriate hug which has some erotic elements which is followed by an apology from the professional and appropriate consultation meet the criterion for expulsion from the field? What about inappropriate sexual comments? How much resolved erotic transference & seductive talk before the line is crossed? These can be quite

harmful in and of themselves. **For example, is brief sexual contact in a single session, followed by apology and intervention, more serious than incompetent work accompanied by multiple non-sexual boundary violations?**

- **That a “type” of professional misconduct must have a clear-cut therapeutic prescription, which works across the board—otherwise, NO rehabilitation can be attempted in any case.** There is no established therapy for carelessness with confidential material, a tendency to work outside one’s area of expertise, or a variety of other areas of professional misconduct, yet the field treats and disciplines offenders and attempts to train practitioners to avoid these problems.
- **That the rehabilitated professional, returned to practice, must disclose his or her history of offenses to all potential clients or parishioners:** The key issue following rehabilitation for any problem is *whether rehabilitation was successful and whether anyone is at risk*. **It is inappropriate to expect clients to assess such risks. The practitioner and any employer, ethics committee, or licensure board have the responsibility to make this determination and assure public protection.** Otherwise, one could argue that a therapist would have to disclose other risk factors to potential clients such as: 1. any personal history of emotional problems; 2. current personal, emotional or relationship problems; 3. any past complaints of alleged professional misconduct; 4. personal financial problems. These all could lead to risk to consumers. Beyond the inappropriateness of expecting clients to make such determinations, the dynamics of the situation are such that it is an unrealistic expectation of the client. Ironically, the most disturbed and predatory of therapist-offenders would have no difficulty manipulating this requirement and turning such a disclosure to their advantage.

Since the beginning of the fields of psychotherapy and counseling, counselors and therapists have been treating colleagues for personal, marital and family problems which could impact on their work with clients. Outside of the disciplinary framework, professionals have sought help for personal problems which were impacting on their professional work, or which might impact on professional work. Only a small subset have come to the attention of regulatory bodies, and yet many may have averted more serious offenses through obtaining help after minor offenses or “near misses.” Many of those who have sexually transgressed are on a continuum with others who have struggled with boundaries, or who are psychologically vulnerable. Boundary violation precursors to sexual misconduct are not infrequently the topic of supervision or psychotherapy of therapists, and these may also be the focus of rehabilitation efforts (Abel, Osborn, & Warberg, 1995; Epstein, 1994; Frick, McCartney, & Lazarus, 1995; Simon, 1995). When client welfare is of concern it is important that public safety play a role in the decisions being made. There are professionals who should not be practicing by virtue of serious impairments and who are not candidates for rehabilitation with current methods. As a matter of public safety, they should be removed from the field.

Remembering Our Own History

There is a tendency for many to want to distance themselves from the “bad apples” who have sexual contact with clients. It is convenient to see such people as a handful of sociopaths or fringe characters. Yet, **many key contributors to the fields of psychotherapy and psychoanalysis have had a romantic or sexual involvement with a current or former client—in some cases a client who was in training or already in the field him or herself** (Gabbard, 1995c; Gabbard & Lester, 1995). **Carl Jung** had a romantic involvement with **Sabina Spielrein**, a young medical student who came to Jung struggling with serious emotional problems and then went on to a brilliant career in psychoanalysis, cut short by her murder by the Nazis on 27 July 1942. The historical record suggests that Jung helped her considerably, although doubtless also injured her. During a now famous interchange of letters with Freud, Jung acknowledged his misdeeds, only to have Freud blame Spielrein. (Kerr, 1993)

The involvement between Jung and Spielrein was not a singular one in early analytic circles:

Jung was scarcely the only person to become involved with a patient. Gross's exploits were legendary, Stekel had long enjoyed a reputation as a “seducer,” Jones was paying blackmail money to a former patient, the even good Pastor Pfister was lately being entranced by one of his charges. Indeed, the most extraordinary entanglement was Ferenczi's, the amiable Hungarian having taken into analysis the daughter of the woman he was having an affair with and then fallen in love with the girl. Freud in fact was then currently seeing the younger woman at Ferenczi's request in an attempt to help rescue the situation. That Spielrein had once been Jung's lover would have disturbed Freud not at all. (Kerr, 1993, p. 379)

Freud's reference was to **Ferenczi's** involvement with Elma Palos (the daughter of his future wife Gisella Palos), whom both he and Freud had treated, in the now famous letter from Freud to Ferenczi of 13 December, 1931 containing Freud's criticism of Ferenczi's kissing of patients. (Mason, 1984; Rachman, 1993). Although this exchange is often used to suggest that Freud was a stickler on boundaries, the historical record shows otherwise. Furthermore, Freud was providing private information to Ferenczi in an apparent attempt to influence his choice of a mate (Gabbard, 1995c; Gabbard & Lester, 1995). In addition, for many years the extent of Ferenczi's misconduct was not widely known because Ernest Jones' widely-read translation of this letter (Jones, 1957, p. 197), significantly, omitted Freud's attempt to connect the kissing of patients with what he termed Ferenczi's “old misdemeanors,” ...the tendency to sexual playing about with patients...” (Mason, 1984, pp. 159-160). For his part Ferenczi replied to Freud in a letter dated 27 December 1931:

“The sins of youth,” misdemeanors if they are overcome and analytically worked through, can make a man wiser and more cautious than people who never even went through such storms...Now, I believe, I am capable of creating a mild, passion-free atmosphere, suitable for bringing forth even that which had been previously hidden. (Mason, 1984, p. 160)

While at the University of Toronto, **Ernest Jones** became the subject of an allegation of sexual involvement with a client. He had not only initially denied the involvement but attacked the woman's general practitioner who had assisted her in making the complaint. However, his defense was seriously undermined by revelations that he had attempted to pay money to the former patient to stay quiet about the matter. (Gabbard, 1995c; Grosskurth, 1991)

The Memoirs of Margaret S. Mahler (Stepansky, 1988) revealed another example of an analytic and teaching relationship becoming sexual:

...my almost three-year analysis with Aichhorn, while helpful in many respects, was far from "classical." For the fact is that Aichhorn and I were, by this time, very much in love with one another, making impossible the classical relationship between analyst and analysand. In taking me under his wing and vowing to see me restored to the good graces of the Viennese psychoanalytic establishment, Aichhorn only buttressed my self-image as an "exception" -- now in an entirely positive sense as opposed to the negative sense inculcated by Mrs. Deutsch. Under Aichhorn's analytic care, I became a sort of Cinderella, the love object of a beautiful Prince (Aichhorn) who would win me the favor of a beautiful stepmother (Mrs. Deutsch). At the same time, my analytic treatment with him simply recapitulated by oedipal situation all over again...

By the time Aichhorn intervened and secured my readmittance to the institute training program some six months after our analytic work began, I was his favorite pupil. As our personal relationship blossomed, I became his lover as well. (Stepansky, 1988, pp. 68-69)

Famous women analysts were also *offenders*. **Frieda Fromm-Reichmann** has written that her husband, **Erich Fromm**, was a patient when they became romantically involved, noting that at least they had the "common sense" to terminate the therapy before marrying (Fromm-Reichmann, 1989). [Even today, it is widely known but rarely discussed, that a number of key figures in the various psychotherapy fields are married to former patients.] **Melanie Klein**, who psychoanalyzed her own children, encouraged patients to come away with her on holiday and then provided therapy while they lay on her bed in her hotel room. (Grosskurth, 1986). [In terms of non-sexual boundaries, it should be noted that Freud analyzed his own daughter, Anna, who later indicated she felt exploited by many aspects of this process (Gabbard, 1995c), and Ernest Jones had Klein analyze his children and his wife (Grosskurth, 1991).]

Karen Horney is alleged to have had sexual relationships with candidates at the analytic institutes with which she was associated in both New York and Chicago, "including supervisees and analysands" such as "Leon Saul, who was traumatized by the experience" (Paris, 1994, p.142). She has been described at times as behaving much like the stereotype of the "dirty old man" who plays "sexual politics." "Horney's lovers sometimes became favorites to whom she gave power, until, to their pain and bewilderment, she turned against them. She then replaced them with other favorites.(Paris, 1994, p. 143)

Otto Rank reportedly became sexually involved with a former patient (Person, 1988). **Freud** himself encouraged **Horace Frink**, a young analyst whom he was treating, to follow his desires and divorce his wife so he could marry a patient (Gay, 1988). Gabbard (1995c) notes that Freud may have had financial motives in this case, hoping for a donation to the psychoanalytic movement from the patient's wealthy family, and that the outcome had some very negative consequences for those involved. He also challenges both the utility and the reality of efforts by those involved to distinguish transference love from love that occurs outside of the analytic relationship, an issue which persists in such cases today (Celenza, 1991).

Perhaps this should not surprise us. Reviewing even the earliest fumbling with the evolution of psychotherapy—**Joseph Breuer’s treatment of Anna O.**—which Freud felt led to the development of the “talking cure,” the psychotherapeutic process, leads one to believe that clients often find their own way to health. According to Jones (1953), Anna O. developed a hysterical pregnancy. For his part, Breuer became entranced with this interesting client, leading his wife to become both angry and depressed. One night Anna O. went into a false labor and Breuer was obliged to visit her. According to Jones, he left her home in a cold sweat, went home, and the next day he and his wife left for Venice to spend a second honeymoon. (Jones, 1953, pp. 224-225) And what happened to Anna O., that troubled young woman? She grew up to be **Bertha Pappenheim**, a leading feminist, social reformer, and a pioneer in the field of social work in Germany (Swenson, 1994). True, the relationship with Breuer did not involve sexual activity, but it certainly involved heavy transference and countertransference, probably left unresolved.

Even as regards therapists who have had sexual contact with current or former clients, the historical record is clear that a number of *offenders* remained in the field, often with the blessing of key figures, and made major contributions before and after their offenses. It is also clear that they cannot be easily grouped into any one category. The fact that they had been intimate with a current or former client does not in and of itself permit inference of risk to others. To the degree that there was therapeutic intervention or *rehabilitation*, this was comprised solely of analysis or psychotherapy *performed by persons untrained in dealing with therapist - sex offenders*.

This is not to suggest that there should not have been a different type of intervention in each case, or to suggest that because the *offender* was a major contributor to the field that the sexual misconduct should be minimized or overlooked. But, by the same token separating out those who have had a romantic or sexual involvement with a client as uniquely dangerous, untreatable, and never worthy of return to the field flies in the face of our own history. Some are and some are not.

Discipline

Loss of a license, registration, certification, or job can be prescribed as discipline or punishment for sexual misconduct, quite apart from public safety concerns. The **goals of discipline** (or punishment) are typically the following:

- **To reinforce a standard or underline the seriousness of an offense.**
- **To deter the offender from repeating his or her offense.**
- **To deter others from committing a similar offense.**
- **For justice and/or to maintain the integrity of the profession.**

In most instances the question is NOT punishment *versus* rehabilitation. In fact, consequences may be a key ingredient in bringing about a successful rehabilitation. License suspension or leave from a job may be important for public protection until rehabilitation can be completed and judged as to its success. Disciplinary consequences and rehabilitation are not mutually exclusive. Rehabilitation should not be used as a mild form of punishment.

Who Are the Offenders?

The stereotypic image of the offender within the psychotherapy fields is:

A “dirty old man” who for years has been protected by the “old boys club” as he sexually exploits one female client after another, pausing occasionally to exploit graduate students and supervisees. He may engage in “sneaky” sexual touch during examination, cloak his sexual touching under the guise of treatment, or engage selected patients and/or students in long-term sexual relationships. When finally brought to justice he at first denies any wrongdoing then, trapped, admits to some of the behaviors but blames them on the client’s alleged psychopathology or his situational vulnerability. He references his many contributions to the field, has supportive testimony from colleagues, and attempts to manipulate the situation so that he receives minor sanctions.

Certainly many aspects of this stereotype are to be seen in actual disciplinary cases everywhere (e.g. Quadrio, 1994), although in a recent study a number of psychiatrists presented as a defense that they were emotionally ill (Dawson, 1994). However, even with male offenders there is considerable variability. Pope and Bouhoutsos (1986, p. 4), apparently basing their observations on undesignated clinical experience, presented a **classification based on what they described as “10 of the most common scenarios”** of psychotherapists’ sexual misconduct. These are described by Pope (1994, p.86) as [bold print is mine]:

1. **Role trading** (therapist becomes the patient);
2. **Sex Therapy:** sex fraudulently presented as “sex therapy;”
3. **As if** wherein therapist ignores that feelings are likely to be transference;
4. **Svengali** (therapist exploits dependent client);
5. **Drugs** and/or alcohol used in seduction;
6. **Rape** (overt force or threats are used by the therapist);
7. **True love** (therapist rationalizes that it is “true love”);
8. **It just got out of hand** (loss of control due to the emotional closeness of therapy);
9. **Time out** (therapist rationalizes that contact outside of session, is legitimate);
10. **Hold me** in which therapist exploits client’s need to be held or touched.

While the scenarios described by Pope and Bouhoutsos (1986) and Pope (1994) are familiar ones, there are many other common ones as well. In addition to situations involving some sort of clear-cut exploitation, we have seen many which vary as to degree of sexual contact, apparent dynamics, and the degree to which the situation likely represents exploitation or predatory behavior versus a loss of control or some other phenomenon. During the past 25 years, consultation in more than 3,000 cases by the Walk-In Counseling Center has involved a great variety of situations, ranging from those with frank sexual exploitation, to others which are less clear-cut:

1. Cases involving **romantic and/or erotic talk of a non-therapeutic nature** which creates a great deal of fantasy about involvement, but **no improper physical contact**;
2. Cases involving a **single episode of brief erotic contact**, followed by an acknowledgement, an apology, and often the seeking of help from a consultant;
3. Cases involving **the revelation that a therapist and spouse were formerly client and therapist many years earlier, but where the client/spouse has no grievance or complaint**;
4. Cases involving **same-sex erotic contact, during a hug, where the practitioner was not gay or lesbian-identified**, and in which **the professional was confused by the occurrence and immediately sought consultation**;
5. Cases involving “old” complaints which involved **conduct before the offender was professionally trained or licensed** (e.g. at a time when he/she was a paraprofessional);
6. Cases involving **use of touch which had been taught to the practitioner or trainee as part of a therapy approach**, but which was high-risk and led to eroticized contact. **The practitioner sought consultation after quickly realizing the inappropriateness of the resulting conduct**;
7. Situations which occurred **some time following a single brief professional encounter which was not considered a therapy or counseling session by either party**. It also did not appear to have been a professional relationship to an outside consultant;
8. **Involvements with friends of a client or a relative of a client, or with a client of another program in the facility** -- which may not have led to complaints and whose propriety was difficult to judge & not a clear violation of any rule;
9. **Inappropriate sexual humor in the case of a trainee or professional from another culture**, which while troubling to the patient did not appear to be part of any pattern or attempt to introduce sex into the professional relationship.
10. Patient complaint of an improper interview where it appears that the major problem was the failure to properly explain why so much detail about the client’s sex life was being sought. **The interview was legitimate and done properly, but not adequately explained.**

In short, there are a great variety of situations which have little in common with each other except that they involve sexual feelings on somebody’s part, or the perception that there may be sexual or erotic feelings or touch.

Furthermore, although most discussion and theorizing has focused on the male professional - female client dyad, approximately 20% of our cases at the Walk-In Counseling Center have involved female - female contact, something quite surprising given the relatively low base rates for lesbianism.* Female professional - male client sexual contact accounts for about 5% and

male - male about 5% of our sample. Self-report admissions of sexual misconduct by women professionals have increased dramatically in the more recent research literature (e.g. Committee on Physician Sexual Misconduct, 1992) and similar dynamics and client impact have been reported in female-female cases (Benowitz, 1991, 1994; Gartrell, 1992; Gartrell & Sanderson, 1994). Gay, lesbian, and bisexual therapists struggle with many boundaries challenges and some also have sexual contact with clients (Gonsiorek, 1995b; Lyn, 1995).

*Note: Given the fact that fields like psychology have only had a large influx of women practitioners in the last two decades, so that historically women professionals still account for a much smaller percentage of overall service hours, this percentage is quite high. British research (Jehu, 1994) has found largely female offenders involved heterosexually with male clients/patients, and the same is true for Germany (Becker-Fischer et. al., 1995), Australia (Leggett, 1994; Dawson, 1994), and data from Norway presented in Geilo in 1995 by Dr. Marina Hvistendahl. In nursing far more men than women acknowledge sexual activity with patients (Nursing '74). So, this high percentage for female-female relationships may be a North American phenomenon and also vary with the field of the professional.

Categories of Offenders & Dynamics: Varying Approaches

The professional literature contains many observations about the personality and dynamics of the professionals who have some sort of sexual or erotic involvement with clients (Becker-Fischer et. al., 1995; Gabbard, 1994, 1995a,b; Nugent, Gill & Plaut, 1996; Quadrio, in press; Schoener et. al., 1989), and many authors during the past three decades have attempted to classify them (e.g. Apfel & Simon, 1985; Averill et. al., 1989; Medlicott, 1968; Olarte, 1991). There is broad agreement that this is a complex set of phenomena and a variety of personality types become sexual with clients.

Likewise professionals charged with sexual misconduct exhibit a great variety of responses to being charged and vary dramatically as to the degree they see themselves as wrongdoers (Pogrebin, Poole, & Martinez, 1992). This great diversity in offenders has been noted in studies done outside the United States (see for example Committee on Physician Sexual Misconduct, 1992; Jehu, 1994; Quadrio, 1992; Valentine, 1992). One report in the *Australia & New Zealand Journal of Psychiatry*, described a sample of 18 professionals who had sexually offended as falling into the following groups: 11% were psychotic, 11% were alcoholic, 6% were neurotic, and 44% had character disorders (Medlicott, 1968).

Cases studies of high visibility cases where sexual misconduct was alleged, or proven, have yielded widely varying pictures of the professional who is the subject of the complaint. In one lawsuit (Walker vs. Parzen), although the doctor claimed situational vulnerability played a key role in what transpired, a detailed psychological profile of the therapist/defendant revealed a man with chronic and serious emotional disturbance (Walker & Young, 1986). Recent accounts of the case of Dr. Margaret Bean-Bayog, where sexual contact may or may not have occurred, but where erotic fantasy was rampant, focus on difficulties managing transference and countertransference (Chafetz & Chafetz, 1994; McNamara, 1994). Still other cases seem

linked, in part, to organizational forces within psychotherapy cults rather than just individual pathology (Mithers, 1994; Schoener & Milgrom, 1989).

Cognitive-Behavioral Approaches

More traditional sex offender treatment programs have been a resource for some professionals who have engaged in sexual misconduct for some years now. Until recently little has been published on their extensive work with professionals who have engaged in sexual misconduct. Typically they tend to focus their evaluation on identification of sexual impulse control disorders as presented in the DSM IV. Since some professionals who have offended against clients do not show the same compulsive behaviors as other sex offenders, these programs take into account the behavioral circumstances of the offense(s) in an effort to devise a rehabilitation strategy. As such, work such as that of Abel and colleagues focuses on “developing skills to decrease arousal, including the development of safeguards to attempt to prevent the professional from ending up in a high risk situation again,” paralleling the authors’ work with other types of sex offenders but extending it considerably (Abel, Barrett, & Gardos, 1992; Abel, Osborn, & Warberg, 1995).

The cognitive behavioral approach has been researched extensively, although its application to professionals who have offended is more recent and not as well researched. Psychophysiologic measures such as the penile plethysmograph may be utilized in diagnosis or evaluation of treatment outcomes. Typically a period of evaluation and intensive treatment is followed by a structured aftercare program, including cognitive-behavioral therapy, re-education, and a strong emphasis on relapse prevention. Examples of re-entry plans and procedures are available in the literature. (Abel, Osborn, & Warberg, 1995; Abel & Osborn, in press). In general those who utilize this approach have a tendency to believe that many offenders can be returned to practice with sufficient followup safeguards.

Psychodynamic Approaches

Strean’s (1993) recent book **Therapists Who Have Sex With Their Patients: Treatment and Recovery** does not rely on any sort of typology. The four cases he presents are described as: “A macho psychiatrist afraid of the “woman” within;” “A psychoanalyst who administers expensive love therapy;” “A sex addict who believes his women patients hunger for him;” an “A sadomasochistic social worker who makes his female ex-patients suffer.” The overall approach is psychodynamic and individualized. One of the three cases involves a female therapist. Claman (1987) and others have also presented cases analyzed from a dynamic or psychoanalytic perspective.

Gabbard (1994, 1995a,b), based on extensive clinical experience with offenders at the Menninger Clinic in Topeka, Kansas, sorts offenders into four groups:

- **Psychotic disorders**
- **Predatory psychopathy and paraphilias**

- **Masochistic surrender**—a “giving in” to a challenging or difficult client, hoping to mollify the client by being flexible with boundaries
- **“Lovesick”**—within the “lovesick” category he notes a number of issues which singly, or in multiples, play a role in the misconduct:
 - Unconscious reenactment of incestuous longings
 - A wish for maternal nurturance is misperceived as a sexual overture
 - Interlocking enactments of rescue fantasies
 - Patient viewed as idealized version of self
 - Confusion of therapist’s needs with patient’s needs
 - Fantasy that love, in and of itself, is curative
 - The exception fantasy
 - Repression or disavowal of rage at patient’s persistent thwarting of therapeutic efforts
 - Anger at organization, institute, or training analyst
 - Manic defense against mourning and grief at termination
 - Insecurity regarding masculine identity
 - Patient as transformational object
 - Settling down the “rowdy” man (the notion that the “right woman” can fix even the most character disordered man)
 - Conflicts around sexual orientation

Treatment efforts are focused on the “lovesick” category as well as those in the “masochistic surrender” grouping which includes therapists with masochistic and self-destructive tendencies who essentially allow clients to intimidate or control them. The psychotics and the predators are not deemed good subjects for rehabilitation insofar as treatment is aimed at a return of the practitioner to practice in psychotherapeutic work or in work which allows for private contact with patients.

Sexual Addiction

Another approach to classification has grown out of the work on **sexual addiction** (Carnes, 1983, 1991). This literature has been rapidly expanding in recent years (e.g. Blanchard, 1991; Graham, 1991; Irons & Schneider, 1994; Irons & Schneider, in press). While the typical sexual addiction program seeks to identify addictive or compulsive aspects of sexual behavior and classifies a wide range of individuals into this single category, a more complex theoretic base has been developed by Irons (1991, 1994). This model presumes that some professionals who engage in sexual misconduct do not have a paraphilia or psychosexual disorder as defined in **DSM IV**. The model takes into account the parallels with incest in such relationships and relates the acting out behavior to an attempt to cope with inner wounds (they report a high percentage of abuse victims among the professionals they evaluate). They also frequently find other addictions to be present (Irons & Laaser, 1994).

Extending the addictions approach, Irons (1995) presents a set of “archetypal categories” which are reminiscent of a Jungian approach to personality, and attempts to use them to further describe offenders. Irons & Schneider (1994) found the following when they applied these categories to a sample of 88 sexually exploitative health care professionals they found different percentages fell in each group, and that the percentage in each category who was diagnosed with sexual addiction also varied considerably:

The naive prince—early in career, feels invulnerable, tends to develop “special relationships” with certain types of clients & blurs boundaries [7.9% overall but none of the sex addicts in this category]

The wounded warrior—overwhelmed by demands, overly dependent on professional mantle for validation--patient involvement=temporary escape [21.6% overall, with 37% in this category judged to be sex addicts]

The self-serving martyr—middle or late career; work is primary; withdrawn, angry, and resentful [23.9% overall, with 62% in this category judged to be sex addicts]

The false lover—enjoys living on the edge, the “thrill of the chase”—a risk-taker who desires adventure [19.3% overall, but with 94% in this category classed as sex addicts]

The dark king—powerful & charming; successful, manipulative—sexual exploitation as an expression of power [12.5% of sample, but 91% in this category were diagnosed as sex addicts]

The wild card—erratic course in person & professional life; significant difficulties in functioning--has major Axis I disorder [14.8% of the total sample, with only 23% judged to be sex addicts]

The assessments done utilizing this approach are inpatient assessments for the most part. The presumption is that the intensity of the evaluation and milieu will penetrate denial and other defenses and reveal the underlying problems. This approach can be utilized with a resistant person who does not fully acknowledge the degree of dysfunction. Irons’ work has continued to evolve and he has developed a typology for hostile and aggressive professionals and has also moved his work to the Menninger Clinic in Topeka Kansas (Personal communication).

Gonsiorek/Schoener Typology

The final approach is the one developed by myself and John Gonsiorek (Gonsiorek, 1987, 1989, 1995a; Gonsiorek & Schoener, 1987; Schoener & Gonsiorek, 1988, 1989). (Gonsiorek is former Clinic Director at the Walk-In Counseling Center but for a number of years has been in private practice of both clinical and forensic psychology in Minneapolis.) While this assessment methodology does not focus on sorting offenders per se, the categories were created to to serve an educational purpose:

1. **Psychotic & Severe Borderlines:** Underlying psychiatric disorder is source of impulse control problems. Delusional thinking present in some cases.

- 1a. Manic disorders:** Manics, who when they go off their medication, engage in very impulsive, and at times sexual, behavior
 - 1b. Organic or toxic psychoses:** secondary to brain damage, senility, steroid intoxication, etc.
- 2. Sociopathic and Severe Narcissistic Personality Disorders:** Self-centered exploiters, entirely focused on their own interests and needs; often adept at manipulation, and of talking their way out of trouble.
- 3. Sexual Impulse Control Disorders:** Every variety of sexual impulse control disorder can be seen in the professional office, characterized by compulsive behavior, seeking sexual gratification or control and power.
- 4. Chronic Neurotic & Isolated:** Very emotionally needy, they become overly involved with their clients/parishioners and eventually the relationship becomes sexual. Not originally driven by sexual needs.
- 5. Situational Offenders:** Good professional history and generally emotionally healthy but with a situational breakdown in judgment or control (Note: There are situational factors in most cases; but to be in this category psychopathology has to be ruled out)
- 6. Naïve:** Difficulty understanding and operating within professional boundaries due to deficit in social judgment (in the absence of psychopathology); may not have the social judgment necessary to be a professional

The overall approach used is a rule-out approach—the assessor attempts to rule out serious pathologies (categories 1, 2, & 3). If the offender is probably in categories 4, 5 or 6 then the dynamics of the situation may be of importance. The assessment involves a parallel assessment of both professional history and functioning and personal history and functioning.

Perhaps the most unique feature of this approach is the emphasis on attempting to gain detailed background data through an interview of the victim or complainant. It is our belief that this greatly enhances our ability to understand the situation for at least three reasons:

- 1. It makes it less likely that one can be deceived about what happened;**
- 2. Even when the professional is trying to tell the truth, defensiveness may lead to denial or minimization;**
- 3. Even with a very cooperative subject the person being evaluated only knows part of the story of what happened—each person stores the information differently.**

Much like the situation with visual perception where one needs two eyes to see in three dimensions, and where the discrepancy between the view granted by each of one's eyes creates the three dimensional view, having information from both parties provides a much richer picture. This combines traditional psychological assessment which seeks to predict behavior from personality with the approach utilized by criminal profilers who seek to predict personality from behavior under the principle, *that to know an artist one would do well to examine his work* (see for example Douglas & Olshaker, 1995).

Common Features of Assessments

Despite the substantial differences in approach, as compared with traditional psychological evaluation, each of these assessment methodologies involves the collection of far more background data from persons other than the person being assessed. Each involves obtaining of behavioral description of the events in question and each one requires a good deal of cooperation. Each approach recognizes that some offenders lie or minimize, and also that some will seek these assessments in order to attempt to avoid consequences. Each believes that some offenders cannot be rehabilitated and recognizes the need to counsel some people out of the field.

Each pays some attention to the dynamics of the professional relationship and assumes multiple determinants in the typical case. Each presumes that public safety is a key issue, and each involves an initial diagnostic decision, a treatment plan, and an eventual evaluation after treatment is concluded to assess whether it was successful.

All of these approaches presumes that professional retraining of various types may be necessary and that skill and training issues may be as important as psychopathology in some cases. However, as was noted by several speakers at a symposium on “Sexual Misconduct: Therapist Evaluation and Rehabilitation” at the 1994 Annual Meeting of the American Psychiatric Association (Lazarus, 1994), “knee jerk” referrals for retraining or supervision are no more useful than referrals for therapy. One needs to be quite specific as to what deficits in skills or training are present and why the specified course of retraining is expected to remedy the situation.

Each involves the use of supervision and the development of a re-entry plan with possible practice limitations. However, all stress the importance of clearly defining the supervision. It is critical that its goals and requirements be spelled out in detail, and that case consultation (voluntary sharing of clinical material, often termed “supervision”) be differentiated from true supervision wherein the supervisor is legally responsible for the practice oversight.

In recent years some licensure boards have taken to requiring “ethics consultation” which involves regular meetings, often monthly, with an “ethics consultant.” It is unclear what this is expected to accomplish in that in most misconduct cases there was no lack of understanding of professional ethical standards. In fact, I have seen this required of professionals who teach ethics or have served on ethics committees and are very knowledgeable about the codes. As was noted earlier in this paper, “boundaries training” has also been added to the rehabilitation options (Abraham, 1995), but again this is often not clearly connected to a rationale based on why the misconduct occurred. Even referrals for ethics coursework, meetings with an ethics consultant, or boundaries “training or coaching” should have their justification in the findings of an independent assessment. There is no less rationale needed for such a referral than for a referral for therapy.

Difference between Models

A number of these models typically lead to a specific treatment approach. Gabbard’s involves psychodynamic therapy or psychoanalysis and Iron’s typically involves treatment for an addiction of one type or another. Abel’s model is focused on cognitive-behavioral therapy and

may utilize some psychophysiological instrumentation. Our model is not particularly tied to any given therapy approach, although Gonsiorek (1987, 1989, 1995a) has articulated his own approach to therapy with some offenders.

Note that all of these models presume practice limitations and/or supervision of practice, even when rehabilitation appears to have been effective. All aim at identifying risk situations so that supervision can be targeted. A detailed discussion of supervision issues can be found in Schoener et. al. (1989) which has four chapters devoted to supervision. It is important to note that when a rehabilitation plan involves retraining through, for example, an internship, that in many communities an offending professional undergoing rehabilitation may not be able to find a site for such retraining. If this is the case it may mean that rehabilitation, while theoretically possible, cannot be accomplished. The most common licensure board error is relenting on such a requirement when the practitioner cannot find anyone willing to truly supervise (and thus be legally liable for) his work. Issues in supervision of practitioners who have engaged in misconduct have become a topic of discussion in the profession (see for example, Abel, Osborn, & Warberg, 1995; Frick, McCartney, & Lazarus, 1995; Gabbard, 1995b; Irons, 1991; Lazarus, 1994; Nugent, Gill & Plaut, 1996).

Legal risks in rehabilitation and subsequent supervision of impaired practitioners have also been discussed in recent literature (e.g. Bisbing, Jorgenson & Sutherland, 1995; Jorgenson, 1995) as have the transference and countertransference challenges in treating such therapists (Gabbard, 1995b; Gabbard & Lester, 1995). If one makes a mistake and subsequent clients are injured there can be serious consequences via a loss of professional credibility and damages in a professional liability suit.

While a discussion of risk management and prevention go beyond the scope of this paper, it is perhaps worthy of note that some educational and therapeutic interventions aimed at prevention (e.g. Pope, 1987) and some institutional risk management approaches (e.g. Menninger, 1991; Schoener, 1995c) mirror procedures utilized in rehabilitation plans and re-entry plans.

It should be obvious, but simply completing counseling, therapy, or retraining is not sufficient to prove that rehabilitation has been accomplished. The question is whether the goals were attained, and the needed changes made. As a practical matter there are many outcomes beside successful completion of rehabilitation:

- 1. Refuse the evaluation once they see what it entails;**
- 2. Begin the evaluation but don't complete it;**
- 3. Are evaluated but have a problem that isn't fixable;**
- 4. Are evaluated, but we cannot explain the behavior, and therefore can't design rehabilitation (in such situations it is legitimate to send them for therapy in hopes of having the situation become clearer, but when more is learned an assessment is still needed);**

5. **Agree to rehabilitation, but then go back and try to get the decisions changed by their employer, church, licensure board, etc.**
6. **Begin the rehabilitation plan but drop out within the first 6 months;**
7. **Become disenchanted with the field during rehabilitation and ask for counseling into another field;**
8. **Make all of the progress they are likely to make, but are not sufficiently changed to be “safe practitioners;”**
9. **Either the “old problems” or newly identified ones are still there—rehabilitation is not successful.**

It is important to make an overall assessment of the success of the rehabilitation effort. In the end the evaluator must put him or herself on the line as regards potential future risks to consumers. When one is doing the re-evaluation for field re-entry one should be prepared to answer at least two key questions:

1. **To a reasonable degree of psychological certainty, have the goals set for the rehabilitation been attained?**
2. **Would you have any qualms whatsoever of having your daughter (or wife? or son?) see this man (or woman) for private counseling?**

If you can't answer these questions with a sense of personal conviction, then the job isn't done. If this practitioner is not trustworthy enough to work with your friends and family, he/she shouldn't be rendering services to others' families.

A Note on Pedophilia

True pedophilia is quite difficult to treat and is often difficult to diagnose because offenders don't always tell the truth. In the case of an involvement with an older adolescent client it may be that the young person was being used as an adult surrogate. However, with young children pedophilia is quite likely. Where there is a significant question as to whether one is dealing with a pedophile we recommend consideration of the use of psychophysiological testing (e.g. plethysmography). We are impressed with the early, though unpublished data on the **Abel Screen** developed by Dr. Gene Abel of the Behavioral Medicine Institute of Atlanta and recommend an assessment there when this question arises. The Screen is less intrusive and less offense than some other methods of testing.

Specialized Programs

While most therapists and settings do not have a sufficient number of offending professionals to form groups which are exclusively professionals (as has been done with substance abusing professionals, for example), some programs are developing a large enough population to do so. In some states sexually abusing physicians meet with physicians with other types of impairment. The earliest models were centers developed for the treatment of clergy with

impulse control problems—e.g. Servants of the Paraclete (Jemez Springs, New Mexico); House of Affirmation (Boston), St. Luke's Hospital (Suitland, Maryland); St. Barnabas Center (Wisconsin)—although some of these have had an unstable history. All but St. Luke's have now closed and are no longer treating impaired clergy, although there are a number of programs in the United States which still do specialize in treating impaired clergy. However, programs for health care professionals struggling with addictions are developing programs aimed at evaluation and/or treatment of professionals who sexually offend.

It is likely that more specialized programs and support groups will be available in the future. However, it is important to note that the diversity within the group of professionals who have had sexual contact with clients is quite dramatic. Thus it is not likely that a single type of support group will be universally helpful.

Final Note

It has been our experience that with the proper mindset, orientation, and general assessment skills an experienced clinician can do a competent assessment of rehabilitation potential. Our staff has often provided consultation over the phone to clinicians doing their first such assessment and been impressed by the fact that careful work can bring about useful findings. While experience assessing impaired professionals is helpful, it is not essential to be able to do a competent piece of work. It should be noted that this assessment strategy can be utilized with non-sexual boundary problems and other problems of professional practice.

A three hour symposium chaired by Dr. Jeremy Lazarus on the topic of assessment and rehabilitation took place at the 1994 Annual Meeting of the American Psychiatric Association (Lazarus, 1994). It is available on audiotape (see references). The February 1995 issue (vol.25, no. 2) of **Psychiatric Annals** contains a number of articles by the same presenters (Abel, Osborn, & Warberg, 1995; Frick, McCartney, & Lazarus, 1995; Gabbard, 1995b; Jorgenson, 1995; Schoener, 1995b; Simon, 1995). On the overall issue of sexual misconduct by professionals, Steven Bisbing, Linda Jorgenson, & Pamela Sutherland (1995) have provided an extraordinary resource in their new text **Sexual Abuse by Professionals: A Legal Guide** which contains an in-depth review of the psychological literature and goes far beyond the typical legal text. A recent public-policy related examination of these issues was published in the Report of the Maryland Task Force to Study Health Professional-Client Sexual Exploitation—**Sexual Exploitation: Strategies for Prevention & Intervention** (Nugent, Gill, & Plaut, 1996).

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Daniel 13:1-63: Susanna and the Judgment of Daniel

In Babylon there lived a man named Joakim. He married Susanna, daughter of Hilkiyah, a woman of great beauty; and she was God-fearing, because her parents were worthy people and had instructed their daughter in the Law of Moses. Joakim was a very rich man, and had a garden attached to his house; the Jews would often visit him since he was held in greater respect than any other man. Two elderly men had been selected from the people that year to act as judges. Of such the Lord said, "Wickedness has come to Babylon through the elders and judges posing as guides to the people." These men were often at Joakim's house, and all who were engaged in litigation used to come to them. At midday, when everyone has gone, Susanna used to take a walk in her husband's garden. The two elders, who used to watch her everyday as she came in to take her walk, gradually began to desire her. They threw reason aside, making no effort to turn their eyes to heaven, and forgetting its demands of virtue. Both were inflamed by the same passion, but they hid their desire from each other, for they were ashamed to admit the longing to sleep with her, but they still contrived to see her everyday. One day, having parted with the words, "Let us go home, it is time for the midday meal," they went off in different directions, only to retrace their steps and find themselves face to face again. Obligated then to explain, they admitted their desire and agreed to look for an opportunity of surprising her alone. So they waited for a favorable moment; and one day Susanna came as usual, accompanied only by two young maidservants. The day was hot and she wanted to bathe in the garden. There was no one about except the two elders spying on her from their hiding place. She said to the servants, "Bring me some oil and balsam and shut the garden door while I bathe." They did as they were told, shutting the garden door and going back to the house by a side entrance to fetch what she had asked for; they knew nothing about the elders who were hiding.

Hardly were the servants gone than the two elders were there after her. "Look," they said, "the door is shut, no one can see us. We want to have you, so give in and let us! Refuse, and we will both give evidence that a young man was with you and that was why you sent your maids away." Susanna sighed, "I am trapped," she said, "whatever I do. If I agree, that means death; if I resist I cannot get away from you. But I prefer to fall innocent into your power than to sin in the eyes of the Lord." Then she cried out as loud as she could. The two elders began shouting too, putting the blame on her, and one of them ran to open the garden door. The household, hearing the shouting in the garden rushed out by the side of the entrance to see what was happening; once the elders told their story the servants were thoroughly taken aback, since nothing of this sort had ever been said of Susanna.

Next day a meeting was held at the house of her husband Joakim. The two elders arrived, in their vindictiveness determined to have her put to death. They addressed the company: "summon Susanna daughter of Hilkiyah and wife of Joakim." She was sent for, and came accompanied by her parents, her children and all her relations. Susanna was very graceful and beautiful to look at; she was veiled, so the wretches made her unveil in order to feast their eyes on her beauty. All her own people were weeping, and so were all the others who saw her. The two elders stood up, with all the people round them, and laid their hands on the woman's head. Tearfully she turned her eyes to heaven, her heart confident in God. The elders then spoke, "While we were walking by ourselves in the garden,

this woman arrived with two servants. She shut the garden door and then dismissed the servants. A young man who had been hiding went over to her and they lay down together. From the end of the garden where we were, we saw this crime taking place and hurried towards them. Though we saw them together we were unable to catch the man; he was too strong for us; he opened the door and took to his heels. We did, however, catch this woman and ask her who the young man was. She refused to tell us. This is our evidence.”

Since they were elders of the people, and judges, the assembly took their word: Susanna was condemned to death. She cried out loud as she could, “Eternal God, you know all secrets and everything before it happens; you know that they have given false evidence against me. And now have I to die, innocent as I am of everything their malice has invested against me?”

The Lord heard her cry and, as she was being led away to die, God roused the holy spirit residing in a young boy named Daniel who began to shout, “I am innocent of this woman’s death!” At which all the people turned to him and asked, “What do you mean by these words?” Standing in the middle of the crowd he replied, “Are you so stupid, children of Israel, as to condemn a daughter of Israel unheard and without troubling to find out the truth? Go back to the scene of the trial: these men have given false evidence against her.”

All the people hurried back, and the elders said to Daniel, “Come and sit with us and tell us what you mean, since God has given you gifts that elders have.” Daniel said, “Keep the men well apart from each other for I want to question them.” When the men had been separated, Daniel had one of them brought to him. “You have grown old in wickedness,” he said, “and now the sins of your earlier days have overtaken you, you with your unjust judgments, your condemnation of the innocent, your acquittal of guilty men, when the Lord has said, ‘You must not put the innocent and the just to death.’ Now then, since you saw her so clearly, tell me what tree you saw them lying under?” He replied, “Under a mastic tree.” Daniel said, “True enough! Your lie recoils on your own head: the angel of God has already received your sentence from God and will slash you in half.” He dismissed the man, ordered the other to be brought and said to him, “Spawn of Canaan, not of Judah, beauty has seduced you, lust has led your heart astray! This is how you have been behaving with the daughters of Israel and they were too frightened to resist; but here is a daughter of Judah who could not stomach your wickedness! Now then, tell me what tree you surprised them under?” He replied, “Under a holm oak.” Daniel said, “True enough! Your lie recoils on your head: the angel of God is waiting, with a sword to drive home and split you, and destroy the pair of you.”

Then the whole assembly shouted, blessing God, the savior of those who trust in God. And they turned on the two elders whom Daniel had convicted of false evidence out of their own mouths. As prescribed in the Law of Moses, they sentenced them to the same punishment as they had intended to inflict on their neighbor. They put them to death; the life of an innocent woman was spared that day. Hilkiyah and his wife gave thanks to God for their daughter Susanna, and so did her husband Joakim and all his relations, because she had been acquitted of anything dishonorable.

From that day onwards Daniel’s reputation stood high with the people.

Daniel 13:1-63. From *The Jerusalem Bible*. Doubleday, New York: 1996. Reprinted with permission.

The Hippocratic Oath

“Whatever house I may visit, I will come for the benefit of the sick, remaining free of all intentional injustice, of all mischief and in particular of sexual relations with both female and male persons, be they free or slaves.”

(5th Century, BCE)

