

Abuse in Orthodox Jewish Communities

by Roslyn Myers, J.D.*

In the wake of the Catholic Church sexual abuse scandal, other religious institutions have been examining the way their own organizations deal with reports of sexual abuse. The Orthodox Jewish community is among them, and reports have surfaced about the group's attempt to suppress evidence of the sexual abuse of Orthodox Jewish children by members of their community.

Like their Catholic counterparts (Nicole Winfield, "Catholic Church Sexual Abuse Scandal: Vatican Investigates Seven Legion of Christ Priests for Allegedly Assaulting Minors," Huffington Post, May 2012), rabbis have discouraged victims, their parents, and some teachers from reporting child molestation to authorities in the interest of keeping this "dirty laundry" in the community. (Sharon Otterman and Ray Rivera, "Ultra-Orthodox Shun Their Own for Reporting Child Sexual Abuse," NY Times, May 9, 2012; available at <http://www.NYTimes.com/2012/05/10/nyregion/ultra-orthodox-jews-shun-their-own-for-reporting-child-sexual-abuse.html?pagewanted=all>.) One such case was reported in 2012 in South Williamsburg, an Orthodox enclave in the New York City borough of Brooklyn. (Otterman and Rivera, supra.) An ultra-Orthodox father found out that his son had been molested by a member of their community. He enlisted the help of the rabbis in deference to Jewish law, but was initially cautioned against reporting the abuse to local authorities. (Eventually, he found a rabbi who advised him to take his son to a psychologist who would be required by state law to report the abuse, to avoid being viewed as a "moser"—an informer.) These religious leaders base their actions on a tenet of Orthodox religion that, within these insular communities, competes with secular law.

Jewish Law Conflicts With State Law

According to the Mesirah, a Jewish law, Jews are prohibited from turning in another member of the religion to secular authorities. (Otterman and

Rivera, supra.) The literal translation for Mesirah states:

No Jew . . . is allowed to go to a non-Jewish court, or to their offices or officers, without exception. If there should be any disagreement between Jews, they should turn to a Jewish Beis Din for their legal proceedings according to Jewish law. (*Mishpattsedek.com*.)

Jewish law conflicts with state laws mandating teachers, counselors, and other supervisors of children to make official reports of suspicions of abuse. As recently as October 2007, the New York State Social Services law was adjusted to necessitate:

all mandated reporters to report to the New York State Central Registry (SCR) when they have reasonable cause to suspect that a child before them in their professional capacity has been abused or maltreated. (CAPSLI.org.)

Chapter 193 of the Laws of 2007 was amended for those mandated reporters who work for a school, child-care provider, foster care facility, residential care facility, hospital, medical institution, or mental health facility, and who have direct knowledge of any allegation(s) of suspected child abuse or maltreatment. (Oct. 1, 2007.)

Backlash From Community

In instances when Jewish families have reached out to local authorities, the backlash was severe: A mother who reported in 2012 to police that her 14-year-old son had been molested by someone in their Orthodox community was pressured by rabbis to drop the charges. She was shunned by her neighbors, and her son got kicked out of his Jewish school. The school's principal threatened to report her for child abuse when she protested. (Otterman and Rivera, supra.) The case was later settled and the abuser was given three years probation after pleading guilty to endangering the welfare of a child. For all their travails, the mother and the victim felt that justice had doubly

failed them—experiencing the negative effects of crossing the boundaries of Jewish law and the disappointment of state punishment.

Sexual Abuse Forbidden

But Jewish law is also aligned with state laws. Sexual abuse is prohibited under the Arukh Even HaEzer 20:1, which states:

Sexualized contact of any kind between ineligible partners including kissing and fondling, is forbidden and is subject to punishment according to Jewish law. (Rabbi Mark Dratch, <http://ExposeMolesters.blogspot.com/2009/03/hikind-backpedals-insists.html>.)

To address these and other issues, the Jewish community has its own court, called a Beth Din (beh-eet din), which the members recognize as the ruling authority on issues of Jewish law. But the Beth Din is an ancient court, with anachronistic powers, making their harshest punishment—banishment from the community—ill suited to the modern era and inadequate to the crime of molestation.

While some rabbis might agree, many believe that public reports about sexual abuse in their community would add to the anti-Semitism that has already been demonstrated in their neighborhoods. (See, e.g., Rob Harris, "Cars Burned and Swastikas Scrawled in Brooklyn Jewish Area," NY Times, Nov. 11, 2011; Liz Robbins, "After Anti-Semitic Crimes, Revisiting the Nightmares Forever Within," NY Times, Jan. 20, 2012, at A21.)

Religious leaders also fear that their authority would be questioned if their followers engaged secular authorities in decision-making over any aspect of their community. (Otterman and Rivera, supra.) Finally, religious leaders claim they wish to assess the credibility of the allegations before subjecting an accused person to public denigration. In response, New York City Mayor Bloomberg issued a blanket statement that:

[A]ny abuse allegations should be brought to law enforcement, who

are trained to assess their accuracy and act appropriately. (Otterman and Rivera, supra.)

Victims Not Directly Protected

Faith in the ability of religious communities to protect their children has faltered as cases of abuse have emerged. Joel Engelman alleges that he was molested by a teacher when he was eight years old. (Barbara Bradley Hagerty, "Abuse Scandal Plagues Hasidic Jews in Brooklyn," NPR, Feb. 2, 2009.) He did not report this crime until recently, when he was already 22 years old; and then only because he heard that the same teacher had been accused of molesting other boys. The school gave the teacher a polygraph, which he failed. The teacher was removed from his position, but when Joel turned 23 and was too old to press charges the teacher was reinstated. (Hagerty, supra.)

Unlike state law, Jewish law does not provide direct protections to victims. In fact, in some cases, the community has offered public support to abusers, adding to the negative effects on victims. In a case against an Orthodox therapist brought by one of the female minors he counseled, posters advertised a fundraiser for the accused child molester. (Simone Weichselbaum, "Outrage Over Fundraiser for Accused W'burg Rabbi," NY Daily News, May 2012, discussing the case against Nechemya Weberman. See John Del Signore, "Fundraiser for Alleged Child Molester in South Williamsburg Draws Protest, Arrests," Gothamist.com, May 17, 2012; available at http://Gothamist.com/2012/05/17/two_arrested_at_fundraiser_for_allie.php.) The tenor of these posters suggested that the molester had been innocent and the victim had been at fault.

District Attorney's Ties With Community

Adding to the problems within the community is the relationship between

Orthodox leaders and secular officials outside the community. The treatment of certain cases of abuse appear to have been politicized, as was true among cases in the Catholic community. Specifically, Brooklyn's district attorney, Charles Hynes, was criticized for his permissive attitude toward the rabbis, allowing cases to remain outside the reach of his office or refusing to release details of the cases or names of molesters who are brought to court. (Otterman and Rivera, supra.) The New York Times reported that at least one rabbi admitted that he asked Hynes to not reveal the cases within the Jewish community. (John Del Signore, "Is Brooklyn DA Letting Ultra-Orthodox Rabbis Shield Sex Offenders?," Gothamist.com, May 2012.)

Yet, Hynes was the architect of Kol Tzedek, created in response to claims that Jewish victims were too scared to come forward about abuse. The organization provides a vehicle through which victims can anonymously report sexual abuse.

While there have been increases in reporting and convictions in sexual abuse cases, the precise numbers are uncertain. (See Charles Hynes, "We Work to Protect All Brooklyn Kids," NY Daily News, May 2012; Otterman and Rivera, supra; Paul Berger, "Crackdown on Child Sex Abuse Unravels," Forward.com, Oct. 2011.) There are some suspicions that the friendliness between the district attorney's office and Orthodox leaders has led to lowered charging and sentencing practices for Jewish offenders. In one case, without consultation with victims or their families, Hynes' office reportedly reduced the charges for Rabbi Yehuda Kolko from two felony counts of sexual abuse to one misdemeanor charge, resulting in probation. (Otterman and Rivera, supra.)

Law Ruled Not Applicable to Sexual Abuse

In response to these problems, a religious court in 2011 ruled that the Jewish

law of Mesirah is not applicable in cases of sexual abuse. Two of the three judges of this court ruled that in sexual abuse cases "one is forbidden to remain silent." (Otterman and Rivera, supra.) Since that ruling, five reports of sexual abuse within that community have been reported—the same number of reports as in the previous 20 years. This new ruling is likely to increase the accuracy of statistics about molestation in the Orthodox community, counteracting the religious prohibitions against reporting to secular authorities, which have previously obscured sexual abuse statistics in the ultra-Orthodox community. Researchers do not believe that the rates of sex abuse are significantly lower than other communities, but that the religious laws depress the numbers. (Otterman and Rivera, supra.)

The ultra-Orthodox live in a world very different than that of the majority of society. Sex is a taboo subject in the community. To fully abide by ancient customs, members attempt to completely disengage themselves from the rest of the world. They avoid the influence of the outside world to also avoid its taint. (Otterman and Rivera, supra.) They do not have televisions or computers and they do not offer sex education, all of which keep children and families uninformed about social issues generally, and specifically about how to protect themselves. In at least one way they are similar to non-Orthodox children in secular society: Victims may be frightened, confused, embarrassed, or they may believe they have done something wrong, and therefore they may choose to not report instances of abuse.

**Roslyn Myers, the managing editor of SLR, teaches at John Jay College of Criminal Justice and Fordham Law School in areas related to law and society, sex offenses, crime victims' rights, and restorative justice. Sheindel Davidson contributed the research and preparation of this article. ■*