

## **Bisbee man confesses he's molesting his daughter. Church tells bishop not to report abuse to authorities**

**MARY JO PITZL** | Arizona Republic

*Corrections & Clarifications: A previous version of this article incorrectly identified the federal agency that investigated an Interpol report of child abuse. It was the Department of Homeland Security.*

When a Bisbee man told his Mormon bishop he was sexually abusing his own 5-year-old daughter, the bishop provided counseling. He involved the man's wife in the sessions, apparently hoping that knowledge of her husband's activities would prompt her to keep their children safe.

What the bishop didn't do was report the abuse to police. He didn't have to. Although Arizona law classifies clergy, as well as many others, as mandatory reporters of child abuse, there is an exception for clergy to not report if they believe it is "reasonable and necessary within the concepts of the religion."

The bishop's counseling sessions apparently had little effect. The man continued to molest his daughter, and later, after her birth in 2015, his infant daughter. He made videos of the encounters and posted them on pornographic websites, which were eventually discovered by Interpol, reported to his employer, U.S. Customs and Border Protection, and led to criminal charges.

The wife also was investigated for conspiring with her husband to allow the child abuse, and indicted on 12 criminal counts. She pleaded no contest to two counts of child abuse.

Court transcripts from her 2018 sentencing hearing reveal a timeline that showed the abuse happened over a seven-year period, that the bishop and his successor knew of the abuse and that there was an ongoing criminal investigation into the church's role in the matter.

Now, an attorney is readying a lawsuit against the two LDS bishops as well as a Border Protection agent on behalf of the two girls, who have since been adopted by separate families. The investigation into "certain members of a local church community" is ongoing, according to Cochise County Attorney Brian McIntyre, declining to name any names.

And a state lawmaker vows to again introduce legislation to eliminate the so-called confessional exception when it comes to admissions of ongoing abuse, prompted in part by the Bisbee case.

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## **Religious exception**

Arizona's mandatory-reporting law requires clergy, among many others, to contact law enforcement or child-welfare officials when they suspect child abuse.

But the law also allows clergy to not report if they are told of the abuse in confidence or during a confession. In those cases, state law says, clergy may withhold a report if the clergy member feels it is "reasonable and necessary within the concepts of the religion."

Thirty-two states besides Arizona have such exemptions, commonly called the "clergy-penitent privilege." They are a necessary protection of the First Amendment guarantee of religious freedom from government dictates, say attorneys who have represented religious institutions.

Keeping confessions confidential is a key tenet of many faiths. Historians believe it originated with the seal of confession in Roman Catholic canon law, tracing it back centuries, to the origins of the Christian Church.

In the ninth century, Catholic church law added punishment for any priest

who violated the confessional seal. Today, that punishment would likely be excommunication, church officials say.

Other faiths also recognized the confidentiality of confessions. That secrecy is necessary to make a penitent feel free to confess his or her wrongdoing and seek forgiveness.

To force a clergy member to report a confidential communication "changes the whole nature of the confessional," said state Sen. Eddie Farnsworth, R-Gilbert, and a member of the Mormon Church. Earlier this year, he declined to give a hearing to a bill that sought to further narrow the clergy exemption.

Piercing the confidentiality that surrounds confessions would invite a First Amendment clash, said Ron Johnson, executive director of the Arizona Catholic Conference.

"Basically, it's the government regulating a sacrament," he said.

Courts have largely upheld the clergy exemption.

A January decision from the Montana Supreme Court concluded that Jehovah's Witness elders who learned of a member's repeated sex abuse were not required to report the abuse to authorities "because their church doctrine, canon, or practice required that clergy keep reports of child abuse confidential." The man had for nine years abused two of his stepchildren as well as his stepgranddaughter.

### **Calls for change**

In recent years, adult survivors of child abuse and others have pushed to overturn these exceptions. They argue the laws allow child abuse to continue,

when in other circumstances — such as a teacher who reports abuse — there is the opportunity to stop the perpetrator before further harm is done.

Legislation introduced this year in Arizona and Utah, and last year in California, sought to remove or modify the clergy-penitent exception. The bills failed, but the sponsors say they'll try again.

“One person’s First Amendment rights give way when they infringe on another person,” said Stephanie Carson, a Tucson-based volunteer with the activist group Stop Civil Abuse Activists for Reform and Safety. “When in doubt — hello — protect the babies.”

In Arizona, state Sen. Victoria Steele, D-Tucson, said she’ll renew her effort next year. Her proposal, Senate Bill 1235, would have required clergy to report if they know that abuse or neglect is still occurring or if they determine that it will recur.

“I don’t think most people are going to confess that they are sexually abusing little children,” Steele, a Christian, said when asked about the practical impact of her bill. But, she added, anyone who learns about such activities in any confidential session should report it.

After all, she said, the intent is to protect children.

Lawmakers in other states cited the same motivation as Steele, but their efforts to abolish the privilege have faltered in the face of opposition from religious institutions.

Last year, California state Sen. Rep. Jerry Hill introduced a bill to eliminate the clergy-penitent privilege for child-abuse reporting.

"The exemption for clergy only protects the abuser and places children at further risk," Hill, a Democrat, said when he proposed the legislation. Hill held the bill after it won little support, saying he would try again when there is more support.

A Democratic lawmaker in Utah proposed similar legislation, and it met a similar fate.

"My intent is to protect children," the bill's sponsor, Rep. Angela Romero told Deseret News earlier this year. "This isn't about the Catholic Church. This is about religious institutions ensuring that people aren't hiding under the guise of confession to get away with hurting children."

### **'No duty to report'**

Cochise County Court records show the Bisbee bishop cited the clergy exemption as the reason he did not report Paul Adams' abuse to police.

That bishop, John Herrod, told a Department of Homeland Security investigator that after learning of Adams' molestation of his daughter, he sought legal advice from the Church of Jesus Christ of Latter-day Saints headquarters in Salt Lake City.

"The church conveyed that he needs to continue counseling sessions, and that there's no duty to report to authorities due to the clergy-penitent

privilege,” Homeland Security Investigations Special Agent John Edwards testified in August 2018.

Edwards also testified that Kim Mauzy, who succeeded Herrod as bishop in the Bisbee Ward, knew about the father's abuse and followed the church directive to not report.

By following that direction, the counseling sessions – and the abuse – continued for years and extended to the couple’s youngest daughter. Court records indicate she was molested as young as 6 weeks old.

Church officials and their attorneys did not return The Republic’s repeated calls seeking comment.

The abuse only stopped in 2017, when Adams was indicted on 11 counts of child sexual abuse after Interpol tipped off Homeland Security to pornographic videos he had posted.

The subsequent investigation determined the videos were shot inside his Bisbee home and involved two minor girls.

While awaiting trial at a privately run federal prison in Florence, Adams was found hanging by his neck in December 2017. He was facing prosecution on both federal and state charges related to child abuse, child exploitation and production, distribution, possession of child pornography.

### **Ongoing investigation**

It took an investigation into his wife Leizza Adams' role in the girls' abuse to uncover the fact that clergymen had known about the abuse and had followed church directives to not report it to authorities.

That revelation prompted the ongoing investigation.

In a statement, Cochise County Attorney McIntyre confirmed "there is a pending investigation being conducted by an outside agency regarding alleged failure to act by certain members of a local church community."

Meanwhile, parents of the two girls hired attorney Lynne Cadigan to explore a lawsuit against the church as well as Border Patrol agent Shaunice Warr. Warr was friendly with the mother and told investigators the mother shared with her that her husband was emotionally and physically abusing her and her children. As a peace officer, Warr is a mandated reporter, Cadigan said.

(All five of the couple's children have since been adopted and have different last names from their birth parents.)

"The persons or institutions that keep this abuse a secret are morally and legally responsible for the harm to these children," Cadigan said. "Law enforcement needs to step up and charge those responsible for not immediately reporting these crimes."

Cadigan said she can't fathom why a clergy member would decline to report ongoing child abuse and instead keep it confidential, as happened in the Adams case.



"Why would any cleric refuse to report the rape of a child?" she asked. "If a pedophile knows the cleric will not report his crimes, the cleric is enabling this monster to continue raping children."

### **Not a blanket exception**

Religious officials are quick to point out the exception to the mandatory-reporting law is narrow. The law does not absolve clergy from a duty to report suspected child abuse that they learn of outside a confessional-type setting, said Gerard O'Meara, who represents the Catholic Diocese of Tucson.

Under a long-standing agreement with the Pima County Attorney's Office, the Tucson diocese automatically reports to that office any reasonable suspicions of child abuse, he said.

"It's passed on to the county attorney and we (the diocese) stand back," O'Meara said. Only after law enforcement has done its investigation does the church step in.

Although he couldn't cite any prosecutions of a priest, O'Meara recalled one case where law enforcement declined to file charges against a clergy member who confessed to child abuse. Despite that, the diocese took action "and that individual is no longer part of the priesthood," he said.

The exception for confessions or admissions made in confidence is designed to protect religious freedom.

"For the state to attempt to erase that from our statutes would be a violation of our canon law," O'Meara said. The consequences for a priest who ignored that canon law are "grave," he said: He could be defrocked.

There was a similar agreement between the Maricopa County Attorney's Office and the Phoenix diocese, created in the wake of a 2003 clergy sex-abuse scandal that reached all the way up to the diocese's bishop. But that lapsed after then-County Attorney Rick Romley declared the agreement fulfilled.

However, the diocese continues to follow the terms of that agreement, which called for the bishop to delegate his authority for reporting sexual-abuse allegations to other church officials, who would then report to police.

"They're walking the talk," Rachel Mitchell, deputy criminal chief of the county attorney's office, said of the diocese.

Some church members have taken legal action *because* clergy went to authorities with issues disclosed in confidence.

An Oregon woman whose husband was imprisoned for sexual abuse of a minor is suing the Church of Jesus Christ of Latter-day Saints for disclosing her husband's crimes. After her husband confessed to local church authorities, they reported him to local law enforcement.

In her lawsuit, the woman seeks \$10 million in damages, alleging the church

should have abided by the clergy-penitent privilege and kept the confession confidential. The matter is pending in U.S. District Court in Oregon; the church has moved to dismiss the lawsuit.

In Arizona, state Sen. Farnsworth opted to not hear Steele's bill that would have required reporting in instances of ongoing abuse.

The bill, well-intentioned as it might have been, would disrupt centuries of church dogma, said Farnsworth, who as chair of the Senate Judiciary Committee has the authority to decide which bills to consider.

"It's a protection of the churches," he said of the clergy-penitent privilege.

Critics, such as Cadigan, contend the law only requires clergy to withhold reporting when they think it is "reasonable" under the constructs of their religion.

In what instance, she asked, is it "reasonable" to not sound the alarm about ongoing child sexual abuse? And, she asked, why do lawmakers allow religious law to supersede secular law?

"If this was Islamic law, do you think the American courts for one minute would think it's reasonable to cover up sexual abuse?" she said.

### **A long-standing exception**

State law has long recognized that clergy members cannot be forced to testify about any confession or confidential communication made to them in their role as a clergyman.

In 1976, the Legislature dropped that privilege, allowing only attorney-client communications to be protected from disclosure. However, lawmakers returned six years later to reinstate the clergy-penitent privilege.

And in 1990, they included the privilege in a broader bill dealing with sex and child-abuse crimes. They further clarified that the exception does not pertain to personal observations a clergy person might make on his own.

Critics of the law said it is past time to end the secrecy the law allows.

Steele said she was a victim of abuse most of her childhood.

"My god, if somebody had said, 'This is not OK,' it could have helped me tremendously," she said.

As a licensed counselor, she is a mandatory reporter. Steele said she routinely reminds her clients that if she hears anything that makes her suspect child abuse, she must report it. That warning hasn't harmed her counseling sessions, she added.

But religious officials say eliminating the privilege would also eliminate any opportunity to advise a perpetrator to turn himself in.

"In the very unlikely event that a sex offender might have otherwise repented, the opportunity would be lost to counsel him to seek help from police and trained personnel," Johnson of the Arizona Catholic Conference said.

Steele said the aim of her bill was simple: "If you think a child is in danger,

you must report.”

After all, she said, if a clergy member, or anyone, knew someone was going to shoot another person, you’d tell, wouldn’t you?

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