



A Message from Michael

Prosecuting a Religious Leader for Sexually Abusing a Child

By Victor I. Vieth¹



"None of us smoked. None of us drank. We were church kids. So what we did to feel cool was pile in the car with the minister and laugh at his jokes. In hindsight, cigarettes and alcohol would have been a lot safer."

—Christa Brown²

Introduction

In the United States and around the world,³ there have been numerous cases across a range of faith communities in which children have been sexually abused by clergy.⁴ To prosecute these cases successfully, prosecutors must understand the unique form of grooming employed by many clergy offenders, the use of religion to get a victim to submit to abuse or to remain silent in its aftermath, and the short- and long-term spiritual impact of maltreatment. A prosecutor must also understand why congregations may not be supportive of a victim and how this can further impair the ability of a child victim to go through a trial.

This article details these dynamics and provides concrete trial strategies to address them. It covers the preparation of the child for court, use of expert witnesses, cross-examination of the defendant

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² CHRISTA BROWN, THIS LITTLE LIGHT: BEYOND A BAPTIST PREACHER PREDATOR AND HIS GANG (2009).

³ See e.g., Katie Wright, Shurlee Swain & Kathleen McPhillips, *The Australian Royal Commission into Institutional Responses to Child Sexual Abuse*, 74 CHILD ABUSE & NEGLECT 1-9 (2017).

⁴ See generally, Victor I. Vieth, *Lessons from the SBC Sexual Abuse Crisis*, 15(3) FAMILY & INTIMATE PARTNER VIOLENCE QUARTERLY 61-73 (2023); MARIE KEENAN, CHILD SEXUAL ABUSE & THE CATHOLIC CHURCH (2012); Efrat Lusky-Weisrose, Amitai Marmor & Dafna Tener, *Sexual Abuse in the Orthodox Jewish Community: A Literature Review*, 22(5) TRAUMA, VIOLENCE & ABUSE 1086-1103 (2021); Rahmanara Chowdhury, Belinda Winder, Nicholas Blagden & Farooq Mulla, *"I thought in order to get to God I had to win their approval": A Qualitative Analysis of the Experiences of Muslim Victims Abused by Religious Authority Figures*, 28(2) JOURNAL OF SEXUAL AGGRESSION 196-217 (2022).

and defense witnesses, closing argument, and sentencing recommendations. Obtaining justice for victims of clergy abuse is more than securing a conviction. In their role as a leader of the multidisciplinary team (MDT) and in case review meetings, the prosecutor needs to be a strong voice ensuring that the physical, emotional, and spiritual needs of these children are appropriately addressed. To bring these and other issues to life, the article begins with a hypothetical case study involving a boy named Michael.

Case Study: A Message from Michael

Michael is 8 years old, and his dad died tragically in a car accident 18 months ago. His mother, Jonetta Jarvis, works as an administrative assistant to Pastor J.J. Jenkins, a charismatic leader of Shepherd of Souls, a non-denominational Christian church. Pastor Jenkins has overseen a dramatic growth in church membership since he assumed the church's helm five years ago and has a growing online presence with 25,000 social media followers. He is passionate in his belief that the church of today is under attack from secular forces seeking to destroy the kingdom of God.

Michael was very close to his father and misses going to baseball games and other activities with him. Mostly, though, he misses talking with his dad, who excelled in helping him understand the world. Although Mrs. Jarvis loves her son, she is unsure how to comfort him and has shared her frustrations and worries with Pastor Jenkins. Seemingly compassionate, Pastor Jenkins has been meeting privately with Michael at his office. Although Mrs. Jarvis is seated outside during these meetings, there is no window that would allow her or others to see what is taking place in the office.

Pastor Jenkins has also spent time at the Jarvis home, having dinner with Michael and his mother and leading the family in prayer and home Bible studies. With Jonetta's enthusiastic support, Pastor Jarvis has even taken Michael to baseball games and other activities he used to enjoy with his father. A widower himself, Pastor Jenkins says he has a newfound purpose in ministering to Michael and his mother. He has even helped the family with expenses.

At school recently, Michael was uncomfortable during a personal safety class about touches.⁵ After class he was teary-eyed, but when his teacher, Mikhalia Robins, asked him if he was okay, Michael simply shrugged his shoulders and walked away. The next day, Ms. Robins told the students there was a box in the back of the room called "Things I Wish My Teacher Knew" and that anyone was free to place in the box a note commenting on anything they felt was important for her to know. Two days later, Ms. Robins found a note in the box from Michael saying God was mad at him. After school, she asked Michael about the note he left in the box, and he whispered in her ear that he had "sinned by touching Pastor Jenkins' pee pee." As a mandated reporter, Ms. Robins reported this suspected child abuse to law enforcement.

⁵ A report of abuse following a personal safety lesson is not unusual. See Melissa A. Bright, Alexander Roehrkaase, Sarah Masten, Ashton Nauman & David Finkelhor, *Child Abuse Prevention Education Policies Increase Reports of Child Sexual Abuse*, 134 CHILD ABUSE & NEGLECT 105932 (2022).

The Forensic Interview of Michael

During a forensic interview, Michael disclosed that Pastor Jenkins does “a lot of things I used to do with my dad” such as fishing, going to ball games, and watching superhero movies. Michael says Pastor Jenkins “told me about the special friendship between David and Jonathan” in the Bible and claimed that Pastor Jenkins felt the same way about Michael.⁶ Pastor Jenkins would often be naked when alone with Michael and also asked Michael to take his own clothes off. Pastor Jenkins said that this is how things were in the Garden of Eden and that Christians who can be naked with one another are showing the devil they can resist temptation.

Michael said Pastor Jenkins told him not to tell others about being naked together because “Christians who are weak in their faith wouldn’t understand.” Michael was also told to keep the secret because gossiping is sinful, and it would hurt Pastor Jenkins as well as Jesus. Pastor Jenkins gave Michael a small wooden cross for his pocket that was to remind him of the special bond between him and Pastor Jenkins. Michael said he decided to tell because of the personal safety lesson at school and because his teacher asked him. In the forensic interview, Michael went on to describe multiple sexual acts he had to do with Pastor Jenkins. He said the abuse sometimes occurred in the Pastor’s office, a “couple of times” at Michael’s house while his mom was outside gardening, and several times at church events “with lots of parents and other kids around.” At these church events, Pastor Jenkins would brush his hand against Michael’s genitals.

The MDT Investigation of Pastor Jenkins

In the subsequent MDT investigation, the police seized the wooden cross Pastor Jenkins gave Michael. The teacher, Ms. Robins, confirmed that Michael clearly became uncomfortable during the personal safety lesson, and she turned over to the police the note he left in the “Things I Wish My Teacher Knew” box. The box itself was photographed in its location and also seized as evidence.

Michael’s mother, Jonetta, corroborated the amount of time Pastor Jenkins spent with their family but said she saw no indication of abuse. Although she believed her son, she was struggling to understand why he did not tell her right away. She admitted she sometimes left Pastor Jenkins alone in the house with her son while she was gardening. Although Ms. Jarvis said her son was not allowed to have a cell phone, she did have a history of texts in which Pastor Jenkins often asked her about spending time with Michael.

In an interview with the police, Pastor Jenkins admitted to spending a lot of time with Michael, including time alone, but denied ever sexually abusing him. He admitted to giving Michael a wooden cross for his pocket. Pastor Jenkins also acknowledged he told Michael that he loved him in a special way and directed Michael to the biblical account of how Jonathan loved David.

The locations where the sexual acts took place were photographed, but no semen or other physical evidence was discovered. The police noted there were no windows in the door to Pastor Jenkins’ office and that it could be locked from the inside. There were windows in his office looking onto a

⁶ See 1 Samuel 18:1-5.

street, but the shades were drawn when the police inspected the room. The investigating officers photographed the room and removed the door handle to show that it could be locked from the inside.

The Congregational Response

As word of the investigation became known, leaders of the congregation stood behind their pastor at a press conference to condemn "unsubstantiated rumors" and said that no accusation meets the Biblical standard of proof unless there are two witnesses.⁷ In the absence of such evidence, they said, there was no reason to besmirch the integrity of their pastor. At the same time, a number of strong voices in the congregation began to speak negatively about Michael and his mother, suggesting they were instruments of the devil to harm the church. One member posted on social media that it was "ludicrous" to suggest Michael was abused at church events with others around. "No one would do something so risky," the writer opined, "and if it did happen, we all would have seen."⁸ The social media post received 150 "likes."

The Prosecutor's Decision to File Charges

The prosecutor assigned to the case found Michael to be a credible witness. At the same time, the district attorney realized Michael may be at high risk to recant given the shaky support from his mother and the alignment of the faith community with Pastor Jenkins. Although there is some corroborating evidence, the absence of a confession means the case will likely go to trial. Given the conservative Protestant makeup of the community where the trial was to be conducted, the prosecutor worried that the jury pool may be unduly sympathetic to the defendant. The defense witness list includes several character witnesses from Pastor Jenkins' church.

Preparing for Trial

As a first step in preparing for court, the prosecutor will need to become fluent in the research on clergy offenders and the unique way they groom victims. The prosecutor will also need to review the research on the spiritual impact of trauma to properly prepare Michael for court. If the prosecutor wants the jury to understand this research, it may be necessary to retain an expert witness. The prosecutor will also need to understand how cognitive dissonance may play a role in the congregation's support of their pastor and their lack of support for Michael.⁹ Lastly, considerable thought should be given to the cross-examination of the defendant and defense witnesses and what a closing argument will entail. Each of these tasks are considered below.

⁷ See Deuteronomy 17:2-13 and 19:15, John 8:17, Matthew 18:16, and 1 Timothy 5:16.

⁸ On the prevalence of offenders who sexually abuse children with others present, see footnote 109 and accompanying text.

⁹ See footnotes 110-117 and accompanying text.

Understanding the Dynamics of Clergy Offenders

Clergy sex offenders share characteristics common to other sex offenders.¹⁰ They may be situational offenders or preferential offenders.¹¹ They may or may not meet diagnostic criteria for pedophilia or other sexual disorders.¹² What separates clergy sex offenders from other perpetrators is the unique status they have in the community and their ability to utilize religious thoughts and practices in the maltreatment of children.

This unique status enables offenders to claim divine authority when violating a child. One literature review notes, "a survivor may believe that to deny a perpetrating clergyman's advances is to deny the wishes and moral authority of God."¹³ The clergy offender "may foster the feeling of being singled out [by God] for a special relationship with the perpetrator" and may offer spiritual rewards, including access to heaven.¹⁴ Conversely, offenders may threaten the child with damnation, purgatory, or otherwise encountering the wrath of God for damaging the faith leader or faith institution.¹⁵ Should a victim disclose abuse, they may be "excluded or ostracized" by members of their faith community, which reinforces the feeling they have done something contrary to God's wishes.¹⁶

Applying These Dynamics to Michael's Case

In our hypothetical case study, we see how Pastor Jenkins made Michael feel special by likening their relationship to the Biblical account of David and Jonathan and by referencing nudity in the Garden of Eden.¹⁷ Pastor Jenkins also suggested there were eternal consequences for telling of the abuse, leading Michael to believe that it would be a sin to disclose the abuse and that doing so would harm the church. The hypothetical also brings to life the isolation and ostracization many victims receive from their faith communities once a disclosure is made.

Unique Forms of Grooming by Religious Leaders

General Grooming Characteristics

Grooming is a process by which an offender may "seduce their victims with attention, affection, kindness, gifts and money until they have lowered the victim's inhibitions and gained their

¹⁰ Theodore P. Cross, Victor I. Vieth, Amy Russell & Cory Jewell Jensen, *Adult Sex Offenders Against Children: Etiology, Typologies, Investigation, Treatment, Monitoring, and Recidivism*, in HANDBOOK OF INTERPERSONAL VIOLENCE AND ABUSE ACROSS THE LIFESPAN 857, 866 (Robert Geffner, Jacquelyn W. White, L. Kevin Hamberger, Alan Rosenbaum, Viola Vaughan-Eden & Victor I. Vieth eds., 2022).

¹¹ *Id.*

¹² For an overview of research on sex offenders, see the SMART Office of the United States Department of Justice's "Sex Offender Management Assessment & Planning Initiative," available online at <https://smart.ojp.gov/somapi/initiative-home>.

¹³ Jason M. Fogler, Jillian C. Shipherd, Erin Rowe, Jennifer Jensen & Stephanie Clarke, *A Theoretical Foundation for Understanding Clergy-Perpetrated Sexual Abuse*, 17(3-4) JOURNAL OF CHILD SEXUAL ABUSE 301, 308 (2008).

¹⁴ *Id.* at 308-309.

¹⁵ *Id.* at 309.

¹⁶ *Id.* at 316-317.

¹⁷ For an actual case in which an offender incorporated the story of David and Jonathan, see footnote 51 and accompanying text.

cooperation and 'consent.'"¹⁸ Grooming can also involve inappropriate sexual comments or touches that may start as a seemingly safe hug or kiss, but these touches slowly desensitize the child to physical or sexual contact and gravitate toward a more purposeful touch the offender convinces the child was an accidental slip of the hand.¹⁹ Adult pornography as well as sexually exploitive images of children can also be used in grooming.²⁰ It is crucial to recognize that offenders frequently engage in grooming or manipulative behaviors toward the victim's family and the broader community, thereby complicating the detection of inappropriate actions.

Although approximately half of offenders who sexually abuse children employ grooming behaviors, "identifying grooming behaviors is more easily done retrospectively" because "many grooming behaviors appear to be innocent in nature and typical of adult child interactions."²¹ Nonetheless, some behaviors have been identified as "red flags" for "high" or "moderate" risk for sexual abuse. "High risk" behaviors include an adult exposing their naked body to a child and telling a child about their sexual experiences.²² "Moderate risk" behaviors include asking a child questions about their sexual experiences and relationships and using inappropriate sexual language, including telling dirty jokes around the child.²³

Grooming by Priests

Research on grooming by priests who sexually abused children found they "used tactics consistent with sexual grooming in general," but there were also "unique aspects of sexual grooming given their institutional role and position."²⁴ In more than one-third of the cases examined, the "role of the priest inspires inherent reverential fear that is unique to priests."²⁵ A subsequent study of abuse by priests found that 83% used their status as priests in the grooming process and that nearly 95% did so "explicitly and purposefully."

Unlike other sex offenders, priests had to spend less time selecting their victims because "their role in the Catholic church gave them unfettered access to children."²⁶ Indeed, "it was considered an honor or gift to be selected to serve as an altar boy in the church" and "parents very willingly left their children...at the Church in the care of clergy and encouraged them to spend as much time there as

¹⁸ Kenneth V. Lanning, *Acquaintance Child Molesters: A Behavioral Analysis*, in Sharon W. Cooper, et al., *MEDICAL, LEGAL, & SOCIAL SCIENCE ASPECTS OF CHILD SEXUAL EXPLOITATION: A COMPREHENSIVE REVIEW OF PORNOGRAPHY, PROSTITUTION, AND INTERNET CRIMES* 529, 560 (2005).

¹⁹ NATIONAL CENTER FOR PROSECUTION OF CHILD ABUSE, INVESTIGATION AND PROSECUTION OF CHILD ABUSE 14 (3d ed. 2004).

²⁰ Det. Sgt. Joseph S. Bova Conti & Lt. William D. Carson, *An Investigation of Victim and Offender Dynamics in Prostitutes and Incarcerated Pedophiles*, in SHARON W. COOPER, ET AL., *MEDICAL, LEGAL, & SOCIAL SCIENCE ASPECTS OF CHILD SEXUAL EXPLOITATION: A COMPREHENSIVE REVIEW OF PORNOGRAPHY, PROSTITUTION, AND INTERNET CRIMES* 715, 728 (2005).

²¹ Georgia M. Winters & Elizabeth L. Jeglic, *Stages of Sexual Grooming: Recognizing Potentially Predatory Behaviors in Child Molesters*, 38(6) *DEVIANT BEHAVIOR* 724, 725 (2017).

²² Elizabeth L. Jeglic, Georgia M. Winters & Benjamin N. Johnson, *Identification of Red Flag Child Sexual Grooming Behaviors*, 136 *CHILD ABUSE & NEGLECT* 105998 (2023).

²³ *Id.*

²⁴ Georgia M. Winters, Elizabeth L. Jeglic & Karen J. Terry, *The Prevalence of Sexual Grooming Behaviors in a Large Sample of Clergy*, 34(8) *SEXUAL ABUSE: A JOURNAL FOR RESEARCH AND TREATMENT* 923 (2022).

²⁵ *Id.* at 928, citing Jason Spraitz, Kendra Bowen & Louisa Strange, *Proposing a Behavioral Taxonomy of Priest Sexual Grooming*, 7(1) *INTERNATIONAL JOURNAL FOR CRIME, JUSTICE & SOCIAL DEMOCRACY* 30-43 (2018).

²⁶ *Id.* at 938.

possible."²⁷ It was common for parents to "ask priests to mentor or counsel their wayward or troubled children, giving them further opportunities to spend time with potential victims."²⁸

More than one-third of clergy offenders offered the victim rewards, privileges, or drugs/alcohol.²⁹ Nearly 28% of the cases involved "spiritual manipulation" to maintain a victim's silence.³⁰ In 65% of the cases examined, the priest engaged in "less invasive sexual touching" such as touching the clothing covering the genitals of the priest or the child.³¹ Other desensitization techniques included sexual conversations, watching children undressing, exposing a child to the nude body of the priest, and "seemingly innocent touch."³²

In approximately half of the cases, the priest also socialized or groomed the parent or parents of the victim.³³ When parents were also groomed, 80% of the priests were visiting at the family residence, which made the abuse easier to commit and less likely to be discovered.³⁴ More than half the time (55%), the sexual abuse occurred at a social event or a church activity (41%), which enabled the priest to "access children without suspicion and, in fact, in plain sight."³⁵ Even when abuse did not occur at a church function, 72% of the time the crime occurred on church property.³⁶

As is true of most sex offenders, clergy and other religious offenders often have cognitive distortions by which they justify their crimes. They communicate these distortions to their victims. Martin Moran wrote in his memoirs of being sexually abused at a Catholic summer camp and, as an adult, his decision to confront the man who abused him. During the meeting, the offender engaged in cognitive distortions that minimized his conduct. Specifically, the perpetrator told Moran:

I wanted to help you. You were such a gentle soul...Mentally, you were way ahead of the other boys. You were special...There were others, I admit. But not like you. You were so curious about things...you were shy and I wanted to teach you about the land and animals and help you gain confidence. And you did.³⁷

When the offender is a priest, cognitive distortions may incorporate religious beliefs. In her analysis of sexual abuse by priests, Marie Keenan writes "religious offenders use religion-related beliefs prior to the sexual acts to enable them to overcome inhibitions to offend, and after the offense to reduce guilt and maintain a positive self-image."³⁸ Even so, Keenan writes that religious justification or minimization of the abuse by priests "may not be evidence of cognitive distortions" so much as "evidence of an institutional logic that is acted out by these men."³⁹ For example, Keenan notes that priests who engaged in "less intrusive abuses" told themselves "[t]ouching, although harmful, was lower on this sin scale than the more intrusive sexual acts, which were regarded as more serious and,

²⁷ *Id.* at 938.

²⁸ *Id.* at 939.

²⁹ *Id.* at 935.

³⁰ *Id.* at 935.

³¹ *Id.* at 940.

³² *Id.* at 935.

³³ *Id.* at 935.

³⁴ *Id.* at 939.

³⁵ *Id.* at 939.

³⁶ *Id.* at 939.

³⁷ MARTIN MORAN, *THE TRICKY PART: ONE BOY'S FALL FROM TRESPASS INTO GRACE* 274 (2005).

³⁸ MARIE KEENAN, *CHILD SEXUAL ABUSE & THE CATHOLIC CHURCH: GENDER, POWER, AND ORGANIZATIONAL CULTURE* 66 (2013).

³⁹ *Id.*

therefore more 'sinful.'"⁴⁰ According to Keenan's study, an "internal logic applied, accompanied by rationalizations and justifications that 'fitted' with their clerical perspective."⁴¹

Grooming by Protestant Clergy

There is less research on Protestant clergy offenders. However, an analysis of news accounts of Protestant clergy offenders found that 45% of the offenses occurred offsite; 35% occurred on church grounds such as in an office, church parking lot, or sanctuary; and 19% of offenders committed their crimes both on and off church property.⁴²

A study of Anglican clergy offenders found that three quarters committed more than one sexual offense against their victims and when the victim was a boy, the period of abuse was longer.⁴³ Specifically, nearly half of boys were abused over a period of three years or more while only a quarter of girls endured abuse for such a long span.⁴⁴ Those offenders with male victims accessed them by inviting them to a "holiday home," asking them to share a bed, or targeting them at camps.⁴⁵

In a literature review that included case studies of grooming in Protestant communities, the authors noted that perpetrators "can present grooming behaviors to children as uniquely legitimate religious 'lessons.'"⁴⁶ In one case, for instance, the perpetrator told the child God "ordained me to do this."⁴⁷ The authors conclude the "anxiety of not acting in accordance with the requirements of one's faith and hence jeopardizing one's place in heaven may foster compliance to grooming and subsequent abuse."⁴⁸

Survivors of sexual abuse at the hands of Southern Baptist Convention (SBC) clergy reported that their abuser used traditional grooming techniques such as sending explicit texts or photos, exposing children to pornography, or photographing them nude,⁴⁹ but they also reported "abusers used theology as a way to manipulate and silence them."⁵⁰ Utilizing the biblical account of David and Jonathan, one pastor explained to a victim that the sexual abuse was "ordained" while another pastor told his victim God had spoken to him and desired the two of them to have a "special relationship."⁵¹

An investigation into decades of sexual abuse within the SBC found evidence that theology played a role in the failure to protect children and others from abuse. The investigation cited a chilling e-mail which reads in part: "This whole thing should be seen for what it is. It is a satanic scheme to

⁴⁰ *Id.* at 168.

⁴¹ *Id.* at 168.

⁴² Andrew S. Denney, Kent R. Kerley & Nickolas G. Gross, *Child Sexual Abuse in Protestant Christian Congregations: A Descriptive Analysis of Offense and Offender Characteristics*, 9(1) RELIGIONS 1, 5 (2018).

⁴³ Patrick N. Parkinson, R. Kim Oates & Amanda Jayakody, *Child Sexual Abuse in the Anglican Church of Australia*, 21(5) JOURNAL OF CHILD SEXUAL ABUSE 553, 559 (2012).

⁴⁴ *Id.* at 559-560.

⁴⁵ *Id.* at 562.

⁴⁶ Susan Raine & Stephen A. Kent, THE GROOMING OF CHILDREN FOR SEXUAL ABUSE IN RELIGIOUS SETTINGS: UNIQUE CHARACTERISTICS AND SELECT CASE STUDIES, 48(2) AGGRESSION AND VIOLENT BEHAVIOR 180, 183 (2019).

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ Victor I. Vieth, *Lessons from the SBC Sexual Abuse Crisis*, 15(3) FAMILY & INTIMATE PARTNER VIOLENCE QUARTERLY 61, 62 (2023).

⁵⁰ *Id.* at 63.

⁵¹ *Id.* at 61, 63.

completely distract us from evangelism. It is not the gospel. It is not even a part of the gospel. It is a misdirection play."⁵²

In theologically conservative Protestant churches, the concept of "purity culture" may operate to an offender's advantage as parents and the church as a whole cast equal or even primary blame on the victim.⁵³ As one survivor writes:

The more I learned, the more I realized how shameful and ludicrous it was that not a single adult in my life at the time realized that a relationship between a sixteen-year-old with no sex education and a man in his thirties who was supposed to be a spiritual authority figure at church could not possibly be consensual. And yet it had been treated like a coequal perpetration of sin and not the predatory campaign of manipulation and grooming that it was.⁵⁴

Grooming by Rabbis

In a qualitative study of 16 men who were sexually abused as boys by rabbis, a number of grooming patterns emerged with religious status and concepts playing a significant role.⁵⁵ The participants noted two ways in which offending rabbis used their religious status in grooming the boys. One tactic was to create an "inconsistent and confusing experience," which at times involved closeness and then distance in an attempt to create in the victim a strong desire for contact with the rabbi.⁵⁶ A second tactic was the "use of discourse on spiritual and mystical topics" to create a "certain aura" around the offender.⁵⁷ As one victim noted:

The rabbi would talk about all kinds of spiritual things that need to be done. He would tell me to read all kinds of verses from the Bible and in the meantime he would close his eyes and mumble. It was, Wow! I felt that I was helping the rabbi to do holy and important things, helping him to save people.⁵⁸

Some offending rabbis used religion in grooming, including private study of sacred texts. According to one survivor "He offered me to study with him and we would meet every day at five in the morning to study together...it was great...my parents were full of pride that their son was studying with the head of the yeshiva."⁵⁹

⁵² *Id.* at 66.

⁵³ "Purity culture" often refers to the belief that God only permits sex within the confines of a marriage between a man and a woman for the purpose of procreation, as an expression of love, and for pleasure. In cases of abuse, MDTs may encounter offenders who have used this religious belief to shame or silence their victims. For a fuller analysis, see Melody Y. Zuniga & David K. Pooler, *Purity, Power, and Privilege: The Intersection Between Christianity, Sex, and Social Work Practice* in CHRISTIANITY AND SOCIAL WORK 295-308 (T. Laine Scales & Michael S. Kelly, eds., 4th ed. 2020).

⁵⁴ EMILY JOY ALLISON, #CHURCHTOO: HOW PURITY CULTURE UPHOLDS ABUSE AND HOW TO FIND HEALING 15 (2021). An analysis of Lutheran study Bibles published by the three largest Lutheran denominations in the United States noted that commentaries on Biblical accounts included victim blaming and other insensitivities. Victor I. Vieth, *The Need for a Trauma-Informed Lutheran Theology: A Case Study on Lutheran Study Bibles*, 51(3) CURRENTS IN THEOLOGY & MISSION 52 (2024).

⁵⁵ Yair Krinkin & Rachel Dekel, *Sexual Grooming Processes Carried out by Offending Rabbis Toward Religious Men and Their Families*, 146 CHILD ABUSE & NEGLECT 106491 (2023).

⁵⁶ *Id.* at 5.

⁵⁷ *Id.* at 5.

⁵⁸ *Id.* at 6.

⁵⁹ *Id.* at 6.

Some rabbis groomed their victims by conveying to them a special status; for example, they may publicly praise them for their quick learning.⁶⁰ Rather than seek out a gifted student, some of the offending rabbis targeted youth who were experiencing emotional distress such as self-esteem issues, concerns about their sexual identity, or academic struggles.⁶¹

The rabbis desensitized the boys to touch through "contact in public settings" and discussion of sexual issues such as masturbation.⁶² When sexual touch was initiated, religious concepts were often employed. According to one victim:

The abuse started from a religious place. The rabbi told me that according to halacha he could not let me participate in the religious acts he was doing without determining that I was considered an adult which meant that I had at least two pubic hairs. I felt that he was all about the facts, and that all he was interested in was the halachic obligation.⁶³

In addition to grooming the children, the rabbis also groomed the parents by developing a close bond with them. In some instances, though, the offender strived to create a divide between the parents and the victim.⁶⁴

To maintain a victim's silence, offenders threatened the end of their relationship, which "given the significance of the rabbi in their lives" made "many victims fearful."⁶⁵ In the words of one survivor:

He told me "You shouldn't talk about our relationship. What we have between us no one will understand. What we have between us is 'special.'" And I understood the hidden message: that if I were to tell, we wouldn't be able to continue meeting like this.⁶⁶

Grooming by Imams

A qualitative study of four men and two women sexually or physically abused as children by imams or religious teachers in the Islamic faith found some of the offenders utilized traditional grooming practices. One victim described being given money, which she used to buy candy and gave away to other classmates, resulting in her being "popular" with her fellow students.⁶⁷

In addition to traditional grooming conduct, the survivors said the offenders "used their knowledge of the Qur'an and religious text to construct a narrative by which sexual abuse was deemed acceptable. This was reinforced through the assumption that they were entitled to privileges and exemptions by virtue of their religious position."⁶⁸ As one victim describes:

⁶⁰ *Id.* at 7.

⁶¹ *Id.* at 7, 8.

⁶² *Id.* at 9.

⁶³ *Id.* at 10.

⁶⁴ *Id.* at 7-8.

⁶⁵ *Id.* at 10.

⁶⁶ *Id.* at 10.

⁶⁷ *Id.* at 209.

⁶⁸ Rahmanara Chowdhury, Belinda Winder, Nicholas Blagden & Farooq Mulla, "I thought in order to get to God I had to win their approval": a Qualitative Analysis of the Experiences of Muslim Victims Abused by Religious Authority Figures, 28(2) JOURNAL OF SEXUAL AGGRESSION 196, 206 (2022).

So, he took me to the room and I was hysterical and he wiped my tears and he said words "just remember every part of your body that gets struck by a teacher that part of the body will never go to heav...er hell, the hellfire."⁶⁹

The offenders also used "spiritual threats" to maintain the silence of their victims. Specifically, they led victims to believe they would be "spiritually damned if they attempted to report those who held high spiritual ranks.⁷⁰ When victims did disclose, they were often ostracized by their families and community. The researchers concluded this "rejection by the wider Muslim community made it apparent to victims that they had very little support in gaining redress and accountability."⁷¹

Applying Grooming Research to Michael's Case

In our hypothetical case study, Michael experienced both traditional and religious grooming. Pastor Jenkins selected a child who was particularly vulnerable and assumed a fatherly role in Michael's life. This included taking Michael on outings similar to those he had experienced with his father. Pastor Jenkins groomed both Michael and the child's mother by working his way into their residence where he conducted Bible studies. Pastor Jenkins desensitized Michael through nudity, which he couched in religious terms, likening this to the state of undress existing in the Garden of Eden. Describing the relationship as special, Pastor Jenkins sought to maintain his victim's silence by contending that others would not understand their unique bond and that telling would sinfully hurt both the church and Jesus. He also sealed this silence by giving Michael a pocket cross. At trial, this conduct should be highlighted to explain Michael's statement in the message box that he had sinned with Pastor Jenkins.

Understanding the Spiritual Impact of Trauma

A significant and growing body of research finds that most children are not only impacted physical and emotionally but also spiritually.⁷² Spirituality has been defined as a "search or quest for the Sacred" or as a "private, personal, affective experience with 'the Divine.'"⁷³ Religiousness is more commonly thought of as "an institutional set of beliefs and practices."⁷⁴ Although academics differentiate between religiosity and spirituality, most laypersons consider them to be interchangeable terms.⁷⁵

Irrespective of how the terms are defined, child abuse often impacts a child's sense of spirituality and/or religiosity. For example, in a study of 527 male victims of child maltreatment, researchers

⁶⁹ *Id.* at 207.

⁷⁰ *Id.* at 207.

⁷¹ *Id.* at 211;

⁷² Vincent J. Felitti & Robert F. Anda, *The Relationship of Adverse Childhood Experiences to Adult Medical Disease*, in *THE IMPACT OF EARLY LIFE TRAUMA ON HEALTH AND DISEASE: THE HIDDEN EPIDEMIC* 78 (Ruth A. Lanius, Eric Vermetten & Clare Pain, eds., 2010); Amy Russell, *The Spiritual Impact of Child Abuse & Exploitation: What Research Tells Us*, 45(3) *CURRENTS IN THEOLOGY AND MISSION* 14 (2018).

⁷³ Donald F. Walker, Henri Webb Reid, Tiffany O'Neill & Lindsay Brown, *Changes in Personal Religion/Spirituality During and After Childhood Abuse: A Review and Synthesis*, 1(2) *PSYCHOLOGICAL TRAUMA: THEORY, RESEARCH, PRACTICE & POLICY* 130, 131 (2009).

⁷⁴ *Id.*

⁷⁵ *Id.*

found significant spiritual injuries including feelings of guilt, anger, grief, despair, fear of death, and a belief that God is unfair.⁷⁶

When the perpetrator is a member of the clergy, the impact may be particularly pronounced. One study compared children sexually abused by a Catholic priest with those abused by a family member or by someone outside the family but not a member of the church. The researchers found children sexually abused by a priest were four times more likely to have their faith impaired which, in turn, increased the risk for poorer medical and mental health outcomes. Sexual abuse by a priest doubled the risk of suicide, tripled the risk of sleep or eating disorders, and made the occurrence of sexual problems later in life up to five times more likely.⁷⁷ In discussing why the impact of sexual abuse on the victim's beliefs about God is a strong predictor of mental health consequences, the researchers speculated the "experience of CSA may eliminate the protective effect of belief in God, one of the resources that victims have to deal with their adverse experiences in life."⁷⁸ This is because "strong religious faith and spiritual growth have been shown to be particularly important in the recovery and healing process of CSA survivors."

A qualitative study of children abused by imams or other religious leaders in the Islamic community found these children distanced themselves from their faith.⁷⁹ Sometimes this was done as a means to prevent further abuse, but for others, the distance resulted from the "internal conflict [the abuse] created in disentangling their faith and faith-based identity from the abuse."⁸⁰ Without the protective factor of faith, these victims employed other mechanisms, including self-harm, suicidal thoughts, alcohol consumption, and "harmful cleaning rituals."⁸¹

A qualitative study of men sexually abused as children by rabbis found the maltreatment created spiritual confusion. As one man in this study observed:

Once, after we were together, we got dressed and he put on his shoes like you do according to halacha [Jewish law], first right, then left, then he tied the left shoe and the right one. And I remember myself standing there and looking at him, and for a split-second feeling like I was hallucinating: We just did really forbidden things and now he piously observes the halacha about shoes? It seemed surreal to me...⁸²

A literature review of studies of sexual abuse in Orthodox Jewish communities found that, for some victims, sexual abuse led to "intense secularization" because the abuse "shattered the core belief in a benevolent, controlled, and just world."⁸³ However, other research found "high percentages of

⁷⁶ Ronald Lawson, Charles Drebing, Gary Berg, Aime Vincelle & Walter Penk, *The Long Term Impact of Child Abuse on Religious Behavior and Spirituality in Men*, 22(5) CHILD ABUSE & NEGLECT 369 (1998).

⁷⁷ Noemí Pereda, Lorena Contreras Taibo, Anna Segura & Francisco Maffioletti Celedón, An Exploratory Study on Mental Health, Social Problems and Spiritual Damage in Victims of Child Sexual Abuse by Catholic Clergy and Other Perpetrators, 31(4) JOURNAL OF CHILD SEXUAL ABUSE 393-411 (2022).

⁷⁸ *Id.*

⁷⁹ Rahmanara Chowdhury, Belinda Winder, Nicholas Blagden & Farooq Mulla, "I thought in order to get to God I had to win their approval": A Qualitative Analysis of the Experiences of Muslim Victims Abused by Religious Authority Figures, 28(2) JOURNAL OF SEXUAL AGGRESSION 196-217 (2022).

⁸⁰ *Id.* at 203.

⁸¹ *Id.* at 202.

⁸² Yair Krinkin, Guy Enosh & Rachel Dekel, *The Religious Implications of Being Sexually Abused by a Rabbi: Qualitative Research Among Israeli Men*, 134 CHILD ABUSE & NEGLECT 105901 (2022).

⁸³ Efrat Lusky-Weisrose, Amitai Marmor & Dafna Tener, *Sexual Abuse in the Orthodox Jewish Community: A Literature Review*, 22(5) TRAUMA, VIOLENCE, & ABUSE 1086, 1094 (2021).

women who became closer to religion after sexual abuse."⁸⁴ In addition to a change in religiosity in one direction or the other, the literature review found "mainly negative" impacts resulting from sexual abuse including "stigmatization, hypersexuality, and higher PTSD symptoms."⁸⁵ Nonetheless, research finds "religiosity can moderate PTSD symptoms."⁸⁶

With respect to boys who are sexually abused by clergy, research finds the abuse may extend for a longer period of time than it does for female victims,⁸⁷ and boys may be particularly reluctant to disclose.⁸⁸ This is because "clergy members hold extraordinary power due to their social status in the community and [because of] the association between the abuser and the survivor's faith in God."⁸⁹ In the words of one man sexually abused as a boy, "How can a man get raped, and by a priest. It's the same as getting raped by God."⁹⁰

Applying These Dynamics to Michael's Case

In our hypothetical case involving Michael, a trauma-informed prosecutor will note the near certainty that Michael has been spiritually wounded from the maltreatment. He was abused by a pastor who provided religious instruction in both the church and in Michael's home. The pastor twisted theological concepts to justify the abuse and, at a minimum, this would create spiritual confusion for Michael. As is often the case with clergy offenders, Michael's faith community has largely abandoned him and rallied around Pastor Jenkins. This may result in Michael wondering if God has also abandoned him.

To address these dynamics, the prosecutor has a moral obligation to be a proactive voice in the case review meetings of Michael's case and to make sure the child is receiving evidence-based medical, mental health, and spiritual care. The latter can be particularly challenging since many mental health providers are poorly equipped to address the spiritual impact of child abuse,⁹¹ and many clergy have received little education on trauma-informed spiritual care.⁹² However, there are resources available to improve the ability of mental health providers to address these dynamics,⁹³ and there are

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ Victor I. Vieth, et al., *Where the Boys Are: Investigating and Prosecuting Cases of Child Sexual Abuse When the Victim is Male*, Zero Abuse Project (2022), available online at: <https://zeroabuseproject.org/where-the-boys-are-investigating-prosecuting-cases-of-child-sexual-abuse-when-the-victim-is-a-male/>

⁸⁸ Scott D. Easton, *Disclosure of Child Sexual Abuse Among Adult Male Survivors*, 41 CLINICAL SOCIAL WORK JOURNAL 344-355 (2013).

⁸⁹ Scott D. Easton, Leia Y. Saltzman & Danny G. Willis, *Would You Tell Under Circumstances Like That? Barriers to Disclosure of Child Sexual Abuse for Men*, 15(4) PSYCHOLOGY OF MEN & MASCULINITY 460, 465 (2013).

⁹⁰ *Id.* at 465.

⁹¹ See e.g., Rob Whitley & G. Eric Jarvis, *Religious Understanding as Cultural Competence: Issues for Clinicians*, 32(6) PSYCHIATRIC TIMES 1 (2015).

⁹² See e.g., Victor I. Vieth, *The Least of These: The Urgent Need for ELCA Seminaries to Prepare Called Workers to Minister to Survivors of Abuse and Develop Trauma-Informed Congregations*, 23(6) JOURNAL OF LUTHERAN ETHICS (Dec. 2023-Jan. 2024).

⁹³ See e.g., Michelle J. Pearce, Kenneth I. Pargament, Serena Wong, Hannah Hinkel, Sarah Salcone, Grant Morgan, Derek Kemp, Brady Brock, Esther Kim, Holly K. Oxhandler, Cassandra Vieten, Jesse Fox, Edward C. Polson & Joseph M. Currier, *Enhancing Training in Spiritual and Religious Competencies in Mental Health Graduate Education: Evaluation of an Integrated Curricular Approach*, 19(9) PLOS ONE e0306114 (2024); Michelle J. Pearce, Kenneth I. Pargament, Holly K. Oxhandler, Cassandra Vieten & Serena Wong, *Novel Online Training Program Improves Spiritual Competencies in Mental Health Care*, 7(3) SPIRITUALITY IN CLINICAL PRACTICE 145-161 (2020).

pioneering initiatives underway to implement spiritual care or chaplaincy programs at Children's Advocacy Centers.⁹⁴

Multiple studies find that spirituality may be a significant source of resilience for maltreated children.⁹⁵ In summarizing the research, two scholars write:

The research around religious and spiritual coping shows strong and convincing relationships between psychological adjustment and physical health following trauma. Spirituality provides a belief system and sense of divine connectedness that helps give meaning to the traumatic experience and has shown over and over to aid in the recovery process.⁹⁶

In light of this research, a prosecutor needs to be a leading advocate on both the MDT and in the community to make sure the spiritual impact of child abuse is addressed in a trauma-informed manner. Advocacy of this kind is nothing new to our profession. It was a prosecutor who played a critical role in the development of CACs, MDTs, and the concept of coordinated case reviews.⁹⁷ It is well-established that child abuse prosecutors must be community leaders in harnessing and coordinating community resources to address the needs of maltreated children. As noted in one child abuse prosecutor's treatise:

Coordinating a community's response to child abuse is one of the most challenging and rewarding activities a prosecutor can undertake. A coordinated approach not only benefits professionals responsible for responding to uniquely painful and frustrating situations, but it lessens the trauma of victims and families suffering simultaneously from the revelation of abuse and the intrusion of social service and criminal justice procedures in their lives. An effective system can protect the rights of victims and meet the needs of families. It can also engender community support, improve investigative procedures and case outcomes, and build professionalism in public service.⁹⁸

Research from an urban community finds that prosecutor presence at case review meetings increases by 80% the cases accepted for charges.⁹⁹ There is evidence that prosecutor leadership in MDT and case review teams may also dramatically increase the number of child abuse cases resulting in charges and convictions.¹⁰⁰

⁹⁴ Victor I. Vieth, Mark D. Everson, Viola Vaughan-Eden, Suzanna Tiapula, Shauna Galloway-Williams & Rev. Carrie Nettles, *Keeping Faith: The Potential Role of a Chaplain to Address the Spiritual Needs of Maltreated Children and Advise Child Abuse Multi-Disciplinary Teams*, 14(2) LIBERTY UNIVERSITY LAW REVIEW 353 (2020).

⁹⁵ Katia G. Reinert, Jacquelyn C. Campbell, Karen Bandeen-Roche, Jerry W. Lee & Sarah Szanton, *The Role of Religious Involvement in the Relationship Between Early Trauma and Health Outcomes Among Adult Survivors*, 9 JOURNAL OF CHILD & ADOLESCENT TRAUMA 231-241 (2016); Tricia Gower, Caitlin Rancher, Jeanine Campbell, Annette Mahoney, Mindy Jackson, Renee McDonald & Ernest N. Jouriles, *Caregiver and Divine Support: Associations with Resilience Among Adolescents Following Disclosure of Sexual Abuse*, 109 CHILD ABUSE & NEGLECT 104681 (2020); Ernest N. Jouriles, Caitlin Rancher, Annette Mahoney, Colton Kurth, Katrina Cook, and Renee McDonald, *Divine Spiritual Struggles and Psychological Adjustment Among Adolescents Who Have Been Sexually Abused*, 10(3) PSYCHOLOGY OF VIOLENCE 334-343 (2020).

⁹⁶ CASEY GWINN & CHAN HELLMAN, HOPE RISING: HOW THE SCIENCE OF HOPE CAN CHANGE YOUR LIFE 180 (2019).

⁹⁷ Nancy Chandler, *Children's Advocacy Centers: Making a Difference One Child at a Time*, 28 HAMLINE JOURNAL OF PUBLIC LAW & POLICY 315, 319-322 (2006).

⁹⁸ NATIONAL CENTER FOR PROSECUTION OF CHILD ABUSE, INVESTIGATION AND PROSECUTION OF CHILD ABUSE XLIII (3d ed. 2004).

⁹⁹ Tammy E. Bracewell, *Multidisciplinary Team Involvement and Prosecutorial Decisions in Child Sexual Abuse Cases*, 35(6) CHILD & ADOLESCENT SOCIAL WORK JOURNAL 567-576 (2018).

¹⁰⁰ Victor I. Vieth, *In My Neighbor's House: A Proposal to Address Child Abuse in Rural America*, 22(1) HAMLINE LAW REVIEW 143 (1998).

Pre-Trial Motions

Pre-Trial Motions to Create a Trauma-Informed Environment

As they should do in every case, child abuse prosecutors should consider the importance of filing motions for a “child-friendly” oath; a court order requiring attorneys to ask questions a child can understand; a court order requiring the child’s testimony be taken at a time of day when the child is functioning at their best, allowing a child to bring a comfort item, and having a support animal or support person present; and a court order modifying the courtroom to make the child more comfortable. Zero Abuse Project has developed resources to assist prosecutors with these motions.¹⁰¹

The Potential Value of a CAC Chaplain or Other Spiritual Care Provider as a Support Person

Since the offender in Michael’s case is a clergy person, the prosecutor should consider the potential value of a CAC chaplain or another trauma-informed religious figure who can assist the child in addressing spiritual injuries and convey to the child they are not abandoned by God. If the local CAC does not have a chaplain who can serve in this role or make a quality referral, the victim advocate in the prosecutor’s office should be proactive in developing relationships with local faith leaders who can be trauma-informed support persons.

In our hypothetical case, Michael’s faith community has largely abandoned him, and he may need the reassurance of a faithful remnant who stands with the oppressed and afflicted. Keep in mind, though, that Michael may be in such spiritual distress that he does not want to intersect with any faith leader or spiritual care worker. Michael is in the best position to know what may be helpful at this point in his life, and his wishes should be respected.

Pre-Trial Motion to Address Possible Rule 610 Issues

If your jurisdiction follows the Federal Rules of Evidence, give thought to Rule 610, which states: “Evidence of a witness’s religious beliefs or opinions is not admissible to attack or support the witness’s credibility.” The commentary to the rules explains that while religious beliefs cannot be used to establish or critique a witness’s credibility, “an inquiry for the purpose of showing interest or bias because of them is not within the prohibition.”

In a case of clergy-perpetrated abuse, it is critical to discuss how religion was utilized to gain a child’s confidence and to maintain the victim’s silence. It may be necessary to present the research on this

¹⁰¹ Victor I. Vieth, *Seven Pre-Trial Motions Child Abuse Prosecutors Should Routinely File* (December 6, 2021), available online at: <https://zeroabuseproject.org/a-trauma-informed-courtroom-seven-pre-trial-motions-child-abuse-protectors-should-routinely-file>

topic in a pre-trial brief or hearing so that the judge understands how and why this testimony or other evidence will be presented.¹⁰²

Pre-Trial Motion to Exclude or Limit Character Witnesses on Behalf of the Accused

If defense counsel intends to call character witnesses, a prosecutor may wish to file a motion limiting the testimony to those traits involved in the crimes charged as opposed to evidence of the alleged offender's good character.¹⁰³ If the crime charged is the sexual abuse of a child, arguably the only character that matters is whether or not the defendant has sexual thoughts or desires toward children. A prosecutor can also ask the court to limit character witnesses to those who have had sufficient contact with the accused to be able to competently testify about a character trait relevant to the case.¹⁰⁴

Expert Testimony

In a case of sexual abuse committed at the hands of a cleric, the prosecutor should consider the value of expert testimony on several fronts. Three possible areas of expert testimony are discussed below.

Religious Grooming

Courts have typically allowed expert testimony on grooming "where such testimony can be said to assist the trier of fact in determining the alleged offender's intent or *modus operandi*."¹⁰⁵ Trial and appellate courts may know very little about the unique form of grooming utilized by clergy. Accordingly, it may be necessary to educate both the judge and the jury about the power of promising eternal rewards, threatening eternal punishment, or otherwise incorporating sacred texts and religious practices into the abuse of a child. A prosecutor should cite this research and utilize expert testimony to aid the judge and trier of fact in understanding religious grooming. As discussed earlier in this article, religious grooming may look different depending on the religious community the victim is from. An expert should be aware of these potential differences.

In our hypothetical case involving Michael, the child was groomed not only by non-religious tactics, such as desensitizing the child through acts of nudity, but also through the use of religion. The offender's suggestion that Michael and he had a unique relationship sanctioned by God was designed to overcome Michael's opposition or reluctance. If a jury is not permitted to understand the extraordinary power of the invocation of God in clergy-inflicted cases of child sexual abuse, the trier

¹⁰² For a detailed analysis of Federal Rule 610, see Antony Barone Kolenc, "No Help You God": Religion, the Courtroom, and a Proposal to Amend the Federal Rules of Evidence, 91(1) MISSISSIPPI LAW JOURNAL 1 (2022).

¹⁰³ See e.g., State v. Johnson, 28 Conn. App. 708, 713 (1992).

¹⁰⁴ See e.g., State v. Gould, 241 Conn. 1, 19 (1997).

¹⁰⁵ Daniel Pollack & Andrea MacIver, *Understanding Sexual Grooming in Child Abuse Cases*, 34(11) ABA CHILD LAW PRACTICE 165, 167 (2015).

of fact will be denied a full understanding of how the crime was committed and the impact on the child's conduct and silence.

The Spiritual Impact of Trauma

In addition to understanding how clergy offenders use religion in the abuse of children, the trier of fact is entitled to understand, through expert testimony as well as the lay testimony of the victim, how spiritual wounds and spiritual confusion impair the child's functioning. Without this evidence, a jury may unfairly conclude a child's behavior or actions are not credible or are inconsistent with the jury's stereotype of how a true victim would respond.

In our hypothetical case involving Michael, it would be cruel to allow a defense attorney to cite the victim's statement about God being mad at him without the child or an expert being able to explain how a victim of clergy abuse often develops feelings such as this. These feelings may lead victims to overcompensate through behaviors designed to win God's favor, such as repeatedly returning to the offender or otherwise displaying signs of affection.

The Impact of Trauma on Boys

Although the sexual abuse of boys is not better or worse than it is for girls, it is different.¹⁰⁶ Accordingly, it may be helpful to have an expert witness who can explain that boys tend to delay a disclosure of abuse for a longer period of time than do girls, that the abuse tends to go on for a longer period of time, and that fears related to being labeled gay or other concerns about sexual orientation/identity may impair a male victim's willingness to disclose.¹⁰⁷ We also know from research that boys often struggle to recognize sexual abuse as abuse, and when the perpetrator is a clergy person, they may assume the conduct is sanctioned by God.¹⁰⁸

The Cognitive Dissonance of the Congregation to the Jury

Although most people are opposed to sexual assault or other forms of abuse, we may not recognize and act opposed to abuse when we actually encounter it. This is because, when we encounter abuse, the offender is often someone we know, such as a family member, a long-standing friend, or a respected member of our community such as a revered pastor. As we contemplate all the good things the accused offender may have done and we personally experienced, we resist contrary

¹⁰⁶ Kieran O'Gorman, Vita Pilkington, Zac Seidler, John L. Oliffe, Wilma Peters, Sarah Bendall & Simon M. Rice, *Childhood Sexual Abuse in Boys and Men: The Case for Gender-Sensitive Interventions*, PSYCHOLOGICAL TRAUMA: THEORY, PRACTICE AND POLICY (2023). Some studies find the risk of suicide may be greater among sexually abused girls than boys. Graham Martin, Helen A. Bergen, Angela S. Richardson, Leigh Roeger & Stephen Allison, *Sexual Abuse and Suicidality: Gender Differences in a Large Community Sample of Adolescents*, CHILD ABUSE & NEGLECT 491-503 (2004).

¹⁰⁷ Victor I. Vieth, et al., *Where the Boys Are: Investigating and Prosecuting Cases of Child Sexual Abuse When the Victim is a Male*, Zero Abuse Project (2022), available online at: <https://zeroabuseproject.org/where-the-boys-are-investigating-prosecuting-cases-of-child-sexual-abuse-when-the-victim-is-a-male>

¹⁰⁸ *Id.* at 3-4.

evidence. This is called "cognitive dissonance," a phenomenon in which "people may alter their beliefs and behavior or seek to discredit and reject the conflicting evidence."¹⁰⁹

Those who commit sexual offenses "report exploiting this tendency by intentionally situating themselves at the center of the community, as generous, kind, learned, and pious leaders, who are truly exemplars in every way. Their sexual abuse behind closed doors thus remains hidden with the victims, and the community often refuses to accept allegations that may eventually emerge."¹¹⁰

A clergy person who molested 96 children told a sex offender treatment provider:

They [church leaders and congregants] immediately rallied to my defense...They said, "We know this young man...He has been in our community all of his life. We know his parents, his grandparents, his aunts, his uncles. This is not something he would do. This is not something that goes along with behavior that we see in him day in and day out," and that was true because I was very careful that they did not see that behavior day in and day out.¹¹¹

As a result of this cognitive dissonance, many members of the community adopt an "all or nothing" thinking that assumes a perpetrator is a monster or someone who is "all bad" and thus fail to recognize that an offender may, in fact, have done many good things while simultaneously committing sexual offenses or engaging in other misconduct.¹¹² This problem may be particularly acute when an offender vigorously denies the allegations. As Dr. Judith Herman writes:

After every atrocity one can expect to hear the same predictable apologies: it never happened; the victim lies; the victim exaggerates; the victim brought it upon herself; and in any case it is time to forget the past and move on. The more powerful the perpetrator, the greater is his prerogative to name and define reality, and the more completely his arguments prevail.¹¹³

Although cognitive dissonance has been discussed in the academic literature dating back to the 1950's, most faith leaders have little or no understanding of this concept.¹¹⁴ As a result, the problem of cognitive dissonance continues to harm victims, emboldens offenders, and has likely played a role in poor responses to instances of abuse in Catholic, Protestant, and other faith communities.¹¹⁵

In our hypothetical case involving Michael, the child has been abandoned by his faith community and even attacked online. Some members of Michael's faith community may be called to testify as character witnesses for the accused. Many of them may sit in the gallery at trial in a show of support for the offender. A jury may unwittingly assume that, since these upstanding members of the community support their pastor, perhaps the jury should as well.

¹⁰⁹ Shira M. Berkovits, *Institutional Abuse in the Jewish Community*, 50(2) TRADITION: A JOURNAL OF ORTHODOX JEWISH THOUGHT 11, 12 (2017). The concept of "moral disengagement" may also be relevant to this conversation. See, e.g., Celia Moore, *Moral Disengagement*, 6 CURRENT OPINION IN PSYCHOLOGY 199-204 (2015).

¹¹⁰ *Id.* at 12.

¹¹¹ *Id.* at 13.

¹¹² *Id.* at 15.

¹¹³ *Id.* at 18.

¹¹⁴ *Id.* at 12.

¹¹⁵ See e.g., MICHAEL D'ANTONIO, MORTAL SINS: SEX, CRIME, AND THE ERA OF CATHOLIC SCANDAL (2013); See e.g., Victor I. Vieth, *Lessons from the SBC Sexual Abuse Crisis*, 15(3) FAMILY & INTIMATE PARTNER VIOLENCE QUARTERLY 61 (2023).

In these circumstances, it may be helpful to have an expert witness explain the research on cognitive dissonance, so the trier of fact can better understand why even intelligent, well-educated adults may overlook obvious signs of abuse and may unfairly denigrate a victim of abuse.

Sexually Abusing a Child with Others Present

In our hypothetical case, Michael speaks of being sexually abused in his house while his mother was outside gardening and also being sexually abused at church events with others present. Since a jury may find this to be implausible, it may be wise to have an expert explain that this is a common pattern of those who sexually abuse children. In a study of 131 offenders who had sexually abused children, 54.9% said they had sexually abused a child with other children present, 23.9% had sexually abused a child with an adult present, and 14.2% had sexually abused a child with both an adult and child present. Of those sex offenders who had not yet violated a child with others present, 63% believed they would have eventually done so if they had not been apprehended.¹¹⁶ The reason for this risky behavior pertained to "increased excitement, a sense of mastery, and compulsive sexual behavior."¹¹⁷

Working with Non-Offending Caregivers

As discussed earlier, spirituality is a significant source of resilience for maltreated children. Another significant source of resilience identified in these studies is non-offending caregiver support for the victim.¹¹⁸ Once abuse is revealed, non-offending caregivers may experience "classic stages of grief, cycling through shock/disbelief/denial, anger/resentment, bargaining, depression/discouragement, and finally acceptance/adjustment."¹¹⁹ We know from research that "[h]ow well individual children are able to cope with and recover from sexual abuse depends heavily on how well their caregivers are able to provide support and professional help for them."¹²⁰

In our hypothetical case, Michael's mother was also groomed by the offender. She may feel anger toward the offender or herself for allowing the perpetrator into their lives and home. Perhaps she has been so effectively groomed by the offender that she struggles to believe her child, or even if she believes Michael, she may blame the child for not telling her or taking other action to stop the abuse. In the absence of unequivocal parental support, Michael is at an elevated risk to recant his allegation or otherwise not cooperate with the investigation and prosecution.

Given these dynamics, a prosecutor must be vigilant in making sure Michael's mother gets quality support from a mental health provider, victim advocate, or other professional who can assist her in

¹¹⁶ Rocky C. Underwood, Peter C. Patch, Gordon G. Cappelletty & Roger W. Wolfe, *Do Sexual Offenders Molest When Other Persons Are Present? A Preliminary Investigation*, 11(3) *SEXUAL ABUSE: A JOURNAL OF RESEARCH & TREATMENT* 243-247 (1999).

¹¹⁷ *Id.*

¹¹⁸ Tricia Gower, Caitlin Rancher, Jeanine Campbell, Annette Mahoney, Mindy Jackson, Renee McDonald & Ernest N. Jouriles, *Caregiver and Divine Support: Associations with Resilience Among Adolescents Following Disclosure of Sexual Abuse*, 109 *CHILD ABUSE & NEGLECT* 104681 (2020).

¹¹⁹ Viola Vaughan-Eden, Stacie Schrieffer LeBlanc & Yvette Dzumaga, *Succeeding with Nonoffending Caregivers of Sexually Abused Children*, in ROBERT GEFFNER, JACQUELYN W. WHITE, L. KEVIN HAMBERGER, ALAN ROSENBAUM, VIOLA VAUGHAN-EDEN & VICTOR I. VIETH, *HANDBOOK OF INTERPERSONAL VIOLENCE AND ABUSE ACROSS THE LIFESPAN* 789, 803 (2022).

¹²⁰ *Id.*

understanding what has happened to their family and how best to move forward. The mother needs to understand that how she responds to this situation may have a lasting impact on her relationship with Michael and thus she needs to quickly grow her understanding of the abuse dynamics and develop the skills necessary to support her child in this hour of great need.

Jury Selection

In selecting a jury for the case against Pastor Jenkins, a prosecutor will need to explore a number of potential biases. To this end, voir dire questions may include:

- Are you a member of a faith community? What community? Would that make it harder for you to sit in judgment on a pastor from a similar religious community?
- Do you believe a member of the clergy cannot commit sexual abuse against a child?
- Do you believe that someone who is widely regarded as an upstanding member of the community could not commit an act of child sexual abuse?
- Do you believe that a true victim of abuse will immediately tell someone? How many of you on the jury experienced bullying as a child (ask for show of hands)? How many of you promptly told your parent or another adult who could help?
- Do you believe a boy can also be a victim of sexual abuse?
- Are you open to expert testimony that may assist in understanding the dynamics involved in a case of sexual abuse within a faith community?
- Did you ever know someone who acted differently in one context, say at home, from how they acted at work? Tell me about that.

Direct Examination of Michael

In our hypothetical case involving Michael, a direct examination may include the following:

- **An overview of who Michael is.** This is more than simply his name, age, and place of residence. Michael should talk about the loss of his father and what he misses about his dad. This will help the jury understand his vulnerability to a sex offender.
- **Michael's interactions with the offender.** Michael should explain how he met Pastor Jenkins and his initial reaction to him. Michael should be asked to detail the pastor's work with him in providing pastoral care, home Bible studies, and assuming some of the duties his father used to perform. This will help the jury understand the level of trust Michael had for the offender.
- **The offender's interactions with Michael's mother.** Michael can also discuss the pastor's interactions with Jonetta. This will help the jury understand how the offender not only wormed his way into the child's life but also the life of Michael's mother. This will help the jury better understand any reluctance Michael had to disclosing the abuse to his mother.

- **Traditional grooming.** Michael should describe the acts of nudity, gift giving, and other forms of grooming engaged in by the offender.
- **Religious grooming.** The prosecutor should explore with Michael how religion was incorporated into the abuse. Examples are the offender's explanation that nudity was akin to how things were in the Garden of Eden and the offender's statement that speaking about the sexual activities would hurt the cause of Christ.
- **Spiritual confusion.** Explore with Michael how his faith and understanding of God and the Bible changed as a result of his interactions with the offender. This will enable the jury to better understand the impact of the offender on Michael's thinking which, in turn, may help the jury better understand Michael's actions and inactions.
- **The crimes committed against Michael.** With the stage now set, the prosecutor can have Michael detail the crimes of the pastor, the locations of the offenses, and any additional evidence he can substantiate, such as photographs of rooms where the sexual assaults occurred.
- **The process of disclosure.** Michael can explain the circumstances which led to his decision to disclose the abuse to his teacher, and he can substantiate that he left a note in the "Things I Wish My Teacher Knew" box.
- **The consequences of the disclosure.** Michael can detail the abandonment of his faith community or any other negative consequences of the disclosure. In understanding these repercussions, the jury will see that Michael has no incentive to lie about these crimes. If anything, he has endured enormous pressure to take back his allegation.

Cross-Examination of the Defendant

In preparing to cross examine the defendant, closely scrutinize his recorded and transcribed statement to the police. Also look at statements he has made to others. In all likelihood, the pastor has had to discuss this case with church elders and parishioners and may have publicly discussed with his faith community the allegations against him. Also, watch any recorded sermons from the defendant, particularly any sermons related to sexual assault or child abuse. Armed with this information, the following cross-examination areas may be appropriate.

- **The defendant's interactions with the victim.** Highlight the counseling, the home Bible studies, the various outings with the victim, his statements to the police about his closeness to the child, and so forth.
- **Contrast the defendant's interactions with the victim with other children in the congregation.** Ask questions designed to show there are many children in the congregation, including many children experiencing difficulties, and the defendant does not have nearly as close of a relationship with them as he does Michael.
- **The defendant's interactions with Michael's mother.** Detail these interactions to also highlight the efforts to win over the mother as well as the child.

- **The congregation's support of the defendant versus the support of the victim.** Highlight any petitions, fundraising, or public statements of support from the pastor's church. Then ask the pastor if there were any petitions, fundraising, or other actions taken in support of Michael. This will highlight the abandonment of the child.
- **Pertinent statements about sexuality, children, etc.** Perhaps the pastor has given sermons condemning sexuality outside of marriage, same sex attraction, masturbation, or provocative clothing. If so, a prosecutor could highlight these statements as a means to help the jury see how embarrassing it would be for the pastor to admit the sexual abuse or to see that his extreme statements were little more than a cover to cause his congregation to be unsuspecting of their cleric.
- **Violation of child protection policies.** If the church has child protection policies the pastor has violated, be sure to highlight them. If, for example, the church has policies against staff transporting a child alone, make sure the jury is aware of these violations.
- **The absence of child protection policies.** If the church doesn't have any policies pertaining to transportation, gift giving, touching, or other interactions with children, highlight these during cross-examination. The jury may see the absence of these policies as creating unique opportunities to offend. If the pastor had the power to enact policies but chose not to, the jury may see this an attempt to avoid detection.
- **Opportunity.** Highlight all the times the offender was alone with the victim and note any relevant circumstances that would make detection more difficult. In our hypothetical, for example, it would be important to highlight the absence of windows in the pastor's study and that it can be locked from the inside.
- **The consequences of telling the truth.** Ask questions to get the defendant to articulate his understanding of the consequences of sexually assaulting a child. Get him to articulate that he knows it is a crime, he would likely lose his job, his status in the community will be destroyed, etc. This may aid the jury in understanding why an offender may choose to be dishonest.
- **Any lies the police caught the perpetrator in making.** Even if the defendant did not confess the crime to the police when he was interviewed, did law enforcement catch him in any lies? For example, did he minimize the number of times he went to Michael's house or deny a particular outing? Did he deny the church had any policies that would prohibit some of his actions with Michael, but the subsequent investigation found the church did have such policies? By establishing the defendant's dishonesty with the police even on peripheral matters, the jury may have an easier time concluding the pastor might also be deceptive about matters more centrally related to the case.

Closing Argument

Zero Abuse Project has published a comprehensive resource on opening statements and closing arguments in cases of child abuse.¹²¹ A prosecutor should thoroughly review that document and determine what arguments best fit your case. In Michael's situation, it would be appropriate to highlight that he has no incentive to lie. Indeed, if he expresses love for the defendant, he clearly is not intending to harm the pastor. Point out that Michael suffered significant consequences in making the allegation and that it would be logical to succumb to this pressure and take back any allegation that was untrue. Point out any witness (e.g. his school teacher or mother) that corroborates any aspect of his testimony as well as documents (e.g. the note he put in the box at school), photographs (e.g. pictures of locations at which he was abused), and gifts (e.g. the cross) that are consistent with his testimony. Point out any inconsistencies in the offender's statements, any violations of child protection policies, and any behaviors of the pastor that are consistent with grooming practices.

Sentencing

If it did not already come out at trial, a prosecutor should highlight the extreme betrayal by a person in authority and the impact this had on the victim physically, emotionally, and spiritually. The prosecutor may want to point out the latter damage is particularly cruel because the offender holds themselves out as a spiritual guide. Make sure the judge is aware that spiritual damage exacerbates the physical and emotional harm a child experiences by reducing a critical source of resilience. Prosecutors should cite these aggravating factors to combat any mitigating factors defense counsel tries to argue. Given this unique harm, the offender should receive a particularly strong penalty.

Conclusion

All child abuse involves betrayal. Those with power and strength chose to violate those who are smaller, weaker, and more trusting. When this happens, children suffer physically and emotionally. What is often ignored is the enormous spiritual damage that is inflicted and how the misuse of religion makes it easier for offenders to violate and silence their victims.

If justice has any meaning, surely these cruelties must be addressed in the investigation, prosecution, and sentencing, and in the ongoing care of the victims of clergy abuse. The prosecutor is uniquely positioned to make sure MDTs and communities understand these dynamics and respond in a trauma-informed manner. To this end, prosecutors must become fluent in research detailing religious grooming and spiritual damage and be able to convey this research to judges, juries, and their communities at large.

¹²¹ Victor I. Vieth, *We're Just Going to Talk: Presenting Your Case in Opening Statement and Closing Argument*, Zero Abuse Project (2021), available online at: <https://zeroabuseproject.org/opening-statements-and-closing-arguments>

A quote often attributed to Dietrich Bonhoeffer is "Silence in the face of evil is itself evil. Not to act is to act."¹²² This article provides a window into the evil of clergy-perpetrated abuse and the suffering that results. If prosecutors find their voices and take appropriate actions, we will play a significant role in helping children recover their voices and perhaps their faith.

¹²² For a discussion of how this quote was attributed to Bonhoeffer, see STEPHEN R. HAYNES, THE BATTLE FOR BONHOEFFER (2018).

