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The Clergy-Penitent Privilege—Questions and a Suggestion

AUGUST 4, 2022 BY SAM BRUNSON 41 COMMENTS

At this point, I assume most of our readers have seen today's AP story. If not, you can read it [here](#) (but be warned: it's disturbing and disgusting and the church—rightly, imho—comes out looking terrible).

What underlies this miscarriage of justice is the *clergy-penitent privilege*. And what is that? It's a legal privilege that [protects](#) confessional communications between clergy and a person who goes to the clergy for spiritual counselling.

It's a state-level privilege, meaning it's created and governed by state, not federal, law. And in every state it differs at least a little. And honestly, privilege broadly—and clergy-penitent privilege in particular—is outside of my area of expertise. I understand it broadly, but the contours are tough and specific.

Legal privileges are not absolute, though, and they belong to particular people. I looked quickly at Illinois's clergy-penitent privilege. It [belongs to both the clergy and the penitent](#), meaning that if clergy were called to testify at trial, the clergy member themselves could decline to testify based on the privilege. But even if the clergy is willing to testify, the person who made the confession can claim the privilege and the clergy cannot testify.

(As a side matter, why do we have a clergy-penitent privilege? Probably two reasons. One is that in some religions, confession is absolutely inviolable. In [Catholicism](#), for instance, the confessional seal is absolute. This leads to questions of whether the clergy-penitent privilege is constitutionally required, a question I have limited ideas about. The second is that knowing that their confession won't be revealed encourages people to confess, and that such a confession is beneficial. This second question is ultimately an empirical one, but in [my quick search](#), it looks like there's little evidence that an absolute privilege is necessary to encourage confession.)

But it is not absolute. In Illinois, clergy are [mandated reporters](#). If they have a reasonable belief that a child is being abused, they're [required](#) to report the abuse, notwithstanding the clergy-penitent privilege.

There's a problem, though: Mormon bishops aren't necessarily attorneys. They don't necessarily have the legal expertise to know whether (or that) they have to report their reasonable belief of abuse. Enter the church's "help line."

The help line is, in theory, not a bad idea. Providing lay leaders with legal advice about what their obligations are is a good thing. And I've heard anecdotal stories of the help line telling bishops that they need to report abuse, particularly in states that include clergy as mandated reporters. That said, the story underscores the terrible consequences that reliance on the help line can result in. And it raised a number of questions for me. So I'm going to lay out some questions for the church, and end with a recommendation for what the church should

1. Is the church's priority to protect itself, its bishops, abused children, or the abuser?
2. Does the Kirton McConkie advise callers to the help line that it represents the church, not them? Does it advise them to retain their own counsel?
3. Does Kirton McConkie retain local counsel in each jurisdiction to advise them about the law in that jurisdiction?
4. Does the church indemnify bishops for legal actions taken as a result of suits stemming from following the help line's advice?
5. What does the church do to help children who have been abused? How does it center their interests?
6. Does the church believe that the clergy-penitent privilege encourages confession? And, if so, does it have empirical evidence?
7. Whatever a state's law says, does the church think that invoking the clergy-penitent privilege is good for it? Like really?

And my recommendation: the church should use its lobbying power to push for making clergy mandated reporters in every state. Why? A couple reasons. First, it protects children. And that should be its first priority. If clergy are mandated reporters, the help line's answer becomes easy. (And, fwiw, at least in Illinois, mandated reporters are exempted from liability if they make a report in good faith.)

Second, it protects bishops. Because the legal regimes are tough. They're complicated. And they're not necessarily intuitive.

Third, it protects the church. Because look, no matter what the law is, if you shield child abusers in a way that lets them keep abusing, you're the villain of the story. Especially if you do it in a secretive way that leaks out (and it will leak).

[fn1] In many cases, interests here will not be aligned.

[fn2] This is confusing, and it comes up in corporate practice. When a corporate attorney is

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doing, say, an internal investigation, the attorneys are representing the corporation. The corporation's interests may differ from its employees', and the employees risk being lulled into the assumption that the attorneys are representing their best interests.

[fn3] When I was in practice, occasionally we'd put together a document laying out each state's tax law about some point or another. But we were all admitted to the New York Bar; we couldn't practice law in the other states. And we never used those documents to give clients advice—they were just for our planning purposes. If a particular state's tax law became relevant, we would refer them to someone who actually knew that state's laws.

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Comments

Sam Brunson says:

August 4, 2022 at 2:25 pm

A quick note about comments: I'm currently on vacation with my family, so I won't be monitoring comments closely. But I will take a look at them. And I'm probably the most capricious deleter of comments at the blog. Please don't make inflammatory comments. I'm not interested in burning everything down—I'm interested in making a world that is safe and secure for children (and others). And the church has the ability to help with that.

If you really want to be inflammatory, feel free to type it. But don't hit "Post Comment." Because if you do, I'll delete it with no warning or explanation. And ideally, if you see a comment that's trolly, ignore it. Because I may well delete responses to inflammatory comments too.

And what is my standard? Well, like I said, I'm capricious. So ask yourself, Is this the kind of thing that Sam might delete if he's in a bad mood? If the answer is "yes," well, there's your answer.

Waverly says:

August 4, 2022 at 2:31 pm

If you want to know who the help line is protecting, there's no reason to look any farther than this quotation from the article: "All records of calls to the help line are routinely destroyed. 'Those notes are destroyed by the end of every day,' said Roger Van Komen, the church's director of Family Services, in an affidavit included in the sealed records."

Elisa says:

August 4, 2022 at 2:32 pm

The Arizona law, which is the law that applied to this particular case, IMO clearly would permit a disclosure to police or social workers. Not mandate, but permit. And even mandating is an open question.

Totally agree that the Church should lobby for the mandate but I suspect they lobby against it. Just as they lobby for two-party consent rules for recordings.

This is an interesting question: "Does the church believe that the clergy-penitent privilege encourages confession? And, if so, does it have empirical evidence?"

First, is there evidence that it encourages confession? But I think even more importantly, is there evidence that confession leads to healing / stopping the abuse / actually getting authorities involved? I think we've figured out that you can't repent your way out of a mental disorder and that a bishop is not equipped to help a sex offender stop offending. So I am not truly sure what value confession holds.

Hope Wiltfong says:

August 4, 2022 at 2:37 pm

Thank you for your clear and dispassionate view. There must be some good that comes from this horrible situation – but we're going to have to work hard to find it.

Sam Brunson says:

August 4, 2022 at 2:38 pm

Thanks Elisa. I share your understanding of Arizona law, though I have no idea about its development. My understanding is that the place of clergy as mandated reporters has been evolving significantly over the last, say, 10 or 15 years.

And I think your addition to my questions is spot-on and a critical one to highlight.

information in abuse case - Axios

The Book of Mormon App: Download the Latest Version - Church Newsroom

Latest from Mormon Land: Church may have to up its ante to settle Boy Scout abuse cases - Salt Lake Tribune

In 2018, when the Loyola Ramblers burst into the NCAA basketball Final Four, my school burst into the national spotlight. But it wasn't just Loyola University Chicago: it was also the Ramblers' chaplain, Sister Jean. She became a fixture on TV, on the internet, and even in the National Bobblehead Hall of Fame and Museum. [...]

Alma Frances Pellett says:

August 4, 2022 at 2:38 pm

Unfortunately, right now, any movement to make clergy into mandated reporters (where they aren't already) would be decried as "government trying to dictate our religion" and a matter for "religious freedom", which isn't the get-out-of-jail-free card some seem to think it is.

Dsc says:

August 4, 2022 at 2:53 pm

Before getting too far down the "we should implement mandated reporting" road, it's important to consider whether it actually helps. It's not clear that it does: <https://ldi.upenn.edu/our-work/research-updates/preventing-child-abuse-is-more-reporting-better/>

For my part, I think it's worth mandating reporting for clergy except in cases of confidential communications. The question of whether an absolute privilege is necessary to promote confessions is different from confidentiality or an exemption from mandated reporting, and I'm unaware of any evidence about the latter, but I think it's highly unlikely that mandating reporting of crimes learned of through confidential communication wouldn't severely discourage the communication. I can't see how making confession to a religious figure tantamount to confessing to the police wouldn't cause people to refrain from confessing.

John says:

August 4, 2022 at 3:29 pm

Sam, this is very helpful in thinking through issues raised in the AP article as well as those you have presented. Thank you for that. I am wondering about the limits, if any, of Illinois's clergy-penitent privilege, while the state simultaneously deems clergy as mandated reporters in these cases. It appears that the legal status of the privilege could seriously undercut the objectives of the mandate, depending on the case. Does the mandated reporter law contain clauses that allow it to restrict the range of privileges under certain circumstances?

Kristine says:

August 4, 2022 at 3:45 pm

Real repentance includes facing the consequences of your actions, including the legal ones. Bishops arguably have a religious duty to encourage criminals to turn themselves in, regardless of what their legal duties may be. They also are supposed to be the pastors of the women and children who are being abused, which means they have a religious duty to help them get the medical and psychological help they need, which would inevitably land them in front of a mandatory reporter.

It isn't hard to imagine workarounds that would protect bishops AND victims. You just have to prioritize protecting victims.

Dave B. says:

August 4, 2022 at 3:46 pm

Bishops rather blithely think they are getting good advice and competent advice from the help line. In fact, very few people know much about the help line: who is on the other end, what directives they receive, what their training or position is, who they represent, and so forth. If there was more transparency and bishops actually knew what was going on on the other end of the line, they might trust that advice less and seek their own independent legal advice in serious cases like this one. Maybe the Church ought to set up an "independent legal advice fund" to pay for such independent legal advice to bishops who find themselves dealing with this sort of case.

Scarred Bishop says:

August 4, 2022 at 3:47 pm

As an ex-bishop, here is my belief about the answer to your questions:

Is the church's priority to protect itself, its bishops, abused children, or the abuser?

–The attorney says they are an attorney for the church. So I think it is protecting the church.

Does the Kirton McConkie advise callers to the help line that it represents the church, not them?

–Not explicitly, but the attorney does say they are an attorney for the church.

Does it advise them to retain their own counsel?

–No

Does Kirton McConkie retain local counsel in each jurisdiction to advise them about the law in that jurisdiction?

— No they get legal opinions from law firms (pricey ones!) in each state and country and then convey directions based on the content of those legal opinions to the bishops.

Does the church indemnify bishops for legal actions taken as a result of suits stemming from following the help line's advice?

–I asked this when I was a bishop and was told that the answer to that question was the church's intellectual property and was not disclosed to bishops and stake presidents. I took it as a no. What does the church do to help children who have been abused? How does it center their interests?

–The church maintains that it has no legal duties to victims, but that the actions the church attorneys take may indirectly help victims. From the MacGregor vs Walker Utah Supreme Court case: <https://law.justia.com/cases/utah/supreme-court/2014/20120452.html> : “MacGregor argues that, by establishing the Help Line, “the Church has undertaken [a] duty categorically for its child members,” including herself as a victim of abuse. The Church Defendants disagree, arguing that the Help Line exists solely to assist Church clergy. Specifically, they argue that the Help Line “renders internal Church services only and thus provides only indirect benefit to victims.” Does the church believe that the clergy-penitent privilege encourages confession? And, if so, does it have empirical evidence?
–I think so.
Whatever a state’s law says, does the church think that invoking the clergy-penitent privilege is good for it? Like really?
–Yes, they do.

Kevin Barney says:

August 4, 2022 at 3:49 pm

As I read the piece I imagined myself as a KM associate stuck in an office through the night to field these calls, and thought I might jump out a window if that were my job. I saw later that the calls go to a cell and not a physical office. But still, if I had to respond to 3:00 am calls about abuse, I would seriously look for another job.

Iron-Roddy says:

August 4, 2022 at 4:18 pm

I want to second what Scarred Bishop wrote, and share my experience:

– When I called the hotline, a person took my information (name, situation, timelines involved) almost in a triage fashion and told me I would get a call from a KM attorney “soon”...and I think it took a few hours or the next day and I did get a call back during normal business hours;
– The KM attorneys state they represent the Church (I don’t recall now, but it seemed less formal than that), but at no time did they actively encourage me to get my own counsel (but my situation didn’t rise to that level either);
– The attorney DID explain the options available, based upon my state’s law, and we talked through the situation in a manner that I found helpful. I know a few attorneys at KM, and I think highly of their efforts and legal skill;
– There was no discussion of indemnification. My personal view is that the Church would hang a bishop out to dry if push came to shove. I’m not bitter about that, but it is important to be clear-eyed on this point.

I believe most bishops would consult with their stake president on serious issues too, so the hope is that a stake president would help provide some guidance, or know enough to watch out for the extremely-difficult situations and appreciate legal ramifications that could arise.

Whenever I completed a “leadership survey” sent out to the bishops, I would lobby hard for an MTC-type training for bishops (obviously virtual for a world-wide audience) or SOMETHING more than the current situation which was basically: “Here’s the handbook and there’s the deep end of the pool. Good luck and use the Spirit!”

Elisa says:

August 4, 2022 at 4:19 pm

@Scarred Bishop,

“Does the church indemnify bishops for legal actions taken as a result of suits stemming from following the help line’s advice?

–I asked this when I was a bishop and was told that the answer to that question was the church’s intellectual property and was not disclosed to bishops and stake presidents. I took it as a no.”

That answer makes no sense – “intellectual property”???? But yeah, I assume the answer is no. The Church could choose to help out a bishop if it wanted to, but it doesn’t undertake the obligation to do so.

“Does the church believe that the clergy-penitent privilege encourages confession? And, if so, does it have empirical evidence?

–I think so.”

You think they have evidence? How would they know – like doing controlled studies in areas with and without the privilege and seeing where there are more confessions? That’s unlikely.

Again, there are TWO things w/r/t the privilege that really matter. (1) does it encourage confession; (2) does encouraging confession actually do any good such that we’d protect the privacy interests of would-be confessors over the interests of abuse victims. I feel like a lot of people in this conversation are assuming (2) and I don’t see any evidence for that. So @dsc, the question of whether mandatory reporting discourages confession is irrelevant if confession doesn’t help victims.

Lastly – and I address this over at another blog – it’s one thing to have a question over whether someone is a mandatory reporter. But that is separate from the issue of whether someone could voluntarily report. Not being a mandatory reporter is no excuse not to try to stop abuse, and the “privilege” (at least in many states, I haven’t done a 50-state survey) doesn’t FORBID clergy from disclosing. It just lets them decide not to testify if they don’t want to in civil cases.

@Kevin Barney, to make matters worse, not only are you an attorney defending abusers but you are also an attorney giving incorrect legal advice. Double-whammy!

Old Man says:

August 4, 2022 at 4:21 pm

Any guarantee or "seal" to a confession is not part of LDS practice or teaching. It seems disingenuous to me that the lawyer is not there for the confessor, the victim or the Bishop. He is there on the hotline protecting the legal interests of the church. This is not putting the abuse victims first, it is stuffing them into a horrific nightmare for years. It is a pernicious, immoral and unchristian practice.

Anna says:

August 4, 2022 at 4:40 pm

The way to protect bishops and victims, means not protecting the abuser. The church makes a choice that a repentant sinner is of more value than an innocent child. There is a way to avoid the problem of being expected to keep child abuse confidential. It is warning the potential confessor that if they reveal any child abuse, that you will report whether you are legally exempt from reporting or not. As a licensed counselor, I was allowed to keep such things confidential, just like a bishop is. But I told my clients during the first appointment that I would not keep such things confidential, because my moral responsibility to children was greater than my moral responsibility to them as my client, so if they had any such confessions, they best find a different counselor.

Unlike Catholic bishops, Mormon bishops are not *required* to keep things confidential. In fact Mormon bishops do not keep child sexual abuse confidential. They tell at least 12 other men when they hold a church court for child abuse, no make that more than that because the stake presidency also knows, so at least 18 other men. Everyone who was at the guy in the article's church court knew, and the bishop even called in the guy's wife for counseling sessions, so there was no real confidentiality anyway. I know my mother was told, and not by the bishop, but up the chain of command to the stake president. And, no my father didn't willingly confess, I forced the issue.

The real question is does the church value the souls of men more than it values the souls of innocent children? Because among incest survivors, incest is called "soul murder" because of the terrible damage it does.

But the church ignores the damage child sexual abuse does. Back in the 1960s adultery with an married adult woman had a greater penalty in church courts than incest with the man's underage child. It was because the married woman was property of her husband and the child was her father's property. So, no problem if he rapes his 12 year old kid, it's his kid. My first therapist left the church after trying to make the church see the problem and getting told to mind his own business and shut up. I have heard quotes from several General Authorities that are telling in the total lack of empathy for victims. If you doubt that, go read Scott's 1992 talk where he suggests that the victim needs to look close enough to find where they are also at fault. Yeah, I was 11 and didn't know what sex even was, but failed to fight to the death.

Those who are saying that it is better if the man at least confesses, you don't know incest offenders. They use confession as "penance" and then pretend that having confessed it is all forgiven and so they can keep on doing it. Yeah, they pretend repent so they can continue. I had two of them confess this to me when I was therapist in the offenders support group. The only way to stop them is to report it to authorities and hold the guy accountable? All the church does is enable abusers. Protecting the victim has to be the only priority.

CJ says:

August 4, 2022 at 6:35 pm

Honest question here... how does one in good conscience deal with expressing a desire for change within the church? A letter to SLC will result in a reply to one's stake president to counsel with the member. That doesn't affect change at HQ. If one abstains from sustaining the First Presidency during a general vote in ward, stake or general conference attention will be called to oneself and may result in a damaged reputation with local leadership and possible withdrawal of a temple recommend. There seems to be a firewall that insulates general authorities from opinions downstream. I'm seriously wondering how to affect change or at least a dialogue about the issue. I'm thinking that there is no effective means to express opinions about this issue of ecclesiastical and legal authorities not choosing the right and letting consequences follow.

Janky says:

August 4, 2022 at 8:59 pm

CJ, it seems like the only tool we have is to bring it to the public stage and getting voices within the media to talk about it, *but* anonymously, otherwise doing so will get you ex'd or disciplined in some way as has happened to a lot of people.

Drawing national attention and the resulting external pressure appear to be necessary ingredients, the end of the priesthood ban for black members came only after years of external pressure and the Church being a target in public discourse. However, those who wanted to change the policy on the inside (Kimball) had to wait till enough of the old guard was dead and buried to actually do it.

And if that's any precedent to go by, we're not going to see this change until an unknown number of funerals have occurred. That is, funerals of apostles, funerals for victims of abuse don't seem to have any effect on them.

Anna says:

August 5, 2022 at 12:44 am

Oh, just to clarify the church's stand on this in the past, when the question of penitent privilege has come up in state legislatures, the church has always fought against any mandatory reporting by bishops in those states where it has any hope of having any clout. So, I don't think it would switch to advocating for it. The church obviously thinks it encourages confession and that confession helps in the repentance process.

Having worked with abusers at the end stages of their mandatory state ordered counseling, (after counseling in prison) they all said that it was getting turned in that helped them end the abuse, that nothing else had helped. And this was in Utah, so the vast majority were LDS.

Travis says:

August 5, 2022 at 4:34 am

@Anna: I don't think Scott's 1992 talk shows a "total lack of empathy" by any fair assessment, although I agree that church leaders often overestimate their ability to understand the situations of people who've been through things they haven't. Here's the portion of the talk I think you were referring to, in which he says victims usually don't share any blame and may have absolutely none:

"Most often, the victim is innocent because of being disabled by fear or the power or authority of the offender. At some point in time, however, the Lord may prompt a victim to recognize a degree of responsibility for abuse. Your priesthood leader will help assess your responsibility so that, if needed, it can be addressed. Otherwise the seeds of guilt will remain and sprout into bitter fruit. Yet no matter what degree of responsibility, from absolutely none to increasing consent, the healing power of the atonement of Jesus Christ can provide a complete cure."

Gary says:

August 5, 2022 at 5:45 am

The Church MUST do better than just follow the law of a state. If a child is being abused then it MUST be reported. No ifs no buts. Children are special to the Lord so we should treat them that way. I hope MJ wins her suit and I do not blame MJ for her opinion of my Church. It is sickening. I hope national news picks it up to help change this woeful policy. I am an active member and I am ashamed at the Church's response.

Kristine says:

August 5, 2022 at 6:04 am

Travis—the "usually" is the problem there. The fact that he thinks victims ever bear responsibility shows that he doesn't understand what abuse is.

Christel says:

August 5, 2022 at 6:43 am

A bishop reporting abuse to authorities is not the same as a bishop testifying in court. I would be interested to know if clergy in states like Illinois which have both the privilege and mandatory reporting, would a reporting bishop be compelled to testify against the person who had confessed to him. I think not.

The church does not need to parse mandatory reporting laws. Of its own accord, the church can decide to adopt mandatory reporting of suspected child abuse church-wide. Confession is not a sacrament/ordinance in our theology as it is for Catholics. Would some be dissuaded from confessing if this were the church's stated policy? Yes. Would it clarify that members in positions of authority must put children's welfare first. Yes. The nature of child abuse, that is the level of harm to the child and the likelihood of the abuser continuing the abuse until stopped by authorities, justifies the assumption of continuing imminent harm and therefore reporting. The church can make this policy change now.

Christel says:

August 5, 2022 at 6:45 am

"Of its own accord." That's what I get for commenting from my phone.

Anita Andreassen Davis says:

August 5, 2022 at 7:36 am

I'm inclined to think that either the bishop is outright lying (passing the buck) about the advice the help line gave him, or that he misinterpreted the advice, taking it from "you don't have to report" to " you have to not report". Big difference.

Bishops, I think, need to be prepared to follow the teachings of Jesus first and foremost, and be prepared to hire their own lawyer for counsel AND be prepared to resign as bishop rather than leave any child in a situation where they are likely to be harmed.

Come on! Just report. Just make it stop. What kind of heartless human being would take such a cowardly approach: look away.

There is no excuse good enough.

Kristine says:

August 5, 2022 at 7:54 am

Anita—sadly, I think that it is very unlikely the bishop ignored advice. The hotline is set up to advise bishops about their legal obligations. In most states, they are not legally obligated to report, and a lawyer cannot tell them otherwise. As long as the Church's only available assistance in these cases is legal advice, the situation will not improve.

jader3rd says:

August 5, 2022 at 8:20 am

Is the church taking its current position because churches or ministers have been sued in the past for reporting abuses?

Kristine says:

August 5, 2022 at 9:33 am

jader3rd,

Probably. And so what? We have the means to defend such suits, and in most states, such lawsuits would be dismissed. A nuisance, for sure, but not one the Church can't deal with. Bishops get sued for all kinds of things; we deal with it.

Elisa says:

August 5, 2022 at 9:47 am

What @Kristine said.

There is risk either way – risk getting sued for violating confidentiality / defamation, or risk getting sued for violating mandatory reporting laws / letting abuse continue. Their risk management team isn't doing a very good job of advising on ALL of the potential risks, or they just aren't listening, or for some reason they just really wanna defend the men.

We have money to defend these suits. So which risk are you going to subject yourself to? Well, I'd say the risk that puts children first ...

DJ says:

August 5, 2022 at 9:50 am

Our child was molested and other cases came to light in our ward of abuse by a youth leader in a separate case (ca 1989). I found at that time there was a lot of resistance from the bishop in reporting the abuse and moving forward with court proceedings. I told my bishop that child abuse is not only a sin — it is a crime. Bringing the weight of the law into the picture ensures a greater degree of accountability and safety that the church alone cannot provide.

There is an interesting passage after the oft-quoted verse in Doctrine & Covenants 64: 10 I, the Lord, will forgive whom I will forgive, but of you it is required to forgive all men.

11 And ye ought to say in your hearts—let God judge between me and thee, and reward thee according to thy deeds.

12 And him that repenteth not of his sins, and confesseth them not, ye shall bring before the church, and do with him as the scripture saith unto you, either by commandment or by revelation.

13 And this ye shall do that God may be glorified—not because ye forgive not, having not compassion, but that ye may be justified in the eyes of the law, that ye may not offend him who is your lawgiver—

14 Verily I say, for this cause ye shall do these things.

While this passage is spoken in an ecclesiastical sense, I believe it applies in a broader sense.

When I heard a help line had been created for local leaders a few years after the cases in our ward, I had hope that Bishops and Stake Presidents would have more support for addressing these issues. Now I'm so sorry to hear it was not what I imagined. Let's do the right things.

567 (@d5937692356) says:

August 5, 2022 at 12:25 pm

Growing up in the Church in the 90s, we had to watch the "Justice and Mercy" video what seemed like every year. Kids would always be crying being scared of the Justice part if they ever did anything wrong. Turns out there were many child abusers in our stake that leaders just kind of knew about but nothing done about.

Angela C says:

August 5, 2022 at 3:35 pm

Travis: Just to add to Kristine's clarification about why E. Scott clearly didn't understand how abuse works, abusers literally tell their victims that they were to blame, constantly. They tell them this over and over and over until the victims can't tell truth from fiction anymore. They gaslight them, blame them, and heap shame on them. "Look what you made me do!" "You make me so mad." "If only you were a better mother/daughter, I wouldn't have to do this." "You just can't finish anything." "You're worthless." "I wish you were never born." "You're a failure." "Oh,

what are you going to do? Cry? That's just like you." And on and on.

Victims have been verbally beaten down with these messages and are adept at internalizing unearned guilt. For E.Scott to heap on top of that by telling them that in order to benefit from the atonement, they have to search their souls to determine if they are partly responsible is reckless. It's absolutely disastrous advice. It's feeding into the abuser's manipulative narrative that allows the abuse to continue.

P says:

August 5, 2022 at 6:31 pm

Sam – your thoughts: I agree that to protect children, bishops should report despite possible impact on voluntary confessions. Beyond that, should a spouse aware of abuse be required to report? Should an attorney whose client has confided abuse be required to report?

Travis says:

August 6, 2022 at 1:20 am

@Kristine and @Angela C: I agree it's bad advice for those reasons. I'm saying it's going to far to accuse him of a "total lack of empathy." There's quite a lot of empathy in his full comments, but that gap in his understanding of victims' experiences lead to something bad advice.

Travis says:

August 6, 2022 at 1:20 am

@Kristine and @Angela C: I agree it's bad advice for those reasons. I'm saying it's going to far to accuse him of a "total lack of empathy." There's quite a lot of empathy in his full comments, but that gap in his understanding of victims' experiences lead to something bad advice.

Quentin says:

August 6, 2022 at 7:06 am

I agree it's in the church's interest to support mandatory reporting laws. I have a question for the legal experts here: is it possible to have a federal law making clergy mandatory reporters? In other words, has this matter been historically governed by states simply due to absence of a federal law governing it, or because commonly held understandings of the US constitution dictate that this area of law belong to the states? This just seems like one of those problems that is easier to solve once rather than 50 times.

Quentin says:

August 6, 2022 at 7:56 am

I went looking to see if the hotline had ever been mentioned in general conference. It turns out President Hinckley mentions it in his October 2003 priesthood session talk: <https://www.churchofjesuschrist.org/study/general-conference/2003/10/the-shepherds-of-israel?lang=eng>

I think the talk is quite telling if we want to understand the church's perspective on the purpose of the hotline, specifically the following paragraphs:

"You must be their confessor, privy to their deepest secrets, holding absolutely inviolate the confidences placed in you. Yours is a privileged communication that must be guarded and respected against all intruders. There may be temptations to tell. You cannot succumb.

Unless specifically mandated by legal requirement in cases of abuse, what is told to you in confidence must remain with you. The Church maintains a hotline which you should call concerning cases of abuse which may come to you."

So, it seems to me that President Hinckley deeply believed in the idea that bishops must keep confidences at all costs unless the law says otherwise, and he saw the hotline as legal advice for when the law requires that and nothing more. The strange thing to me about taking such an absolutist position on confidentiality is that Mormonism really doesn't have a well-defined concept of the role of confession in the way that Catholicism does. I think the common understanding is that small sins are confessed to God and big ones to the bishop, but without a good definition of what qualifies as "big". As far as I can tell, bishops should keep confidences in most situations because it's the best way to do their job, not because there's some Mormon theological or doctrinal reason motivating it. Allowing for rare exceptions shouldn't be a big deal. I don't know that those exceptions can or should be spelled out in a handbook. Maybe they should be taken to a "hotline", but why can't we have a hotline that's more than just legal advice?

Elisa says:

August 6, 2022 at 11:08 am

@quentin, with respect to this: " So, it seems to me that President Hinckley deeply believed in the idea that bishops must keep confidences at all costs unless the law says otherwise, and he saw the hotline as legal advice for when the law requires that and nothing more."

That's true. But the issue is that IMO the advice given in this case was incorrect.

While it would have been justifiable for the attorney to tell the bishop he was not *required* to report, the attorney told the bishop he was not *allowed* to report. That's malpractice at best

and a lie at worst.

E says:

August 6, 2022 at 2:29 pm

Quentin that's very interesting. The strange thing to me is that it is common practice for Bishops to disclose what people have told them confidentially to other church leaders. In the case that is now being reported by the AP, it was probably disclosed to about two dozen other church leaders over a period of years (I'm considering stake presidencies, high council members, bishop #2 replacing bishop #1). At minimum 18 men but with turnover it would have been more. As a RS President I was told confidential things at times by the bishop of my ward.

melodynew says:

August 9, 2022 at 9:35 pm

"the church should use its lobbying power to push for making clergy mandated reporters in every state." This is the only acceptable course of action to demonstrate a commitment to the safety and welfare of children. In my mind it's the only acceptable response to this most-recently-brought-to-light travesty. I'm a survivor of childhood sexual abuse. None of this is complicated or nuanced for me.

Paige Lunny says:

August 13, 2022 at 10:37 pm

The troubling LDS reporting policies have negatively affected my own extended family. I want to do every I can to stop this from happening to other LDS victims.

I recently started a change.org petition to eliminate clergy-privilege in cases of child abuse. The recent AP News article about the LDS church's reporting failures is heartbreaking and infuriating.

In Arizona and 23 other states, clergy are granted privilege and are NOT required to report known or suspected child abuse. In these states, information obtained by clergy during a "confession" becomes privileged communication, which exempts clergy from being required to report known or suspected abuse.

This reporting loophole must end now! The petition contains links and information for contacting your governor and state and local representatives. Please read, sign, and share! Thank you for your time.

https://www.change.org/end_clergy_privilege_protect_children

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