

The Media and Schools in Abuse Cover-up

by Francis X. Maier

Across the country, states are considering "reforms" to their civil statutes of limitations regarding the sexual abuse of minors. These "reforms" almost always involve forcing a window of retroactive liability onto private — but not public — institutions. This allows sex abuse victims from the past to bring forward expired civil claims. Criminal statutes of limitations cannot be extended retroactively. It's unconstitutional. But some lower courts have ruled that civil statutes of limitations can be extended into the past.

The issue is still being contested. In many ways, the future of the Catholic community in the United States rides on the outcome. Supporters of retroactive liability market this as "justice." But it actually amounts to an excuse for massive, crippling lawsuits and settlements, what one Colorado mother called "legalized looting." And the main target — whether explicit or implied — is always the same: the Catholic Church and Catholic families who had nothing to do with evil events in the past. Supporters of retroactive liability have argued that disproportionately tough treatment of Catholic institutions is justified because Catholic institutions are charged with callously "passing the trash" and covering up sexual abusers. Public institutions — allegedly — have no such record. At least in Colorado, the facts show otherwise.

Most of Colorado's Catholic children attend public schools. Many public-school teachers are active in their Catholic parishes. In fact, the vast majority of public-school teachers and administrators, like the vast majority of clergy, police and doctors, live their lives with integrity and serve with distinction. It's also true, however, that the national press has seriously under-reported public educator sexual misconduct. The press routinely and graphically reports incidents of sexual abuse involving Catholic clergy from 20, 30 and 40 years ago. But reporters rarely — if ever — search for patterns of similar sexually abusive behavior in public institutions during the same past decades. An exception was the *Pittsburgh Post-Gazette's* extensive series in the fall of 1999, "Dirty Secrets," on regional and national public-school educator sexual misconduct.

Last year, Archdiocese of Denver staffers invited a leading Colorado news-paper — the *Denver Post* — to research national patterns of sexual misconduct among public educators and other groups, and then compare them with similar patterns in the Catholic clergy. The Post ignored the story for six months. The archdiocese finally released the information itself as part of current Colorado General Assembly hearings. California is the poster child for this biased kind of coverage of the sex abuse facts. A quick overview of press reports on child sexual abuse in major California newspapers, sorted by offending institution, is revealing. For the first six months of 2002, California newspapers carried 1,783 reports of sexual abuse involving Catholic entities, but only four regarding public schools — even though Hofstra University's Charol Shakeshaft, the leading national expert on educator sexual misconduct, testified that there are more victims of educator misconduct in California public schools than the entire enrollment of students in California Catholic schools.

The situation in Colorado is just as lopsided. Earlier this year, the Archdiocese of Denver secured a selection of Colorado teacher files from the statewide teacher-licensing authority under Colorado's Open Records Act. Note that, in the view of Shakeshaft, this sampling of Colorado data is almost certainly much lower than the real statistics. When specific public-school districts and county health – departments were asked for sexual misconduct data, every one of them — without exception — refused to provide any information.

One county's Department of Human Services offered to provide the relevant information if the Colorado Catholic Conference first paid a \$250,000 research fee. In reporting on the files received by the Archdiocese of Denver, I've edited out the offending teachers' names and used numbers instead. I've also deleted the victims' names. Nonetheless, even these partial records show that 85 Colorado teachers lost their teaching licenses for sexual misconduct over the eight-year period from 1997 through 2005. Nearly all of them taught in public schools. If this pattern persisted over the same 50-year period of the current lawsuits facing Colorado dioceses, more than 350 offending Colorado teachers would be a reasonable projection.

Many of the license revocations only occurred after a criminal conviction. Equally troubling, many of the stipulated settlements in these cases only require the former teacher to promise never again to seek employment in a public school, thereby making it permissible for the perpetrator to seek future work with private or religious schools or in other settings with children without violating the settlement. These files dispel any notion that sexual misconduct and abuse with minors are uniquely — or even predominantly — a "Catholic Church" problem.

Teacher No. 1 was hired by a Colorado public school district in August 2001 — four years after a court order restrained this person from practicing psychotherapy because he had repeatedly engaged in sexual relations with his former client. Teacher No. 1 was eventually charged in July 2002 with seven counts of sexual assault on a child, 10 counts of sexual assault by a person in a position of trust, and 5 counts of aggravated incest. Even so, he kept his teacher's license for 14 more months.

Teacher No. 6 sexually abused a 9-year-old girl and pleaded nolo contendere to kidnapping in 1979. Despite this, his state teacher's certificate was granted in 1980, and then renewed in 1985, 1989, 1990 and 1995. He did not lose his license until October 1997.

Teacher No. 11 was convicted of felony sexual conduct in 1991 and sentenced to eight months in jail and three months on probation before he was hired by a Colorado public school district.

Teacher No. 24 had sexual relations three times with an 18-year-old male student and provided alcohol to students watching athletic games at the teacher's home. Instead of firing this teacher and thereby compromising her ability to acquire replacement employment, a Colorado charter school allowed the teacher to resign effective March 23, 2001, and then placed her on paid administrative leave through May 3, 2001.

Teacher No. 26 was arrested for stalking a jogger but thereafter was hired by a Colorado public school district: Later he pleaded guilty to two counts of enticement of a child — including exposing himself to an 11-year-old after pretending he was going to take her to church. And it still took 18 months before the state revoked his license.

Teacher No. 27— after sexually assaulting a child and pleading guilty to third-degree assault — had his teacher's license restricted for merely four years. Similar stories inform many of the remaining 79 summaries.

What's the moral of this tale? Civil statutes of limitations exist for very good reasons. Memories fade, witnesses and perpetrators die, evidence disappears or grows stale. Retroactive liability — which amounts to changing the rules and penalties after the fact — is an especially punitive idea. The problem of public-school educator sexual misconduct and abuse with minors is at least as prevalent as — and arguably much worse than — sexual abuse in the Catholic Church. But public institutions in most states — including public schools — enjoy special legal protections like strict damage caps and government immunity. So guess at whom these so-called "sex-abuse statute of limitations reforms" are really aimed? Catholic families around the country should check their wallets. Plaintiffs' attorneys already have them targeted.

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