

Abuse Victims Demand More Than a Check From the Church

*By Alan Cooperman - Washington Post Staff Writer
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In life, Neal and Jean Evans were very close to their parish priest. In death, less than 20 feet of gently sloping grass separated their graves from his in the Roman Catholic section of Forest Lawn cemetery, just outside of Asheville, N.C.

The Evanses never realized that the priest, William J. Kuder, had serially molested three of their sons beginning when each turned 9. But the sons certainly knew; they found the sight of his tombstone so painful that for years they avoided visiting the cemetery altogether.

On Feb. 6, as part of a legal settlement with the Evans brothers, the Catholic Diocese of Raleigh unearthed the priest's remains and moved them to another cemetery five miles away.

"It was like desecrating my parents to have him there," said Jim Evans, 61, a general contractor in Greensboro, N.C. "Because they never knew in life. But you know that in the hereafter, they knew."

Across the country, victims of sexual abuse by priests are becoming more assertive in demanding compensation other than money. Church officials, reeling from an estimated \$1.5 billion in settlements and other costs related to the sex abuse scandal, are often willing to oblige.

"The most valuable benefit from these lawsuits for the victims is that the world validates that it happened, and it wasn't their fault," said Marci A. Hamilton, a professor at Cardozo School of Law in New York who has advised victims. "That's usually more important to them than money, and they're becoming more innovative about getting it."

In January, Bishop William S. Skylstad of Spokane, Wash., reached a settlement with more than 100 victims that calls for payments of at least \$48 million. But their attorney, Tim Kosnoff, said the victims had insisted that the first order of business was a list of nonfinancial items.

"We said: 'We're not going to negotiate any number with you, ever, unless you agree to these non-monetary demands. And we wrote them in such a way that they were quite unusual, revolutionary, drastic by Catholic Church standards,'" Kosnoff said.

Among the conditions agreed to by Skylstad is that each of the Spokane victims will be given a chance to speak publicly in the parish where he or she was abused. If they prefer, victims can publish the stories of their abuse in the diocesan newspaper.

Skylstad, who is president of the U.S. Conference of Catholic Bishops, also will send a letter of apology to each victim and "will publicly support a complete elimination of all criminal statutes of limitation for child sexual abuse," according to the settlement, which is under review by a bankruptcy court because the diocese has filed for Chapter 11 protection.

One of the Spokane victims, Mark Mains, 44, said he is eager to speak in his old parish, particularly because of a recent experience addressing a gathering of Spokane Catholics.

After Skylstad made some nostalgic remarks about a retreat center that the diocese may sell to pay claims, Mains told the group that he, too, has strong memories of the place.

"I said I remember being on a confirmation retreat there, and the night of that retreat Father Patrick O'Donnell crawled into my sleeping bag and raped me," Mains said. "You could practically hear their jaws drop."

"One of the most powerful experiences I've had," he continued, "was to stand up in front of those people who . . . felt we were trying to take their churches and property away. It was amazing to me how their anger dissipated when we told them what happened to us."

Victims' attorneys say one of the most common demands is a personal apology, usually from a bishop. Before the Archdiocese of Washington settled with 16 victims in December, it promised each of them a private meeting with either Cardinal Theodore E. McCarrick or his successor, Archbishop Donald W. Wuerl.

In Davenport, Iowa, victims got an apology from Bishop William E. Franklin and a monument in front of the diocese's headquarters. It consists of an old-fashioned stone for milling flour, along with a quotation from Jesus: ". . . if anyone causes one of these little ones who trust in me to lose faith, it would be better for that person to be thrown into the sea with a large millstone tied around the neck."

Lawyer Craig A. Levien, who negotiated on behalf of 37 Davenport victims, said the diocese readily agreed to the monument but "flatly said no" to victims' demands for its files on abusers. Other lawyers said they have met similar resistance around the country.

Mark Chopko, general counsel for the bishops conference, said that dioceses "have to protect employees' privacy, just like any other employer." But he said non-monetary compensation has become routine since 2001, when two California dioceses agreed to set up a toll-free hotline as part of a \$5.2 million settlement with Ryan DiMaria, who had been abused by his school principal.

"It's a human response to a human problem," Chopko said.

In North Carolina, the Evans brothers did not know what to expect when they broached the idea of exhuming a priest.

But the Diocese of Raleigh, which also agreed to pay the three brothers \$250,000 each, took their request seriously. "It was felt that if this was part of what was needed for the brothers to be healed, then it would be carried forth," said spokesman Frank Morock.

The main stumbling block, Morock added, was that Kuder died so long ago -- 1960 -- that it took months to track down his next of kin and obtain permission for the move.

W. Neal Evans, 64, the oldest of the brothers, said Kuder was a frequent visitor in their home in the 1950s. Their father was chairman of the parish council at Kuder's church, St. Joan of Arc, and was pleased when the priest took an interest in the boys, he recalled.

Although the abuse was "horrific" and continued from the time each boy was 9 until 13, Neal Evans said, Kuder used the confessional to keep it secret. Twisting Catholic doctrine, which provides that priests may not reveal what is said in a confession, the priest told the boys that anything they confessed, they had to keep secret.

"Kuder was a master," Evans said. "He would rape us, and then he would hurry us off to another priest to confess. . . . What I think about now is, how come none of those other guys ever said, 'Tell your parents!' "

Last weekend, Neal, Jim and Bob Evans, accompanied by their wives, visited the graves of their mother, who died in 1976, and father, who died in 1988, for the first time in many years.

They put their arms around one another, but they did not cry.

"It was a joyous occasion," Neal said.

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San Diego Bishop Robert Brom Uses the Threat of Bankruptcy to Push for a Settlement in Consolidated Clergy Child Abuse Cases:

How the Diocese Is Wrongly Trying to Triangulate A Simple Issue of Accountability

[By MARCI HAMILTON](#)

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On Sunday, February 18, Roman Catholic Bishop Robert Brom distributed leaflets to the San Diego faithful in the pews. In the leaflets, he tried to make the case that the San Diego Diocese could be forced into Chapter 11 bankruptcy because of the 143 consolidated clergy abuse cases against the diocese for the hierarchy's role in the cover up of child abuse. . The leaflets tried to cloud the simple issue that the plaintiffs' suits really raise -- whether the Diocese and its hierarchy will take responsibility for their wrongs to children.

If the bankruptcy were filed, this would be the fifth U.S. diocese to declare bankruptcy. However, in the other four jurisdictions - Tucson, AZ; Portland, OR; Spokane, WA; and Davenport, IA-- the declaration of intent to file came on the eve of trial. Here, however, the

declaration has come over a week before the trials are scheduled to begin, on February 28. It is thus geared toward setting the tone and context of ongoing pre-trial settlement discussions (which Bishop Brom specifically mentions)- pressuring plaintiffs to settle lower in order to avoid the inevitable delays of a bankruptcy filing.

The Triangulation Strategy - and Why It's Deceptive

Here is how Bishop Brom summarized the problem:

"We are painfully aware that the victims of abuse have suffered, and we want to treat all of them fairly and equitably. At the same time, good stewardship demands that settlements not cripple the ability of the Church to accomplish its mission and ministries. Consequently, we must consider how best to fairly compensate the victims while at the same time not jeopardizing our overall mission. If this cannot be done through settlement negotiations, the diocese may be forced to file a Chapter 11 reorganization in bankruptcy court."

Once again the Catholic Church's hierarchy is trying to triangulate the problem. Note the Bishop's use of language: the victims "have suffered," but there is no admission of the hierarchy's role in causing their suffering. And the Church's responsibility, as Brom styles it, is "to treat [the victims] fairly and equitably" and "to fairly compensate the victims" - not to accept accountability for its own role. Brom thus describes the abuse victims as if they were someone else's victims who had somehow landed on the Diocese's doorstep, and now must be cared for out of the simple generosity of the diocese.

Brom should have taken full public responsibility for the hierarchy's active role in the creation of more child sex abuse victims. The key to understanding this, and the other pending cases in California and elsewhere, is that they are aimed at the hierarchy's illegal, immoral, and soulless cover up of the abuse and the harm that flows from the secrecy, not the abuse per se.

More insidiously, Brom pits the victims against the parishioners, as if they were somehow adversaries. Of course, this is far from true: The victims were children of past parishioners. And if they had not been brave enough to come forward, then current parishioners' children would continue to be at the same risk as they were. These are two groups joined in a commonality of interest, not two groups at loggerheads.

This triangulation strategy is particularly unpersuasive in the San Diego context. Remember this is San Diego, home to some of the most expensive real estate in the country, and the non-religious property holdings of the Diocese are extensive and valuable beyond most person's imaginations. If they were sold off to serve a fair settlement, it is simply not accurate to say, as Bishop Brom does, that the result would be to "cripple" the Diocese's "mission and ministries." Nor would parishes or schools be affected. Indeed, it is hard to believe anyone in the diocese would even notice the sale of a few of the "unusually diverse real estate holdings, including commercial projects, apartment buildings, condominium complexes and undeveloped land" mentioned in the *San Diego Union-Tribune's* [scathing editorial of Feb. 20](#).

Would This Bankruptcy Filing Be In Good Faith, As Is Legally Required?

Would such a filing be in good faith, as required under bankruptcy law? There is good reason to think not.

In a [previous column](#), I discussed the Portland Archdiocese's bankruptcy filing, and suggested that a bankruptcy filing that is meant solely to avoid tort liability, is not a proper use of the federal bankruptcy code. That is a perfect description here.

In San Diego, the Diocese does not need reorganization, so much as it wants reduced financial responsibility for the harm it participated in causing. It is transparent that the threat of bankruptcy is intended to force the settlement to move closer to the diocese's demands. This, then, is asset protection, pure and simple.

A bankruptcy threat has force - for several reasons. First, federal bankruptcy immediately stops the clock through the operation of the "automatic stay" of pending litigation. Thus, bankruptcy stalls any forward movement for victims who have already been suffering for years.

Second, no federal bankruptcy moves quickly; such a filing would guarantee more years for these plaintiffs in litigation. Many victims are fragile, and the threat of prolonging the litigation, which already has a four-year history, can be excruciating. These victims do not relish the public attention, though they take on the psychological burden in order to see justice done in some fashion.

For this reason, a bankruptcy filing by the Diocese not only should fail the legal "good faith" standard, but would also be morally reprehensible.

Why Parishioners Familiar with Bankruptcy Law Won't Buy Brom's Argument

Parishioners need to understand, too, that a Chapter 11 federal bankruptcy filing can be very expensive. It will require the diocese to add top-flight bankruptcy attorneys to its already large stable of attorneys, and to pay the attorneys fees of the creditors' lawyers as well (the plaintiffs would be "creditors" under a federal bankruptcy). The cost is going to "reorganize" the already financially healthy diocese.

Moreover, all a bankruptcy filing does is delay the inevitable. If Brom's argument to parishioners is that he has to file for bankruptcy to save money, parishioners need to know that whether he files for bankruptcy or not, he will eventually have to settle with the victims the hierarchy created.

In short, Brom can settle now and move on, or settle in the future and pay the steep cost of a federal bankruptcy. The San Diego diocese's vast holdings make it possible for Brom to choose either option and still come out at the end of the process in a strong financial position, which makes it clear that a bankruptcy is hardly justified here.

The Real Issue: Keeping the Truth from Inhabiting the Public Square

The leaflets' talk of finances, though, is really just a smokescreen, intended to divert the discussion away from what is most important for the public, the victims, and the parishioners -- the truth.

As noted above, the first trial is scheduled to start on Feb. 28. As a defendant, Brom, in all likelihood, would be called to the stand. In the courtroom, he -- like any other witness - would be forbidden from lying, and subject to cross-examination. When that happens, the hierarchy's closely held secrets and machinations will be revealed in the public square.

If the trials go forward, the actions that created the conditions for serial child abuse will become palpable and real, in all their ugly detail, for all to see. It is one thing to read of the stories in the newspaper, or to hear about them second-hand. It is another to hear them from the mouths of those who were in power and created the conditions for child predators to prey on children. The message will extend well beyond those leafleted last Sunday to the local and national community. Doubtless, the fear of that public spectacle is what moves the hierarchy to grab for any available delay, no matter the financial cost, the further toll taken on victims, or the moral bankruptcy of grasping for cover rather than genuine remorse.

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