

WHY VICTIMS OF CHILDHOOD SEXUAL ABUSE NEED A WINDOW TO JUSTICE

By Katie M. Shipp

In the wake of the recent grand jury report, Pennsylvania residents are confronted with the Attorney General's disturbing finding that 300 priests abused over 1,000 children throughout the Commonwealth. People have justifiably reacted with shock, disbelief, and disgust. As an attorney who exclusively represents victims and survivors of sexual abuse, the recent revelations are sadly all too familiar. Neither the sexual abuse of children nor the coverup is unique to the Catholic Church. The willful ignorance of child sexual abuse by those in positions of power is evident over and over again: at Penn State University and most recently by Rockefeller University, U.S.A. gymnastics, and the Boy Scouts. Unfortunately, without a substantial change in the law and culture, including statute of limitations reform with a civil look back window, it is a tragic reality that is unlikely to disappear any time soon.

The Catholic Church has spent millions of dollars over decades covering up and minimizing the abuse of children by priests and others affiliated with the Church. Instead of taking steps to protect children from known sexual predators, the Church hierarchy shuffled around pedophile priests, hid documentation in secret archives, and quieted victims. When the Pennsylvania grand jury report was released, an outpouring of survivors finally found the courage to come forward. The Attorney General received thousands of calls in the weeks following the report's widespread

public release. Many of these callers were abused decades ago and are just now revealing this abuse for the first time. Research has confirmed that, on average, victims of childhood sexual abuse do not report what happened to them until age 52 and one third of victims never report. See *Statistics on Statutes of Limitations (SOL) for Child Sex Abuse*, Child USA (last visited December 13, 2018), <https://www.childusa.org/sol/>. Survivors struggle with fear, embarrassment, and shame. When the abuse occurs in institutions like the Catholic Church, survivors risk being ostracized from their communities and families.

Unfortunately, many survivors have only now discovered that their access to the courthouse is barred. The current Pennsylvania civil statute of limitations is age 30 and the criminal statute of limitations is age 50. 42 Pa.C.S.A. § 5552 and § 5533. These laws protect predators and the institutions which enable their abuse. In fact, the Catholic Church has spent millions of dollars lobbying state legislators to ensure that the Pennsylvania statute of limitations and similar laws in other states remain limited.

Survivors and their supporters have attempted to pass statute of limitations reform in Pennsylvania for years. Pennsylvania Senate Bill 261 is currently under consideration and would eliminate the criminal statute of limitations completely, raise the civil statute of limitations to age 50, and provide a two year look back window to allow lapsed claims to be filed. Each of these reforms are critical to achieving justice for survivors.

Extending the civil statute of limitations will help ensure child safety

by putting institutions and individuals on notice that they cannot simply duck and cover until the statute of limitations has run. Instead, they need to take proactive and ongoing steps to make sure children participating in their programs are supervised and that potential offenders are effectively screened and monitored. An extension of the current statute of limitations is not enough. In order for the statute of limitations reform to truly serve survivors, it must include access to justice for lapsed claims. A window will allow victims and survivors who only now are capable of confronting their past abuse to gain access to justice and a small measure of compensation for the crimes and suffering they have endured, many for decades. Access to the courts is essential to giving victims a voice. Civil litigation not only benefits victims and survivors, it also results in the disclosure of currently hidden child predators and the policies and practices which allowed childhood sexual abuse to continue for decades. Survivors deserve the right to be heard and the public deserves the right to know what transpired in the institutions which perpetrated and permitted childhood sexual abuse for decades.

While the Catholic Church is currently at the forefront of this scandal, it is not alone. Statute of limitations reform will allow all victims of childhood sexual abuse to pursue justice. In fact, in Michigan the statute of limitations was recently extended to allow those athletes abused by Dr. Larry Nassar to seek compensation.

Continued on page 8

WHY VICTIMS OF CHILDHOOD SEXUAL ABUSE NEED A WINDOW TO JUSTICE

Continued from page 7

Reform is essential to ensuring that no child sex offender can escape criminal and civil penalties based on an arbitrary statute of limitations. Reforming these laws will put institutions on high alert that they can no longer conceal the pedophiles in their ranks without serious financial and criminal consequences.

Those opposed to reform in Pennsylvania continue to argue that reviving currently lapsed causes of action is somehow unconstitutional. As legal experts have repeatedly proven, a statute of limitations window to justice does not violate due process in Pennsylvania or federal constitutional principles. *See* Marci Hamilton, *Testimony of Prof. Marci Hamilton*, Pennsylvania Senate Judiciary Committee (June 13, 2016), available at <http://pasenategop.com/judiciary/wp-content/uploads/2016/06/hamilton.pdf>. In fact, the same retroactive window legislation currently pending in Pennsylvania has been upheld in the highest courts in states throughout the country.

The Pennsylvania Attorney General's grand jury report has brought the issue of childhood sexual abuse into sharp focus. Only by reforming the law and providing a crucial window to justice can future generations of children be protected, and past generations of victims restored. Child sexual abuse costs everyone. Statute of limitations reform will protect everyone. ■

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