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# What Went Wrong at Ohel Children's Home – and What Can Be Done About Its Failure to Protect Jewish Children from Abuse?

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## 1. Introduction

The cover-up of sex crimes at the expense of child victims has become an all-too-familiar story in many religious communities. The protection of priests accused of child molestation by the Catholic Church hierarchy is now a matter of record; more recent publicity has identified Orthodox Jewish communities as another locus of such misconduct (Dorff, 2009).

Central to such cover-ups is an institution powerful enough to suppress the evidence of abuse and motivated to do it. This chapter presents an analysis – for the first time – of the role in the suppression of child abuse scandals played by the American Orthodox Jewish community's most prominent child welfare agency. The agency, Ohel Children's Home and Family Services (hereafter, "Ohel"), is a large state-licensed agency located in a heavily Orthodox wedge of Brooklyn, New York, and performs foster care, adoption and counseling services. The Ohel agency first opened its doors in 1969. Rapidly, it grew into what the *Village Voice* in 1994 dubbed a "bulwark" of the Orthodox community (Barrett & Bowles, 1994), with a budget of over \$4 million, and political ties that have brought U.S. Senators, Congressmen, state legislators and New York City mayors to its annual fundraising dinners.

Given the nature of its services – foster care was always one of its priorities – the agency dealt early with problems of child abuse. In early 1997, the agency doubled its investment in the issue by opening a program for child sex offenders. That program was shuttered after about five years (Winston, 2009b), but the agency continues to highlight its role in working with child victims of abuse. In April 2009, Ohel and the Brooklyn District Attorney, Charles J. Hynes, jointly announced the formation of a special program called "Kol Tzedek," the ostensible purpose of which was to encourage the highly insular Orthodox Jewish community in Brooklyn to recognize the seriousness of child sex abuse, and to confront the problem honestly – with steps including reporting all such abuse to appropriate city or state authorities (Winston, 2009a).

Lamentably, the agency's actual record belies these stated intentions. In February 2011, Ohel was skewered in an exposé reported by Hella Winston of the *Jewish Week*. Winston's article contained damning evidence that Ohel had blatantly ignored New York statutes requiring the reporting of suspected child abuse to state authorities. (Winston, 2011a).

The forum of the exposé was itself significant: the *Jewish Week* is anything but a fringe publication. On the contrary, it is a nationally distributed weekly magazine claiming over 100,000 subscribers to its hard copy weekly edition and a quarter of a million readers of its electronic version (updated daily). What is more, it is affiliated with the centrist Jewish Federation, a fact that tends to moderate its news reporting and makes it highly sensitive to criticism that it is singling out one religious group, such as Orthodox Jews, in its coverage.

Nevertheless, Winston's initial foray was soon followed by even more alarming allegations. In an article dated May 31, 2011, she revealed that Ohel, apparently in a frantic effort to clear its name from the charges contained in the earlier article, had shared confidential files about abuse cases with outsiders. Such conduct raised the hackles of a number of child welfare experts, as Winston reported:

“Even if it were technically legal for Ohel to show the files to handpicked outside individuals, sharing patient information with consultants for the purpose of clearing the agency's name may be an inappropriate use of the Health Insurance Portability and Accountability Act, which governs privacy regulations, according to Abner Weintraub, a national authority on HIPAA. Mary Vandennack, another authority on HIPAA, told *The Jewish Week* that bringing in a consultant who is not an expert in the specific area or who has an interest in the outcome is unethical and may even constitute fraud if the agency and/or consultant make representations that the consultant is an expert” (Winston, 2011b).

In addition to what may have been a serious breach of confidentiality, Winston revealed that David Mandel, the agency's CEO, apparently implied to a group that reviewed those files “the prospect for future collaboration with and funding from Ohel.” In other words, Ohel appears, in essence, to have bribed those who reviewed confidential files in order to elicit from them an assessment more favorable to the agency's public image. Sharing the files with outsiders in the first place was bad practice; the act threatened critical standards of confidentiality. Indeed, as Winston reported, it may have violated federal HIPAA laws. Coupled with an offer of financial benefit to the outside organization asked by Ohel to clear its name, the act took on a possibly criminal character. (Winston has told the authors that child advocates are asking law enforcement officials to investigate possible criminal violations perpetrated by Ohel.)

These startling details tell only part of the story. The authors – both as researchers and as members of the Orthodox Jewish community<sup>1</sup> – consider it imperative to examine the larger, systemic implications as well. How does Ohel's approach to reporting child sex abuse cases to authorities relate to its role vis-à-vis Orthodox Jewish communities in the United States, Canada and Israel, all of which financially (and politically) support the agency? How does the interlocking of Ohel and the Orthodox communities it serves contribute to the reification by which Ohel has become, as noted above, a “bulwark of the Orthodox Jewish community” (Barrett & Bowles, 1994)? Clearly, Ohel is a part of the Orthodox Jewish community rather than external to it. For this reason, our analysis of Ohel's conduct begins with a recognition of the agency as something integral to and generative of the community that has built, sustained and promoted it.

In this chapter, consequently, we will use the prominent and readily available example of Ohel to investigate the underlying reasons for the Orthodox community's all-too-frequent

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<sup>1</sup> One of the authors is the daughter of the late Rabbi Dr. Abraham Neustein, a highly distinguished clergyman, educator and Talmudic scholar.

subordination of the rights of sexual abuse victims to the preservation of the community's good name. Similarly, we will examine the sociological background to the mounting evidence that Ohel, as part and parcel of the community it serves, has flouted state laws that require reporting of suspected sex abuse to authorities. It is worth stressing, in this connection, that when Ohel addresses its own community it goes out of its way to avoid any mention of such mandatory reporting, even in places where such mention should have been *de rigueur*. For example, in a promotional newsletter Ohel distributed in the summer of 2009, in which it quoted from a press release issued by Brooklyn's District Attorney announcing the new joint sex-abuse initiative with Ohel ("Kol Tzedek") mentioned above, the agency carefully removed from the press release every reference the D.A. had made to police, prosecutors and the reporting of sex crimes to secular authorities (Leshner, 2011).

We hope our example will inspire researchers to inquire along similar lines into other institutions, connected with religious communities, which may have failed to protect children from child sexual abuse. The effect of religion-based organizations taking on public functions is already receiving public attention: in the wake of the grisly murder in July 2011 of eight-year-old Leiby Kletzky in one Brooklyn's Orthodox neighborhoods, one of the authors was asked to write an editorial for New York City's most widely-read daily newspaper about the misuse of public money for Orthodox Jewish "citizen patrols" which, like Ohel, often refuse to report suspected Jewish offenders to police (Leshner, 2011).

The remainder of this chapter is divided into three main sections. First, we offer a sociological analysis of the Orthodox Jewish community's attitudes towards the reporting of offenders, as these related to a Jewish welfare agency like Ohel. Second, we examine the documented history of abuse or neglect cases apparently covered up either by Ohel officials or by professionals working with Ohel, such as pediatricians, counselors and their rabbinic advisors. Finally, we offer some suggestions for addressing the problems examined.

## **2. A case for denial**

Ohel does not operate in a vacuum. Its actions reflect deeply held beliefs, attitudes and prejudices of the community it represents.

Although, strictly speaking, Jewish law requires adherence to governing secular law, in practice the observance of traditional Jewish piety is often at variance with secular laws requiring the reporting of suspected Jewish offenders to police. Let us examine how the Orthodox Jewish culture affects this sensitive issue.

### **2.1 Community homeostasis**

Much as the physiological system of an organism maintains internal stability, owing to the coordinated response of its parts to any situation or stimulus tending to disturb its normal condition, Orthodox Jewish communities as a whole strive to maintain internal stability by rejecting or attacking any forces that threaten to disturb the community's perceived harmony. An important component of that harmony is the perception that the community continues to project a public image as a locale of behavior that is devout, sober, ethical, and so forth.

Sex abuse charges asserted against community figures such as teachers, rabbis, etc. can represent a serious threat to community homeostasis. To begin with, the accusation challenges ingrained hierarchies – rabbis above laymen, teachers above students, men above women, adults above children.

In addition, the accusation often threatens the livelihood of the accused in a community marked by the interdependence of community members. For instance, the teacher whose student credibly accuses him of sexual abuse will likely have to leave his teaching position. But where is the teacher to go? In truth, he (or she) is not likely to find a job in a secular environment, nor even to seek one, since religious Jews are socialized from an early age to stay within the Orthodox community; such insular Jewish communities look askance at socializing with non-Jews, or even non-religious Jews, for fear that the cultural norms that guide and regulate the everyday activities of Orthodox Jews might be questioned when members of such insular communities are exposed to outsiders. Consequently, exposure to the outside world is kept to a minimum. So, the community is faced with a stark choice between ignoring the alleged victim and jeopardizing the career of the teacher being accused. This weights the community's response heavily against the accuser.

Besides the loss to the accused, sex abuse charges threaten a loss to the community itself. The tight-knit social organization that has come to depend on each of its members for fulfilling religious obligations – participating in a quorum for communal prayer, assisting in ritual washing and burial of the dead, visiting the sick, consoling mourners, etc. – suddenly faces the possibility of losing a member's participation in the tasks that punctuate, define and regulate religious life. By the same token, a charge of sexual abuse endangers the participation of the accused's children in community life; if the charge is publicized, and still more if it is accepted as true, the children are no longer seen as desirable marriage prospects because of the taint of scandal looming over their family. And, on the other hand, unmarried life is very much frowned upon.

It may seem ironic that the same community that struggles to hold on to its members, even those accused of abuse, because of the vital role each Orthodox Jew plays in the social and religious communal structure, is ready, if need be, to ostracize (in some cases, even to expel) a victim of abuse who presses an accusation. But this too can be explained. The community's choices seem peculiar only in light of an assumed egalitarianism, which in fact the community rejects. As mentioned above, the Orthodox Jewish community constantly reinforces the inequality of the status and power of its members as a vital part of its homeostasis. When we consider that abusive dynamics traditionally involve an imbalance of power, it is not hard to see why homeostasis favors the more powerful. In fact, one highly-placed rabbi declared to one of the authors, "How would a school function if its principal or its teachers were expelled because of a sex abuse report made by a ten-year-old student?" That puts the whole case very neatly indeed. And when other officials offer patently inadequate excuses for disregarding child sex abuse reports (e.g., "It takes time and money to find a replacement for a teacher"), they are implicitly affirming the same thing.

Erica Brown, a contributor to *Tempest in the Temple: Jewish Communities & Child Sex Scandals* – a collection of essays by rabbis, educators, mental health professionals and lawyers, published in 2009 – wrote passionately about the plight of clergy abuse victims when their complaints are disregarded or ignored:

“That there are people who abuse authority for personal, immoral gain should not come as a shock. That some of these individuals have embraced a life of sacred service is extremely upsetting, but sadly, still not a surprise. . . . What we cannot excuse are those who stand on the outside and permit abuse because they do not call it by name. . . . The cry of clergy abuse victims is shattering. It breaks our hearts, and it can break our faith. . . . We must blame ourselves when we allow a religious leader to remain in place who has the power to break hearts and shatter souls” (Brown, 2009, p. 72).

A decade earlier, Sandra Butler, an expert on sexual abuse, addressed the same conspiracy of silence. Writing in 1999 in the *Journal of Religion and Abuse*, Butler wrote: “One urgent concern I have is that there are many in the rabbinic leadership who still hold tightly to the illusion ‘not here,’ ‘not them,’ ‘not us,’” when faced with alleged sexual abuse in families, in yeshivas and in the synagogue (Butler, 1999, p. 107).

Even before this, Rabbi Irving (“Yitz”) Greenberg challenged rabbinic leaders to take responsibility for crimes of sexual abuse in a 1990 article appearing in *Moment*. Rabbi Greenberg was unsparing in his address to his fellow Orthodox rabbis:

“To be silent then is to incur the grave guilt of accessory after the fact. Spiritual leaders who ignore or even cover up the presence of sexual abuse, Jewish media that continue the conspiracy of silence by acting as if this does not happen in the Jewish community, those that cut off or isolate victims who dare speak out, bring upon themselves the judgment that the Torah places on the accessory and the bystander: ‘Do not stand idly by the blood of your neighbor’” (Greenberg, 1990, p. 49.)<sup>2</sup>

Notwithstanding these warnings, it is clear that communal denial of sexual abuse is one way of maintaining homeostasis within the insular world of Orthodoxy. Denial may also be employed among Orthodox Jewish families – which exist as microcosms of the Orthodox community writ large – to deal with the disruption to homeostasis brought about when one family member charges sex abuse committed by another.

Massachusetts psychologist Joan M. Featherman demonstrates how the institution of the Jewish family is quick to eschew members who are alleged to disturb its harmony. In *Sexual Abuse in Nine North American Cultures: Treatment and Prevention*, Dr. Featherman wrote:

“Jewish families tend to break off contact with family members who are perceived to have breached their commitment to the family harmony. These perceived breaches of commitment range from not attending a family event...to divorce, intermarriage...or disclosing sexual abuse” (Featherman, 1995, p. 130).

Baltimore psychologist Joyanna Silberg, who specializes in treating child sexual abuse trauma, reflected in “Out of the Jewish Closet,” a co-written chapter appearing in Neustein’s *Tempest in the Temple*, on the psychodynamics of Jewish families and their response of sexual abuse. After examining the accounts of various incest survivors, Silberg and her co-author, nurse practitioner Stephanie Dallam, showed how incest survivor Sue William Silverman described the ironic trap posed by the Jewish family structure:

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<sup>2</sup> It should perhaps be noted that, although Rabbi Greenberg is Orthodox, he does not belong to the more religiously “right-wing” Orthodox body of opinion that governs the more traditional Orthodox communities.

“[T]he sacredness of the family unit in Jewish communities may make it impossible for even the adults to get help outside the family” (Silberg & Dallam, 2009, p. 93).

Silberg’s own clinical experience bears out that claim. Writing in *Tempest*, Silberg and her co-author described how many clients originally sought family support when they discovered that their husbands were abusing their children. “They reported that, instead of giving support, their parents and friends encouraged them to look the other way, to ‘stay with him,’ or to work it out” (Silberg & Dallam, 2009, p. 93).

There is at least one more way in which a sex abuse accusation threatens community homeostasis. It challenges a principle of religious culture. The community considers it a touchstone of traditional Judaism that this ancient creed is perfect, answering to all needs and addressing all possible situations. Accordingly, Orthodox rabbinic leadership teaches (and enforces) the belief that whatever evil is encountered in Jewish life comes from “outside”; those raised entirely within Orthodoxy could not possibly be guilty of something as far from Jewish norms as sexual depravity. An accusation of child sexual abuse by an Orthodox Jew, particularly a rabbi or teacher, violates this basic principle and is therefore anathema. Judy Brown, who in 2009 (under the pseudonym “Eishes Chayil”) authored a book about child sexual abuse specifically aimed at the Orthodox community, recently published a column (under the same pseudonym) in which she revealed that she and her publisher received threats from members of the community. “The message was clear,” Brown wrote. “I had violated the rule that said victims must protect the community from their own crimes. Now, I would pay.” And in Brown’s candid assessment, it was just as clear what “message” the community preferred to send to Orthodox Jews in general:

“After I started meeting with victims and speaking with therapists, I began to encounter the community’s wall of denial. These are things Jews don’t do, I was told. . . .

“Some subjects are better left in silence, the rabbis said. Orthodox Jews did not need such words. Those were words for gentiles.”

Brown wrote her book because, she says, “we [in the Orthodox community] forgot [to] look inside, to see that the most dangerous enemy always grows from within.” Unfortunately, that is exactly the message that threatens the community’s stability. (Chayil, 2011.)<sup>3</sup>

## 2.2 Sacrificing victims

In 2002, the Catholic Church child sex scandal made headlines around the world. At that time, presumably because of our high profile in speaking out about child sexual abuse in the Orthodox community (long before it became popular to do so), the authors suddenly found themselves invited by academic publishers, psychology journal editors and Jewish newspapers to comment in print, and now for a wider audience, on the perils of sex abuse within the Jewish clergy and the Jewish community writ large. We were asked, in particular, to address how such offenses were systematically covered up by the rabbinate, Jewish child care agencies, and powerful community organizations.

That year, the *Jewish Exponent*, a century-old paper serving metropolitan Philadelphia, invited us to write a guest editorial on the subject. We argued that child sex abuse was drastically

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<sup>3</sup> Significantly, Brown explained in the column that she had published her book, *Hush*, under a pseudonym “to protect my family and friends from community retribution.”

under-recognized in religious Jewish communities simply because, thanks to the communal fear of public exposure, too many victims met with cover-ups instead of compassion:

“The denial by Jewish communities, and their leaders, that sexual abuse of all kinds does occur among Jews – with the ugly result that victims can pay a higher price than their tormentors when their accusations come to light. . . . In our examination of cases of alleged sex crimes by Jewish offenders in recent decades, we have found that both Jewish community figures and Jewish media lag behind in giving victims the support they deserve. This means that all too often the victims, not their alleged attackers, are sacrificed to the community's sense of shame. For instance, two years ago, a young boy in the ultra-Orthodox neighborhood of Borough Park, Brooklyn, accused a rabbi of having sexually abused him over a period of 18 months during private lessons. A child-abuse expert backed his story, but the Chasidic [piously religious] community was so eager to protect the accused rabbi -- whatever the facts -- that when a group of rabbis managed to persuade the District Attorney to drop the charges, the community celebrated publicly.”

We concluded our editorial by asking the question:

“How many victims must be sacrificed on the altar of the community's shame before this conspiracy [of silence] ends?” (Neustein & Leshner, 2002a, p. 37).

Around the same time, Dane Claussen published our chapter in his book *Sex, Religion, Media*, in which we demonstrated that Jewish media were still reluctant to run stories about child sexual abuse.

Unfortunately, it was clear to us – and still is – that the Orthodox Jewish community has a much larger problem in this respect than it has hitherto admitted. Nor have the emerging revelations of the disastrous consequences of cover-ups in the Catholic clergy done much to change the patterns of behavior in Jewish circles. Jewish media, which might conceivably act as an antidote to the community's taste for secrecy, have instead absorbed its distorted priorities. The religious leadership's need to block out the outside world, to protect itself from scrutiny by a society it regards as alien and dangerous, finds a parallel in the Jewish media's reluctance to publicize scandals among Jews (Neustein & Leshner, 2002b, p. 82).

Little had changed when, years later, we were invited to write an article for a special issue of the *Journal of Child Sexual Abuse* devoted to sex abuse committed by members of the clergy. The guest editors of this special issue – Drs. Robert A. McMackin, Terence M. Keane and Paul M. Kline – placed our paper prominently in this issue as the only contribution addressing abuse and cover-ups within the Jewish clergy: a compliment, perhaps, but also an ominous reminder that such analysis aimed at Jewish communities was still the exception. In our paper, titled “A Single Case Study of Rabbinic Sexual Abuse in the Orthodox Jewish Community,” we analyzed abuse cover-ups within the Orthodox Jewish community by way of a detailed case history: a young, hearing-impaired Hasidic boy allegedly abused by his Hasidic tutor. The teacher, charged with 96 counts of serious child abuse, ultimately escaped even an indictment when, under pressure by a panel of rabbis, Brooklyn prosecutors dropped all charges against him. Afterward, the alleged victim's family faced so much ostracism from their Hasidic community that they were eventually forced to move away. Thus, the victim and his family – as so many prior cases – were sacrificed on the altar of the community's shame, paying the price for the community's misdeeds as its leaders suppressed an investigation in serious child abuse charges (Neustein & Leshner, 2008).



Our research has found that Orthodox Jewish community hostility to the publicizing of sex abuse charges can turn violent. In 1991, the day after a Stamford Hill (north London) rabbinic student was sentenced for sexually assaulting a five-year-old girl, a mob of between one and two hundred ultra-Orthodox Jews menaced the victim's family, hurling objects through their windows, causing the family to run for their lives. This was the fifth time they had been chased from their home during the criminal trial, which had lasted two years (Guardian staff reporter, 1991, p. 2).

Alas, this pattern has not abated with the passage of time. This year (2011), the authors were profiled once again in a Canadian television documentary called "Wall of Silence," which offered a close look at sex abuse cover-ups in Orthodox Jewish communities in the United States and Canada. Also featured in that documentary was a Brooklyn rabbi who alleges he was shot at with a pistol – and very nearly killed – by members of his community for speaking out about the plight of the abuse victim and the need to protect children from sexual predators within the community. He was also widely denounced in Williamsburg, New York (where he lives) on fliers distributed throughout his community depicting him as a poisonous snake (Mendelsohn, 2011). To date, no one in the community has apologized to the rabbi for any of these vicious attacks.

### 2.3 Conflicts of interest

As the facts above serve to illustrate, there is often a direct clash between the needs of abuse victims and the values brought to bear on their cases within Orthodox Jewish communities. Rabbi Dr. Mordechai Glick, vice president of an international organization of Orthodox Jewish health professionals, expressed this plainly when he complained eleven years ago, in a letter to *The Jewish Press*, that "if the police do get involved [in a case of alleged sex abuse], a massive cover-up and pressure campaign usually ensures that the case will either not get to trial or if it does, will be dropped because potential witnesses are pressured (code for threatened) to refuse to testify or outright lie" (Glick, 2000:87).

Recent developments confirm this pattern. This year, the entire Brooklyn Orthodox community mobilized in a search for a missing eight-year-old Hasidic boy named Leiby Kletzky. (In the end, lamentably, the boy was found dead: he had been abducted, smothered and then dismembered by an adult Orthodox Jew.) Even as masses of Orthodox community members scoured the streets for the abducted boy, one of the leading rabbis of Agudath Israel of America – America's single most influential ultra-Orthodox rabbinic body – insisted at a conference that any Orthodox Jew who suspects an act of child abuse must first turn to a rabbi, who will decide whether or not secular authorities should be contacted. What was especially remarkable about those comments is that the rabbi based them on the ruling of a highly-respected ultra-Orthodox authority that has been widely claimed as evidence of the Orthodox community's greater openness to the reporting of child sex abuse. Yet the requirement to take any question to an Orthodox rabbi *before* reporting to police effectively reaffirms that the community's leaders, not police, will decide the fate of a child abuse victim.

What is behind this apparent contradiction? Leading Orthodox rabbis have, indeed, begun to discuss publicly the problem of child sexual abuse in their communities – a sign of progress in itself, for as recently as the 1990s the head of a prominent Orthodox rabbinic organization in Brooklyn could still insist to one of the authors that child sexual abuse simply did not exist among Orthodox Jews. And it is true that Rabbi Y. S. Elyashiv, one of

the world's most respected Orthodox authorities, issued a much-publicized ruling that clearly authorizes reporting cases of child sexual abuse to the police. No wonder that a spokesman for Agudath Israel of America has argued that his community has fully addressed the issue of child sex abuse (Shafran, 2006).

Yet it has not, for the Orthodox rabbinate's assumption of its own ultimate power is so strong, and so unacknowledged, that even the more "liberal" rulings with respect to reporting abuse are read within the community merely as permitting a *rabbi* to authorize the reporting of abuse in a specific case. The Orthodox rabbinate has not grasped that so long as it operates as gatekeeper between victims and secular authorities, rabbis still can – and will – choose to suppress evidence of sex abuse whenever they think it appropriate. That this problem has not even been recognized by the Orthodox community's leading authorities is an indication of the enduring strength of the very hierarchies and prejudices that, as we argued above, have always worked against victims of abuse.

That these hierarchies are alive and well at Ohel is evident from the fact that the agency continues to name Rabbi Dovid Cohen as its chief advisor on matters of Jewish law – including the reporting of suspected crimes to secular authorities – and, in fact, singled him out for honor at its annual dinner in February 2011. Reportedly, Rabbi Cohen has taught publicly that Jews may steal from non-Jews or defraud non-Jewish governments, "as long as one doesn't get caught, according to people in attendance" (*Jewish Week* staff reporter, 2009).

## 2.4 Religious rationalizations for non-reporting

We must now examine some of the specific rationales given in Orthodox communities for refusing to report suspected Jewish child abusers – or other criminals – to secular authorities. While these are matters of religious law, it will be seen that the interpretation of these concepts by contemporary rabbis is subject to, and an expression of, the underlying attitudes of the Orthodox community toward its surrounding communities and toward the issues posed by reporting one of "its own" to the representatives of non-Jewish institutions. Only when these attitudes, and their effects on members of the Orthodox Jewish community, are properly understood can we fathom the acts of institutions like Ohel.

### 2.4.1 *M'sirah*

Talmudic law contains a prohibition against *m'sirah*, or the "traducing" of one Jew by another to an extortionist (whether Jewish or non-Jewish) in order to cause the victim an injury. Although, strictly speaking, the law has nothing to do with reporting to law enforcement authorities – in fact, the Hebrew word *m'sirah* does not mean "informing," as often stated – the Talmud already cites a malicious report to a non-Jewish tax official as an example of such forbidden "traducing."<sup>4</sup> The reason for this, according to a typical explanation found in an influential nineteenth-century commentary, was entirely the result of the ugly experiences Diaspora Jewish communities had suffered at the hands of rapacious tax farmers and similar "officials," who were often hostile to the Jews and in general were little better than common criminals.<sup>5</sup> The consensus of contemporary Orthodox authority is that the principle of *m'sirah* does not prohibit reporting suspected criminal assaults

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<sup>4</sup> Babylonian Talmud, *Baba Qamma* 116b-117a; *Gittin* 7a.

<sup>5</sup> *Arukh ha-Shulhan*, *Hoshen ha-Mishpat* 388:7.

(including sex abuse) by a Jew to secular law enforcement authorities, certainly not in a country with a functioning justice system (Dratch, 2009, p. 116).

That, however, does not prevent Orthodox Jews from condemning those who do report sex offenses to authorities as if they had, in fact, committed a cardinal sin. Nearly all of the Orthodox Jewish sex abuse victims who have spoken to the authors have described being sternly warned not to report what was done to them to police. Indeed, the authors have both been accused, by many Orthodox Jews, of committing *m'sirah* ourselves simply for publishing the facts of a few such cases. Clearly, the force of the principle has slipped its moorings in Jewish law and has taken on a life of its own. In fact, a declaration signed by fifty prominent rabbis appeared in a Yiddish-language Brooklyn newspaper in 2000, openly encouraging the murder of anyone who informed on a fellow Jew to secular authorities (Neustein & Leshner, 2009, p. 201).

Obviously, *m'sirah* is a handy club to swing at abuse victims who speak out. As a rationale for refusing to report crimes against children to police, however, it does not pass muster with experts in rabbinic law.

#### 2.4.2 *Lashon ha-ra*

*M'sirah* is probably the most frequently invoked rationalized invoked by Orthodox Jews for failing to report crimes against children, or for discouraging others from making such reports. However, apart from the question of “traducing” a fellow Jew, there are two separate but related issues that often appear in the discourse.

Jewish law contains a prohibition against slander, gossip and tale-bearing, collectively referred to in Jewish literature as “*lashon ha-ra*.” Although it is commonplace for Orthodox community members to accuse abuse victims of violating this prohibition whenever they speak out about their experiences, this – like the invocation of *m'sirah* discussed above – quite plainly amounts to an abuse of Jewish law. As Rabbi Mark Dratch explains, using the prohibition to intimidate genuine victims from speaking out is itself *lashon ha-ra*:

“*Lashon ha-ra* can be a tool of abuse, both when derogatory speech defames innocent people, destroying their reputations, and when warnings to refrain from derogatory speech are used to silence victims of abuse who cry out for help. . . . Victims of abuse need to speak out, for all kinds of personal reasons, in order to help themselves. . . . And the community needs to speak out in order to hold the perpetrators responsible and in order to protect other innocents from potential harm.”

It is evident that the claim of “*lashon ha-ra*” will not take one any farther toward a “defense” of non-reporting of child abuse than the parallel issue of *m'sirah*. Still, members of the Orthodox community quite commonly invoke it to achieve exactly that result. Even Orthodox journalists are not immune. As the authors reported in 2002, an Orthodox news writer named Alan Borsuk has claimed publicly – and incorrectly, in our view – that being a religious Jew and being committed to publicizing the truth are, to some extent, inconsistent values because of the Jewish laws against *lashon ha-ra*:

“The worlds of Orthodox Judaism and newspapering have some very different philosophic premises. Journalism’s cardinal tenet of laying out the facts and letting the chips fall where they may is definitely in conflict with *Jewish tradition’s strong emphasis on not saying things that unnecessarily harm others, even if they are true*. . . . The neutral or

accepting position that the news media take on a lot of social and lifestyle issues is very different from the strong stand Judaism takes . . ." (Borsuk, 1997).

Borsuk's assumption that truth-telling runs afoul of "Jewish tradition's strong emphasis on not saying things . . . even if they are true" was carried even further by an Orthodox Jewish anchorwoman for a local television news station whose viewing area included parts of New York, New Jersey and Connecticut. When one of the authors sought the station's news coverage of serious allegations of a sex abuse cover-up at Ohel in 1987, the Orthodox anchorwoman personally contacted her to urge her "not to publicize the alleged scandal," because "it was far better to have a rabbi settle the matter than to air it in the press." As we have previously reported, "The station never aired the story until the anchorwoman left the station several years later; thereafter, its feature length piece covering the story won an Emmy Award" (Neustein & Leshner, 2002: p. 83). Once again, Jewish law – as understood by experts – cuts one way, but cultural attitudes, fears and prejudices cut another.

### 2.4.3 *Hillul ha-shem*

A final rationalization used within Orthodox Jewish communities to silence victims of abuse is the prohibition against *hillul ha-shem*, which means "a desecration of God's name." The phrase itself requires some explanation. "Traditional Jewish law," writes Rabbi Dratch,

"deems an act committed by a religious Jew that arouses public disgust (particularly on the part of non-Jewish observers) a 'desecration,' in effect of God Himself, since in the eyes of the Talmud Jews are identified with God through the responsibility of observing His law" (Dratch, 2009, pp. 116-117).

It is not difficult to see why the principle of *hillul ha-shem* is improperly applied to a truthful report of a violent crime. It is not the *report* of the act that constitutes the offense, but the act itself. To quote Rabbi Dratch:

"First, it is the unethical behavior in and of itself – not merely discussing it – that constitutes a desecration of God's name. The abuser, not the abused, has committed *hillul Hashem*. . . .

"Second, when efforts to deny or suppress the truth about a crime are exposed, the scandal is much greater than the exposure of the crime alone. And Jewish tradition insists that scandalous behavior will always come to light despite efforts to keep it hidden" (*Id.*, p. 117).

In a word, not only is reporting child abuse to authorities not an example of *hillul ha-shem*, a failure to report it actually amounts to a massive violation of precisely the same principle. Certainly, this element of religious law cannot be invoked to justify refusal to report such crimes.

It is fair to say that not one of the appeals to elements of Jewish law commonly deployed within Orthodox communities to defend a policy of suppressing abuse reports can withstand scrutiny. Yet the practice continues, for reasons we have already attempted to explore. Let us now turn to some of the typical results.

## 3. Some relevant histories

In 1990, on Yom Kippur – the most solemn day of the Jewish year – eight-year-old Yaakov Riegler was stabbed to death by his mother with a kitchen fork. The case attracted

considerable public attention because, it turned out, Ohel – which was responsible for the boy’s care at the time – had been clearly warned that the boy’s mother was dangerously violent. Still, rabbis working with Ohel and the Jewish community overrode the admonitions of the city’s child welfare administration to keep the child away from his abusive mother. Although this was not a case of child sexual abuse, it illustrates – as far too many sex abuse cases do – the power of rabbis working in concert with Ohel to override secular agency’s authority to protect children.

In the wake of the boy’s brutal killing, child welfare experts did not mince words in their criticism of Ohel. Clara Hemphill, writing for *New York Newsday*, reported that just weeks before the stabbing, Ohel had learned alarming facts about the boy’s condition. However, “rather than call the State Central Registry in Albany – as required by law – officials said they called a Child Welfare Administration office in Manhattan which had nothing to do with the case. Ohel officials,” according to Hemphill, “could not offer an explanation why they called the unit [in Manhattan] rather than the state hotline. Child welfare experts were astonished by the blunder” (Hemphill, 1990, p. 23).

Brenda McGowan, a professor at Columbia University’s School of Social Work and an expert in foster care, commented to *Newsday* that Ohel’s decision to call the unrelated Manhattan office, rather than the State Central Registry, was “insane” (Hemphill, 1990, p. 23). McGowan’s was not a lone voice. Many child advocates and experts on foster care were just as astonished. What must not be forgotten is that Ohel is not an obscure institution working far from state authorities. Rather, it is a state licensed foster care agency with a multimillion dollar annual budget, much of which comes from New York and federal money. (In fact, Ohel pulls in even more government money than its budget reveals. For example, in fiscal year 2010 alone Ohel was awarded \$900,000 in federal “earmarks” – that is, extra disbursements approved by individual Congressmen – approved by the later-disgraced Congressman Anthony Weiner, who in turn had received a substantial campaign contribution from Ohel’s Executive Director, David Mandel.)

Yet the non-reporting in the Riegler was far from anomalous. Health care professionals connected with Ohel have stated openly that notwithstanding state law which mandates abuse reports to state authorities by such professionals, they – as observant Orthodox Jews – will not make such reports without first consulting a rabbi. For example, Dr. Susan Schulman, a Brooklyn pediatrician and a member of Ohel’s Advisory Board, openly declared – in a recorded lecture she herself circulated – that she always asked a rabbi before making a legally mandated report, even knowing that by doing this she risked prosecution (Fifield & Leshner, 1996). (Although Dr. Schulman’s astounding statement has been publicized in print at least since 1996, Ohel chose to feature Dr. Schulman on a video it produced, ostensibly to promote “awareness” of child sexual abuse, as recently as 2009.)

Similar evidence of Ohel’s position on child abuse reporting can be gleaned from the example of Rosalie Harman. Ms. Harman, a former senior-level supervisor for New York City’s Child Welfare Administration (CWA), testified at a New York State legislative hearing chaired by Senator David A Paterson (who later became Governor of New York) that she knew of a CWA employee whose responsibilities included overseeing Ohel. According to Ms. Harman, once the CWA employee began to express her “suspicion of fiscal irregularities with that agency . . . and asked for someone from the state to come and review the practices of Ohel she was . . . stopped in her tracks” and “taken away from that team” that oversaw Ohel (Harman, 1993, pp. 34-35).

The authors' years of investigation into abuses at Ohel confirm that the examples cited above define patterns that continue to inform Ohel's handling of child abuse allegations. The following three cases – all of which involve non-reporting of suspected child sexual abuse by the agency – typify the sort of problems our research has repeatedly uncovered.

### 3.1 Stefan Colmer

The outrage of the Stefan Colmer case is that it might never have happened. Before Colmer was ever criminally charged with sexually abusing two boys – for which he ultimately served a jail sentence – he participated in an “offender's program” run by Ohel, a program supposedly intended to help protect the Orthodox community from further abuse from “offenders” like Colmer. Yet he abandoned the program prematurely in 2002, without having been successfully treated, simply because he had decided to get married and didn't want to inform his new wife that he was a pedophile. During the following years, he sexually abused at least two thirteen-year-old boys.

The astonishing thing was that, from the time Colmer dropped out of its offenders' program until his arrest (in Israel) in 2007, Ohel did – nothing. It made no attempt to find out where Colmer was, or what he was doing, or whether he was spending any time alone with young boys. It never attempted to communicate with the Brooklyn religious school near which Colmer settled and from which, according to police sources, he lured potential victims to his house. In light of these facts, the *Jewish Week* reported,

“Colmer's case raises several thorny questions: Should Ohel have agreed to treat Colmer, knowing that he had never been reported to the police? Is there a will on the part of the community and its institutions to reform reporting policies and practices to plug what appears to be a gaping hole in the reporting system, one that leaves children unprotected from men like Colmer? And, most pressing of all, who, in the end, should bear responsibility for what happened to the two innocent 13-year-old alleged victims of Colmer, whose lives will likely never be the same?” (Winston, 2009b).

In our view, other questions might have been added: Why didn't Ohel have a fixed policy that would have triggered some sort of action in the event Colmer refused to complete an agreed-upon therapy program as an offender? How many other dropouts were there from Ohel's offenders' program, and what did the agency do about those? Couldn't a program whose ostensible purpose was to protect the community have included a provision, agreed to in advance by the offender, that violation of Ohel's rules would result in, say, a report to the police or (assuming no crime had yet been committed) appropriate notification to protect potential victims? The fact that Ohel has offered no answers to any of these questions suggests that the Colmer case, unfortunately, does not stand alone.

### 3.2 Avrohom Mondrowitz

Avrohom Mondrowitz fled Brooklyn for Israel in late 1984, just as police were closing in for an arrest in what may be New York's worst-ever case of serial child sex abuse. Authorities believe that Mondrowitz – who was an administrator of a school for troubled youth, and a “child psychologist” (with a fake diploma) who “treated” children – sexually abused well over a hundred young boys, nearly all of them Orthodox Jews. He fled to Israel, which refused to extradite him. Justice continues to elude his victims, despite extraordinary efforts to renew the case against him, in which one of the authors has figured centrally (Leshner, 2009).

For our present purposes, the most important point is the fact that Mondrowitz obtained several of his victims from Ohel – and that the agency did nothing in response to their pleas for help (Leshner, 2009, p. 157). This allegation was made in print as long ago as 1999, when one of the police detectives who investigated the Mondrowitz case “told The [New York] Post that his 1984 investigation,” while leading him to the conclusion that Mondrowitz had molested “hundreds of children – including some Ohel orphans,” was stymied “when cops tried to question the agency.” According to the detective, “They weren’t cooperating. . . . ‘Kids . . . had complained to Ohel and it was swept under the rug . . . [and] never reported.’”

Ohel officials have denied the detective’s allegations. But one of the authors has personally interviewed one of Mondrowitz’s other victims, who clearly remembers speaking, years ago, to an Ohel foster child who told him – and his parents – that he had reported Mondrowitz’s abuse to Ohel officials, who had ignored him (Montero, 1999). The credibility of Ohel’s denials in the Mondrowitz case may be gauged from the following case history.

### 3.3 Simcha Adler

Two typical themes dominate the case of Simcha Adler, a camp counselor employed by Ohel who, according to his victims, repeatedly raped them at knifepoint. First, Ohel seems to have made every possible effort to minimize the offender’s punishment and to silence the victims. Second, Ohel claimed not to know of any danger posed by the abuser when, in fact, evidence suggests it did know.

According to press reports, Adler repeatedly and violently abused his eleven-year-old victims at a summer camp where he was their counselor, and then continued to molest and rape them at Ohel, where both were foster children. Yet the boys’ complaints to Ohel officials were ignored – for more than a year – “until a worker caught [Adler] straddling Michael,” as Douglas Montero reported in the *New York Post*.

Amazingly, although Ohel officials knew the abuse had been severe and chronic, it stood by silently as Adler plea-bargained for a sentence that did not involve even a single day of jail time. Still more amazingly, the plea bargain was concluded less than two months after his arrest.

Despite charges of sodomy and sexual abuse that could have resulted in a sentence of more than twenty years in prison, court records reveal that Adler’s punishment was minimal: five years’ probation and psychological counseling. His victims only learned of Adler’s plea deal years later, and were outraged, as Montero reported:

“‘It’s a crime that he could walk away . . . and have a normal life,’ said Michael, now a mailroom worker in Midtown. ‘This man ruined my life.’ . . . ‘I was [angry], but I couldn’t do anything – I wasn’t smart enough to do anything,’ said Robert, now a City College freshman who wants to be an optometrist” (Montero, 1999).

Here, in a nutshell, is a vivid illustration of Ohel’s priorities. Ohel took no action when the boys complained of heinous abuse for over a year; Ohel never accepted any responsibility for what was done to them; Ohel never talked to the boys about the status of the criminal case. (One of the victims remembered “vaguely” that an Ohel officer told him, after the fact, that Adler was getting “probation; other than that, there does not appear to have been any communication between Ohel and the victims about the prosecution of their assailant.)

Ohel's only clear priority was self-protection: both victims charged that "Ohel swept the abuse 'under the rug' to avoid a legal battle that might ruin its reputation."

This confirms the first theme mentioned above: Ohel acted to minimize the consequences suffered by the abuser (and thus, by the agency itself), while doing nothing to aid the victims. This would be bad enough; but in fact, it goes hand in hand with the second theme – that Ohel knew far more all along than it admitted – as duly reported by Montero:

"A former Ohel employee told *The Post* the boys' allegations were not taken seriously or investigated by Ohel because Michael was thought to be a 'liar.' . . .

"The owner of a Borough Park building where Adler, until recently, had been living told *The Post* that the former counselor – who married in December and moved to Jerusalem – admitted to her several years ago that he was a pedophile. She said his confession came after Ohel officials knocked on her door and told her to keep an eye on her children" (*Id.*)

This is a singularly damning juxtaposition of facts. On the one hand, Ohel would do nothing for the victims because it assumed – why, we are not told – that the eleven-year-old accuser was a "liar." On the other hand, at the same time Ohel allegedly allowed young boys in its care to be raped at knifepoint, Ohel officials quietly warned the abuser's Orthodox Jewish landlord "to keep an eye on her children," which was all it took to elicit a "confession" from the abuser – though the Orthodox landlord, like the Ohel officials, apparently had no qualms about keeping the confession a secret.

This illustrates a kind of doublethink at work in Ohel that can only be explained as an intellectual method of protecting a culturally-ingrained set of priorities. Ohel's position cannot be described simply as refusing to believe young boys who reported abuse. In fact, the agency *did* believe them, or believed them at least enough of what they said to try to protect someone else's children. But the agency did this only when it could act without *publicly* acknowledging the reality of the victims' abuse and without forcing it to confront the abuser. What is at stake here is not simply ignorance. It is a systematic arranging of priorities so as to preserve the community homeostasis described above. Unfortunately, this approach has the effect of further victimizing children entrusted to its care.

## 4. Solutions

While the sort of fundamental rethinking of abuse issues that must take place if institutions like Ohel are to be truly reformed is likely years away, practical short-term strategies may still be suggested. This is particularly true because Ohel receives government money, which makes it accountable to state child welfare authorities, as well as to the federal government, as discussed below. The first major steps toward reforming the agency require little more than the political will to exert power already inherent in government authorities.

### 4.1 Federal mandate

Some years ago, Congress passed the Child Abuse Prevention and Treatment Act (CAPTA) for the purpose of helping the states create and maintain more effective child welfare systems.<sup>6</sup> The authors believe that this federal statute has the potential – so far,

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<sup>6</sup> 42 U.S.C. § 5101 *et seq.*; 42 U.S.C. § 5116 *et seq.*



unfortunately, unused – to support a detailed federal inquiry into the child welfare system of any state that accepts federal money under this statute, as New York certainly does (Neustein & Leshner, 1999). Such an inquiry could, and should, include an examination into the proper oversight of agencies like Ohel. Has the agency complied with state reporting laws? Has it met government standards for maintaining the safety of foster children in its care? If not – and our research suggests it has not – federal funding should be terminated, a penalty that would almost certainly spur reform.

There are also federal civil rights statutes that Ohel's officials may be found to have violated if they have knowingly suppressed the reporting of child sex abuse. For example, Section 241 of Title 18 of the U.S. Code, provides that a conspiracy of two or more people "to . . . threaten, or intimidate any person in any State . . . in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States" is a federal crime. Since access to the court system is just such a "right or privilege," this means a concerted effort by Ohel officials to prevent a child abuse victim from pursuing a criminal charge may justify federal prosecution. This point should be borne firmly in mind where Ohel's acts are at issue.

#### **4.2 Investigation**

Because of Ohel's close relationship with secular authorities, it necessarily falls under additional regulatory authority. To some extent, therefore, the nature of Ohel's apparent wrongs suggests its own remedy.

The first logical step would be a thorough investigation by the governments that have funded Ohel – those of New York City, New York State and the United States – to ensure that those funds have not been misappropriated. We have already discussed additional authority for such a probe under CAPTA. In any event, the misappropriation of government funds for an improper purpose (for example, the personal enrichment of an officer) would probably involve a violation of law.

Ohel's role in the non-reporting of suspected abuse to authorities might also implicate federal civil rights statutes, as discussed above. Even where there is no criminal violation, the facts unearthed by a federal investigation might support civil litigation by victims who were wrongfully intimidated or pressured not to approach police for protection.

#### **5. Conclusion**

This chapter aims at offering some guidance to scholars, advocates and policy makers who grapple with problems similar to those posed by Ohel. Ohel does not stand alone. It is quite possible that other institutions serving other insular, fundamentalist religious sects also act in violation of secular law and in violation of the public trust.

Analysis of Ohel is important for another reason. Given Ohel's central role in a closely knit and family-oriented Orthodox community, we must now consider and observe what happens when such an iconic institution comes under scrutiny for possibly violating mandates related to child welfare and safety (not to mention confidentiality).

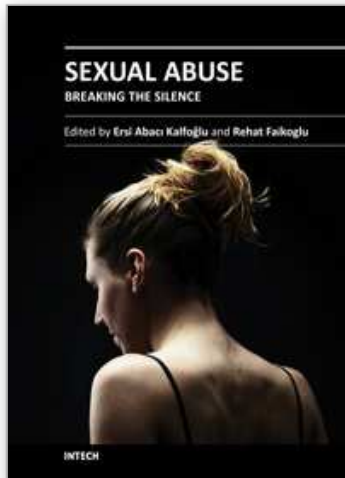
Finally, we have attempted this exploration of Ohel because we believe that what has happened at Ohel, under the auspices of religious authority ostensibly designed to protect

and nurture children, demands serious scrutiny from anyone concerned with the future of child welfare in today's religious communities. Many such communities enjoy unprecedented political power and opportunities in the United States. These opportunities can be used for good – as when community members use religious values to impress the importance of compassion and human dignity on political institutions – or they can lead to abuses. The authors hope to see the sort of abuses we have observed at Ohel quickly curbed so that both religious and government values may be better served in the future.

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## **Sexual Abuse - Breaking the Silence**

Edited by Dr. Ersi Abaci Kalfoglu

ISBN 978-953-51-0425-4

Hard cover, 238 pages

**Publisher** InTech

**Published online** 23, March, 2012

**Published in print edition** March, 2012

Sexual assault can be considered as expression of aggression through sex. This, in turn, can have serious negative effects on a survivor's social and occupational functioning. This book has been organized towards that specific approach, by compiling the scientific work of very well-known scientists from all over the world. The psychological victimization of sexual assault, the physiological aspect of sexual abuse and the different attitudes in coping with sexual assault based on different cultural backgrounds are analyzed. Having in mind that one solution may not necessarily be suitable for all cases, we hope that this book will open a debate on sexual assault for future practice and policy and that it will be a step forward to 'break the silence'.

### **How to reference**

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Amy Neustein and Michael Leshner (2012). What Went Wrong at Ohel Children's Home - and What Can Be Done About Its Failure to Protect Jewish Children from Abuse?, *Sexual Abuse - Breaking the Silence*, Dr. Ersi Abaci Kalfoglu (Ed.), ISBN: 978-953-51-0425-4, InTech, Available from:

<http://www.intechopen.com/books/sexual-abuse-breaking-the-silence/ohel-children-s-home-and-family-services-advocates-and-former-staffers-ask-troubling-questions-about>

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