

CARDOZO LAW

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TO: Members of the General Assembly

FR: Marci A. Hamilton

RE: Omissions in Pennsylvania Catholic Conference Memo on Effects of Retroactive Civil Legislation for Child Sex Abuse

DATE: April 3, 2016

The Pennsylvania Catholic Conference (“PCC”) has submitted misleading arguments against the value of retroactive civil statutes of limitations (“SOLs”) reform for child sex abuse in a memo dated April 1, 2016. It also has omitted numerous relevant facts. The following are the facts, gleaned from my academic study of SOL Reform over the last decade, based on research for my book, *JUSTICE DENIED: WHAT AMERICA MUST DO TO PROTECT ITS CHILDREN* (Cambridge University Press 2008, 2014), and www.SOL-Reform.com, my website, which documents and tracks statutes of limitations for child sex abuse victims in every state and globally, for the purpose of public education on access to justice for victims.

1. **The PCC states:** facts solely related to abuse in the Catholic community, leaving the impression that revival legislation only benefits victims of the Catholic Church.

The PCC omits: all of the other organizations and individuals that have been and will be disclosed through civil SOL revival legislation across the U.S.: healthcare providers including pediatricians, a wide variety of religious organizations, numerous scouting organizations, elite preparatory high schools, universities, drama schools and theaters, modeling agencies, coaches and sports organizations, and, the largest category: families.

2. **The PCC states:** “sexual abuse is a serious crime” in an attempt to focus all fault on the perpetrators.

The PCC omits: (a) The endangerment of children through covering up child sex abuse is also a serious crime and Msgr. William Lynn (Philadelphia Archdiocese) was convicted for this crime and three Franciscans were recently charged by the Pennsylvania Attorney General with this serious crime.

(b) Putting children at risk of sex abuse is also a serious tort, committed by numerous dioceses worldwide. The Catholic cover up is not over, as the recent Pennsylvania Attorney General Grand Jury Report on the Altoona-Johnstown Diocese documents.

3. **The PCC states:** revival of civil SOLs for child sex abuse “will throw justice out of balance.”

The PCC omits: The current “balance” endangers children by keeping predators hidden and institutions unaccountable.

4. **The PCC states:** revival of civil SOLs for child sex abuse will “jeopardize every church, nonpublic school, and charity that serves children in Pennsylvania.”

The PCC omits: The actual number of claims is relatively small in the states where revival has been implemented, compared to the actual number of survivors and state population. The PCC’s statement is a gross exaggeration disproved in each state with revival legislation.

5. **The PCC states:** “Pennsylvania’s 3 million Catholics cannot afford to defend their parishes and Catholic schools from expensive and indefensible lawsuits.”

The PCC omits: The Catholic cases are typically proven by the dioceses’ own, copious records documenting the abuse and the cover-up. They are only “indefensible” because of the failures of the hierarchy to protect children from known predators.

6. **The PCC states:** Parishes in Delaware were sued. There was a \$3 million verdict against a parish.

The PCC omits: The cases against the Delaware parishes were settled as part of the settlement with the Wilmington Diocese and 124 victims, for significant changes to improve child safety in the diocese, totaling \$77 million. Survivors were paid from \$75,000 to 3 million depending on severity of the abuse. No Catholic settlement in the United States has afforded survivors remotely close to \$3 million on average. The dioceses settle to avoid verdicts yielding actual compensatory damages.

7. **The PCC states:** In Wilmington, “2 struggling inner-city” schools were closed, “10%” of diocesan workforce was laid off, and funds needed for the hungry were “depleted.”

The PCC omits: This is a shell game the diocese has never substantiated. These changes are taking place across the country because giving and attendance are down, and the next generation prefers spirituality (or agnosticism) over organized religion. It hasn’t helped that the cancer of covering up child sex abuse festers in dioceses like Altoona-Johnstown, PA.

8. **The PCC states:** “Not one pedophile was taken off the streets in states that retroactively nullified their statute of limitations.”

The PCC omits: Dr. Earl Bradley, the worst pedophile pediatrician in history, was charged and convicted after the Delaware window was put in place. The bishops’ cover-up of its priests and employees deliberately ran out the criminal SOLs; it is unconstitutional to revive a *criminal* SOL; therefore, the civil revivals are the only option for justice for the vast majority of the Catholic victims. Over 300 pedophiles were identified in California through the window—inside and outside the Catholic universe.

9. **The PCC states:** “(68 percent) of the accused perpetrators identified with California’s ‘window’ were already dead or were very old, infirm, or long removed from ministry at the time the claims were filed.”

The PCC omits: (a) Assuming the 68% is true, that means 32% were active and Californians learned the identities of at least 100 pedophiles operating in anonymity in schools and elsewhere.

(b) The entities’ endangerment of children through negligent and failed policies is an ongoing threat to child safety whether a particular pedophile is alive or dead.

(c) Pedophiles do not “age out” of abusing children. Fr. John Geoghan in Boston was abusing children in his 80s.

(d) Removal from ministry means only that the bishops released problem priests or employees into the general population without naming them. They are hidden predators who need to be named.

10. **The PCC states:** “Very few victims or defendants had their day in court; guilt or innocence was not the deciding the factor.”

The PCC omits: The bishops typically settle right before any trial to avoid having the hierarchy testify in public about the facts of callous child endangerment. They then often file voluntary bankruptcy to protect assets, reduce the claims per survivor, and avoid any trials. Not one false claim arose from the Catholic bankruptcies to date except when the San Diego Diocese asserted it needed to be in bankruptcy due to a lack of assets, which turned out to be categorically false.

11. **The PCC states:** “Bankruptcy and severe debt was the only option for most dioceses in the states with retroactive windows.”

The PCC omits: No diocese has ever filed for involuntary bankruptcy or been forced into bankruptcy. In Milwaukee, then-Archbishop Timothy Dolan hid \$55 million in a so-called “cemetery trust” to avoid compensating 11 known victims who had filed suit. The Archdiocese then filed voluntary Chapter 11 bankruptcy, invited all known victims to become part of the bankruptcy claims for their healing, and then refused to compensate the vast majority of survivors. No California diocese was permitted to pursue bankruptcy (San Diego is the only one that tried).

The Catholic dioceses, taken together, are the largest landowners in the United States. When they reveal their annual “finances” they never include their actual wealth, which is typically hidden in countless real property holdings, under a wide variety of names.

12. **The PCC states:** Plaintiffs attorneys are paid as part of settlements.

The PCC omits: Plaintiffs attorneys foot the full cost of sex abuse litigation and victims pay nothing, whether the case goes forward or not. The hierarchy has paid millions to engage in hardball litigation tactics against the victims and their families in the few cases that have been able to go forward in Pennsylvania despite the short SOLs, regardless of the merits of the case.

13. **The PCC states:** Gov. Jerry Brown vetoed window legislation.

The PCC omits: This was a second window, that was pushed in large part for Buddhist and other victims who were unaware of the original 2003 window. The California Catholic Conference lobbied against this second revival law, and succeeded in keeping the vast majority of California’s sex abuse victims out of court.

14. **The PCC states:** “There comes a time when an individual or organization should be secure in the reasonable expectation that past acts are indeed in the past and not subject to further lawsuits.”

The PCC omits: This argument makes no sense when it comes to murder or child sex abuse.

Disclaimer: the views expressed here are solely those of the author in her private, academic capacity and do not represent the views of Cardozo Law School or Yeshiva University.

