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Abuse Case Raising Statute Questions

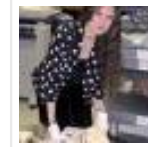
Alleged victim claims Brooklyn DA didn't aggressively pursue case; implications for FOIL.

02/27/12 | [Hella Winston](#) | [Special To The Jewish Week](#)

A 25-year-old man who is alleging that the Brooklyn District Attorney did not seriously pursue his sexual abuse case – and who is now too old to pursue legal remedies – will be speaking in Albany Wednesday in support of the Child Victim's Act (CVA). The CVA is a bill that proposes extending the current statute of limitations on certain sex crimes against children to age 28. It also creates a one-year window during which victims of child sexual abuse can file civil suits regardless of when the alleged abuse occurred.

According to an internal memo obtained through a Freedom of Information Law (FOIL) request from Brooklyn DA Charles Hynes' office by the alleged victim, Schneur

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Borenstein, Borenstein’s first disclosure of his abuse to anyone connected with the DA’s office was made to Henna White. He does not remember precisely when he first approached White, although said it was shortly before he turned 22.

White is the office’s liaison to the Jewish community and also plays a key role in Kol Tzedek, a confidential hotline established by the DA to encourage members of the Brooklyn Orthodox community to report sex crimes against children to the secular authorities.

The heavily redacted memo indicates that Borenstein “had been in contact with Henna White for some time” before meeting with assistant district attorneys from the sex crimes bureau in 2009, to whom he ultimately also recounted details of his abuse.

That abuse allegedly occurred in 2000-‘01, when Borenstein was 13, and lasted “several months.” Borenstein, the memo notes, claims that the alleged abuse was carried out by Rabbi Jacob Bryski, the dean of Chanoch Lenaar, a yeshiva in Crown Heights.

According to the DA’s memo, the abuse involved Rabbi Bryski touching Borenstein’s private parts with his hand while Borenstein was asleep. (The alleged abuse, he claims, awakened him; Borenstein says he was living with the rabbi after running away from home). The memo also notes that Borenstein disclosed the abuse to a therapist, and to his parents, in 2003 and was “able, after a lot of therapy and great personal struggle, to come forward with these allegations.”

Borenstein’s allegations did not result in any charges, and he claims he was never clear as to why.

In an interview with The Jewish Week, Borenstein claimed the assistant district attorneys on his case told him that it was a “weak felony.” He also said that he had

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“difficulty extracting any information [from the DA’s office] at all about the status of his case,” ultimately prompting him to file his FOIL request. Borenstein says he is coming forward now in the hopes of setting an example for other victims to do so as well.

However, a spokesman for the DA’s office, Jerry Schmetterer, told The Jewish Week that the office was unable to pursue the case because these were misdemeanor allegations and the “statute of limitations for a misdemeanor crime in New York is two years.”

Under New York State law, the alleged behavior is legally classified as sexual abuse in the second degree, a Class A misdemeanor. However, had Borenstein had been less than 11 years old (or less than 13 with the perpetrator being over 21) this would have been classified as a felony, for which the statute of limitations is 23. Borenstein was 13 at the time of his alleged abuse.

“In cases of child sexual assault, the statute of limitations does not start to run until the child reaches 18,” said Schmetterer. “In misdemeanor cases, that means the statute of limitations expires when the child reaches the age of 20.”

When asked whether the DA approached the other possible victim named in the memo, Schmetterer told The Jewish Week only that there were “no allegations that were viable that we could take to court and get a charge filed.

“I don’t understand why people believe that we don’t pursue these cases,” he added. “We have something like 89 cases.”

The redacted memo, however, seems to raise further questions about Hynes’ policy regarding the release of information as to the identities of those who have been arrested through Kol Tzedek, and alleged Orthodox sex offenders in general.



Despite repeated requests by reporters over the last few months, Hynes has refused to release the names of the now approximately 90 individuals his office claims to have arrested since the advent of Kol Tzedek. He has justified his refusal to do so by citing civil rights law intended to protect the privacy of victims, a position that confounds observers, who argue that releasing the name of an alleged perpetrator would not tend to identify the victim outside of a case of incest.

However, in the memo released to Borenstein, neither his name nor the name of the other potential victim is redacted. Material that appears to be related to the alleged perpetrator, Rabbi Bryski, is. Further, nowhere in the visible text of the memo is there any indication of how or why the DA made the decision not to pursue the case, though there is a hand-written note in the corner that reads "no felony." According to some observers, this raises the question of whether some of the redacted material contained information on the DA's decision-making process, which would qualify for release under FOIL. The issue of redaction is a key element in a case brought by attorney and author Michael Lesher against Hynes' office under FOIL.

Lesher recently argued this case, which concerns the release of documents by Hynes related to the failed extradition of Avrohom Mondrowitz, before New York State's highest court, and the parties are now awaiting a decision.

Last Update: 02/05/2015 - 16:17

Brooklyn, District Attorney

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Submitted by [Anonymous \(not verified\)](#) on Sat, 11/22/2014 - 21:55.

Where is the proof? They kept saying they will show it.

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Submitted by [Craig \(not verified\)](#) on Sat, 05/19/2012 - 23:22.

I know this Rabbi , Rabbi Bryski for 40 years and I say it never happened . I am a good judge of people and this is not the man who would do this. The school he runs is for troubled kids and go figure , a troubled kid with no proof claims he is guilty and its destroys the school and this rabbi. PD will not bring charges , he did not do this.

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Submitted by [Anonymous \(not verified\)](#) on Thu, 07/12/2012 - 05:14.

I believe this b/c when I was in his school in 2010. One day he asked me to come to his office to help him lift something. When I went in his pance was down. That was disturbing to see.. So that's why I believe this kid is not lying

reply

Submitted by FactsRule (not verified) on Tue, 01/20/2015 - 05:45.

When I sit down I loosen my belt. When I then stand up, my pants fall down, too. That's what you call evidence of this outrageous claim?

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Submitted by Anonymous (not verified) on Wed, 02/29/2012 - 14:38.

If you go to JewishCommunityWatch.com there is a few story's on this man!

<http://jewishcommunitywatch.com/component/content/article/37/153.html>

<http://jewishcommunitywatch.com/component/content/article/37/78.html>

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Submitted by Anonymous (not verified) on Thu, 02/05/2015 - 00:52.

That website gives you a link to this article to substantiate their claim and you reference the website to give his claim credence. Now that changes everything.

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