

May 22, 2018

Honorable Valerie E. Caproni  
US District Court  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

**Re: Sheldon Silver Sentencing Hearing (July 13th)**

Dear Judge Caproni:

May I respectfully request that you consider the following information with determining the proper sentencing of former Assemblyman Sheldon Silver? I am asking that the most stringent sentencing guidelines be applied due to the harmful actions of the defendant that extend well and beyond the public corruption crimes which led to his conviction earlier this month to obstruction of justice in criminal child abuse investigations.

The crimes I describe, below, have appeared in academic books and journal articles that I have written on the child welfare agencies, and, in particular, their intersection with Orthodox Jewish institutions. Leading academic presses have published my books on this topic. The books have been cited in the *NYT*, *Newsweek*, and the *NY Law Journal*, and reviewed favorably in over a dozen scholarly journals.

Below is a summary of how Sheldon Silver helped to obstruct justice in a child abuse case pending before the grand jury in Brooklyn:

In the case of Rabbi Solomon Hafner, a Bobov Hasidic tutor was charged with 96 counts of child abuse. The case was immediately placed before the grand jury in Brooklyn, which began hearing testimony from a leading child abuse expert who had medically examined the 8-year old boy tutored by the defendant. However, the case took an odd turn when Rabbi Dovid Cohen, the head rabbi on staff at the Ohel Children's Home and Family Services (whose salary was covered by state monies appropriated to Ohel), was threatened by Bobov community members if he did not take immediate action to save Hafner from a prosecution. The child victim was being treated for trauma by an Ohel therapist. Cohen strongly believed the boy was abused and was indeed deeply troubled by what happened. He encouraged the parents of the victim to go to the police to report child abuse and gave his rabbinic blessings to do so, at least that is what he did before he was threatened with his life by the community that rallied behind Hafner.

Ironically, Cohen, though fearing for his life, did not report the threats to his life to the local police. Instead, the rabbi reached out to his friend, Rabbi Faivel Cohen, and asked him to serve on an ad hoc rabbinic court to hear this case while the grand jury was hearing the state's case. He asked his friend to bring in other rabbis to fill out the rabbinic panel. This panel took place in the lower eastside synagogue of Rabbi Dovid Feinstein, a longtime neighbor and supporter of Sheldon Silver. Feinstein had been known as the "legislature's rabbi" – a man whose wise rabbinic authority was sought on new bills that might be at variance with Jewish Law.

After days of questioning the child victim, and upbraiding of the Ohel therapist who was treating the child, calling him “stupid” while on the stand, the rabbinic panel swiftly prepared a sworn statement for the child’s parents to sign. This sworn statement was a “letter of recantation” which was false and perjurious. The statement, if signed, was intended to be brought by the rabbis to the DA to destroy the state’s case against Rabbi Hafner. However, when the parents of the abuse victim refused to sign this putatively false statement, Ohel’s staff rabbi, Dovid Cohen, wrote up a public “letter of apology” to the defendant. The rabbinic court then tried to meet with the DA, bringing the Ohel letter of apology along with their own written decree exonerating Rabbi Hafner, but they were flatly turned away at the door. Naturally, the DA could not meet with the rabbis since the case was pending before the grand jury. The DA wisely decided that it would have constituted obstruction of justice had he met with the rabbis to hear the results of their tribunal taking place simultaneous with the grand jury investigation. However, this is where Sheldon Silver was able to tip the scale in favor of Ohel’s rabbi and the rabbinic court. Silver simply made a telephone call to the DA and suddenly the door opened for the rabbis to come in and present their decree exonerating the defendant along with the letter of apology from Ohel’s rabbi. The rabbinic panel without hesitation credited Silver’s call with the sudden volte-face of the Brooklyn DA. The DA assured the rabbis that it would be dropping the charges post haste but instructed them not to “officially” publicize their verdict (and the Ohel rabbi’s letter of apology) until the DA would formally drop the charges – basically disbanding the grand jury before it had the chance to come down with a verdict.

The rabbis were told the reason for this nice choreography of steps between the DA and the rabbi’s publication of their written verdict was to prevent it from looking like the DA “bent under pressure” from the rabbis. The 8-year boy and his parents, and the aunt and uncle that had supported him, were devastated by the obstruction of justice. In an email from the uncle of the abuse victim, he described the Kafkaesque tribunal that took place on the lower eastside at Feinstein’s synagogue: “my brother and his wife came out [of the rabbinic court] crying...they didn’t allow us to question or even hear the witnesses that came forward to testify on the defendant’s behalf...or allow key witnesses to come forward on our behalf.” The rabbis described how they assembled this lower eastside tribunal at an “emergency” pace – warning rabbis that if they did not form this tribunal “this [case] is going to stay by the D.A. until the D.A.’s decision.” And having the secular system of justice hear the case was something they couldn’t risk. “What I wrote,” said the uncle of the boy in the conclusion of his email, “is just a drop in the bucket from the sea of lies, abuse and misconceptions that the beit din [rabbinic court] heard and fed to us and to the public.” Sadly, upon the DA’s yanking of the case from the grand jury, following Silver’s call urging the DA to meet with the rabbis from the rabbinic court, the victim and his family had to run for their lives. They never returned to Brooklyn.

When I wrote up this case in a peer-reviewed journal I, together with my co-author, an attorney, received a pro Humanitate Literary Award from the *North American Resource Center for Child Welfare*. The plaque we received commends us for “intellectual integrity and moral courage.” I have taken these words to heart. It is in this spirit of “intellectual integrity and moral courage” that I bring forth this horrid case of obstruction of justice, in the hope that Sheldon Silver’s untrammelled power will be understood beyond his elaborate scheme of kickbacks which formed the basis of his public corruption trial. For one person sitting at the pinnacle of the NYS legislature to have abused the public trust by intervening in this 96-count child abuse case is not to be taken lightly. Furthermore, in the years subsequent to this obstruction of justice in the case

described above, Sheldon Silver continued to bankroll the Ohel Children's Home and Family Services. Apparently, the "letter of apology" to the defendant written by Ohel's rabbi and shared with the DA while the case was still pending before a grand jury or Cohen's turning to his friend to assemble a rabbinic court while the case was before the state for prosecution, did not raise the hackles of this legislator who rewarded Ohel with a steady flow of tax payer dollars. Showing their appreciation of his munificence, just nine months before Sheldon Silver's arrest Ohel would bestow on the former state assembly speaker the coveted Ohel Leadership Award. Its president David Mandel publicly stated at that award ceremony dinner: "NYS Assembly Speaker Sheldon Silver has truly championed Ohel's growth over the years." Yes, indeed Ohel has grown to a 64M annual budget, the largest for any social welfare agency in NY; their fiscal prowess has unfortunately empowered Ohel to think they were above the law. This view is shared by the court watchers and the law clinics that have witnessed the wholesale violation of parental interests by the judges that cower to this redoubtable agency fortified and emboldened by Silver's generous funding and his readiness to do personal favors, even if it involves obstruction of justice.

Second, is the case where Sheldon Silver helped Ohel to partake in an attempt to bribe an "independent" child advocacy group investigating Ohel for its failure to comply with the federal mandated reporting statutes in the reporting of child abuse to state authorities. Ohel was skewered in an exposé in the Jewish Week, which contained condemning evidence that Ohel had blatantly ignored New York statutes requiring the reporting of suspected child abuse to state authorities. In a frantic effort to clear its name from the charges contained in the article, Ohel shared confidential files about their abuse cases with an independent child advocacy group asking that it determine if they had indeed violated the federal reporting statutes in those cases. The Jewish Week revealed that David Mandel, Ohel's CEO and president, 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. But this coupled with an offer of financial benefit to the outside organization asked by Ohel to clear its name has the rank of criminal character. Having benefitted so generously from Sheldon Silver's appropriation of state monies to Ohel, they were confident in promising government largess to the entity charged with investigating their violations of mandated reporting laws; in essence, they were offering to secure state monies through their close connections with Silver to bribe anyone who would harm their public image.

To conclude, I cannot stand silent knowing the far-reaching effects of Sheldon Silver's free wielding power, which has hurt child victims of sexual abuse and shattered the confidence that law abiding citizens place in the child welfare and penal system. Sheldon Silver has contaminated the institutions in society that are charged with protecting victims of crime; it is the most innocent of crime victims that have been betrayed. Children cannot fend for themselves; they don't deserve to be betrayed by maniacal, power hungry politicians and monstrous child welfare agencies fortified by extravagant budgets. I humbly request you consider this letter in your sentencing of Sheldon Silver in July. I thank you most kindly for continuing to serve as a beacon of light in the dark, miasmatic world of corrupt powerbrokers.

Very sincerely,

Amy Neustein, Ph.D.

Editor, *Tempest in the Temple: Jewish Communities and Child-Sex Scandals* (Brandeis University Press)