News



Wisconsin Democratic gubernatorial candidate Matt Flynn speaks during a Jan. 28 forum sponsored by the East Side Progressives at La Follette High School in Madison, Wisconsin. (State Journal/Steve Apps)

by Marie Rohde

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Matt Flynn, a prominent Wisconsin Democrat running for governor, has come under attack by critics who say he participated in allowing abusive priests to continue in ministry and for aggressively pursuing legal fees against their victims who sued the Milwaukee Archdiocese.

Flynn was the chief counsel handling sex abuse matters for the archdiocese from 1989 until 2004.

Flynn joined the archdiocesan team shortly after some abuse cases made headlines in the late 1980s. Several were settled in civil court before going to trial. But in 1992, eight former students of the St. Lawrence Seminary preparatory school told The Milwaukee Journal about widespread abuse at the school. Although the school is operated by the Capuchins, a number of priests from the order had served in archdiocesan parishes. One of those abused was Peter Isely, a therapist who went on to become one of the founders of the Survivors Network of those Abused by Priests, or SNAP. SNAP kept the matter in the headlines across the country.

A number of lawsuits were in the courts in 1995 when the Wisconsin Supreme Court agreed with Flynn's arguments that the archdiocese was not responsible for the actions of its priests. That resulted in a number of cases being dismissed, even though the archdiocese had been earlier made aware of allegations and had not removed the priests from ministry.

A later decision by the state's high court opened the door a bit, saying that while the church could not be sued for negligence in supervising its priests it could be sued for fraud if it failed to act after becoming aware of a priest's abusive history. That decision resulted in a large number of lawsuits being brought into state court, which prompted Milwaukee Archbishop Jerome Listecki to file for bankruptcy, in January 2011.

A judge approved a bankruptcy settlement in 2015, almost four years after it was filed. The $21 million to settling abuse claims was shared among some of the survivors and was criticized as being far less than what had been awarded in other parts of the country. Particularly controversial was the transfer of $57 million into a trust fund for 10 archdiocesan cemeteries.

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Questioning his role

Now Flynn is one of at least eight Democrats in a tight race for an Aug. 14 primary, the winner of which will face Gov. Scott Walker, a Republican seeking his third term, in November. Walker, who warded off a recall election in 2012, is believed to be vulnerable. He has only 43 percent approval of his job performance, putting him in the bottom 10 of all governors, according to the Wisconsin State Journal.

Flynn, through his campaign manager, did not consent to an interview with NCR about his time representing the archdiocese, saying he had already been asked the questions by other media. He did not answer several questions posed by NCR that had not been addressed by other media.

Flynn's critics, pointing to public documents, say as the archdiocesan attorney on sex abuse he was not only aware of abusive priests, but also was a member of a small archdiocesan team that decided what to do with those accused. The team moved at least 24 priests accused of abuse to other assignments and did not report abusers to police even though some were within the criminal statute of limitations.

Flynn also was known to play hardball with accusers who filed lawsuits against known abusers, questioning them and their family and friends in preparation for trial. After the 1995 state Supreme Court ruling that the archdiocese could not be sued for the misconduct of its priests, he obtained judgments for the archdiocese's legal fees in at least three cases: one for about $15,000; one for more than $14,000; and the other for $4,000.

"That is something that is standard in the legal community," Flynn told the Milwaukee Journal in October. "When it was routinely done, and it was brought to our attention, [the archdiocese] satisfied it by paying it off."

Questions about Flynn's time representing the archdiocese were first raised by Republicans in October but got little traction until the Wisconsin Gazette, a Milwaukee alternative newspaper, ran a lengthy story May 3 summarizing the scandal and Flynn's role. The publisher of the newspaper is a survivor of priest abuse in Milwaukee who filed a claim against the archdiocese in bankruptcy court. Soon after the article appeared in the Gazette, the Wisconsin chapters of the Women's March Wisconsin and the National Organization for Women confronted Flynn at events and joined the Gazette's call for Flynn to withdraw from the race, actions that

generated more broad media coverage.

It was widely reported that Flynn, who retired from one of the state's most prominent law firms and is a former chairman of the state Democratic Party, told a group of reporters that those calling for him to drop out "should jump in the lake."

In a more nuanced statement, Flynn said that he was proud to represent the archdiocese and asserted he played a role in "cleaning up" the handling of the abuse scandal. A lifelong Catholic, Flynn also said he was horrified by the abuse and "I had to do something, not merely voice my disapproval."

He continued: "I believe I made a difference. I don't know of any recurrence in the Milwaukee Archdiocese since my time serving as their attorney."

Isely disputed Flynn's characterization.

"What the 10,000 pages of priest abuse files released as part of the Milwaukee archdiocese's bankruptcy show is that the role Flynn played was to cover up for sex abuse in the church and keeping it covered up," Isely said.

The pages to which Isely referred are a fraction of the documents released when the archdiocese emerged from bankruptcy in 2015. Attorney Jeff Anderson, a Minnesota lawyer who represented most of the survivors who filed claims in the bankruptcy, posted the documents on the firm's website.

Those involved in the three groups criticizing Flynn said they contacted Isely, who was instrumental in organizing survivors and bringing the sex abuse to the fore in 1992, a few years after the first reports of misconduct were reported in The Milwaukee Journal.

"I did not initiate any of this," Isely said. "I just want this to end."

Nonetheless, Isely combed through the thousands of pages of documents and widely shared his findings.

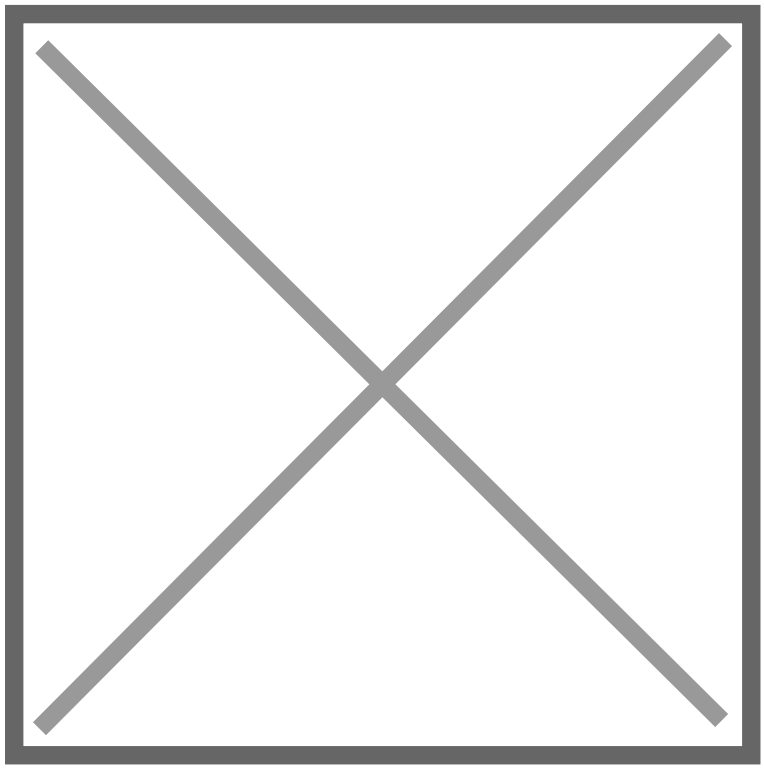
Isely and Flynn met for a forum May 22 according to Fox6 news, a local television station, where Flynn denied he had a role in transferring known abusers to new assignments.

"You have something to show me? Fine. If you think I transferred the priests in the archdiocese, you're wrong. Knock it off," Flynn told Isely, according to Fox6 News.

Leonard Sobczak, publisher of the Gazette, described Flynn as "the keeper of the list" of pedophile priests and the accusations by date. He cited testimony of former Archbishop Rembert Weakland in a deposition taken as part of the archdiocese's bankruptcy filing.

"Every time I met with my counsel in those years, Matt Flynn, he would have a list, and so at least I would have a list from him. I never kept any of those, but he would always have a list for me," Weakland testified.

Sobczak, an active Democrat, said in an interview, "My main concern is that the Republicans would be able to use this as fodder in the general election. Flynn didn't clean up the problem, he was part of the problem in that he kept it hidden."



Sarah Pearson, left, talks to Matt Flynn May 6 about his role in the Milwaukee Archdiocese payments to Fr. James Arimond in this video clip from Facebook. (Women's March Wisconsin)

Defending his legacy

The questions about his role at the archdiocese seem to greet Flynn at almost every turn.

In his written statement, Flynn asserted that no priest accused of wrongdoing was transferred to another church after 2004, thanks to procedures he put in place.

But Sarah Pearson, co-chair of the Women's March Wisconsin, said that the records show that at least 24 priests accused of abuse were transferred to new assignments during Flynn's time as a top advisor to the archdiocese.

Pearson, a survivor of sexual abuse, said that "taking a stance against this was a no brainer."

Pearson's first attempt to corner Flynn on his role in the abuse cover-up was last winter when Flynn advertised that he would take all questions on a Reddit online chat. She asked:

> It has been reported that after victims of clergy child sex crimes had to drop their civil cases in Wisconsin because of the statute of limitations, as the corporate attorney for the archdiocese, you filed court costs against those victims, even where the priest pedophile had admitted assaulting that plaintiff as a child and the archdiocese had prior knowledge that the priest had abused children. How many of these cases did you file for costs against victims?

He didn't respond to the question but Bryan Kennedy, his campaign manager, told NCR that there were only two such cases and that it was standard practice for his firm to seek legal fees but they never attempted to actually collect the debts. (NCR found three cases as stated above.)

James Smith, a local lawyer for survivors in some of the early cases, said that a lawyer can recover nominal legal fees but the practice is not common, usually used only if the initiating claim in the lawsuit is deemed frivolous or premised on a violation of civil rights.

"There is nothing routine about this case where the prevailing party — the archdiocese — acknowledged that the plaintiffs were absolutely correct on the facts," he said. "The archdiocese escaped liability only because of a peculiarity in the law immunizing the archdiocese in clergy sex abuse cases — a law for which Flynn is

responsible."

The law he referred to is the 1995 state Supreme Court decision that Flynn argued. It is listed as one of his chief accomplishments on his law firm's site.

Smith also said that even if the archdiocese did not follow up on collection, the judgment for court costs was docketed and affected the credit ratings of the survivors involved and created a lien against any real estate they owned.

A real estate lien was put on Joe Cerniglia who sued the archdiocese in 1993 on allegations he had been abused by Fr. William Effinger, a priest with a list of allegations dating back to at least 1979. Effinger died in prison in 1996 after being convicted of another abuse.

Flynn conducted depositions of Cerniglia, several family members and friends. This reporter interviewed Cerniglia's mother and others as part of a story on the case for The Milwaukee Journal that the newspaper did not publish. However, Flynn subpoenaed the reporter's notes as part of the case before it was thrown out of court in 1995 after the Supreme Court decision. Flynn's demand for the notes was dropped after the newspaper challenged the subpoena. The newspaper eventually ran a story on the case in 2002, one of a large number of stories published around the country after the Boston Globe's Pulitzer Prize-winning work on the topic.

Pearson approached Flynn after a forum and then posted a videotaped confrontation on May 6 in which she asked about a $25,000 payment given to a convicted priest, James Arimond, in exchange for his resignation. The priest then went on to become a counselor, but his license was revoked in 2002 after a news story written by this reporter.

In a timeline on his case, an archdiocesan employee said his "counseling license was likely obtained through deceit."

Flynn did not respond to Pearson's questions. The encounter was taped and posted on the group's Facebook page.

Pearson and other critics say they intend to work for passage for a state law that allows those who have been sexually abused as children to file civil lawsuits regardless of when the assaults occurred.

Flynn said he is proposing such a bill but declined to release the details, saying it would be released this week.

Marc Herstand, the executive director of the Wisconsin chapter of the National Association of Social Workers, has been working on such legislation for years. He would welcome a bill by Flynn but only if it has two prongs — eliminating the statute of limitations for civil lawsuits and creating a window in which past victims could come forward with lawsuits. He noted that California and Minnesota both adopted such legislation and it resulted in identifying scores of abusers and victims. "Hundreds of perpetrators were identified and many more victims came forward," he said.

Herstand said he recently lined up a Republican sponsor — "a person of influence" — to sponsor a bill his organization has written identical to the state's 2015 Child Victim Act. The bill would eliminate the statute of limitations for those abused as children to file lawsuits and would provide a window that would allow adults abused in the past to file lawsuits. Herstand has sent an email to other legislators asking for their support of the bill.

"The day after it was sent a staff person called and said the sponsor was getting major pushback and wanted to meet on the bill," Herstand said. "Ultimately the sponsor said 'take my name off because I can't go ahead.' "

Herstand said he was later told that the Wisconsin Catholic Conference and Wisconsin Family Action had balked at the bill. "At first we invited them in to talk about it and they agreed, but then they said they couldn't come in," he said. Many state Catholic conferences, the public policy arms of the local bishops, have aggressively opposed changes to statute of limitations, most recently in New York, Georgia and Pennsylvania.

Herstand suspects Flynn's bill would only eliminate the civil statute of limitations going forward and do nothing to allow victims to get their day in court.

"If that's the case it would be toothless," he said. "It would do nothing."

[Marie Rohde worked for the Milwaukee Journal Sentinel and its predecessor, The Milwaukee Journal, from 1972 until 2010, and is currently a freelance writer based in Orlando, Florida.]