

INTERBRANCH MEMO

(Via CompuServe)

LLJ:LSD October 7, 1997

AUSTRALIA

Re: Child Abuse Memorandum

Dear Brothers:

We have now had an opportunity to consider to your memorandum dated AB:AB July 22, 1997, No. 231 (Memo) together with comments from the United States Legal Department. Your Memo relates to child abuse matters and subpoenas for confidential records. We have the following comments and recommendations.

If the law requires that a report of child abuse be made under the circumstances presented to the elder in a specific case, the elders should report the matter to the authorities in the manner prescribed by local laws. (Romans 13:1-7)

We therefore recommend that the following procedure be implemented when handling child abuse accusations in Australia:

1. When an accusation is made to an elder, he and another elder (preferably the presiding overseer) together will determine whether there is any substance to the accusation. (*ks 91*, page 97, 109)

2. The two elders should immediately call the branch's legal department for assistance in determining whether or not the matter should be reported to the governmental authorities. Such assistance should be deemed legal advice. If it is determined that the matter must be reported to the authorities, then the two elders together should make the report as soon as possible even if other people are required to report the matter. When the matter has been reported, the reporting elders should place in the confidential file a memo stating only that "a report involving [victim] and [accused] was reported to [governmental agency] by [elder] and [elder] on [date]."

3. When the circumstances warrant it, a judicial committee will be appointed. The judicial committee eventually must make a decision on the merits of the matter before it. In light of the evidentiary requirements of *ks91*, there will be instances in which the evidence is insufficient for the committee to determine that the accused is guilty of wrongdoing because there will be no confession and only one eyewitness (the child victim) against the accused. (*ks 91*, page 111) For this reason, the judicial committee must keep in mind that it may not have enough evidence to decide that a serious sin has been committed for purposes of judicial reproof or disfellowshipping even though the matter has been reported to the governmental authorities.

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4. If any elder is contacted by a police officer or other investigating agent requesting information and/or documents relating to a child abuse case, before providing any information or documents the elder should first contact the branch's legal department for advice. If subpoenaed to testify in a court of law or to produce documents relating to a child abuse case, testimony should be given and documents produced only when there is no available privilege under local law. If the availability of such privilege is uncertain in the particular case, testimony should not be given and documents should not be produced unless a judge rules that the privilege is not available.

Your Memo raised concerns that the ecclesiastical privilege may be lost when one body of elders advises another body of elders that an individual is a former child molester. Therefore, we recommend that when such information must be conveyed by one body of elders to another as outlined in the March 15, 1997, letter to all bodies of elders, it be done in general terms. For example, the elders could simply state that "[abuser] is a known child molester." We understand that in Australia the ecclesiastical privilege only applies to confessions. By not referring to any confession or specific information that would identify the victim or specific type of sexual abuse involved, it would seem that the ecclesiastical privilege would be preserved.

Further, your Memo raised concerns that brothers at Bethel could be required to report child abuse matters or possibly be subpoenaed to testify based on information received from congregation elders who call the Society for direction on these matters. By following the procedure outlined in point #2 above, would not the attorney-client privilege apply so that brothers in your Legal Department would not have to report or give testimony? We are informed that such would be the case in the United States.

Thank you for presenting this matter to us. We hope that implementing our recommendations will help you to handle these difficult cases in a Scriptural manner for the benefit of the congregations while complying with the constraints of Caesar's law.

Please accept our Christian love and greetings.

Your brother,

For the Publishing Committee