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Mahony 'mystified' by reported federal probe

Dennis Coday | Jan. 30, 2009

LOS ANGELES
Cardinal Roger M. Mahony of Los Angeles said he is "mystified and puzzled" at reports that a federal prosecutor is investigating whether he and the archdiocese violated a federal law against scheming "to deprive another of the intangible right of honest services."

The Los Angeles Times and the New York-based *Wall Street Journal* reported Jan. 29 that U.S. Attorney Thomas P. O'Brien is personally involved in the investigation.

The similar stories cited anonymous sources who said a grand jury convened by O'Brien is looking into whether Cardinal Mahony and other church leaders committed fraud by inadequately handling cases of priests who sexually abused minors.

The U.S. attorney's office has declined to comment.

The legal strategy cited in the stories has been used to prosecute figures such as ex-lobbyist Jack Abramoff, former California Rep. Randy "Duke" Cunningham and former Enron CEO Jeff Skilling on the grounds that their actions deprived the public or shareholders of their right to "the honest work of government or business," the Times explained in a Jan. 30 editorial on the reported investigation.

Two press releases from the archdiocese Jan. 29 questioned the motives of those who released the information anonymously and called for an internal investigation of the leak from the U.S. attorney's office.

Michael Hennigan, counsel for the archdiocese, said in one statement that "the leak by the government is unprofessional and violates Department of Justice guidelines concerning ongoing investigations."

He said the archdiocese has received requests from the U.S. attorney's office for information about some priests, "two of whom are deceased and none of whom are known to be in ministry. We have and will continue to be fully cooperative with the investigation."

Hennigan said he was unaware of "any fact or set of facts that would support a responsible federal investigation of the archdiocese or of Cardinal Mahony."

Cardinal Mahony said in an interview on Los Angeles radio station KNX that he was mystified by the reports of an investigation, particularly since the archdiocese had disclosed "all our failures along the way" regarding the abuse crisis in material posted on a Web site in 2004.

He said he thought when that report came out it might raise further questions, but apparently there were none.

In 2007 the archdiocese announced a settlement agreeing to pay $660 million to more than 500 plaintiffs in cases alleging sexual abuse by priests and other church personnel, dating primarily from the 1950s, '60s and '70s.

"It's all behind us now," Cardinal Mahony said on the radio show. "Exactly what's motivating this only the U.S. attorney can tell us."

The cardinal also said he has met with many people who were looking into the abuse cases over the years. He added that the investigators who currently review reports of sexual abuse for the archdiocese are all former federal investigators, such as FBI agents.

"If anybody is going to find anything wrong with what we're doing, it's going to be the former FBI agents," he said. "I thought all the questions were already looked into and resolved."

He added that he would be willing to meet with anyone, including a grand jury, who is looking into the situation.

A representative of the Survivors Network of those Abused by Priests, known as SNAP, was quoted in both Jan. 29 news stories as having been unaware of an investigation. Later the same day, SNAP held a press conference in Los Angeles, saying it encourages criminal prosecution of church officials who mishandled abuse cases.

A statement by SNAP's national president, Barbara Blaine, said: "Even the launching of this probe is a vindication and validation for thousands of deeply wounded victims and betrayed Catholics."

"Some in the hierarchy must be held accountable for the devastation caused by this deceit and callousness," Blaine's statement added.

The archdiocese responded with a statement: "It is precisely the kind of 'angry mob' reaction exhibited by SNAP that grand jury confidentiality is supposed to safeguard against.

"Unfortunately, the person or persons familiar with the U.S. attorney's office investigation have discarded this confidentiality, which helps ensure fair and competent investigations," the statement said. "All of us should question the motives of anyone who would so callously subvert the safeguards of our federal legal system."

An editorial in the Los Angeles Times Jan. 30 lauded prosecutors for their sustained interest in the victims, but questioned the legal strategy.

"The law's application against a cardinal in the oversight of an archdiocese is another matter. Laurie Levenson, a law professor at Loyola Law School, aptly called it 'creative lawyering.'"

The editorial said, "There is room in the legal profession for prosecutors to think broadly about their reach, and society is often the beneficiary... . But ... O'Brien has previously demonstrated a worrisome creativity."

The writers of the *Times* editorial said they were worried "about the elasticity of the law. If (Cardinal) Mahony conspired to protect abusive priests, charge him with conspiracy. If he blocked inquiries, charge him with obstruction. But his crimes, if any, are easily defined under tested laws, not as vague denials of service."

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