JEHOVAH'S WITNESSES AND CLERGY PRIVILEGE

Aswin Suierveld
In recent times it became increasingly clear to me how Jehovah's Witnesses use clergy privilege. Meanwhile, the Ministry of Justice and Security in The Hague (the Netherlands) was discussing the introduction of mandatory reporting on the knowledge of child sexual abuse and the role that clergy privilege could play in this respect. I felt a need to gather the information I had. Since a clergyman can only invoke the right to refuse to give evidence with regard to certain information according to law, I also wanted to provide insight into the pastoral care offered within congregations of Jehovah's Witnesses. A few times I use an experience story as an example, including my own experience. They are only intended to clarify the role of elders as shepherds in the Jehovah's Witness community, and I have tried to portray them as factually as possible.

I am aware that someone can argue against me that as a former Jehovah's Witness, I do not take a neutral stand. My experience as an insider, however, offers me insights into that world of faith that an outsider will never have. My education helps me put things in perspective. I have tried to write this report from my professionalism, looking for a point of view that is as objective as possible.

Jehovah's Witnesses are generally kind and sincere in their faith, but as an organization difficult to change from the outside. This has everything to do with their religious believes. I have therefore added an article that is meant to gain insight in how Jehovah's Witnesses stand in (or opposite) the surrounding world.

I hope this contribution will provide insight into the pastoral care by elders in the Christian Congregation of Jehovah's Witnesses, as well as the way they make use of clergy privilege. Please keep in mind that it is originally written for the Dutch situation.

Aswin Suierveld

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ABSTRACT

A clergyman can invoke clergy privilege before a court, but only with regard to knowledge entrusted to him in his capacity as a spiritual caretaker. In the organization of Jehovah's Witnesses, elders and other overseers can be considered spiritual ministers. In practice, they seem to be granted the right to clergy privilege rather easily. Police and Justice seem to have no or insufficient knowledge of the type of spiritual care provided by elders within the community of Jehovah's Witnesses.

In the pastoral care of Jehovah's Witnesses the doctrine of faith forms the starting point. A member of the congregation has little choice as to his own wishes or wants when it comes to his faith or the spiritual care associated with it. In their pastoral care, elders are not only spiritual caretakers, but sometimes also investigators and judges. Because of the involuntary circumstances in which information is shared with the elders during internal judicial proceedings and the fact that elders then have the capacity of investigator and judge, information obtained in this way is not covered by the clergy privilege.

Confidentiality seems to be understood broadly, in the sense that elders share information with each other and persons higher within the organization. At the same time, information to the outside world is kept as secret as possible. Jehovah's Witnesses seem to have their own definition of confidentiality. The question is whether this is in the interest of a member of the congregation or whether it actually concerns the interests of the organization itself.

Both due to lack of professional education and the requested obedience to the organization, elders of Jehovah's Witnesses are unable to make a professional and ethical assessment themselves in situations where an major interest calls for a possible breach of confidentiality.

There are strong indications that mandatory reporting at the knowledge of sexual abuse, where there is a possibility for clergymen to invoke the right of non-disclosure, will not result in reporting to the authorities by elders of Jehovah's Witnesses. As long as there is an exception to which they can invoke, they do not see themselves legally obliged.

A redefinition of who can be regarded as a 'clergyman' with regard to clergy privilege could prevent abuse of this right. This could also prevent certain people from wrongfully evading any reporting duty in case of sexual abuse.
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GLOSSARY

Bethel - The name 'Bethel' means 'House of God'. This name is used by Jehovah’s Witnesses for the World Headquarters or a branch office.

Bethelite - Someone who lives and works full-time on Bethel. A bethelite does not receive any income for his work, at most a small allowance.

Bible Study - A study that a Jehovah’s Witness holds with a person who is not part of the religion, usually by means of a Watchtower publication.

Book Study – Full: Congregation Book Study. Meeting of Jehovah's Witnesses in smaller groups held in private homes and where a discussion was held on the basis of a Watchtower publication. With effect from January 2009, this meeting became part of the other weekday meeting in the Kingdom Hall and given the name Congregation Bible Study. It discontinued when the organization started the Life and Ministry Meeting in 2016.

Branch/headquarters - Jehovah's Witnesses have only one head office, also known as 'World Headquarters' (WHQ). All other offices are referred to as a branch office within the organization. The national administrative centre of Jehovah's Witnesses in Emmen (the Netherlands) is internally referred to as a branch office.


Circuit Assembly - Larger meeting of several congregations that together form a circuit. Jehovah’s Witnesses meet twice a year like this, once two days in a row, the other time one day.

Circuit overseer - Travelling overseer who visits the congregations of his assigned circuit twice a year.

Convention - Large three-day meeting of Jehovah's Witnesses held once a year.

Disfellowshipping - An individual Jehovah's Witness can be excluded (disfellowshipped) for a violation if he does not show sufficient repentance according to the elders. This means that church members are no longer allowed to have contact with him, not even greet him. He has been declared dead, as it were. Disfellowshipping can have major consequences for the person in question and his immediate family, if they are still Jehovah’s Witnesses.
**Elders/overseers** - Office in the congregation of Jehovah's Witnesses. The terms elder and overseer are more or less interchangeable. The term overseer is sometimes used in combination with a specific task or function (e.g. Service overseer, Field Service Group overseer).

**Field service** - Another word for evangelism work.

**Field Service Meeting** - An organized time (and location) when individual Jehovah's Witnesses gather to perform their evangelization work.

**Governing Body** - Group of elders responsible for the spiritual direction and policies within the global community of Jehovah's Witnesses.

**Jehovah's Witnesses** - The religion of Jehovah's Witnesses. To avoid confusion, the surrounding text makes clear whether it concerns the organization or individual believers.

**Judicial Committee** - A committee of three or more elders formed during internal judicial proceedings at Jehovah's Witnesses and which assesses whether someone has sufficient repentance for an offense or not.

**Kingdom Hall** - The building where a congregation of Jehovah's Witnesses meets.

**Legal Department** - Department at a (larger) branch that deals with all legal matters related to the organization of Jehovah's Witnesses.

**Life and Ministry Meeting** - Current weekday meeting of Jehovah's Witnesses. This is also referred to as 'Our Christian Life and Ministry' and replaced the Theocratic Ministry School, Service Meeting and Congregation Bible Study from 2016. The meeting focuses both on training for evangelism work and living according to the doctrine of faith.

**Meeting** - A gathering for worship of the congregation of Jehovah's Witnesses.

**Ministerial Servant** - Office in the congregation of Jehovah's Witnesses.

**Pioneer Service** - A pioneer is someone who spends a specific and fixed number of hours on evangelism work. Jehovah's Witnesses are distinguished in the special, regular and auxiliary pioneer service. Auxiliary pioneers can be appointed to the Auxiliary Pioneers' Service for a minimum of one month, a few months in a row, or to the permanent Auxiliary Pioneers' Service. Auxiliary pioneers are expected to spend at least 50 hours per month on evangelism work. (There is a possibility for 30 hours in some specific months). A regular pioneer is appointed for a longer period of time and spends an average of 70 hours per month on evangelism. For 1999, the hour requirement was higher. A special pioneer is usually chosen from the regular pioneers and sent out by a branch to serve elsewhere.

**Preaching (work)** - Another word for evangelism.
Public Meeting / Public Lecture - (Biblical) lecture for a general public.

Service Department - Division in a branch office responsible for all matters relating to evangelism, the activities of congregations, elders, ministerial servants, circuit overseers and pioneers.

Service Meeting - Meeting aimed at being effective in evangelism. This was held on a weekday after the Theocratic Ministry School and was merged into the Life and Ministry Meeting in 2016.

S-77 form - Official title: Notification of disfellowshipping or disassociation. Elders must complete this form with respect to a person who is excluded from the community during internal religious proceedings or with respect to persons who terminate their membership as Jehovah’s Witnesses by officially withdrawing. (See Annex B for an illustration of the form).

Theocratic Ministry School - Weekly meeting where members of the congregation could register and were trained for evangelism work through talks and demonstrations. Discontinued when the organization started the Life and Ministry Meeting in 2016.

Two witness rule - Policy for Jehovah’s Witnesses based on their interpretation of the Bible, which states that two or more witnesses are needed to determine a violation and form a judicial committee.

Watchtower-Study - Meeting with question-and-answer discussion based on an article from the Watchtower. The Watchtower-Study is held after the Public Meeting, usually at the weekend.
1. CLERGY PRIVILEGE (IN THE NETHERLANDS)

1.1 LEGAL PROVISION

According to Dutch law, anyone who is summoned to give evidence in court is obliged to give evidence. In certain situations, such as when there are close family ties, this can be changed. But also those who are bound to secrecy by virtue of their office, profession or with regard to what is entrusted to them in that capacity may invoke the right to refuse to disclose (Art. 165 par. 2 sub b Code of Civil Procedure).

The right of non-disclosure is recognized as a general principle of law and applies in both civil and criminal law. Art. 218 of the (Dutch) Code of Criminal Procedure (2018) says that the right to non-disclosure or refusing to answer certain questions may be invoked by those bound to secrecy on account of their status, their profession or their office, but only about what is entrusted to them as such.

Traditionally we speak of the 'classical quartet' of secret holders: the lawyer, the notary, the doctor and the clergyman. Of the first three, it can be said that they are easily defined professions. But who falls under the clergy?

1.2 MEMBERS OF THE CLERGY

Members of the clergy includes those who, from religious or ideological societies, perform functions as spiritual caretakers for the spiritual well-being of affiliates, interested parties and stakeholders, and in that context establish and maintain relationships of trust with persons (Meijers, 2008, p.172).

This may include priests, ministers, elders, deacons, pastors or church workers, but also 'new' clergymen such as the imam or the pandit. Even volunteers who perform tasks within a religion or ideological community that involve secrecy, fall within the circle of spiritual ministers (or members of clergy) at Meijers (2008).

According to Van den Brink (2018), the term clergy of spiritual is difficult to define and there is no legal framework that determines who belongs to the clergy. To sum up, there seems to be agreement that there must be the exercise of a pastoral function, that there is a social interest involved and that it must be a relationship of trust.
In recent decades there has been an increase in religious and philosophical groups. This also increases the number of people who can rely on it to fulfil a 'spiritual ministry'. The question is whether all these persons can rightly invoke the right of the clergyman to refuse to give evidence, of clergy privilege.

1.3 **WHAT IS COVERED BY CLERGY PRIVILEGE?**

Not all the information that spiritual ministers find out is covered by clergy privilege. According to Dutch law the clergyman can only refuse to give evidence concerning that which is entrusted to him as such, that is in his capacity as a clergy or spiritual caretaker (Art. 218 Code of Criminal Procedure, see also: Art. 165 section 2 sub b Code of Civil Procedure). At Meijers (2018, p.174) the secrecy of spiritual ministers extends to all that they have observed and been entrusted with in their capacity as spiritual caretaker and helpers within relationships of trust.

Van den Brink (2018) mentions three factors with regard to information that falls under the right of the clergyman to refuse to give evidence: knowledge, capacity and trust. He indicates that it is knowledge (facts and sensations) of persons who turn to the clergyman, in his capacity as a spiritual caretaker based on confidentiality. This does not include an ordinary friendly visit by the spiritual minister. The clergyman must make a distinction and must consider whether or not he can or should refuse to give evidence with regard to a certain knowledge.

1.4 **GRANTING CLERGY PRIVILEGE**

The judge must assess, in each situation, whether he grants the right to clergy privilege. According to Sackers (2017), in order to see whether the person in question can be regarded as a member of clergy, it is examined whether the person is working as a spiritual minister in a religion to be taken seriously.

Meijers (2008) noted that the court does not examine whether a spiritual caretaker or helper is working from a particular society, but that spiritual care, a relationship of trust and a duty of confidentiality were used as criteria for granting the right to clergy privilege. The public interest, that there is free and unimpeded access to personal care, plays a major role in this.
1.5 **CONFIDENTIALITY OBLIGATION (AND BREAKING IT)**

When a judge calls on a witness to make a statement before a court, this is in the interest of establishing the truth. Clergy privilege serves a (different) social interest, namely free and unimpeded access to spiritual care and assistance. A characteristic of the relationship of trust is that the information about privacy given by persons (clients) with a view to good care and assistance to the spiritual ministers remains confidential and secret. Thus, the duty of confidentiality of ministers of religion guarantees the protection of the privacy of persons (clients) and thus also the free and unhindered access of persons (clients) to spiritual care and assistance (Meijers, 2008, p.174).

The Roman Catholic confidentiality of confession is known to be accepted as an absolute secret, but otherwise the obligation of confidentiality is relative. This means that, where appropriate, confidentiality may be broken at the request or with the consent of the person concerned. In the event of a substantial interest, such as (life) danger or serious damage to third parties, the obligation of confidentiality can also be broken unilaterally - i.e. without permission. Van den Brink (2018), for example, mentions child abuse as a reason in which the child's best interests and thus reporting will outweigh the importance of keeping silent. The following six criteria can help the spiritual minister to make his decision (Meijers, 2008, p.182):

1. Every effort has been made to obtain the client's consent.
2. Maintaining the obligation of confidentiality results in serious damage for the client or for third parties.
3. By maintaining professional secrecy, the spiritual minister experiences troubles of conscience.
4. Only by breaking professional secrecy can the problem be addressed or solved.
5. It must be almost certain that by breaching professional secrecy, damage to the client or third parties can be limited or prevented.
6. Professional secrecy should be breached as little as possible and the client is informed of this.

The breach of confidentiality does not release the spiritual minister from his duty of confidentiality. He will even then only provide the information that contributes to the greater interest.
1.6 LAW AND DISCIPLINARY MEASURES

The clergy is not a profession within the meaning of Art. 272 of the Penal Code. A spiritual minister cannot be legally prosecuted for breaching his confidentiality. The clergy privilege is a right and not a duty. However, its own church can take disciplinary measures against someone who has violated confidentiality. On a national level, there are a number of associations for spiritual caretakers, with their own professional codes and rules of conduct. These associations may impose disciplinary measures on their members.

The breach of official secrecy may be regarded as an unlawful act. Before the civil court, the injured party can then request the court to determine damages.

1.7 IN SUMMARY

In summary, we can conclude that the spiritual minister can invoke clergy privilege with regard to information shared with him in his capacity as a spiritual caretaker. There must be a relationship of trust. The clergyman usually carries out his tasks within a religious or ideological community. Concerning the possibility of invoking clergy privilege, the social interest of free and unimpeded access to personal care is of importance. However, clergy privilege is a right and not an obligation. Sometimes there may be serious reasons for breaking confidentiality. The latter requires professional and ethical consideration.
2. SPIRITUAL MINISTERS AT JEHOVAH'S WITNESSES

2.1 DO JEHOVAH'S WITNESSES HAVE CLERGY?

In the book Jehovah's Witnesses - Proclaimers of God's Kingdom (1993), that offers a representation of the history of the religious group, is written about the early development of the organizational structure:

They realized that the Bible made no provision for titled clergymen, with a laity to whom they would preach. Brother Russell was determined that there would be no clergy class among them. Through the columns of the Watch Tower, it's readers were frequently reminded that Jesus told his followers: "Your Leader is one, the Christ", but, "All you are brothers". - Matt. 23:8,10 (p.204).

In the Awake! magazine of August 2010, in the article What Do Jehovah's Witnesses Believe?, the following is said about the distinction between clergy and lay people:

“All you are brothers,” said Jesus to his followers (Matthew 23:8). The early Christians, including the Bible writers, had no clergy class. This Biblical pattern is the one that Jehovah's Witnesses follow (p.9).

According to their teaching, Jehovah's Witnesses know no distinction between clergy and lay people. Ordinary members of the congregation will usually say that they have no clergy. Nevertheless, the organization has a strong hierarchical structure and, on closer inspection, there is indeed a distinction. More about this later on.

2.2 SPIRITUAL MINISTERS

"At our baptism we are ordained as ministers" (Organized to Do Jehovah's Will, 2015, p.68). Jehovah's Witnesses know the 'adult baptism' that can only take place after the person in question has taken enough knowledge of the doctrine and more or less makes his own choice.

Eventually, the Bible student, having developed a love of Jehovah God and a strong faith in the ransom sacrifice, wishes to dedicate himself completely to his heavenly Father (John 14:1). He makes that dedication in personal prayer and then gets
baptized as a public symbol of that private act. His baptism is his ordination ceremony because that is when he is recognized as a fully dedicated servant, a *di-a'ko-nos*, of God. [...] He is *God's* minister, imitating Christ (*The Watchtower* November 15, 2000, pp.18-19).

Every Jehovah's Witness thus becomes a spiritual minister at his or her baptism. It should be noted that within the religious community often children of 14 years and under - sometimes as young as 9 years - are baptized. These, too, are then considered to be fully-fledged ministers.

The Watchtower of September 1, 2012 contains the article *Do Jehovah's Witnesses Have Women Ministers?* The question in the title is immediately answered with: “Yes, worldwide Jehovah's Witnesses have several million women ministers. They are a great host of preachers of the good news of God’s Kingdom” (p.23).

The kind of spiritual minister that every Jehovah's Witness is relates to the work of evangelization. Each of them should share and teach the "good news of God’s Kingdom" to others.

Interestingly, they put all these ministers in line with clergy from other churches. An article that deals with how the evangelization work of the Jehovah's Witnesses at our time would be a "fulfillment" of Jesus' words, says:

To understand how Jehovah's Witnesses have fulfilled Jesus' prophecy with regard to the scope of the preaching work, let us consider some facts. There are approximately 600,000 members of the clergy in the various denominations in the United States, where there are some 1,200,000 Witnesses of Jehovah. Worldwide, the Roman Catholic Church has a little over 400,000 priests. Now consider the number of Witnesses involved in the Bible-based Kingdom-preaching work. Worldwide, some eight million volunteer ministers preach to people in 240 lands. What an amazing work is being accomplished, all to Jehovah's praise and glory! - Ps. 34:1; 51:15 (*The Watchtower* May 2016 (study edition), p.11).

In the Netherlands, the Legal Department of the branch office has tried in the past to obtain legal recognition for all Jehovah's Witnesses as spiritual ministers. Under Dutch law, ministers of religion and persons studying for the ministry could at the time be exempted from military service, provided that the name of the religious organization appeared on the Ministry of Defence's list. Jehovah's Witnesses were not present. According to the Yearbook of Jehovah's Witnesses of 1986, they repeatedly tried in vain to prove that all the preachers - that is, all the baptized Jehovah's Witnesses participating in the evangelization work - were religious ministers.
All Jehovah's Witnesses are considered spiritual ministers. The above also shows that they align themselves with clergymen from other churches. With the previously observed fact that they do not recognize a distinction between clergy and laymen, the conclusion seems to be that all are regarded as clergy according to the doctrine.

2.3 A DISTINCTION IS MADE

Jesus had said that all were brothers, but equality does not seem to apply to all Jehovah's Witnesses. First of all, there is the distinction between men and women.

In the Watchtower Article Do Jehovah's Witnesses Have Women Ministers? (2012), explains that the work of female ministers in Jehovah's Witnesses should not be confused with the work of female clergy in other religions. The latter usually have a management position within their congregation and teach their own herd, according to the article. Female ministers at Jehovah's Witnesses teach people outside the religious community. Their role in the congregation is also different:

Female clerics of Christendom and other churches preside over and instruct members of their congregation in the dogma of their religion. Women ministers of Jehovah's Witnesses, however, do not teach in the congregation when baptized men are present. Only men who are appointed as teachers do so. – 1 Timothy 3:2; James 3:1 (The Watchtower September 1, 2012, p.23).

The Bible describes only men as being charged with oversight of a congregation. (Idem, p.23).

In passing, we can also deduce from this quotation what view Jehovah's Witnesses have on 'clergy': it is someone with authority over the congregation and someone who teaches the doctrines of the church. One might wonder whether this view is realistic and corresponds to the situation in our present society. We will see in the following chapters how this view of Jehovah's Witnesses reflects how their own pastoral care takes shape. In any case, women in Jehovah's Witnesses are not eligible for leadership positions. The reason for this is explained in the same article:

"I do not permit a woman to teach, or exercise authority over a man, but to be in silence. For Adam was formed first, then Eve" (1 Timothy 2:12,13). Thus, the order of creation indicates God’s purpose in the delegation of teaching and oversight. (Idem, p.23).

Female Jehovah's Witnesses are only spiritual ministers in the sense that they participate in the work of evangelization.
2.4 'Ministerial Servant'.

Male Jehovah's Witnesses are expected to reach out to an office in the congregation. Jehovah's Witnesses have two offices: that of elder and the ministerial servant. A 'brother' who is diligent in the work of evangelism and who leads an exemplary life in all respects can be assigned some tasks. If he looks after them well, he may qualify over time to be appointed as a ministerial servant. This is how his career within the organization begins and he may one day become an elder.

The word 'ministerial servant' is a translation of the Greek di-a'ko-nos. In many churches the deacon performs tasks that have to do with caring for the poor. With Jehovah's Witnesses this office is given its own interpretation. Ministerial servants perform the more practical tasks in a congregation. They are responsible, among other things, for: accountancy, literature and magazines, operating the sound equipment during meetings of congregation, supervising during those meetings, cleaning and maintaining the Kingdom Hall (the place where Jehovah's Witnesses for worship meet).

If there are no brothers available, a task of a ministerial servant may be performed by an "exemplary sister", but she will not be appointed to that ministry.

2.5 Elders

In the congregations of Jehovah's Witnesses, the leadership is in the hands of a group of elders, together called the 'Body of elders'. Sometimes for elders the term 'overseers' is used. The elders have the task of caring for their congregation as teachers and shepherds. They perform their duties unpaid.

Another word for pastoral care is shepherding (the word 'pastor' means shepherd). Only the elders, as 'shepherds', take care of the congregation, whose members are often referred to as 'sheep'. What this pastoral care looks like in practice will be discussed in the next chapter.

2.6 Other Overseers

The organization of Jehovah's Witnesses has other overseers or 'older men' in leadership positions.
Circuit Overseer

A Circuit Overseer is a kind of elder who, on behalf of the regional branch office, visits the congregations assigned to him in his 'circuit'. Each congregation is visited twice a year by the Circuit Overseer. One purpose of this is 'to encourage zealous participation in the ministry and provide practical suggestions' (Organized to Do Jehovah's Will, 2015, p.46). He meets with the ministerial servants and elders and gives the latter counsel and suggestions to accomplish their duties as elders.

Branch Overseer

Each branch office of Jehovah's Witnesses is managed by a Branch Committee, consisting of three or more branch overseers. They oversee the preaching work and deal with issues concerning all congregations in their territory. They also make arrangements for Assemblies and Conventions.

When a country is supervised by a branch in another country, a Country Committee is sometimes appointed. The latter shall cooperate with the Branch Committee. All its members are appointed by the Governing Body.

Headquarters Representatives

Each branch is regularly visited by a Headquarters Representative. The World Headquarters of Jehovah’s Witnesses are in the United States. The Headquarters Representative aims to encourage the Bethel family - the volunteers who live and work full-time in a branch office - and to help the Branch Committee with problems related to the preaching work.

Governing Body

At the top of the hierarchy are the members of the Governing Body. These are older men with a long track record within the organization, who all live and work at the World Headquarters in Warwick, New York, in the United States. In 2018 the Governing Body consists of eight people.

The Governing Body is in charge of the worldwide community of Jehovah's Witnesses. They are responsible for the interpretation of the doctrine of faith and for the policy of the organization. A change in policy can only be made with the consent of the Governing Body.

2.7 Conclusion

Although Jehovah's Witnesses claim not to distinguish between clergy and laity, in practice there is a difference. In the congregations of Jehovah's Witnesses, ministerial servants and
elders have a spiritual ministry. Elders in the congregations of Jehovah's Witnesses are responsible for 'pastoral' care.

In practice, it is the elders and overseers who are higher up in the hierarchical structure who may use the clergy privilege.
3. PASTORAL CARE AT JEHOVAH'S WITNESSES

Elders of Jehovah's Witnesses are responsible for pastoral care and can therefore be considered spiritual ministers. This and the following chapters are intended to provide insight into the spiritual care that elders provide at Jehovah's Witnesses.

3.1 APPOINTMENT AND QUALIFICATIONS

Until 1938 there were still democratically elected elders. From that year on, the congregations were run by a congregation servant, who was appointed from above. In 1972 the present regulation, that a congregation is led by a 'body of elders', was introduced (Jehovah's Witnesses - Proclaimers of God's Kingdom, 1993; Franz, 1998). The method of appointing elders, from above, is considered 'theocratic'. Jehovah's Witnesses believe that their organization is led by Jehovah God, through Jesus and the Holy Spirit. Elders must meet certain standards, which are derived from the Bible sections in 1 Timothy 3:1-7 and Titus 1:5-9. In their view, the Bible is 'inspired by God' and therefore they consider elders who meet the requirements of these texts to be appointed by the Holy Spirit (Organized to Do Jehovah's Will, 2015, p.30).

An appointment to elder often occurs in connection with the semi-annual visit of a Circuit Overseer to the congregation. If local elders consider that a ministerial servant is suitable for becoming an elder, the congregation’s Service Committee fills in his details on a special form (S-62). This is sent to the Circuit Overseer one month before he visits them. Not more than a few days before his arrival, the Circuit Overseer receives additional information to assist him in his assessment. If the Circuit Overseer decides during his visit to the congregation that the ministerial servant can be appointed as an elder, he and an elder of the congregation will take the person apart. They have to ask him a few questions, including whether he has been guilty of child sexual abuse in the past. If the person answers 'no' to all questions, his appointment can be announced to the congregation at the next midweek meeting (Shepherd-book, 2019, 8:15-20).

Until the Circuit Overseer and elder approach him, the person in question is not involved in the whole process. It is assumed that the ministerial servant would like to become an elder because "mature Christian men should desire to become overseers (1 Tim. 3:1)". (Organized to Do Jehovah's Will, 2015, p.37). Once in office, a Jehovah's Witness remains an elder for the rest of his life, unless there is a reason for him to resign.
Jehovah's Witnesses have no ritual or part of a service in which an elder is confirmed in office. No vows are made.

Elders perform different tasks within the body of elders. For example, there are the Coordinator of the body of elders, the Secretary of the congregation, the Service overseer, the Watchtower Study conductor and the Field Service Group overseer. The first three together form the Service Committee. Where there are few elders, one elder will take on multiple tasks. Some or maybe all elders will fulfill the task of Field Service Group overseer.

3.2 Training and Equipment

In the book *God's Kingdom Rules!* (2014) gives an overview of the Theocratic schools within the organization of Jehovah's Witnesses. Below are the two that are important for the equipment of elders, including the comments of participants who say something about the school in question (p.191):

**KINGDOM MINISTRY SCHOOL**

**Purpose:** To train traveling overseers, elders and ministerial servants to care for their oversight and organizational responsibilities (Acts 20:28). Current situations, trends and immediate needs of the congregations are covered. This school is held every few years, as decided by the Governing Body.

**Duration:** In recent years this school has been conducted for varying lengths of time.

**Location:** Usually a nearby Kingdom Hall or an Assembly Hall.

**Enrollment:** The circuit overseer notifies elders and ministerial servants. The branch office invites traveling overseers.

**Benefits:** "The school, though compact and precise, invigorates elders to maintain joy and carry on in a manly way in Jehovah's service. Both new and longtime elders learn to shepherd effectively and be united in the same line of thought." - Quinn

"This training was balanced – building our spiritual appreciation, warning us of dangers, and providing us with practical suggestions to care for the flock." - Michael
SCHOOL FOR CONGREGATION ELDERS

**Purpose:** to help elders deepen their spirituality and care for their responsibilities in the congregation.

**Duration:** Five days.

**Location:** Decided by the branch office; usually a nearby Kingdom Hall or an Assembly Hall.

**Enrollment:** The branch office invites elders.

**Benefits:** Note some comments from brothers in the 92nd class of this school at Patterson, New York, USA:

“*The school has benefited me greatly, helping me to look at myself and see how I can take care of Jehovah’s sheep.*”

"*I will carry this training with me for the rest of my life.*"

The Kingdom Ministry School is organized every few years, with both elders and ministerial servants being invited. There is a separate part for those who (at least) are elder. Elders and ministerial servants are expected to attend the Kingdom Ministry School whenever possible when it is held. The School for Congregation Elders has been held since February 2008 and seems to have a one-off character. This school is not yet available in every country. Neither school is a requirement to be an elder. Rather, it is the other way around: one must be an elder in order to participate.

In addition to these, there are also the 'School for Circuit Overseers and their wives' and the 'School for Branch Overseers and their wives'. It is plausible that the women concerned do not follow the same program as the Circuit/Branch Overseers. At Jehovah's Witnesses, women are strictly kept out of business related to organizational issues.

### 3.3 Elders’ Manual

The elders are equipped for their task with a manual. Until recently this was the book "Shepherd the flock of God" (2010). The forerunner of this was "Pay attention to yourselves and to all the flock" (1991), which had the mention: Kingdom Ministry School Textbook. As of February this year, there is a new *Shepherd*-book (2019).
A remarkably large part of "Shepherd the flock of God" (2010) deals with judging and correcting in case of violations. Even the one chapter (four) that contains guidelines for making pastoral visits that are intended to be encouraging, contains a list of symptoms to recognize 'weakness'. In this way, elders can intervene before a member of the congregation sins. Encouragement, counselling or reprimanding is given by reading Bible texts or referring to literature of the organization.

"Shepherd the flock of God" (2010) was supplemented with letters and references to Watchtower publications. Elders had to make constant notes in the book with references to these additions. Sometimes certain sections were deleted on designation, such as when a letter contained a policy review. The manual and the letters to the Body of Elders are only accessible to elders and not openly accessible to ordinary members of the congregation.

In February 2019, a complete revision of "Shepherd the flock of God" appeared, referred to as Shepherd-book. In addition to the information already contained in the previous manual, it includes all relevant guidelines that in recent years appeared as a supplement in letters to all bodies of elders worldwide. In that respect, this book is a great improvement because elders now have instructions for their policies and actions together in one publication. Directives that only apply in a specific branch area will henceforth be added in a separate Addendum, for those countries or region only (S-147, February 2019).

The new Shepherd-book will be downloaded by most elders through a part of the jw.org website that is only accessible for them. Updates will take place about every six months so that elders will always have the most recent guidelines at their disposal.

At the time of writing, it is not known whether the Dutch translation is already available. The English Shepherd-book (2019) shows that they have chosen a slightly different layout. There are now 29 chapters. The different functions of elders, such as Secretary or Service Overseer, now have their own chapter, which clearly shows the tasks and responsibilities they have. There is a separate chapter entitled 'Shepherding', the pastoral work. It seems to be broadly in line with the previous chapter four in "Shepherd the flock of God" (2010), but is now almost at the back of the book as chapter 25. The book has no page numbering, reference is made via chapter number followed by paragraph.

3.4 Pastoral Care

According to the book "Shepherd the flock of God" (2010), the task of an elder is to feed, lead and protect church members. The image used is that of a shepherd taking care of his sheep. Jehovah's Witnesses use the term 'sheep' to refer to the members of the congregation.
The feeding with 'spiritual food' is done by teaching the congregation the doctrines and guidelines of the organization. Leadership takes the form of elders taking the lead in evangelism work and helping followers to live according to the doctrine. Furthermore, they want to protect congregation members from wandering and from wrong external influences.

The *Shepherd*-book says: “The objective of shepherding is to impart a spiritual gift that is faith-strengthening and to provide needed commendation and encouragement” (2019, 25:1).

Pastoral care can take place by giving ‘well-prepared Scriptural talks’, personal conversations before or after meetings or during evangelism work, or during unofficial visits to someone's home (*Shepherd*-book, 2019, 25:2). Official pastoral visits are always done by an elder accompanied by a ministerial servant or a second elder. In case of problems it will always be two elders.

In the congregations of Jehovah’s Witnesses, elders are seen as persons to whom one can ask for advice. Congregation members approach elders when they are dealing with problems. Elders will then give counsel according to the doctrine.

Roughly, in the pastoral care of Jehovah's Witnesses can be distinguished: (1) encouraging spiritual growth and evangelism; (2) assisting the weak (i.e. correcting someone before committing a sin or going astray); (3) reproving and protecting the congregation in the event of serious wrongdoing.

(1) Encouraging spiritual growth and the work of evangelism

The congregation is divided into groups, each of which is assigned to a group overseer. One of the tasks of this person is to:

(1) taking an active interest in the spirituality of each person in the field service group; (2) helping each one in the group to have a regular, meaningful, and joyful share in the ministry; and (3) assisting and training ministerial servants in the group to reach out and qualify for congregation responsibilities (*Organized to Do Jehovah's Will*, 2015, p.40).

The word ‘field service’ is a term used to refer to evangelism work. The group overseer visits everyone in his (field service) group periodically to give them encouragement and counsel. He does this together with his assistant, usually a ministerial servant who thereby is trained by him to (possibly) become an elder himself in the future. In this form of pastoral care, the initiative usually lies with the elder and not with the congregation member.
(2) Assisting the weak

According to their manual, elders should resolutely take action when they see that someone is showing weaknesses. It may then be about:

Lack of self-control in eating, drinking, and pursuit of pleasures; a complacent spirit; loss of enthusiasm for the truth, including daily Bible reading and personal study; harboring serious and lingering doubts; neglecting association at congregation meetings; and becoming overly critical of elders and the organization ("Shepherd the Flock of God", 2010, p.48; cf.: Shepherd-book, 2019, 25:7).

These symptoms would indicate that someone is neglecting good spiritual routine. The elders want to prevent this person from sinning and will encourage him to read the Bible more, to study the publications of the organization, to attend meetings of the congregation and to participate regularly in the evangelization work (cf.: Shepherd-book, 2019, 25:8).

The counsel of an elder is not without obligation. Those who ignore the counsel of the elders are quickly regarded as rebellious and disobedient. He is not an exemplary member of the congregation. If it concerns a male congregation member, certain 'privileges' can be taken from him in the congregation.

Sometimes a congregation member appeals to the support of an elder himself. It may be that the member of the congregation is in trouble with his conscience. Even then the elder, of the elders, will try to help those by reading Bible texts that are considered encouraging or by pointing to a Watchtower article on the subject. They encourage prayer and a good spiritual routine as a solution to problems.

(3) In case of serious wrongdoing

"Elders should act promptly when they receive a report of serious wrongdoing so as to safeguard the congregation and provide assistance to the wrongdoer (Jud.4)". ("Shepherd the Flock of God", 2010, p.58; Shepherd-book, 2019, 12:1). This is about the elders hearing of an alleged violation of the 'Biblical' guidelines of the organization. In that case, the elders will first investigate whether the offense is so serious that a judicial committee must be formed. Elders take the initiative to speak to the alleged offender.

The pastoral care here gets the character of investigations, reprimands, trying to bring someone to repentance or exclude him in order to keep the congregation clean.

In chapter 5 of "Shepherd the Flock of God" (2010) and chapter 12 of the Shepherd-book (2019), elders find a list of offenses that may require judicial action. A judicial committee usually consists of three or more elders. If it comes to a committee case, the elders invite the
accused orally, making it clear to him that it is a hearing of a judicial committee. The judicial committee will be discussed further in the next chapter.

Example: My own experience

It will have been somewhere in 2004 that I was depressed. I went to the Elder with whom I could best talk and asked him for a pastoral visit. Because I didn't feel free to talk to any of the other elders, I asked him if he would bring with him a certain ministerial servant with whom I felt comfortable. That was not possible. The reason was that my husband himself was a ministerial servant and he thought it would be weird if one ministerial servant gave counsel to the other. That this was about me and not my husband apparently did not seem to matter.

They only had time for me three weeks later. Two elders came, and the one I didn't feel free to talk with was in charge. He had brought a Watchtower and discussed with me a story in it. It was about a man who had had an accident and was now in a wheelchair. At first the man felt discouraged by this, he felt that he could not do his task as an elder properly. But with much prayer and study of publications, he was doing well now and could still serve as an elder.

The Elder who wanted to encourage me with this article could not have gone wrong any further. My depression was partly due to the subordinate role of women at Jehovah's Witnesses. I would never even qualify for an appointment as a ministerial servant or elder just because of the genitals I was born with. It felt unfair. I could also not reconcile the idea of a woman forever being subjected to a man with the idea of a righteous God. But I did not feel free to discuss my deepest feelings about it.

About a year later, in the summer of 2005, I became detached from the teachings of Jehovah's Witnesses. I did not agree with the way a particular Bible text was applied as prophetic fulfillment to the evangelization work of Jehovah's Witnesses, and I spoke out in the presence of a 'brother' and 'sister'. Within two days I was called by an elder. They wanted to come by to talk to me, so to be heard at short notice. He did not want to say what it was all about. “I would know that myself”, he said. The same two elders as the year before came along. All kinds of Bible texts were read and discussed, including at some point texts about 'apostasy'. After an hour and a half I asked them what I was actually accused of. “You said that we no longer have to preach,” was the answer. I denied it because I had never said so.

The first situation, in 2004, concerned a request for help from my side, in which I had hoped for support. I didn't get the help I needed. In 2005, the initiative lay with the elders. As soon as they had the impression that I had committed an offense, they wanted to come by as soon as possible. Pastoral care took on the character of investigating whether there was a (serious) violation.
3.5 **Warnings When Assisting Sisters**

Elders are instructed to be wary when providing pastoral care to (single) women:

An elder or ministerial servant must never meet alone with or become the sole confident of a sister who is not closely related to him (Prov.22:3; Jer.17:9). If possible, the body of elders should arrange for different pairs of elders to shepherd a sister who needs ongoing assistance. It is appropriate for an elder to speak with a sister while in full view of others at her home, at congregation meetings, or in the field ministry (*Shepherd-book*, 2019, 25:12).

The somewhat more detailed description of this in "*Shepherd the Flock of God*" (2010, p. 56) shows that there is a particular fear that "improper feelings" will develop between a sister and an elder. However, one consequence of this regulation is that a woman is at a disadvantage when it comes to pastoral care with Jehovah's Witnesses. Instead of the continuing care of the elders in whom she may have placed her trust, she will have to deal with different elders each time.

### 3.6 Finally

Elders perform their tasks as volunteers. They do not receive any financial compensation for their work. Most of them have not followed higher education. Higher education is discouraged within the religious community (cf. *Shepherd-book*, 2019, 8:30). Many elders are employed in their daily lives in professions such as cleaners, window washers or construction workers.

Believing that they have the only true religion with the only correct understanding of the Bible, they believe that their spiritual care corresponds to what God expects of them. Anything that deviates from this will be rejected on the basis of their own truth claim. Therefore, in the conviction of Jehovah's Witnesses, the training that clergymen from other churches have received is nothing. After all, it did not bring them 'the truth'.

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4. ELDERS AS JUDGES

4.1 INSTRUCTIONS FOR REPORTING OR CONFESSIONING OFFENSES

In the light of the internal judicial procedures of Jehovah’s Witnesses, it is important to understand that church members are urged to confess their sins or to report offenses of others to the elders. The manual that every member of the congregation receives at baptism says:

Some serious offenses, such as sexual immorality, adultery, homosexuality, blasphemy, apostasy, idolatry, and similar gross sins, require more than forgiveness from an offended individual (1 Cor. 6:9,10; Gal. 5:19-21). Because the spiritual and moral cleanliness of the congregation are threatened, such serious sins must be reported to the elders and handled by them (1 Cor.5:6; James 5:14,15). Some individuals may approach the elders either to confess their own sin or to report what they know regarding the wrongdoing of others (Lev.5:1; James.5:16). Regardless of the manner in which the elders first hear reports of serious wrongdoing on the part of a baptized member of the congregation, an initial investigation will be made by two elders. If it is established that there is substance to the report and that evidence is available showing that a serious sin has been committed, the body of elders will assign a judicial committee of at least three elders to handle the matter. (Organized to Do Jehovah’s Will, 2015, p.138)

In the Watchtower (study edition) of November 2017 (p.10) it says:

Today, a Christian guilty of serious sin needs to seek help of congregation elders to recover. Why is this so important? First, the arrangement for elders to handle cases of serious sin comes from Jehovah, as outlined in his Word (James 5:14-16). Second, this arrangement fortifies repentant wrongdoers to remain in God's care and to avoid a pattern of sin (Gal. 6:1; Heb. 12:11). Third, elders are commissioned and trained to reassure repentant sinners, helping to ease their pain and guilt. Jehovah calls these older men "a refuge from the rainstorm" (Isaiah 32:1,2,ftn). Would you not agree that this arrangement is an expression of God’s mercy?¹

¹ For the 'training' referred to in this text, see the previous chapter.
The starting point is that someone who has committed a sin is no longer in a good relationship with Jehovah (God). From that thought, reproving the sinner is seen as the giving of spiritual care. We will see later how this works in practice when a judicial committee is set up. We will also see that during the internal judicial procedure, the concept of 'repentance' is the core issue.

Below is the experience of Jordan who, after hearing a lecture, suffers from his conscience and seeks help from an elder.

**Example: Jordan**

Jordan grew up in a Jehovah's Witness Family in the United States. During his teenage years he experienced doubts about faith. He suffers from depression and the feeling that he is failing as a person. In order to meet the expectations of his parents and elders in his church, he puts aside his doubts, does his utmost and strives for 'privileges' within the religious community. He becomes a pioneer - someone who evangelizes full-time - and may serve at a young adult age at Bethel, the headquarters of Jehovah's Witnesses. At Bethel, for the first time he has the feeling that Jehovah God blesses him, that he is good enough and matters.

Jordan, however, has a problem. In his teens he started watching pornography. It helped him cope with his feelings of depression. Eventually it became an addiction. Occasionally he manages to stop for a couple of months, but when he feels bad he is going to look again.

One day at Bethel's morning worship, the lecture talks about our conscience and how we can fool ourselves by talking things right. According to the speaker, going to the elders and confessing your sins is the only way to get a clear conscience for Jehovah. Jordan feels how his conscience weighs him down, he feels again that he is failing in his duty to God. Therefore, he goes to the head of his department, an elder. Because Jordan finds it hard enough to confess his problem, he only tells that he had a problem with pornography in the past. When the elder asks if the problem still exists, Jordan denies it and says that he has already overcome it.

Nevertheless, the Elder wants to talk to him with a second Elder in the short term. On that occasion Jordan tells more about his youth and the circumstances that led him to resort to watching porn to feel better. The elders thank him and say they just wanted to be sure it was in the past.

In the following weekend Jordan feels even more miserable. His conscience is heavily burdened because he was not honest about still looking at pornography. On Monday Jordan confesses to the same two elders that the problem is still there. The elders ask questions, such as what kind of pornography it is, how often it happens and whether he masturbates.

At the end of the conversation, the elders indicate that they will prepare a report that will be sent to the Branch Committee. They will then take further decisions. A month later Jordan is told to leave Bethel within 30 days.

Jordan is upset. Serving on Bethel was for him the proof that Jehovah loved him. It gave him the feeling that he was not a bad person as he had long thought. His highest goal was to give everything for Jehovah and now that was taken away from him in one fell swoop. He tells
how slowly the realization came that the elders did not care about him to ask him what was really going on. They had not offered him help, but instead sent him away.

Based on the story of Jordan on his youtube channel JW Rebuttal:
https://www.youtube.com/watch?v=DqQNxPn4dmU&t=161s

4.2 THE JUDICIAL COMMITTEE

Serving on a judicial committee is a heavy responsibility. Elders are judging for Jehovah and are accountable to him for the judgment (2 Chronicles 19:6,7). Their decision will likely have long-lasting and far-reaching consequences for the individual involved, his Christian family members, and others in the congregation (Shepherd-book, 2019, 15:4; cf.: "Shepherd the Flock of God", 2010, p.82).

If there are two witnesses for an offense, or a confession of the offender, a judicial committee can be formed. A judicial committee consists of three or more elders. If it comes to a committee case, the elders will invite the accused orally, making it clear to him that it is a hearing of a judicial committee. If possible, the meeting will be held in the Kingdom Hall. This should help to keep things confidential.

The elders should put the accused at ease. They must establish the facts and assess the attitude of the accused. During the hearing, the accused is asked to testify and witnesses may be summoned.

The purpose of a judicial committee is twofold: to try to reprove the sinner on the one hand, and to keep the congregation clean on the other. Because, according to their faith, someone who has committed a sin is no longer in a good relationship with God, they want to help him recover spiritually. This can only be done by repenting of the sin one has committed. Much of chapter seven from "Shepherd the Flock of God" (2010) - and chapter 16 in the new Shepherd-book (2019) - contains information that should help the judicial committee to assess whether or not the offender repents (sufficiently).

If it is not immediately clear whether the alleged offender repents, an attempt is made to lead him to repentance at the first meeting. If he shows sufficient repentance, he will be reproved on basis of Bible texts. Usually he is put on restrictions for a while. This means that he is deprived of certain 'privileges' he had - certain tasks he performed in the congregation. Usually, he is not allowed to answer during congregation meetings for a while. If the elders come to the conclusion that he shows insufficient repentance, the person is disfellowshipped. The offender will be explained how he can "repair his damaged relationship with Jehovah" ("Shepherd the Flock of God", 2010, p.100; cf.: Shepherd-book,
If he does not agree with the decision, he may appeal in writing within seven days.

For a disfellowshipped person, an S-77 form\(^2\) shall be completed and sent to the Branch.

### 4.3 Appeal Committee and Special Committee

If appeal is made by the alleged offender within seven days of the decision, the judicial committee will contact the circuit overseer. He then sets up an appeal committee, if possible from elders from another congregation. S-77 forms filled in by the judicial committee and other material (including notes) relating to the case will be made available to the appeal committee.

The appeal committee will discuss with the accused in the presence of the original judicial committee. The hearing shall take place in the same way as in the first case. The appeal committee has to consider two questions: (1) whether it was established that the accused committed a disfellowshipping offense, (2) whether the accused demonstrated repentance commensurate with the gravity of his wrongdoing at the time of the hearing with the judicial committee ("Shepherd the Flock of God", 2010, p.106; Shepherd-book, 2019, 17:7). Since the second point concerns the earlier session of the judicial committee, the question is how the appeal committee can determine whether there was (sufficient) repentance on that occasion.

If the disfellowshipping is maintained, there will be no further possibility to appeal. Only if the accused persists that a serious error of assessment has been made, the appeal committee may inform him of the possibility to submit a written objection to them within seven days. This objection will then be forwarded to the branch office, together with the reports of the meetings.

If the appeal committee judges otherwise than the original judicial committee and the latter does not agree with this, they must clarify their position and inform the branch office. The branch will give further instructions.

In exceptional cases, a special committee may be set up. This may be the case if the accused persists that a serious error of assessment has been made and still objects after an appeal hearing. Also if the offender had a leading position within the organization of Jehovah’s Witnesses, there may be reason to put together a special committee for the judgment.

\(^2\) See Annex B for an example of an S-77 form.
4.4 Confidentiality or Secrecy

An overseer must be able to keep things confidential. It is remarkable that the words "confidential" or "confidentiality" in "Shepherd the Flock of God" (2010) occur almost exclusively in relation to the congregation’s confidential file or when it concerns something that has to do with a judicial committee case. It is not mentioned around bringing encouraging pastoral visits.

Once the word 'confidential' is mentioned in chapter 4, Assisting Those Who Are Weak. It concerns a warning about professional assistance in the form of group therapy: "While participating in group therapy by a professional therapist is a matter for personal decision, there could be a revealing of confidential facts about other members of the Christian congregation during such sessions if a Christian does not exercise discretion" ("Shepherd the Flock of God", 2010, p.55). But an ordinary member of the congregation has no official secrecy.

The new Shepherd-book says that a pastoral visit should be made by two elders if it can be expected that 'a confidential or serious matter' will be discussed (2019, 25:3). The eighth point to bear in mind when making pastoral visits states: 'Respect privacy and maintain confidentiality: ...Spiritual shepherds promote a loving, familylike spirit in the congregation by being trustworthy friends who are known to maintain confidentiality' (Shepherd-book, 2019, 25:3). In this way, the new manual explicitly states that elders are expected to treat confidentially the information they receive during their pastoral work.

However, in cases where a judicial committee is formed, several elders will be informed soon. In the event of sexual abuse, information is also shared with the circuit overseer, the Legal Department and the branch’s Service Department. The same information is shielded from congregation members and the outside world. If there is also a secular court case concerning the offense, then the media or even the lawyer of the accused may not even be confirmed that a judicial committee has been formed within the religious community regarding the person. Instead, the following statement should be made:

"The spiritual and physical welfare of Jehovah's Witnesses is of paramount concern to the elders, who have been appointed to 'shepherd the flock.' The elders extend this shepherding confidentially. Confidential shepherding makes it easier for those who seek the elders’ help to do so without worrying that what they say to the elders will divulged later. Consequently, we do not comment on whether elders are currently or have formerly met to assist any member of the congregation" ("Shepherd the Flock of God", 2010, p.87; cf.: Shepherd-book, 2019, 15:19).

It is striking that this is the only place where the description of the pastoral care by elders of Jehovah's Witnesses resembles spiritual care as intended in clergy privilege. Could it be
because this is an announcement being made to the outside world? It is clear that this usually does not concern persons who seek help from elders, but members of the congregation who are called to account by the elders in internal judicial procedures that can lead to reproof or disfellowshipping.

The letter To All Bodies of Elders (2014, November 6) says that elders should take care never to divulge confidential information to persons who are not authorized to receive it. If an elder were to breach confidentiality, he or the organization could be subjected to civil liability. In this letter they seem to be concerned about the consequences for the organization. The same letter shows that they do not only try to protect confidentiality (or secrecy) by invoking the minister-communicant privilege, but also on the attorney-client privilege regarding information that elders share with the Legal Department of their branch.

If, in the event of sexual abuse, a victim calls the Service Department of the regional branch office, the elders who are on the telephone will urge her to speak with the elders of her congregation. If she objects because she does not feel comfortable with her own elders, she may write to the Service Department. The employees of the Service Department then contact the elders of her congregation and inform them. The information she shared with the Service Department will not be treated confidentially. (S-66, 2016, par.5)

On the one hand, the organization of Jehovah's Witnesses seems to interpret confidentiality broadly, while on the other hand it is strictly guarded. While an elder must keep things confidential - but shares them with other elders and overseers at the same time - the example below shows that the organization teaches its followers to break a professional secret when it comes to a sin of a fellow Christian.

Example: Mary

Mary is a Jehovah's Witness who works as a medical assistant in a hospital. From her profession, she has a duty of confidentiality with regard to confidential information concerning patients.

One day Mary came across information about a patient who is a fellow believer. According to the data, this 'sister' had an abortion carried out. Mary could see that the bill had been paid, so she concluded that it was not an error in the data. She also knew that the sister in question was not married, which indicated that there was fornication.

Mary was facing a dilemma. Was she to tell this sin of a fellow believer to the elders, as her faith asked of her? Or did she have to keep to her professional secrecy?

Mary had the desire to help the sister who had probably committed an error, and to keep the congregation clean. She was a little concerned about the legal aspects of her professional secrecy, but decided that 'Bible principles' were more important.

She first decided to approach the sister herself. Thus Mary learned that the fellow believer had had an abortion under great pressure and due to spiritual weakness. Shame and fear had led her to conceal her sin. At Mary's encouragement, the sister went to the elders. She
was then glad with the help the elders gave her to recover spiritually. If this sister had not responded so positively, Mary would have gone to the elders.

Mary is a hypothetical person in a *Watchtower* article. It serves as an example for Jehovah's Witnesses who may face similar situations. The article discusses 'Bible principles' that should help the believer to make an assessment. The core of the message is reflected in the following quote:

"True, it is illegal in many countries to disclose to unauthorized ones what is found in private records. But if a Christian feels, after prayerful consideration, that he is facing a situation where the law of God required him to report what he knew despite the demands of lesser authorities, then that is a responsibility he accepts before Jehovah. There are times when a Christian "must obey God as ruler rather than men." - Acts 5:29"


In the example of Jordan, we saw that it is almost impossible for one of Jehovah's Witnesses to confess a transgression to an elder without other elders getting informed. Two elders will want to investigate the seriousness of the case, which may even lead to the formation of a judicial committee. Sometimes, in a complicated case, advice is sought from the circuit overseer or the branch office, but without the accused being informed ("Shepherd the Flock of God", 2010, p.95; *Shepherd*-book, 2019,16:15).

In all this, it should be borne in mind that ordinary members of the congregation are not aware of all the policies and procedures of the organization as followed by elders. The information available depends on your position in the organization of Jehovah's Witnesses.

### 4.5 Pastoral Care and Judicial Procedures in the Case of Child Sexual Abuse

Cases of child sexual abuse at Jehovah's Witnesses can lead to secular lawsuits. Elders or representatives of this organization can then appeal to the clergy privilege. In order to be able to assess whether or not clergy privilege can be granted, it is important that judges and lawyers understand what kind of pastoral care is involved here.

Elders who hear an allegation of child sexual abuse regarding someone in their congregation should immediately call the Legal Department of their branch office. The Legal Department checks whether legal obligations, such as a duty to report, must be met. The elders are given instructions according to this. Then they are connected to the Service Department who gives them further instructions on how to handle the situation (*Shepherd*-book, 2019, 14).
Section 6 of the *Child Protection Guidelines for Branch Office Service Desks* (2016) contains all kinds of questions that elders in the branch's Service Department use as guidelines in their discussions with the elders of a congregation. The first thing to determine is whether there is a 'Biblical basis' for further action. Only if there are two witnesses of wrongdoing, or if the accused confesses, can a judicial committee be formed. If there are no two witnesses and no confession, then elders can do no further and the matter is left in God’s hand. If there is sufficient basis for further steps, contact will be made with the circuit overseer. He will appoint a chairman for the judicial committee.

In these situations, elders have to deal with all aspects of their shepherding. They should provide help and support to the victim, but at the same time they are investigators from the moment they hear of the sexual abuse. Towards the accused they are investigators (comparable to police detectives) and - if it comes to a judicial committee - judges.

Even though, in Jehovah's Witnesses' view, the purpose of their internal judicial procedures is to reprove the sinner, it is clear that a confession made on such an occasion is made during an interrogation or trial. They are elders who put pressure on a sinner, not a believer who, from a spiritual need, approaches the elders himself to confess his sins.

Jehovah's Witnesses rely heavily on the Bible when it comes to sins and transgressions. The Bible does not mention child sexual abuse. For Jehovah's Witnesses, child sexual abuse is sexual immorality. They divide this into three categories: porneia, 'loose conduct' and 'gross uncleanness'.

Sexual abuse of a child occurs when an adult uses a child to gratify his or her own sexual desires. It often involves what the Bible calls fornication, or por-nei’a, which could include fondling of genitalia, sexual intercourse, and oral or anal sex. Some abusive acts – such as the fondling of breasts, explicitly immoral proposals, showing pornography to a child, voyeurism, and indecent exposure – may amount to what the Bible condemns as "loose conduct" or "uncleanness....with greediness." - Galatians 5:19-21; Ephesians 4:19 (Awake! October 2007, p.3, footnote).

Because Jehovah's Witnesses cannot find any other basis in the Bible to classify child sexual abuse as sin, it seems to them to be little more than sexual immorality with a child. They seem to overlook the aspect of violence or power.³

For the elders, two reasons can play a role in wanting to find out in detail what happened during the sexual abuse. First, the degree of repentance of the accused must be in accordance with the seriousness of sin. Secondly, within the doctrine of Jehovah’s

³ See for more information: Suierveld, A., Do Jehovah's Witnesses understand the nature of child sexual abuse? at www.reclaimedvoices.org
Witnesses, only porneia provides a basis for an innocent spouse to divorce and then remarry. So if the accused of sexual abuse is married, the elders will certainly want to know if there was any porneia or not. A perpetrator may not tell everything honestly, so the testimony of the victim is decisive. In practice, this can mean that a victim - as a witness - is more or less questioned and has to elaborate in detail on the abuse in front of three or more men. Usually these are men who have known the victim, but also the perpetrator, for years. Some may even be family or friends of the accused. This makes it extra difficult for a victim to feel free to tell about such intimate and traumatic events. The focus on truth-finding in internal judicial procedures therefore raises questions regarding the pastoral care and assistance to the victim.

If there is insufficient repentance, a perpetrator of sexual abuse is disfellowshipped. Elders fill in an S-77 form concerning his disfellowshipping, with the reason(s). It will also state whether the person has confessed. The S-77 form shall be sent to the branch. A copy is placed in a closed envelope with a report of the judicial committee and kept in the congregation archive. In case of sexual abuse, it will mention 'Do Not Destroy' (Shepherd-book, 2019, 14:25).

In the example below, you can read the notes written on the S-77 form by the elders after an internal judicial procedure concerning an offender of child sexual abuse. It provides insight into how judicial proceedings concerning sexual abuse are going. It shows that it is primarily the victims who tell the elders about the abuse, but towards the perpetrator the initiative comes from the elders. The confession of the perpetrator is also made after the elders have heard him during a hearing of a judicial committee. (The Montana case is discussed further in 5.4).

**Example: Montana Case**

One of the victims came forward and informed two elders of the sexual abuse of himself of the age of 8 years to 12 years old. The abuser was his stepfather. He also related that his sister had informed him of similar sexual abuse from 10 years to about age of 15. Both related pattern of ongoing sexual abuse, which started shortly after the marriage. When Maximo was confronted by the investigative committee, he denied all accusations. Two days later, when confronted by his wife, he admitted to fondling her son on 3 occasions over a 2 year period. The judicial committee all agreed the testimony of the 2 victims was more credible. We felt Maximo was unrepentant, based on the seriousness of the sin, his unwillingness to confess and that it was carried on over a long period of time. We also felt that the purity, the children and the reputation of the congregation needed to be protected.

(Alexis Nunez vs. Watchtower, plaintiff’s exhibit 1)
4.6 THE THREAT OF DISFELLOWSHIPPING

We should not think too lightly about internal religious judicial procedures. A sinner who does not show sufficient repentance according to the judgment of the elders can be excluded from the community. This means that fellow believers may no longer have any social or spiritual contact with him. They are not even allowed to greet him. He is like dead to them. For someone whose whole life takes place within the religious community and whose entire social network consists of Jehovah’s Witnesses, this has far-reaching consequences. People have lost friends and often also family. Someone who grew up within the Jehovah’s Witnesses must, after he is disfellowshipped, learn to live in a hitherto distrusted world.

These extreme consequences play a role in the lives of Jehovah’s Witnesses. Just confessing a serious sin because of a troubling conscience can lead to a whole internal judicial procedure in which you can better show convincing repentance.

The disfellowshipping measure is not only a way to keep the congregation clean. It also ensures that Jehovah’s Witnesses follow the prescribed rules and do not deviate from the doctrine. It can have the effect of a threat that raises questions about the feeling of free and unimpeded access to pastoral care.
5. CLAIMING CLERGY PRIVILEGE

5.1 THE MINISTER OF LEGAL PROTECTION ON CLERGY PRIVILEGE

At the beginning of the summer of 2018, MPs Van Toorenburg (CDA), Buitenweg (GroenLinks), Van Nispen (SP) and Kuiken (PvdA) asked the Minister of Legal Protection questions about sexual abuse within the community of Jehovah's Witnesses. Question 6 and the answer given by Minister Dekker to this question concern the right to clergy privilege. This information seems of concern in this chapter. Therefore, below the question of the members of parliament with the answer of the Minister.

Question 6

Do you also know the signals that Jehovah's Witnesses are invoking clergy privilege? If so, are you prepared to investigate the role of clergy privilege when it comes to a broadening of the declaration obligation? Can 'clergy privilege' reach so far that a whole denomination can invoke that right of non-disclosure?

Answer question 6:

Yes, these signals are known to the Prosecution. However, the number of cases is limited.

With regard to clergy privilege the following can be noted. Pursuant to Article 218 of the Code of Criminal Procedure, the clergy, among others, have the right to refuse to give evidence. Clergy privilege belongs to individuals and not to organisations. A denomination cannot therefore claim the privilege. The privilege of Article 218 of the Code of Criminal Procedure does not apply to every adherent of a faith, but only to "clergymen". The following circumstances play a role in determining whether a person is a "cleric" for the purpose of Article 218 of the Code of Criminal Procedure: whether the person concerned has completed a training as a clergyman (requirement of specific expertise and generally accepted standards of practice), whether he is in charge of a religious community, whether he is considered by a religious community to be a minister, whether he is engaged in spiritual activities and whether those activities are of a lasting nature. Moreover, the clergy privilege only extends to certain information.
A successful claim to the right of non-disclosure can only be made if there is information relating to an assistance task that is necessary in the public interest and to which a duty of confidentiality applies. In the case of clergy, this could include providing assistance to a believer in spiritual need. If information relates to other work or activities, an appeal to clergy privilege will not be honoured. The assessment of whether someone can successfully appeal to the privilege is ultimately up to the judge. In view of the relationship between the obligation to report and the right of non-disclosure, this aspect will be included in the investigation into extending the obligation to report (Dekker, 2018, translation by me).

The importance of the right of non-disclosure in connection with an extension of a declaration obligation (or mandatory reporting) in the case of Jehovah's Witnesses will become clear later on.

5.2 CLERGY PRIVILEGE EASILY GRANTED

In a recent trial of a sexual abuse situation where the perpetrator was one of Jehovah's Witnesses (Case number: 02/665036-16), elders were summoned as witnesses. Two acted as witnesses at the court session, a third made a statement at the police station. There is nothing in the report on rechtspraak.nl about the fact that they invoke clergy privilege. In the supplementary final dossier, which I have been given access to, it can be seen that at least two elders did.

Prior to his interrogation, the police detective who registered an elder's statement pointed out to him his clergy privilege in relation to his Jehovah’s Witness congregation (Police Zeeland-West Brabant, 2018). Incidentally, there is some confusion between the officer and the person heard, because the latter indicates several times that he is sitting there as a person and not as a representative of the Jehovah's Witnesses. The policewoman therefore thinks that he does not want to use clergy privilege and points out to him that another elder did. The elder indicates that he will look at it per question.

It became very easy for this elder to use clergy privilege. One might wonder how this police detective determined that this elder was entitled to it. How does such a police officer determine that the information elders refuse to give evidence about is information entrusted to them in their capacity as a pastoral caretaker? It seems that no judge was involved here to judge whether the person could be granted the right to clergy privilege.
What is also not mentioned in the online report is that in this case a claim was made to the Christian Congregation of Jehovah’s Witnesses in the Netherlands to provide sensitive data, namely the report that elders made after meeting with the perpetrator of sexual abuse in a judicial committee case. The elders will have judged on that occasion that the perpetrator did not repent sufficiently, because he was subsequently excluded from the religious community. In accordance with the guidelines, one of them will have drawn up a report and have put it together with a completed S-77 form in a sealed envelope. In all probability, the S-77 form itself also contained a brief description of what the offender had admitted and the reason for disfellowshipping. This form, or a copy of it, was sent to the branch office - the Dutch headquarters in Emmen.

Unfortunately, the police detective in this case only asks for interview reports and does not mention the S-77 form of which it can be concluded from policy documents that it was sent to the branch office.

It would not matter. When making the claim it was indicated that one who has the right to non-disclosure as referred to in art. 96a Jo 218 of the Code of Criminal Procedure was not obliged to comply with the request. The Christian Congregation of Jehovah’s Witnesses in the Netherlands accepted this guide. According to the officer who reported on their reaction, the church invoked clergy privilege.

This is probably based on derived privilege, but here too it is not considered whether a claim to clergy privilege is rightly. Not where the persons are concerned and not where the information is concerned. A denomination as such cannot, by definition, invoke clergy privilege.

On the website rechtspraak.nl we find another recent lawsuit involving a perpetrator of sexual abuse who belonged to the community of Jehovah’s Witnesses. This is an appeal case before the Amsterdam Court, which was pronounced on March 27, 2018. Interestingly, in this case there is a document made by the elders of Jehovah’s Witnesses. The document concerns a report of conversations that these elders had with the defendant concerning the sexual abuse he had committed with his nieces. This document is part of the evidence in this court case. It is unknown how it was claimed.

5.3 **Mandatory Reporting and Clergy Privilege**

The new *Shepherd*-book, chapter 14, contains the current policy within the organization of Jehovah’s Witnesses regarding sexual abuse. "In some jurisdictions, individuals who learn of an allegation of child abuse may be obligated by law to report the allegation to the secular authorities. - Rom.13:1-4". (*Shepherd*-book, 2019, 14:6).
“To ensure that elders comply with child-abuse reporting laws, two elders should immediately call the Legal Department for legal advice when the elders learn of an accusation of child abuse” (Shepherd-book, 2019, 14:7) And: “The Legal Department will provide legal advice based on the facts and the applicable law.” (Shepherd-book, 2019, 14:8)

The Legal Department seems to have the task of ensuring that the law is complied with. At first sight this seems fine. Or is there more to this?

The Legal Department of a branch office has, among other things, the task of looking at which laws apply in a country and whether there is an obligation to report child (sexual) abuse. An exchange of letters between a branch office and the World Headquarters of the Jehovah’s Witness Organization in the United States shows that the Legal Department of such a branch does not make independent decisions. A new law would be introduced in the country of the branch office, which would mean that anyone who knows about child sexual abuse would be legally obliged to report it to the authorities.

The branch informed the Headquarters about the development in a letter, in which they themselves concluded that they were now legally obliged to report. The answer they received from the Legal Department of the Headquarters comes down to the following: It does indeed look as if everyone, including us, now has to report abuse to the police. But can't there be any exceptions in the law? (De Regt, 2018).

The exceptions to be sought mainly relate to the right of ministers of religion in many countries to legally claim clergy privilege to keep certain information confidential. Other possibilities also had to be sought, so that the obligation to report did not have to be met.

What a contrast this attitude is with the words in the document Jehovah’s Witnesses’ Scripturally Based Position on Child Protection, which the organization of Jehovah’s Witnesses published on its website in the spring of 2018:

Even if the elders have no legal duty to report an accusation to the authorities, the branch office of Jehovah’s Witnesses will instruct the elders to report the matter if a minor is still in danger of abuse or there is some other valid reason.

These last words are meant for the outside world. They seem to want to make the suggestion that elders even report when there is no legal obligation. However, the correspondence between the Headquarters and the branch office indicates that possibilities are being sought to escape a legal obligation. In other words, as long as there is an exception

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4This correspondence is part of the leaked documents referred to in the broadcast of RTL News on October 6, 2018. I have been granted access to these documents. In order to protect the source, I will not mention the country in question. Investigative journalist Koen de Regt of RTL News has contacted and verified this source.
in the law that they can apply to themselves, they do not see themselves as legally obliged. Then, according to their own vision, they still abide by the law.

An earlier letter (dated January 21, 1999) from the Watch Tower Bible and Tract Society of Pennsylvania (For the Service Committee)\(^5\) to Watch Tower Society Australia, also discusses the (clergy) privilege in connection with the duty to report:

> Where the law does not obligate the elders to report cases that come to their attention, there is no need for them to do so, but if the matter becomes known to the authorities and they are required to disclose information they have in their possession, they will do so unless they can claim ecclesiastical privilege.

The instruction here is also that elders do not have to report sexual abuse to the authorities if the law does not require them to do so. If the authorities are aware, they only have to provide information if they cannot claim clergy privilege.

At a branch office there are also people who know about a case of sexual abuse. They may be called to testify in court, although the organization does not consider it likely:

> Concerning the possibility that brothers from Bethel may be called upon as witnesses, we do not see that there is much risk in that, since in most cases the authorities will look to the local congregation for witnesses and records about a particular case. It would be a rare case where the local brothers would not have the information but those in Bethel would. As to the attorney-client privilege, it is our understanding that those working under the supervision of a lawyer are also protected by the privilege. Therefore, discussions with those brothers in your Legal Department who take calls under the supervision of an attorney should be protected by the privilege. Of course, the matter may need to be reported to the Service Department, and we do not know whether the privilege could be extended to them. In any event, it should be a rare case when one of these brothers would be called as a witness (idem).

It is concluded that those who work under the supervision of a lawyer or an attorney can invoke attorney-client privilege. In their contact with the Legal Department of their branch, elders thus invoke the duty of confidentiality. The local elders receive instructions from the Legal Department and thus act under its supervision, it seems to be reasoned. If that is not enough, the confidentiality of what is being discussed between a client and his lawyer is

\(^5\) The organisation of Jehovah’s Witnesses has only been using the legal entity Christian Congregation of Jehovah’s Witnesses in the US since 2001. In Australia, the organization still signs with Watchtower Bible and Tract Society of Australia in 2017. The Christelijke Gemeente van Jehovah’s Getuigen in Nederland has been used as a legal entity since 2011.
invoked. It should be noted here that a jurist is not always a lawyer and that - at least in the Netherlands - a jurist cannot invoke the legal privilege of the lawyer.

It should be noted that this is a 1999 letter, but as long as there are no clear revisions in the policy, instructions like this are valid. The more recent correspondence between the Headquarters and a branch office shows that even today the organization of Jehovah's Witnesses is still looking for opportunities to use (clergy or attorney) privilege.

5.4 Example of Evading Mandatory Reporting by Clergy Privilege

In Montana (USA), according to the law, an adult who knows that a child is or has been sexually abused should report this to the authorities. For 'clergy' - people in a spiritual office - an exception applies in certain situations.

When elders in the congregation of Jehovah's Witnesses in Thompson Falls, Montana, had learned in 2004 that a congregation member had sexually abused two of his stepchildren, they did not report it to the authorities. Partly because of this, the man could continue to abuse his step-granddaughter Lexi.

On September 26, 2018, the jury ruled in a lawsuit that the organization of Jehovah's Witnesses must pay 35 million dollars to Lexi. The amounts awarded were related to the assessment: 4 million dollars was awarded because the organization had been negligent in protecting children in the congregation, 31 million because of malice. It was concluded that the organization had deliberately tried to protect its image at the expense of child safety.

The defence lawyers claimed that elders and representatives of the Jehovah's Witnesses' organization were wrongly held to be mandatory reporters. They pointed to clergy privilege and the confidentiality of what is said during internal religious procedures regarding an offense by a member of the church.

This reasoning was refuted. Elders themselves had not kept the information they had received about the abuse confidential, both from the victims and from the accused, but had passed it on to persons higher up in the organisation. Moreover, this was not a member of the congregation who, out of spiritual distress, confessed his sins to elders in the capacity of spiritual care providers. The elders had approached him and made him confess by questions and exhortations.

In this case, it was concluded that information obtained through investigation during internal judicial proceedings and subsequently shared with others in the organization is not covered by clergy privilege. In addition, a victim who initially goes to the elders to tell them about the
abuse does not ask for confidentiality. She wants the abuse to stop and she wants to be protected.

Leaders of the organization of Jehovah's Witness are convinced that the judge in the case in Montana acted wrong. They still believe that they have no duty to report on the basis of 'clergy privilege'.

5.5 INVESTIGATION ROYAL COMMISSION AUSTRALIA AND MANDATORY REPORTING

Research by the Royal Commission into Institutional Responses to Child Sexual Abuse in Australia revealed that there were 1006 perpetrators of child sexual abuse among Jehovah's Witnesses there from 1950 to 2015. Although there has been a reporting obligation for some time in some states, none of these abusers have been reported to the police or authorities by elders of Jehovah's Witnesses.

The Royal Commission concludes that the organization of Jehovah's Witnesses has a passive policy in which elders are not allowed to discourage (parents of) victims from going to the police. According to Jehovah's Witnesses, the victim or his family has the absolute right to report the crime. Elders or other representatives of the organization do not report to the authorities themselves.

The investigation by the Royal Commission makes no mention of clergy privilege or the use of it by Jehovah's Witnesses. However, during the hearings witnesses were asked about the possibility that elders of Jehovah's Witnesses, knowing about child sexual abuse, might inform the authorities about this. Geoffrey Jackson, member of the Governing Body of the organization, pointed out a few dilemmas faced by elders during his testimony. With the Bible text from Proverbs 25 verse 8 to 10 he points to keeping information confidential. He also declares - on the basis of 1 Peter 5:2,3 - that elders do not have authority over members of the congregation and therefore cannot ignore the right of the person himself, or the parents, to decide whether or not to report. According to Jackson, mandatory reporting would make it so much easier to them.

The Royal Commission concludes in its final report that elders of the Jehovah's Witness organisation do not report sexual abuse to the authorities unless required to do so by law. Jehovah's Witnesses take this quite literally. As long as there is an exception in the law on which they can rely, such as 'clergy privilege', they do not believe they have a legal duty to report. According to the abovementioned correspondence between the Headquarters and a branch office, they are even specifically looking for exceptions in the law.
6. **CONCLUSIONS**

6.1 **SPIRITUAL MINISTER AND CLERGY PRIVILEGE**

At Meijers (2008) we understand that the spiritual minister provides spiritual care and assistance for the spiritual well-being of interested parties, such as members of the congregation. In this context, a relationship of trust is maintained. With Jehovah's Witnesses, elders and overseers higher up in the hierarchical organization can be regarded as spiritual ministers.

We have seen that clergy privilege only relates to knowledge entrusted to the spiritual minister in his capacity as a spiritual caretaker. The free and unimpeded access to this pastoral care and assistance plays an important role in the granting of clergy privilege. A person can only feel free to share with a spiritual caretaker what is most burdensome to him in his mind or conscience if he knows that it is kept confidential.

In practice, clergy privilege seems quite easily granted to elders of Jehovah's Witnesses by the police and judiciary. Do they assume in advance that these elders and overseers have the right to non-disclosure? It is likely that police and judicial officials have no or insufficient knowledge of the kind of pastoral care provided by elders within the community of Jehovah's Witnesses.

The following is therefore an assessment of the pastoral care as known to Jehovah's Witnesses with a view to clergy privilege. It is examined whether the pastoral care is provided with the spiritual well-being of the congregation member in mind (point 6.2). It should also be established when information is entrusted to elders in their capacity as spiritual caretaker (6.3). Furthermore, we will see to what extent there is confidentiality and free and unimpeded access to spiritual care (6.4), to what extent elders of Jehovah's Witnesses are able to make a professional and ethical assessment in the event of a major interest (6.5), and we will look at how Jehovah's Witnesses will act if a duty to report were to come about (6.6). Their religious view plays a role in all this (6.7).

Conclusions are only nice if you can do something with them. That is why I would like to conclude by giving a few guidelines (6.8).
6.2 The Spiritual Well-being of the Congregation Member

Within the doctrine of Jehovah's Witnesses, one can only have a good relationship with Jehovah (God) by living in accordance with the guidelines of the organization. Elders therefore believe that they have the spiritual well-being of a congregation member in mind when they protect him from getting astray or reproof him. However, having a predetermined picture of spiritual well-being can make one blind for the actual spiritual care that might be needed.

Because religious doctrine is the starting point for the pastoral care offered by elders, no connection is sought with the church member’s own religious world. After all, it is assumed that this must be in accordance with the doctrine. Doubt is seen as dangerous. This can make it difficult for a person with religious doubts or questions to discuss them. Counsel by elders is not without obligation. A congregation member is expected to look up to the elders and the organization for leadership. A church member of Jehovah's Witnesses does not have much choice as to own wishes or wants when it comes to his faith or the spiritual care associated with it.

6.3 To What Extent is Spiritual Care and Assistance Involved?

Much of the pastoral care of Jehovah's Witnesses concerns a movement from the elders to the congregation member. Home visits by elders - sometimes accompanied by a ministerial servant - to encourage could be considered spiritual care. Even if a church member approaches the elders themselves with a request for help or because of conscience distress, this could be called spiritual care.

From religious doctrine there is pressure on the conscience to confess sins to the elders. Congregation members are also encouraged to report the sins of fellow believers to the elders, who will then investigate the matter. As soon as there might be a serious sin, the focus is on reproving the sinner or keeping the congregation clean.

Elders who investigate the seriousness of a sin are not in the capacity of spiritual caretakers, but of investigators and judges. From their religious point of view, Jehovah's Witnesses see their internal judicial procedures as part of the pastoral care. But in the religious judicial procedures, the initiative lies usually with the elders. Information is obtained through interrogations after which the church member is judged according to the doctrine and degree of repentance he shows. A congregation member does not participate voluntarily in these internal judicial procedures. He simply has no choice. These internal judicial
procedures and everything related to them seem far removed from the kind of spiritual care and assistance to which the congregation member should feel free and unimpeded access.

Because of the involuntary circumstances in which information is shared with the elders and the fact that the elders have the capacity of investigator and judge during internal judicial proceedings, information obtained in this way will not fall under the clergy privilege.

6.4 TO WHAT EXTENT IS CONFIDENTIALITY KEPT?

It is virtually impossible for a church member of Jehovah’s Witnesses to confess serious sins to one elder. This elder will then call in a second elder to investigate the seriousness of the offense. In the case of serious violations, it may be that a judicial committee is formed. This means that information is shared with other elders. The congregation member does not automatically have a relationship of trust with these other elders. It is even questionable whether one can speak of a relationship of trust with that one elder if he then shares what you have told him with other elders.

Pastoral visits are usually made by two people. Sometimes it is an elder accompanied by a ministerial servant, usually it is two elders. A church member often has no choice in which elders come to visit him or her. Or no choice in the second person who comes along. Pastoral care by two people who the care recipient does not (always) have the choice of, significantly reduces the idea of a relationship of trust. In the case of a (single) woman, the Body of Elders may even decide that different pairs of elders assist the sister when she needs pastoral care for a longer period of time.

There is also the fact that elders contact the branch office in the event of complicated internal judicial procedures. In case of an accusation of child sexual abuse by a member of the congregation, information is shared with the circuit overseer, the Legal Department and the branch office's Service Department. This sharing of information with other elders and individuals higher up in the organization raises even more questions about the confidentiality of the pastoral care. All the more because ordinary members of the congregation do not have access to information about the policy and do not know that information they entrust to elders is shared with so many others.

Confidentiality seems to be interpreted broadly, while towards the outside world information is kept secret as possible. If a victim of abuse goes to the elders and reveals what happens to her (or him), the request for help is kept confidential to the outside world. While the victim does not ask for confidentiality, but wants something to be done to stop the abuse. If she (of he) had told this in confidence, it would just as well not have been kept
confidential because it is shared with others within the organization. Among others with the perpetrator that an allegation was brought against him.

It seems as if the organization of Jehovah's Witnesses has its own definition of confidentiality. The question is whether this is in the interest of a member of the congregation or whether it actually concerns the interests of the organization itself. The question is also whether there is a relationship of trust to be taken seriously with regard to the elders in their capacity as spiritual caretaker. Confidentiality, its absence or incorrect application, has a direct influence on the feeling of free and unimpeded access to spiritual care and assistance.

6.5 TO WHAT EXTENT CAN ELDERS MAKE A PROFESSIONAL AND ETHICAL ASSESSMENT?

A member of the clergy should have insight into what information he may invoke clergy privilege. In addition, it can occur that an major interest calls for a breach of confidentiality. Clergy privilege is a right and not a duty. A spiritual minister, however, will from his professional ethics not easily break the secrecy. In doing so, he will consider the interests of the member of the congregation and others.

In point 1.5 we saw six criteria that can help a spiritual minister to decide whether or not to break confidentiality when a situation calls for it (Meijers, 2008, p.182). In making such an ethical assessment it would help if the clergyman has had a professional education.

The lack of a professional education makes it difficult for elders of Jehovah's Witnesses to make an ethical decision. The organization also demands obedience from them. In addition to the interests of a member of the congregation, the interests of the organization play a role. The elders do not act independently. In sexual abuse situations, they even receive specific instructions from the branch office. Elders called as witnesses in court may say that they speak on a personal basis, but will still have to follow the guidelines of the organization. If they do not do this, it can have consequences for themselves.

Due to lack of education and the requested obedience to the organization, elders of Jehovah's Witnesses are not able to make a professional and ethical assessment themselves in situations where a major interest calls for a possible breach of confidentiality.
6.6 MANDATORY REPORTING AND CLERGY PRIVILEGE

In some countries, persons who know of a situation of child sexual abuse are legally obliged to report it to the authorities. Where an exception is made for clergymen on the basis of clergy privilege, Jehovah's Witnesses conclude that they have no legal obligation to do so.

Member of the Governing Body Geoffrey Jackson said it would be much easier for Jehovah’s Witnesses if the law required them to report child sexual abuse. But internal correspondence indicates that in countries where a notification requirement is introduced, legal possibilities are being sought to exempt them from this requirement.

Geoffrey Jackson mentioned two reasons for elders not to report themselves if there is no legal obligation to do so. The first is confidentiality (relying on Proverbs 25:8-10). However, it can be argued that elders already do not keep information they obtain on an allegation of child sexual abuse confidential anyway, but share it with several people within the organization. Secondly, Jackson mentioned the right of the person himself (or his parents) to report, stating that elders have no authority over congregation members (1 Peter 5:2,3). Individual members of the congregation seem to be given an autonomy that they normally do not have within the religious community. During pastoral care and internal judicial procedures the doctrine of faith is the starting point, not the wish or the will of the church member.

Mandatory reporting when knowing of child sexual abuse, with a possibility for ministers of religion to claim clergy privilege, will not lead to reporting by elders of Jehovah's Witnesses. As long as there is still a possibility within the law that they can evade a duty to report, it seems that they make use of it.

6.7 A FUNDAMENTAL PROBLEM

Jehovah's Witnesses believe that they have the one true religion and that their organization is led by God. They are convinced that their pastoral care is as God wants it from them. In doing so, they have their own view of what constitutes pastoral care, of spiritual well-being, and of how confidential information can or may be handled. From their religious view, they simply cannot be wrong.

The way in which the organization of Jehovah’s Witnesses deals with clergy privilege seems to deviate from how it is intended by law. There is a collision of different visions, in which Jehovah’s Witnesses believe they are right.
In this way, 'true religion' thinking is a fundamental problem. There is a chance that they will defend their own views by invoking freedom of religion.

6.8 WHAT TO DO NEXT?

The value of the clergy privilege lies in keeping information confidential and the free access that individuals thereby experience to spiritual care. At the same time, the right to refuse to give evidence must not be abused for one's own interests. It is up to the judge to decide on a case-by-case basis whether a person should be granted clergy privilege. But we cannot expect a judge to know how pastoral care is performed in various denominations in the Netherlands.

One possibility is that in situations where police and justice are dealing with Jehovah's Witnesses, they may look into the background of their pastoral care. This report can help. Another possibility is to redefine the spiritual minister who is entitled to clergy privilege before the law.

There are several reasons to think of a redefinition of the 'clergy' for the privilege, including a quality requirement in the form of an education:

1. It will make it easier for judges to assess whether a person is entitled to clergy privilege and will prevent abuse of the right to non-disclosure as much as possible.
2. Professional education will help the spiritual caretaker to deal with confidentiality in the right way. He will have a better understanding of what information he can invoke clergy privilege, but will also be able to make an ethical assessment when a major interest calls for a breach of confidentiality. He will be able to discuss this with the person concerned in a professional manner.
3. It will bring the clergyman for the privilege of law more into line with the religious landscape as well as the care demand of the 21st century. As a result, the clergy privilege can be extended to independent spiritual caretakers or those working in institutions, while at the same time clarity is created regarding those in a spiritual office within the various churches and religious groups in the Netherlands.
4. As an additional advantage, an education - if it is provided - will improve the quality of the care provided.

Sackers (2017) finds a condition of proven competence for the spiritual minster for the clergy privilege well defensible. While spiritual caretakers working in institutions have to meet a training requirement, often at university level, spiritual ministers work in various religious denominations without having received an education. However, the latter can still invoke clergy privilege under the current situation.
In the case of a mandatory reporting law in which the clergy privilege continues to exist, such a redefinition will prevent a large group of persons from being able to evade this legal obligation. Those who do still fall under clergy privilege may be expected to be able to make an ethical assessment based on their professionalism. They will see that with child sexual abuse there is a larger interest: the safety of children.

An obligation to report without exceptions may be simpler.
ANNEX A: NO PART OF THIS WORLD

Talking to Jehovah's Witnesses can make you feel like there is an invisible wall separating them from you. Somehow you are not on the same line and it seems as if you are looking at the world from a different perspective. In essence, this is true. This dividing line becomes an insurmountable wall if you, as a government, try to move the organization of Jehovah's Witnesses into changes in their policy. The Jehovah's Witnesses with whom the conversation is being conducted remain friendly, but you don't seem to make any progress.

In this paper, I want to offer some insight into how Jehovah's Witnesses look at the world and how their religious beliefs are decisive in the degree to which they will cooperate with what outsiders ask of them.

BIBLE AS FUNDAMENT

The Bible is for Jehovah's Witnesses the basis for what they believe and how they live their lives. It is seen by them as the inspired 'Word of God'. The way they read the Bible can be understood to a large extent in the light of the time when the group came into being, the rise of Christian fundamentalism in the second half of the 19th century.

They read the Bible quite literally and understand the text as it is explained by the Governing Body through publications. None of the leaders of the Jehovah's Witnesses have followed a theological or biblical scholarly study. They are convinced that God's spirit is leading them and that they know the only correct explanation of the Bible. Many text sections in the Bible are read as future-predictions, that find fulfillment in this and future times. Other texts are seen as eternally valid guidelines for life. Individual Jehovah's Witnesses are not allowed to explain the Bible at their own discretion, contrary to the organizational doctrine.

In our current secular society, it is almost unworldly how they try to support about everything they do or don't do with a Bible text. The organization's policy is also based on the Bible, as interpreted and explained by the Governing Body. Because they believe they are God's organization, a change of policy or a new Bible explanation can only come from this Governing Body.
NO PART OF THE WORLD

If you were part of the world, the world would be fond of what is its own. Now because you are no part of the world, but I have chosen you out of the world, for this reason the world hates you. (John 15:19)

According to Jehovah's Witnesses, that world is the world of mankind apart from God's servants. Those servants are of course Jehovah's Witnesses themselves. Following Jesus, they are not part of the world. They do this by keeping as much separation as possible, avoid socializing with 'worldly' people, and keeping away from anything that may have anything to do with other religions. Or politics.

In 1 John 5:19 it says: "The whole world is lying in the power of the wicked one”. The wicked one is then Satan, who according to them was banished to earth in 1914 and goes there raging because he only has a short period of time left.

Jehovah's Witnesses are politically neutral. They do not vote in elections and avoid taking part in political discussions. They will abide by the laws of their country, for "the existing authorities stand placed in their relative positions by God. Therefore, whoever opposes the authority has taken a stand against the arrangement of God" (Rom. 13:1,2). However, obedience to a government is relative. If Jehovah's Witnesses believe that the government is asking something of them that is contrary to God's will, they "must obey God as ruler rather than men" (Acts 5:29). Ultimately, all those governments in the thinking of Jehovah's Witnesses are part of Satan's world that will soon be destroyed.

JEHOVAH'S WITNESSES VERSUS SATAN'S WORLD

Jehovah's Witnesses are not only separated from the world in their behavior and association, but by their faith also in their thinking. It seems that they have their own view of the world outside their religious community. The Bible texts they quote to support the idea that we live in the 'last days' color their view of the world and the people in it.

Take for example 2 Timothy 3:1-5, a text they often refer to in their literature:

But know this, that in the last days critical times hard to deal with will be here. For men will be lovers of themselves, lovers of money, boastful, haughty, blasphemers, disobedient to parents, unthankful, disloyal, having no natural affection, not open to any agreement, slanderers, without self-control, fierce, without love of goodness, betrayers, headstrong, puffed up with pride, lovers of pleasure rather than lovers of
God, having an appearance of godliness but proving false to its power, and from these turn away.

Because they believe they live in 'the last days', they really believe that people outside their religious community are as described in that text. Even though that neighbor, teacher or political leader may seem so nice, in the perception of a Jehovah's Witness they are part of Satan's world, so you can't really trust them.

In the way they think - Jehovah's Witnesses versus Satan's world - there is a strong division into good and evil. The own religion and therefore the own community represents the good while the world is seen as bad. If something bad happens within the own religious community, it is dismissed as an 'incident' or imperfection of people. But evil in the outside world is seen as confirmation that it is Satan's world and that we live in the last days.

Those who grew up within this religious community have never learned to look at the world differently. They have their own view of reality and therefore seem to live in a different world. Someone who later joined this belief may put things in perspective somewhere, but will just as well look at the world according to the religious view.

For Jehovah's Witnesses, there are only two options: either you choose Jehovah, or you choose Satan. Either you are part of true worship, or of Satan's world. To choose for Jehovah God means eternal life, to be part of Satan's world destruction in Armageddon. Obedience and loyalty to Jehovah are therefore of great importance. Obedience to the organization of Jehovah's Witnesses is synonymous with obedience to God. Within their religious doctrine there is only salvation by being part of 'God's organization'.

**TRUE RELIGION**

Anyone who tries to make clear to a Jehovah's Witness something that contradicts their religious beliefs, may risk of getting no further. The truth claim of their own religion means that outsiders are by definition wrong.

Information that contradicts the faith can be experienced as threatening. That is why the organization of Jehovah's Witnesses recommends its own website as a reliable source of information and warns followers to be careful with other information.

Jehovah's Witnesses want outsiders to see and believe that they are the true religion. This means that they present the outside world the image that they themselves have of their religion. A Jehovah's Witness will as much as possible avoid saying or doing anything that puts their own organization in a negative light. Even a Jehovah's Witness who sees that
certain things are wrong within the organization will feel inhibited to release something to the outside world about this.

It is part of the doctrine of Jehovah's Witnesses that true Christians will be persecuted for their faith. Jesus had said, "If they have persecuted me, they will also persecute you" (John 15:20). When they therefore face opposition, they soon see it as persecution. Negative reports about the organization in the media are also seen as persecution. The idea of being persecuted only strengthens their conviction to have the true religion.

IN SUMMARY

From their religious doctrine and the closed community they have their own view of the world beyond. The outside world can be experienced as threatening. Jehovah's Witnesses try not to be part of what they see as Satan's world. They will obey the laws of their land, as long as they do not contradict what they see as God’s will. They will strive to give the outside world the best possible image of their religion and organization.

That they believe to have the only true religion and to be guided by God's organization, makes it difficult to impose changes from outside. As true religion they believe that God gives them the best guidelines. Loyalty to God and fear of committing a transgression make that they strictly adhere to their own doctrine. For Jehovah's Witnesses, there are only two options: either you choose Jehovah, or you choose Satan.
# ANNEX B: S-77 FORM

Notification of disfellowshipping or disassociation (S-77) from 2009:

## NOTIFICATION OF DISFELLOWSHIPPING OR DISASSOCIATION

(Please type or print neatly in ink.)

<table>
<thead>
<tr>
<th>Individual's full name:</th>
<th>(Last)</th>
<th>(First)</th>
<th>(Middle)</th>
<th>(Sr., Jr., II, III, etc.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Male</td>
<td></td>
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<tr>
<td>□ Female</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(Date of birth)</td>
<td>(Date of announcement of disfellowshipping or disassociation)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>(Congregation number)</th>
<th>(Congregation name)</th>
<th>(City)</th>
<th>(Province or state)</th>
</tr>
</thead>
</table>

Check if applicable: □ Elder □ Ministerial servant □ Regular pioneer (If so, include S-202 form with this form.) □ Special pioneer

- Listed with the branch office as the person to receive literature and/or magazine shipments for the congregation. (If so, immediately submit an S-36 form with a new name and address.)

1. D DISFELLOWSHIPPING. Specify offense(s) for which disfellowshipped (see Acts pp. 92-96): 

   At any point, did the wrongdoer confess to the committee? ________ If not, what evidence substantiated the wrongdoing?

2. D DISASSOCIATION. Specify by what action(s) the person disassociated himself (such as resignation, nonneutral activity, failure to abstain from blood, or joining another religion): 

   Did the individual submit a signed letter of resignation? ________ If not, what evidence substantiated the disassociation?

3. Did the individual appeal your decision? ________ (If so, follow the instructions on the reverse side regarding appeals.)

4. If the individual was previously disfellowshipped or disassociated, show

   Person's full name at that time: 
   Date of previous action: 
   Congregation that took the action: 
   Date of previous reinstatement: 
   (Name of congregation) 
   (City) 
   (Province or state)

5. Each member of the appointed committee should sign this form and any additional sheets. (Type name below each signature.)

   CHAIRMAN:

   □ Reinstated
   □ Deceased

   If the individual is reinstated or dies, the secretary should sign and date the stamped copy of this form and return it to the branch office in a special blue envelope.

   FOR OFFICE USE ONLY

S-77-E 7/09

CAREFULLY READ INSTRUCTIONS ON REVERSE SIDE
REPORTING DISFELLOWSHIPPINGS OR DISSOCIATIONS

☐ Did you review the notes written on page 143 of the Kingdom Ministry School textbook?

☐ Promptly fill out an original Notification of Disfellowshiping or Dissociation (S-77) form and make two copies. Retain one copy for the congregation confidential file, and send the original and one copy to the branch office in a special blue envelope. These are to be used when sending S-77 forms to the branch office or when sending correspondence to the branch office regarding judicial or child abuse matters. Please do not use the special blue envelopes for any other correspondence.

☐ The branch office will stamp one copy of the S-77 form and return it to the congregation. After it is returned, place this stamped copy of the S-77 form with the congregation copy of the S-77 form in a sealed envelope in the congregation confidential file. The secretary does not sign and date the bottom of the S-77 forms until the named person is reinstated or dies.—See below.

REPORTING DISFELLOWSHIPPING APPEALS

☐ When an individual appeals his disfellowshiping, the chairman of the judicial committee should promptly contact the court overseer, who will then designate elders to serve on the appeal committee.

☐ The judicial committee should complete the S-77 forms (except for the date of announcement of disfellowship) and give them, along with whatever written records it has from the judicial hearing(s), to the chairman of the appeal committee prior to the appeal hearing.—See k39f p. 125.

☐ When the appeal case has been concluded, all written records from both the original and appeal committees should be placed in a sealed envelope in the congregation confidential file.

☐ The appeal committee's report is to be in the form of a letter addressed to the branch office, using the appeal committee chairman's mailing address for the return address.

☐ It is to be signed by all the members of the appeal committee, with each one's name and the name of his congregation typed below his signature.

☐ The letter should provide a detailed summation of the appeal hearing and include comments that directly address the following questions: (1) Was there a Scriptural basis for the disfellowshiping? (2) Was there acceptable evidence to establish the wrongdoing? Explain. (3) Was the wrongdoer repentant at the time of the hearing by the original judicial committee? What convinces the appeal committee of this?

☐ If the appeal committee upholds the original committee's decision to disfellowship the individual, the appeal committee should make certain that the S-77 forms are filled out completely, including the date of announcement of disfellowship, and then mail the original and one copy of the S-77 form along with the appeal committee's letter to the branch office in the same special blue envelope.

☐ If the original basis for disfellowshiping was invalid but other valid grounds for disfellowship exist, new S-77 forms should be made out by the original committee, giving the proper information. The original and one copy of the new S-77 form along with the initial S-77 form and the appeal committee's letter should be sent to the branch office.

☐ If both committees agree that the person should not be disfellowshipped, the individual should not be told this. Rather, the appeal committee should send the branch office the original and one copy of the S-77 form along with separate letters from both the original committee and the appeal committee that supply sufficient details to give a clear picture of the reason(s) for their conclusions. Thereafter, the branch office will provide its comments.

☐ If the appeal committee and the original committee are in disagreement, the appeal committee should send the original and one copy of the S-77 form to the branch office with a letter giving the reasons for its conclusion and should include a letter from the original committee that expresses that committee's reasons for disagreement.

REPORTING REINSTATMENTS AND DEATHS

☐ If the disfellowshipped or disassociated individual is reinstated or dies, the secretary should sign and date the bottom of the stamped copy of the S-77 form, check the appropriate box, and mail this copy to the branch office in a special blue envelope.

☐ The same information should also be recorded on the congregation copy of the S-77 form, which should be retained in the congregation confidential file.
REFERENCES:


Christian Congregation of Jehovah’s Witnesses (2014, July 13), Re: Appointment and deletion of elders and ministerial servants [Letter to All Bodies of Elders].

Christian Congregation of Jehovah’s Witnesses (2017, 1 September), Re: Protecting Minors From Abuse. [Letter to All Bodies of Elders]

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WATCHTOWER BIBLE AND TRACT SOCIETY OF NEW YORK, INC. CHRISTIAN CONGREGATION OF JEHOVAH’S WITNESSES, and THOMPSON FALLS CONGREGATION OF JEHOVAH’S WITNESSES, petitioners, v. MONTANA TWENTIETH JUDICIAL DISTRICT COURT, SANDERS COUNTY, and THE HONORABLE JAMES A. MANLEY, PRESIDING JUDGE, respondents, Petition for writ of supervisory control and motion for stay of proceedings. Filed: 09/11/2018

WATCHTOWER BIBLE AND TRACT SOCIETY OF NEW YORK, INC., CHRISTIAN CONGREGATION OF JEHOVAH’S WITNESSES, and THOMPSON FALLS CONGREGATION OF JEHOVAH’S WITNESSES, petitioners, v. MONTANA TWENTIETH JUDICIAL DISTRICT COURT, SANDERS COUNTY, and THE HONORABLE JAMES A. MANLEY, PRESIDING JUDGE, respondents, Response to petition for writ of supervisory control. Filed: 09/14/2018


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— . Do You Have the Facts? De Watchtower August 2018 [study edition], pp. 3-7


