

Did You Know . . .

That the Church does answer questions regarding sexual abuse? With all the recent media attention, the United States Conference of Catholic Bishops (USCCB) released the following questions and answers about the way in which the Church deals with allegations of sexual abuse by priests and deacons. This information is so important that it warrants being this month's article.

Blessings to all,

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Questions and Answers Regarding the Canonical Process for the Resolution of Allegations of Sexual Abuse of Minors by Priests and Deacons

WASHINGTON-The Office of Media Relations of the United States Conference of Catholic Bishops offers the following Q&A on Canon Law as it relates to sexual abuse of minors. This resource also can be found at: www.usccb.org/comm/q&a-canonical-process-sexual-abuse.pdf.

The Media Relations Office and the Canon Law Society of America also will offer a one-day program on canonical issues for media, May 25, in Washington. Anyone seeking to attend should contact mwalsh@usccb.org. Cost is \$50 for food and materials. Space is limited.

Questions and Answers Regarding the Canonical Process for the Resolution of Allegations of Sexual Abuse of Minors by Priests and Deacons

Q: Does the Church have its own laws against the sexual abuse of minors by members of the clergy?

A: Yes, the Church has long had laws on the books that address this crime. Even before the majority of the Church laws were collected into a single code of laws (in 1917 and in 1983), sins against the Sixth Commandment with a minor were also considered criminal acts. From 1917 onwards, the Church promulgated concise legal norms that stated this and that imposed penalties on clergy that offended in this terrible way.

Q: Which Church authority is responsible for addressing these offenses?

A: In April 2001, Pope John Paul II issued a law stating that, from then on, the Congregation for the Doctrine of the Faith (CDF) in Rome, headed at the time by Cardinal Ratzinger, the future Pope Benedict XVI, would have sole Church authority over this crime. The Congregation for the Doctrine of the Faith is one of the offices that assist the Pope in fulfilling his mission as Supreme Pastor of the Catholic Church. Prior to 2001, the crime was generally to be dealt with on the local level by the diocesan bishop. The CDF would have been involved if the offense had occurred on the occasion of the celebration of the Sacrament of Penance (confession). Otherwise, the case would have gone for a second hearing (appeal from the diocese) to the Congregation for Clergy or the Tribunal of the Roman Rota, offices that assist the Pope, depending on how the allegation had been resolved on the local level.

Q: What does canon law now require a bishop to do when he receives an allegation of sexual abuse of a minor committed by a cleric (priest or deacon)?

A: The Code of Canon Law stipulates that the first steps after receipt of an allegation of the commission of an ecclesiastical crime are usually taken by the local bishop. If the priest against whom an allegation is brought is a member of a religious order, his superior might take the first steps instead. Any allegation that has the semblance of truth (it is not manifestly false or frivolous) undergoes what is referred to as a preliminary investigation. During the preliminary investigation, the accused enjoys the presumption of

innocence and his good name must not be illegitimately harmed. According to the Essential Norms, which constitute law on sexual abuse of minors for the dioceses of the United States, the investigation should be conducted promptly and objectively. The Essential Norms also require the bishop to follow all civil reporting laws when the allegation concerns the sexual abuse of minors. Church officials are also to cooperate with civil authorities in their own investigations. Moreover, the bishop exercises his power of governance in other ways to make sure no harm comes to children during the phase of the preliminary investigation.

Q: Does the Holy See become involved at this point?

A: Usually not. The Congregation for the Doctrine of the Faith does have sole competence in resolving allegations of sexual abuse of minors committed by clerics. But this competence does not yet kick in. The Congregation exercises its authority once a case is referred to it by the local bishop. The bishop makes the decision as to whether a case will be referred. In most instances, unless the allegation proves manifestly false, it must be reported to the Congregation. The Essential Norms require a bishop to report all cases to the CDF once he has sufficient evidence that the sexual abuse of a minor may have occurred. The Congregation would normally have knowledge of the accusation only when it is reported to the Congregation by the bishop or religious superior.

Q: How does the preliminary investigation into the allegation take place?

A: The bishop appoints an investigator. The investigator has the obligation and authority to collect the facts and circumstances surrounding the allegation so that the bishop can make a determination about its truthfulness and what further action he would recommend to the Congregation for the Doctrine of the Faith. The investigator often uses the expert services of others to assist with the investigation. In the United States, the bishop also makes use of the services of his Diocesan Review Board, a panel of experts, to help him review the allegation and associated information. The bishop and investigator are careful not to interfere with any civil investigation into the accusation that might take place. The investigator and others who assist in the investigation may be laypersons.

Q: Does the bishop always report the case to the Congregation for the Doctrine of the Faith?

A: The general rule is that all cases are referred to the Congregation. The exception, as noted above, would be when the allegation is manifestly false. In other words, if there is any semblance of truth at all to the allegation, the bishop seeks the intervention of the Congregation. If he is in doubt about the semblance of truth, he may seek the assistance of the Congregation to assist him in coming to a decision.

Q: What happens after the bishop reports the results of the preliminary investigation to the CDF?

A: The CDF will review the material and make a decision on what the next steps might be. The decision is based on the material gathered during the investigation and on the observations and recommendations of the bishop regarding the allegation and what might be a suitable way to address it. The next steps could include several options depending on what materials the CDF received. Among them, the CDF could authorize the bishop to hold a trial locally or to address the allegation through a simplified, administrative penal process. It could also hold a trial in Rome at the offices of the CDF. In the clearest and most egregious cases, the CDF could refer the matter to the Pope for immediate dismissal of the cleric (see below for more on this). It might also happen that more information is needed before a decision can be made. This would require the bishop to gather the information and forward it to the CDF. The CDF could also confirm, if the facts and circumstances warranted it, that there is not sufficient evidence of the commission of an ecclesiastical crime.

Q: Is the priest or deacon still in ministry while all of this is being considered?

A: No. A bishop may at any time withdraw a cleric from active ministry pending the outcome of an investigation of the allegation. This is done primarily to assure that children are not in danger should it prove true that the cleric had committed acts of abuse. At the same time, it must be emphasized again that the cleric enjoys the presumption of innocence. This should be made clear by the diocese to the public. If

the allegation is unfounded, the bishop must strive to repair any illegitimate damage to the good reputation of the priest or deacon.

Q: Does the Pope become involved in the consideration of how best to proceed with addressing an allegation?

A: No. The CDF handles these cases. The Pope does not supervise the daily activities of the Congregation nor become involved in particular cases as they are being processed.

Q: What does a sexual abuse trial look like when conducted under canon law?

A: It is similar to criminal trials that take place in some European countries that follow a different legal tradition than that of the United States. Because of this, the canon law trial will not appear similar to those we might be familiar with in the United States. A panel of three judges hears the case. The accused has a canon lawyer to assist in his defense. The prosecutor is referred to as the promoter of justice. Tribunals in both a diocese and the CDF have promoters of justice. Witnesses are called to testify, including possible victims. The judges, rather than the canon lawyers, question the witnesses. Other forms of evidence are gathered, such as letters that might have been written. After this the defense canon lawyer and promoter of justice submit written arguments of their sides of the case. The judges then review the evidence carefully, deliberate together, and issue a verdict. If the finding is for guilt, the judges also impose a penalty (see below for types of Church penalties).

Q: Is the verdict open to appeal?

A: Yes. Once the tribunal issues its decision, the decision goes to the CDF. Both the verdict (whether for or against guilt) and penalty (if the verdict for guilt) may be appealed by either the accused or the promoter of justice of either the diocese or the CDF. If no appeal is lodged within a certain time frame, the sentence is final. If an appeal is lodged, another hearing of the case will take place by an appellate panel of judges. This may occur again at the CDF, or, with authorization of the CDF, at the local level.

Q: Does the Pope have a role in hearing the appeal?

A: No. The CDF has its own supreme tribunal. The Pope himself does not sit personally as a judge on the tribunal of the CDF. He has several judicial courts or tribunals that administer justice, one of which is the CDF tribunal. The decision of the CDF in an appeal of a judicial sentence is final.

Q: Is a formal trial the only way that allegations of this crime can be resolved as a matter of canon law?

A: No. In cases where the evidence of the possible commission of sexual abuse is stronger, the CDF might authorize what is called an administrative penal process. Here, unlike a judicial trial, the bishop himself makes the decision regarding the charges brought against the accused. He considers the evidence with the help of two persons called assessors. They are expert in canon law or some other discipline necessary for a thorough evaluation of the evidence. The accused also has the opportunity to offer a defense. The bishop then issues a decree with his decision and suggested penalty (if he finds for guilt). This decree is sent to the CDF for confirmation. The accused has the right to seek reconsideration of the outcome.

Q: What Church penalty can be imposed for the crime of sexual abuse of minors?

A: Catholic Church law provides a range of penalties for various crimes. For the sexual abuse of minors it provides for a just penalty that may include dismissal from the clerical state. In any event, according to the Essential Norms, in every case where a cleric admits to or is found guilty of the sexual abuse of minors he is permanently withdrawn from all public ministry. Nor may he present himself as a priest or deacon. Thus, even if a member of the clergy is not dismissed from the clerical state for having committed the crime of the sexual abuse of minors, his public ministry is still fully restricted in light of the gravity of the offense committed.

Q: What does dismissal from the clerical state mean for the priest or deacon?

A: The legal status of the priest or deacon changes. He now has the status of a lay person, not a cleric. He also has other restrictions placed on him that might not apply to other lay persons. So, for instance, a priest dismissed from the clerical state may no longer exercise priestly ministry, including saying Mass, present himself as a priest, use the title Father or Reverend, hold pastoral and teaching positions in the Church, and receive the income he did as a cleric.

Q: Does the CDF ever ask the Pope to impose a penalty?

A: Yes, in a very small subset of cases, where the guilt of the cleric is beyond doubt. This might occur, for instance, when the priest himself has confessed to this or been found guilty of the crime in a civil court of law. In the gravest cases, the CDF may request that the Pope dismiss the cleric ex officio; that is, without a first holding a trial or conducting another type of formal legal process. In such cases, the Pope himself issues a decree dismissing the priest or deacon from the clerical state. There is no appeal of this decision by the cleric.

Q: Is dismissal from the clerical state the same thing as what is commonly called laicization?

A: Dismissal from the clerical state is a permanent penalty imposed in response to the commission of an ecclesiastical crime. A priest or deacon can also lose the clerical state voluntarily by requesting it of his own accord from the Holy See. This is what is often called laicization in common parlance, but which more properly should be referred to as a dispensation from the obligations of the clerical state. The priest or deacon is no longer counted as a cleric, but now has a different legal status in the Church. Among the consequences of his new status is the fact that is not able to function as a priest or deacon or to present himself as one publically.

Q: How does dismissal from the clerical state differ from what is called suspension?

A: Suspension of a member of the clergy is also a penalty imposed for violation of a criminal law. The effects of it are similar to dismissal from the clerical state inasmuch as the priest or deacon is not permitted to function in public ministry. However, suspension does not remove the cleric from the clerical state. He remains a member of the clergy even if he is not exercising any functions associated with it. Additionally, whereas dismissal is a permanent penalty, suspension is not. It is imposed so long as the reasons for its imposition remain. To offer one example, if a priest is suspended due to illegitimate behavior with a minor, the suspension remains in force, but would be lifted if the allegations are withdrawn or proven false.

Q: Some priests have been assigned to what is called a life of prayer and penance. What does this mean?

A: The Essential Norms recognize that there might be cases where a priest or deacon has either admitted to a past act of abuse or has been found guilty of one, but dismissal from the clerical state does not occur. This could happen, for instance, when a priest is seriously ill or of advanced age. So a life of prayer and penance is imposed on the priest instead. In these cases, too, he is forbidden from all public ministry and from otherwise presenting himself as a priest. He is expected to dedicate his life to praying for victims and repenting of his past offenses. In this way, the Church seeks even here to prevent any future abuse and to repair the injustice that has already taken place.

Q: If a legal process does not result in the imposition of a penalty, does that mean the priest or deacon will return to public ministry?

A: The presumption is that the cleric will be returned to ministry if he is not found guilty. However, the answer to this question depends on several factors that are particular to each case. It might turn out that even though a priest or deacon is not proven to have abused minors, other issues surrounding his ministry or behavior might have arisen during the investigation that cause concern for the bishop. This might

involve, for instance, unacceptable boundary violations or improper behavior with adults. These situations would need to be addressed before the priest or deacon is returned to public ministry.

Q: Are there cases where a priest or deacon is falsely accused of sexual abuse?

A: Yes. As with all accusations brought to authorities, not all of them turn out to be true. In all cases, a thorough investigation is made to ascertain the truth of the allegation. The rights of everyone must be respected during this phase. If this process determines that the accusation was false, the good reputation of the cleric needs to be repaired. The Essential Norms state that every step possible must be made to restore the good name of those who have been falsely accused and whose good reputation might have been illegitimately harmed.

Q: Does the Church conduct the legal proceedings mentioned above in secret?

A: The word secret is a literal translation of the Latin word secretum. The better translation would be confidential. Church law does require that formal trials and other processes that lead to the imposition of penalties be dealt with confidentially. This is meant to protect the accused, the witnesses, and the integrity of the Church process. For instance, general members of the public are not admitted to the court proceedings. Although these proceedings are confidential, that does not forbid or even discourage anyone from reporting the underlying allegations to civil authorities. In fact, the opposite is true when it comes to the sexual abuse of minors. The Essential Norms strictly mandate that bishops will follow civil reporting laws, and that they advise a person of his or her right to make a report to public authorities and support the person in doing so.