

JUSTICE FOR PRIESTS AND
DEACONS
IS AN
INDEPENDENT
CANON LAW GROUP
DEDICATED
TO DEFENDING
THE RIGHTS OF CLERGY

DUE PROCESS, LAW AND LOVE

Justice for Priests and Deacons

Response to the Dallas Charter

DEDICATION

This issue of the Newsletter is dedicated to the priests, deacons, religious, and laity in the United States who have suffered injustice as a result of the Dallas Charter and who have been denied their canonical rights.

*"If you want peace,
work for justice."*

Pope Paul VI

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INTRODUCTION

Much has changed for priests and deacons over the past decade—and especially in an era after the media extravaganza following the revelations of the abuse of minors in 2002. This issue, like the previous issues, is geared to offer you some basic guidance and information. You will find information from civil and canon lawyers, mental health professionals and others. Their suggestions and guidance provide basic information about your rights as an ordained minister and how you can best protect yourself should you be accused. The information is basic but critically important. The cases coming to Justice for Priests & Deacons demonstrate repeatedly that should a priest or deacon be accused of any misconduct, he will find himself without an advocate. Most likely, his bishop, diocesan lawyer, and diocesan liability insurance company will fulfill their fiduciary duty to the diocese. The accused is left to his own resources.

This issue begins the third volume of the newsletter of Justice for Priests and Deacons. We hope that you find the information contained in this newsletter helpful and that you will retain it.

Past issues can be accessed at our website: www.Justiceforpriests.org.

*"This is what the Lord Almighty says:
'Administer true justice; show mercy
and compassion to one another.' "*
Zechariah 7:9

A FLAWED DALLAS CHARTER

Two years after the panicked U.S. bishops wrote the Dallas Charter, Cardinal Avery Dulles wrote a perceptive and prescient critique in America (21 June 2004; available on the Justice for Priests and Deacons website). While he pointed out many flaws, his primary focus was the failure of the Dallas Charter and the bishops to protect the rights of priests. Seven years later it is even clearer that, where once bishops ignored the rights of accusers, they now ignore the rights of the accused.

Writers, lawyers, bloggers, and even bishops have pointed out the Charter's flaws. Most criticisms center on the following points, some of which are discussed in more detail in this Justice for Priests and Deacons Newsletter and in past issues.

"Zero tolerance" has become a slogan, maybe even a mantra. One violation--- whenever, wherever, whatever the circumstances---means permanent removal from ministry and/or laicization. Though the bishops have criticized the criminal justice system for a "one size fits all" attitude on punishment, their own Charter shows no sense of proportionality. The clerical equivalent of capital punishment has been invoked whether or not there was any subsequent or present danger, whether a child was violated or a boundary crossed.

(continued page 2)

A FLAWED DALLAS CHARTER (CONTINUED)

All that is needed is a “credible allegation.”

What that means has never been clear. Practice, in many cases, regards it as meaning no more than “it could have happened,” even if there is no evidence beyond the accuser’s claim. Following that determination, priests are so pressured to undergo a psychological evaluation that it’s doubtful that their consent is freely given, and issues that are uncovered may have nothing to do with the original allegation.

The review board then makes its recommendation. But, unlike review boards in other professions, few priests serve on diocesan review boards, nor are priests treated like other professionals. In many instances, the bishop has already acted to remove the priest from ministry, so an allegation in some sense credible is effectively determination of guilt.

Removal from ministry after a credible allegation does carry with it the assumption of guilt, whatever may be said to the contrary. The possibility of restoring the priest’s reputation is almost nil, no matter what might be said subsequently. Administrative laicization rather than a canonical trial deprives priests of their right to a good reputation, to due process for determining guilt or innocence, to an appropriate defense, to financial support and benefits. For all practical purposes the bishop acts as arresting officer, prosecutor, jury, judge, and appellate court. But not as a defense attorney—that is not provided.

Unusually, the Charter is retroactive. Even if there was only one offense years ago, even if that offense did not involve a child, even if the priest returned to ministry after successful therapy, even if there has been no subsequent problem, the priest nevertheless receives the ultimate punishment. The rationale for a statute of limitation (civil law) and prescription (Canon Law) is ignored. The action taken is more vindictive than protective or punitive.

Bishops take little or no responsibility to support or supervise those removed from ministry. Laicization protects the institution from future liability (and from providing support to the former priest), but it offers no protection to children. Priests in prison receive little or no pastoral care. Nor do the diocesan audits check whether those who have been removed from ministry are monitored.

It is also too obvious that bishops are treated differently than priests. Both the past and present culpability of bishops in not removing abusers or not complying with audits is ignored. Yes, “only Rome can act” to discipline or remove a bishop, but there’s such a thing as fraternal correction, private and public confrontation, and, ultimately, even shunning. How often do bishops criticize the practice of their

fellow bishops?

Accused bishops are treated differently than priests: they remain in office and have financial resources for their defense. Bishops who admit guilt resign but apparently are not otherwise penalized—perhaps they will be for questioning doctrine or policy but not for violating children.

There is no doubt that the Church as a whole, both clergy and laity, has failed miserably to provide appropriate protection to children. We are desperately trying to make up for that and to prevent it from happening again. But unjustly destroying priests will accomplish neither, nor will the growing alienation between bishops and priests help the situation.

Most importantly, the flawed Dallas Charter does not reflect who we are and want to be as Church. The Dallas Charter must be revised. Church law must respect the rights of both accuser and accused. No bishop can be allowed to say, when canon law or priests’ rights are invoked, “I don’t have time to be bothered with that.” That is why Justice for Priests and Deacons exists. That is why we are providing this Newsletter. We hope you will find it enlightening and helpful.

REV. JAMES DALLEN, S.T.D.

PRIEST OF THE DIOCESE OF SALINA, KANSAS; EMERITUS PROFESSOR OF RELIGIOUS STUDIES, GONZAGA UNIVERSITY, SPOKANE, WASHINGTON



“With sympathetic understanding and practical help, the bishops should take care of priests who are in danger of any kind or who have failed in some way.”

Decree on Bishops,
Vatican II, #16



“In a brotherly spirit priests should be hospitable to each other, showing kindness and sharing their goods, with special concern for any who are sick, in distress, overworked, lonely, or exiles from their homeland, and all who endure persecution.”

Decree on the Ministry and Life of Priests,
Vatican II, 8

IT IS A MATTER OF JUSTICE!

It is a matter of justice, the disciplining of priests accused of sexual misconduct with an adult or child. But, unfortunately, grave injustice is frequently done to individual priests and to the Catholic priesthood by individual bishops and religious superiors.

The public controversy over the announcement of the accusations against Father John Corapi, SOLT, and his suspension from exercising his priestly ministry offers an opportunity to reflect on the flawed procedure apparently being followed in too many dioceses of the United States these days in the case of a priest accused of sexual misconduct not involving a minor. The procedure is flawed because it inflicts grave injustice on the priest and serves as a deterrent to young men thinking of offering themselves as candidates for the priesthood.

The procedure operates something like this. An adult accuses a priest of sexual misconduct not involving a minor. The priest is immediately suspended from active exercise of his priestly ministry while an investigation is launched into the truth or falsity of the accusations.

There is no need for a public announcement to be made that gives the name of the priest and the fact of the accusation and the suspension. Yet all too often such a public announcement is made. Public announcement by a diocese almost always results in media exploitation of the news in a sensational manner to the detriment of the Catholic Church and its priesthood. It seems that rarely, if ever, is mention made in the announcement of the name of the accuser.

The investigation may take days or months or years to complete. In the meantime the priest's reputation is effectively destroyed and perhaps he is "thrown out on the street" with no means of support. The accuser, on the other hand, enjoys anonymity and suffers no loss of reputation or negative material consequences and in the case of an accusation later proven to have been false the injustice to the priest is great.

In cases where the priest is accused of having used force (rape or some other form of involuntary abuse) there is some justification for not publishing the name of the accuser. But where there is reason to believe that the alleged sexual misconduct took place through mutual consent there is no justification for not publishing the name of the accuser.

Under the present procedure it is too easy for a person to allege sexual misconduct for a variety of possible unworthy motives: revenge, hope for monetary gain, hostility to the

Catholic Faith. Such is reported to have been the case of the accusation against Father Corapi. The only safe way to guard against damaging the reputation of individual priests and the Catholic priesthood in general is to not publish the name of an accused priest until an investigation has proved beyond doubt the guilt of the priest.

BISHOP RENE GRACIDA , BISHOP EMERITUS OF CORPUS CHRISTI, TEXAS



"No one is permitted to harm illegitimately the good reputation which a person possesses nor to injure the right of any person to protect his or her own privacy."

Canon 220

FINANCIAL SUPPORT

This newsletter is sent to you through the generosity of our many benefactors---priests, deacons, and laity. We need your prayers and your financial support to keep Justice for Priests and Deacons active in the defense of rights for the People of God.

Justice for Priests and Deacons is an independent worldwide group of canon lawyers and is not affiliated with any diocese. It is the only organization that has an advocacy program to defend the rights of clergy, religious, and laity. We face tumultuous times where the morale of priests is at an all-time low.

This newsletter is being sent to over 43,000 priests in the United States including active, retired, religious, Eastern-rite priests and military chaplains. It is mailed to all English-speaking bishops of the world. Copies are personally delivered to members of the Vatican Curia and the Holy Father.

Sadly, we all know of a priest or deacon who has been removed from active ministry. Many live in fear, since in most cases they realize that little support comes from their bishops. There has always been solidarity amongst priests and we are always here to help you. We are only one step away from a complaint being brought against us.

DONATIONS

With the current crises in the Church, this organization is essential and is needed. It is important that we all support one another and support this organization. We are asking you to consider making a tax deductible contribution to Justice for Priests and Deacons. You can mail your donation to us by using the enclosed envelope. Also, our Web site makes it possible to make a donation by credit card.

GUIDELINES FOR THE PROTECTION OF PRIESTS

There is presently no more aggrieved class of citizens in the United States than Catholic priests. Recent ecclesiastical law designed to address the clergy abuse crisis has put them in a situation that defies the standard of justice that all Americans enjoy. The imposition of administrative leave and a zero tolerance policy in the case of accused priests has left them open to presumption of guilt. It has had deleterious effects on the innocent and clergy morale in general.

When the U.S. Bishops meet in Seattle from June 15-18 they will review the implementation of the 2002 *Charter for the Protection of Children and Young People*. It has served for almost ten years as the primary mechanism to safeguard minors from sexual abuse in the American Catholic Church. While the bishops should be applauded for their efforts in trying to prevent harm to children, its sloppily drafted guidelines, commonly known as the *Dallas Charter*, have failed to promote justice for priests or to satisfy civil authorities. The bishops' dragnet response to the heinous crime of pedophilia has ruined the reputation of innocent priests. Its one-size-fits-all approach to any accusation of sexual impropriety has left every innocent priest vulnerable to defamation and dismissal from the ministry.

Justice demands some adjustments in the *Charter* for the good of deacons and priests, bishops, and the Church. The findings of veteran attorney Donald H. Steier, who played a role in over one hundred abuse investigations, would support this assertion. In a recently submitted report to the Los Angeles County Superior Court he said, "One retired F.B.I. agent who worked with me to investigate many claims made in the Clergy Cases told me, in his opinion, about ONE-HALF of the claims made in the Clergy Cases were either entirely false or so greatly exaggerated that the truth would not have supported a prosecutable claim for the childhood sexual abuse."

Therefore, I submit the following recommendations:

First: Any charges leveled against a priest should be subject to the same scrutiny as any civil criminal complaint. Rules similar to civil due process should be observed before a man is removed from ministry and placed on an administrative leave (removal pending further investigation), unless there is irrefutable evidence against him. The present standard of forcing administrative leave is based on a "credible" accusation, "one which has a semblance of truth to it following an initial examination of the facts and circumstances surrounding the allegation." This is weak and broad.

For example, in February, a grand jury in Philadelphia indicted four men, including two priests and a former priest, on charges of raping or assaulting children and cited con-

cerns about seventeen other priests. All were previously cleared for ministry by the diocesan review board. This means that for those not indicted, probable cause was not established. Yet Cardinal Justin Rigali immediately placed them on administrative leave. He asserted "that placing them (priests) on leave is not a final determination or judgment." However, for the wrongly accused the stigma of administrative leave is almost impossible to overcome. An accusation of past misconduct is insufficient by itself to justify a current, automatic suspension.

Second: The zero tolerance policy for abusers in the *Charter* offends true justice. Civil jurisprudence has always recognized degrees in crime; for example, first degree or second degree murder or manslaughter. These designations should also be part of a revision of the *Charter* since they are important for deciding an appropriate punishment. All cases legally designated as "sexual abuse" are not the same. There is a vast difference between a sexual contact with a pre-pubescent child and one with a consenting sixteen-year old. In the case of the sixteen-year old, though criminal in some states, there may be some room for rehabilitation with future ministerial parameters imposed on the offending priest.

Likewise, special consideration should be given to a proven case of abuse that occurred in the distant past with no indications of recurrence. These last two cases should not necessarily merit automatic suspension from *all* public priestly functions or laicization (defrocking). Such actions are inconsistent with the Gospel's call for mercy and forgiveness.

Third: A proliferation of lawsuits has been brought about by mostly spurious claims based on "recovered memories." It has been shown that investigators sometimes suggest the possibility of past abuse which then convinces a vulnerable person that abuse did indeed occur. This type of evidence should not be admissible. It should only be considered if there is unimpeachable corroborating data.

In their recently issued annual report prepared by the Center for Applied Research in the Apostolate on compliance with the *Charter* the bishops claim that "while current accusations (of child abuse) are rare... there has been found an increase in reports of boundary violations or inappropriate behavior by priests." Due process and probable cause will give the clarity necessary for justice. Not to do so will leave priests open to any specious claims of whatever constitutes abuse in the contemporary mindset.

REV. DR. MICHAEL ORSI, ED. D.,

AVE MARIA SCHOOL OF LAW, NAPLES, FLORIDA



A LAWYER'S PROPOSAL FOR JUSTICE

I've been a practicing attorney for over 15 years. I've been through my share of bench trials, jury trials, and a multitude of hearings. During these proceedings, I always felt my client was getting a fair shake. There was a system in place – a system leveling the playing field for the litigants. Each side is given notice and opportunity to prepare their case, respond to discovery, and be heard before a neutral, independent arbiter --the judge. Each side participates from a position of equality--perceived or otherwise. But the system itself is established on this tenet of fairness and equality under the law.

In my first experience with the canonical process, I learned right away that the playing field is not level. First, the bishop begins with an allegation against the priest. Often times, the allegation is incredible and the diocese fails to properly and sufficiently investigate the allegation before taking action. Instead, what you see is a process in reverse. The bishop starts by punishing the priest, removing him from service, isolating the priest from the community he was appointed to serve.

The bishop then begins to exert pressure upon the priest to admit to the allegations, resign his post, accept a new, less desirable appointment, or some other action against his will. When the priest fights back, the bishop will begin quoting platitudes of corporation sole of the diocese, obedience, and obligations of loyalty. The priest seems to be regarded as an indentured servant. The obligations of the bishop to protect, guide, teach, and support his diocesan priests are never mentioned. Rarely is the priest afforded canonical counsel or civil legal counsel to protect his Constitutional rights.

If the priest isn't prepared financially with his own war chest to fight the unjust litigation, the case is lost long before it ever begins. Most priests don't have such savings to defend themselves against their employer; an employer whom they believed at one time was their teacher, protector, and provider.

The betrayal is complete when the bishop levies his punishment from the onset. Canon law cannot work unless the parties, and particularly the bishop, come from a stance of good faith and fair dealing. Constitutional restraints for the defendant are absent in canon law. Justice can never be achieved because of the broken system under which canon law operates.

How to fix the system? Two words: "due process."

Due process is what brings litigants together on a level playing field. When a bishop hands out the punishment first, the damage is immediate and irrevocable. Even if the priest is absolved of the alleged wrongdoing, he can never be made

whole by simply being reinstated in his position. The trust that was built with people is gone. Oftentimes, the priest has been replaced and a new chapter begun at the parish, making it even more problematic for the bishop to reinstate the priest. Worse yet, the "victorious" priest must still serve the very person who sought his removal. In reality, the priest can never win because the deck is stacked against him from the beginning.

We can all look at the spirit of canon law as requiring the parties to come from positions of truth, honesty, fairness, justice, or whatever virtuous terms we want to use. Sadly, the reality for the administration of justice under such a system is anything but fair.

I'm not one to complain about a process without offering a solution. The institution of a neutral arbiter would result in the fair administration of justice. With an independent party presiding over the litigation, orders can be put in place to prevent bishops from strong-arming their priests, and priests can be ordered to preserve the integrity of their positions for the benefit of the Church. Church operations do not stop simply because the bishop and priest are engaged in litigation. Life does go on and so does the business of the parish.

The priest is an American citizen and has Constitutional rights. Our Constitution states very clearly that a person is innocent until proven guilty. The bishop treats the priest as guilty from the very beginning and issues the punishment before any investigation starts. Preserving the integrity of the Church, which is made up of all of us, should be first and foremost in the administration of justice under canon law. A neutral party with jurisdictional control over the parties may be the best way to efficiently and effectively preserve the integrity of the Church AND the litigation process.

BRIAN TANKO, J.D., C.P.A. KALISPELL, MONTANA



"In exercising their paternal and pastoral function, bishops should be in the midst of their flock as those who serve, good shepherds who know their own sheep and whose sheep know them."

Decree on the Pastoral Office of Bishops,
Vatican II, 16

PROTECTING YOUR RIGHTS AS A PRIEST AND DEACON

A. If a diocesan official summons you to a meeting, ask why. If you are told that you have been accused of sexual abuse or other misconduct,

1) Immediately find yourself a competent canonist. You can always contact our office and we will try to help you and give you canonical advice.

2) You should also talk to a civil attorney especially if there is a possibility of a criminal case.

3) Take your civil attorney, your canonist or another reputable individual such as a fellow priest with you to the meeting. This will provide you with an independent witness to the proceedings and will limit the possibility that the meeting is mischaracterized or inappropriately interpreted at a later date. You should never go by yourself.

4) Request that the official put the purpose of the meeting, including any and all specific allegations, in writing. If he refuses to comply with this request, and you and your counsel decide to meet nonetheless, take careful notes. Immediately after the meeting, compose a document summarizing your notes and stating that he refused to disclose the purpose of the meeting beforehand and/or that no specific allegations were provided to you in writing. Request that he enter this document into your personnel file at the diocese.

5) Know that nothing you say to any agent of the diocese is considered legally confidential. Make no statements before consulting with your canonist and your attorney.

6) During the meeting, neither confirm nor deny anything; nor make any decisions or agreements. Just listen.

7) Inform the official that you will expect to review your entire diocesan personnel file, and any other records kept about you in the Chancery, Tribunal, or Vicar for Clergy office when you meet. It is possible that your file contains written complaints or allegations about which you were never informed, even though you have the right to be informed of any such allegations. This is very often ignored.

B. If the diocesan official demands that you undergo psychological testing or a psychological evaluation,

1) Know that you cannot be forced to undergo a psychological assessment or evaluation.

2) You have the right to refuse to release the results of any such process.

3) Note, however, that your decision not to undergo an assessment or evaluation may be interpreted against you in an ecclesiastical process.

ALMOST A DECADE OF IMPRECISION AND FEAR

In 2004, Cardinal Avery Dulles, SJ, published an article in *America* (June 21-28, pp. 19-23) urging the United States Catholic Conference to revise the Dallas Charter and Essential Norms. While his suggestions went unheeded, his article remains provocatively insightful and accurately predictive. He pointed out the inconsistency in which the American Bishops had severely criticized the government for policies that trampled the inviolable rights of the human person with one-size-fits-all judicial remedies---yet these were the exact same policies adopted for priests by the bishops. He spoke of the need for the presumption of innocence when an accusation against a priest is made, the need for due process and access to a canonical trial.

With public removal from ministry and a media-statement from the chancery after an accusation is made, there is no presumption of innocence for a priest. Rather, these strategies are face-saving for prelates and make the recovery of a priest's good name impossible if there is no conviction. These concerns continue and insidiously affect morale and the relationships between priests and their bishop as well as the relationship between the bishop and his priests. Trust strains palpably in these relationships.

The language of the Charter and Essential Norms remains imprecise. When is an accusation "credible"? Without specific guidance it seems that a credible accusation cannot be precisely distinguished from an incredible accusation. Logic and justice dictate that accusations should be based on fact rather than possibility or believability. After all, we live in a country where many Americans believe and assume there is credible evidence to assert that Elvis is alive and in hiding. Terms such as "abuse" and "mistreatment" used in the ecclesial documents raise their own concerns. The American Bishops are in a unique position to distinguish sexual mistreatment from other sexual behaviors and to clearly distinguish the sexual abuse of minors from other sexually inappropriate behaviors. Nowhere has this need been more evident than in the findings from the Grand Jury involving the Archdiocese of Philadelphia and the ensuing media attention that constantly speaks of cover-ups. Chancery culture has not helped this situation because of the varying local interpretations of these behaviors and terms.

Perhaps one area that has escaped significant scrutiny is the Dallas Charter's demand for codes of pastoral conduct. These codes of pastoral conduct are mandated for all U.S. dioceses and eparchies. Most are based on codes of conduct for pastoral counselors and mental health professionals. In their lack of precision they assume that all or most of pastoral ministry is akin to psychotherapy or pastoral

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ALMOST A DECADE OF IMPRECISION AND FEAR

counseling that can be done neatly in the confines of the parish office. Most codes require the priest to avoid dual relationships. Yet the reality is that most priests function as administrators, property managers, spiritual directors, celebrants, chairs of various parochial committees, develop friendships with parishioners, and engage in civic service. In his dedication to the needs of people the priest may violate the code of pastoral conduct. While he is discouraged from developing any friendships with parishioners, he must appear engaging, welcoming and approachable. Most codes mandate priests to uphold a professional standard that protects parishioners who voice suicidal and/or homicidal ideations---yet most priests have not been sufficiently prepared to identify serious mental health concerns. In their haste to have codes promulgated, dioceses and eparchies saddled their ministers with impediments to a satisfying ministry, the impossibility of pastoral approachability, and the demise of youth ministry.

The American Bishops developed a National Review Board in response to media pressure. Lawyers, judges, mental health professionals and business people comprise this investigative body. Noticeably absent are priests. No doubt the bishops wanted to avoid the accusation of protecting priests. Yet, if one looks at the ethics and disciplinary boards of medical, psychological and other mental health professions, the members of these boards are comprised of members of that specific discipline plus a community member and/or legal counsel. Physicians oversee physicians. Mental health professionals consider the misdeeds of their own members. These boards seem trustworthy to both membership and the public. At best, the composition of the Bishop's National Review Board needs a significant revision that incorporates capable priests who are credentialed in social work, psychology, canon and civil law and other appropriate disciplines aided by the presence of a community member.

In the end, the American Bishops need to fearlessly and without media intimidation reconsider the Charter and Essential Norms with an eye to amendment. Justice must take precedence over media pressure. Most importantly, bishops need to do reparative work with their clergy, staff, and volunteers to restore the belief that the bishop is the shepherd of the diocese.

MICHAEL N. KANE, PH.D., LCSW, ACSW

PRIEST OF THE EPARCHY OF PASSAIC, PASTOR OF OUR LADY OF THE SIGN BYZANTINE CATHOLIC CHURCH (COCONUT CREEK, FL), AND PROFESSOR OF SOCIAL WORK AT FLORIDA ATLANTIC UNIVERSITY IN BOCA RATON, FL.

YOUR RIGHTS REGARDING PSYCHOLOGICAL TREATMENT

In incidents surrounding allegations of misconduct, there is often a referral for psychological assessment or treatment. In all cases, you have a number of civil rights that need to be protected. This article summarizes your basic rights. Each jurisdiction is different, so it is important to consult an expert in your jurisdiction.

Often due to the competing pressures of the Ordinary, the treatment center's desire to please the referring Ordinary, and your rights, you may lose these rights if you do not actively protect them. The importance of these rights is that the information may hurt your position, or you may lose control of this information once it is released to a third party.

ACCESS TO YOUR INFORMATION

You are the holder of the privilege regarding your file---the formal language is "Protected Health Information." Your privilege limits who has access to your health information regarding psychological evaluation, treatment planning, and treatment progress. No program can release information to others without your written permission. The exceptions are when there is a legal duty to warn for harm to self, harm to others, or a mandated report. Outside of these small exceptions, you are not required to share your files with anyone.

Many times the Ordinary requests access to your protected health information as part of the internal process. While you may be pressured to release this information, ultimately you have the civil right to say no. It is your right to not have your health information shared with your Ordinary or his representative.

You also have the right to know what is being sent to others before the information is sent. You can ask for a copy of the material before you sign the release that allows that information to be shared.

CONTENT IN THE FILE

In every case, you should have access to review your file. Again, there are small exceptions, so check with your local regulations. If you disagree with anything in your file, you have the right to add a comment. The facility isn't required to change or remove the content, but they do have to include your response.

PURPOSE OF TREATMENT

Before you go to a treatment program, it is important to clarify the purpose of the evaluation and/or treatment. In treatment language, your treatment plan needs to have your (continued next page)

YOUR RIGHTS REGARDING PSYCHOLOGICAL TREATMENT (CONTINUED)

participation in its development. One of the dangers is that the treatment referral has no clear purpose or the possible outcomes are unclear.

SECOND OPINIONS

You have a right to have your results reviewed by another professional. This may be at your expense if your insurance does not cover it. The second opinion can be helpful when you disagree with the recommendations or outcome of the first evaluation.

HOW TO PROTECT YOUR RIGHTS.

Below are a few basic steps to protect your rights.

- 1) Search out "HIPAA rights" on the Internet. Review with your legal counsel if you have questions.
- 2) Before you go to treatment, clarify the goal of treatment:
 - a. Why are you going?
 - b. What is the purpose of the treatment?
 - c. Who wants access to the health information regarding your treatment?
- 3) Before you sign an authorization to release information, read it. Have your lawyer review the release before you sign it. You have the right NOT to release the information. Consider if releasing (or not releasing) the information is in your best interest.
- 4) You can revoke a previous authorization verbally and in written form. Once revoked, the program cannot send any information. The revocation doesn't control any information released while the authorization was valid.
- 5) If information is released without your authorization, file a complaint. Unauthorized release of your medical information is a violation of federal law.
- 6) Obtain copies of your medical records
- 7) Submit corrections when you find errors in the medical records.

WESTON EDWARDS, PH.D, LICENSED PSYCHOLOGIST



RECOURSE AGAINST AN UNAPPEALABLE DECISION

We are all aware that once the Holy Father has decided on a case there is no further appeal (c. 1404). It has become quite common recently for a laicization to be granted based on the bishop's request to the Holy Father through the Congregation for the Doctrine of the Faith (hereafter CDF) for priests and deacons accused of sexually abusing a minor. This is known as an ex officio penal removal from the clerical state, which is distinct from laicization granted on the request of the cleric himself. The Holy Father grants these with the presupposition that his Vatican officials have followed both canon law and the Pontiff's specific instructions.

Even though no appeal is allowed, canon law allows for one final solution for those cases in which a gross injustice has occurred (c. 1645.2). This is known technically as a *restitutio in integrum* (c. 1645.). If the petition is made in timely fashion---within three months of being notified of the laicization (c. 1646.1) ---the law suspends the laicization (c.1647.1) until a further decision takes into consideration the new evidence presented (c. 1647.2). If the petition is granted, the laicization is officially declared to be revoked.

But the problem remains that this would need to be communicated to the cleric by the bishop, since the CDF communicates only with bishops, and bishops have been known to ignore such communications. This is especially true after the bishop has removed the cleric's means of support. If the bishop still refuses to restore that means of support without showing the cleric the decree from the CDF that considers the petition to be a delay tactic (c. 1647.2) or that rejects it for some other reason, the CDF and Holy Father need to be notified of the violation (cc. 1389 and 1391). Unfortunately, doing even this has yet to force a bishop to conform to the law, which raises another question, why the Holy Father is allowing this lawless situation to continue unchecked?

REV. MICHAEL MAGINOT, J.C.L., S.T.L.

PRIEST OF THE DIOCESE OF GARY, INDIANA



FORGIVENESS
isn't something we do for others —
we do it for ourselves
so we can heal
and move on.

LETTERS OF APPRECIATION FOR THE MINISTRY OF JUSTICE FOR PRIESTS AND DEACONS

Each time the Pope visits a country the media focus highlights the outrage of victims of clergy abuse and the response of the Holy Father in hearing victims' complaints. Nothing is ever said about concern for priests falsely accused who, in every sense of the word, are victims of character assassination. It may not be a popular question, but who is caring for them?

Lay friends can be very reassuring for an accused priest. But fellow priests, armed with the law, are the best ones who can be effective in stopping the injustice that a bishop can inflict on his priests. Justice for Priests and Deacons is an organization that not only provides timely defense of a priest's rights, but educates clergy about their actions before a canonical or civil defense is needed.

The canonists of Justice for Priests and Deacons were the only people who came to my rescue in an empowering way after diocesan officials turned the media loose on my reputation as a parish priest. Unfortunately, I heard about them too late to avoid being victimized during the investigation phase. Ignorance of one's rights is a very dangerous flaw in a priest's canonical education. This newsletter and the Justice for Priests and Deacons website may be the only way active priests can learn about their canonical and civil rights.

JIM, A GRATEFUL PRIEST

The organization and ministry of Justice for Priests and Deacons has been a valuable source of support for me for many years. I first contacted Msgr. Higgins and Justice for Priests and Deacons in 1999. I needed advice about a canonical matter. During the years since then, Justice for Priests and Deacons has offered me much needed encouragement and support. Presently, I am incarcerated. Justice for Priests and Deacons has a ministry for those priests who find themselves in prison. In addition to advice and encouragement, I have received material assistance in the forms of gifts of money, regular mailings with significant information, magazine subscriptions, and occasional gifts of books. Many bishops and priests have turned their backs on accused and incarcerated priests. However, Msgr. Higgins and Justice for Priests and Deacons has not. They practice both corporal and spiritual works of mercy as they minister to those of us who find ourselves accused and/or incarcerated. Thank you! May God who has begun this good work bring it to completion.

BOB B.



MINISTRY TO PRIESTS IN PRISON

Justice for priests and deacons has an active ministry of reaching out to priests who are in prison. Many of those priests have been abandoned by their bishop and by their Diocese. They feel alone and cut off. These men are modern-day lepers. We keep in contact with them and offer them moral support, our friendship, and financial help. We have been blessed that some priests and laity have given substantial donations to this ministry. Because of this generosity, we have been able to send the priests in prison a financial gift every few months. Dr. Higgins has been able to visit some of these priests in prison.

When these men are released from prison, it is difficult for them to find employment. If you can assist them in finding employment, please contact our office. Also, if you can help in any other way, please let us know.

We get many requests from priests in prison. I am sharing with you a letter that a priest wrote to our office. As a result of the letter I contacted the local diocese and they now will have Mass every week. I quote from the letter:

February 16, 2011

Dear Michael,

I just needed to vent and so I thought I'd drop you a note. I'm an inmate at a prison in Wisconsin and I am also a priest. I am serving a twenty-year sentence for two cases of sexual assault in 1978. Wisconsin has the "fleeing law," so they brought me back from Florida. I've written you before.

The reason I'm writing is that I don't know what to do. I don't know what diocese I am in and I don't know the name of the local bishop. It has been over four weeks since we have had Mass here. I know we are worthless in the eyes of the church, but there are several of us who are hungry for the Eucharist. There is another priest who is an inmate here and the only chance we get to see each other is at Mass. Five weeks ago I asked to receive the Sacrament of the Sick--I have cancer, kidney disease, and recently had a perforated bowel. I suggested to the priest that perhaps we could have the Sacrament of the Sick during our liturgical celebration. He said "no" because some people who may not need it would come up for it. That was the last time I, we, saw the clergy person. An older gentleman, an inmate, asked me why Mass is always canceled here. He is a Mennonite and they are here a couple of times a week and he gets a pastoral visit once a week. The Lutherans are here each week, Baptists several times a week, and Salvation Army a couple of times a week. When we do have Mass only 20 show up, sad for almost 2000 prisoners. There is no prison outreach from the Catholics. 15 years ago I quit attending Mass, etc. and now I remember why. The church just gave up on me in 1989... *Name Withheld*

RIGHTS REGARDING EVALUATION AND TREATMENT

If an allegation is made against a priest or deacon, diocesan officials may demand that the priest or deacon be evaluated by a licensed mental health professional. The Congregation for Clergy, however, communicated on October 8, 1998, that no person may be coerced into evaluation. Yet, as noted in the previous issue of *Justice for Priests and Deacons* (2010, Vol. 2, p. 3), refusal to participate in an assessment may be used against the priest or deacon in any ecclesial process. If the priest or deacon does consent to an evaluation, the information obtained in that assessment is confidential and privileged. Even if the diocese is paying for this evaluation, the assessment or any information divulged to the evaluator cannot be released by the evaluating mental health practitioner without the consent of the priest or deacon.

Diocesan officials may urge or insist that an accused priest or deacon participate in long-term treatment in a psychiatric or substance recovery facility. Recommended treatment in some facilities may extend from weeks to several months. Treatment facilities rarely have an incentive for a client's speedy recovery since the facility will no longer make money following a client's discharge.

People are admitted to treatment facilities either voluntarily or involuntarily. Each state has its own mental health statutes regarding voluntary and involuntary placement. Most demand that specific evidence is demonstrated and that specific procedures are followed in order to protect an individual's civil rights. Under some specific circumstances, a court will grant a petition for involuntary placement if an individual is mentally ill or a habitual substance abuser. Typically, there must be evidence that the individual suffers from serious mental illness AND is unable or unwilling to consent to evaluation or treatment AND that without this care the individual will suffer from neglect OR will cause serious bodily harm to self or others. If those criteria are not met, the court is unlikely to approve involuntary commitment. Additionally, there must be no less restrictive care options available. For states with involuntary commitment procedures for substance abuse (drug or alcohol), an individual must be seriously impaired, AND has or is likely to inflict physical harm on himself or others.

Unless the priest or deacon is a serious danger to self (e.g., actively suicidal), a danger to others (e.g., actively homicidal), or unable to care for self because of severe mental illness or serious substance abuse or cognitive incapacity, he most likely will not meet most states' criteria for involuntarily commitment. Should a priest be coerced into accepting long-term treatment or be threatened by the diocese or persons from a treatment facility with involuntary commitment

proceedings, the priest will immediately need to demand a civil attorney and perhaps initiate a writ of habeas corpus if the priest is being detained at the facility. The writ of habeas corpus immediately sets a legal process in place for a person to appeal his involuntary detention to a court. Additionally, should the priest initially consent to long-term treatment and then reconsider his willingness to be at this facility after arrival, the priest has a right to leave unless he is a danger to self, others, or incapable of caring for self. The priest cannot be coerced or threatened by treatment facility staff. The priest cannot be detained against his will without a court order after he revokes his consent to participate in treatment. Should a priest or deacon believe his civil rights are being threatened, he should immediately contact a civil attorney for help.

With the exception of being incapable of self-care, a danger to self or a danger to others as a result of severe mental illness or substance abuse, most mental health concerns are handled with outpatient therapy, support, and/or medications.

MICHAEL N. KANE, PH.D., LCSW, ACSW

PRIEST OF THE EPARCHY OF PASSAIC, PASTOR OF OUR LADY OF THE SIGN BYZANTINE CATHOLIC CHURCH (COCONUT CREEK, FL), AND PROFESSOR OF SOCIAL WORK AT FLORIDA ATLANTIC UNIVERSITY IN BOCA RATON, FL.

UPPER ROOM CRISIS HOTLINE

The Upper Room Crisis Hotline exists to support our priests, deacons and religious brothers in their hopes and efforts toward wholeness and holiness. The Line is open 24/7/365 and trained volunteers among the clergy and religious, as well as select lay people, are willing to help. The volunteers will listen, make appropriate referrals when necessary, and support our elderly men by a daily call to engage them in conversation and to make sure they are eating regularly, taking their meds, and, in short, make sure they are doing well. We appreciate the opportunity to brighten their day and help them when necessary. The number for these free services is: 1-888-808-8724.

SISTER MARY FRANCES SEELEY, O.S.F., PH.D. DIRECTOR



HOPE AND HEALING FOR THE ACCUSED

Fr. John was a successful pastor who enjoyed teaching religion in the diocesan high school. One day he was called in to the bishop's office and told that he must immediately step down from his assignments because the diocese had received what they perceived to be a credible charge of sexual misconduct. Fr. John is devastated. He proclaims his innocence, but a legal process has begun that will take years to unfold, putting his life in limbo. The next day his name appears in the paper. Quickly he moves to a diocesan residence away from the limelight. He is one of many priests who have suffered the ignominy of misconduct charges and have no way to prove that these are not true.

As human beings and as Christians we have the right to defend ourselves against accusations, including sexual misconduct charges. These rights are protected by civil and Canon Law, even though often they are pushed aside by bishops and major superiors. Instead of being an ally or support, a bishop or major superior is often an adversary. Achieving justice is a slow and tedious process, and sometimes it never occurs. When a priest feels powerless to challenge his accuser or defend himself before his religious superiors, hopelessness can set in. He will need a strong prayer life to sustain him. I wish to highlight forgiveness as a key element of his prayer.

Forgiveness is a process rather than a one-time event. It is a choice and not a feeling. In the gospel of Matthew when Peter asked Jesus how often he should forgive his neighbor, Peter thought seven times was enough. Jesus said seventy times seven or an infinite number of times. Jesus granted forgiveness to his accusers and murderers while on the cross. In the midst of her anguish the Blessed Mother did the same. The falsely accused person needs to find the way to forgive in order to experience more healing. A threefold course of action will help the healing process.

First, the person should desire to forgive the accuser unconditionally. Most likely, the person will not feel like forgiving, any more than Jesus felt like forgiving from the cross. But with the grace of God, one can achieve a permanent desire to forgive. The decision is not dependent upon a change of heart of his accuser or of the judicial system working in his favor. Likewise, it may be necessary to forgive God for not intervening on one's behalf. God is on our side, but that does not always translate into justice for us.

Secondly, the person prays for the accuser to be blessed by God. One need not specify how. Leave that up to God. Jesus said, "Love your enemies, and pray for those who persecute you" (Mt 5:44). There are others involved in the case who also need prayer that they do the right thing and cor-

rect any injustice.

Thirdly, the person asks God to heal the painful memories connected with the accusations and whatever meetings occurred with religious superiors. Here one deals with anger, fear, guilt and depression. These emotions are normal. But excessive preoccupation with these emotions can leave a person in a distraught, withdrawn state of mind. This mental battle is best handled by fleeing from recurring thoughts rather than mulling over them. Over time, recollection of the events does not come as often, and one can push them aside more easily.

One should also be aware of the need for self-forgiveness in the entire situation. Chances are there were instances of poor judgment, indiscretion, excessive anger, thoughts of revenge, and so on, that haunt a person and cause excessive guilt. They are best driven away as well. Self-love includes self-forgiveness.

When priests and deacons are removed from active ministry because of charges of sexual misconduct, it places a tremendous strain on them to prove their innocence. Many believe that their reputations are forever tarnished and that they will never function again. So often bishops and religious superiors are reluctant to defend a cleric or religious because of attacks that may come to them through the media. The isolation and rejection that the accused feel may linger on for years with little hope for healing. But such persons may receive healing and serenity through the power of forgiveness.

ANONYMOUS



Justice for Priests and Deacons was founded to create a referral program to offer advice to priests and deacons about their rights under Canon Law. Many priests and deacons are unaware of their rights in Canon Law. The priest or deacon has nowhere to turn for help, support, or advice when he is accused. Justice for Priests and Deacons strives to fill that void. It is an organization that seeks to serve the needs of the clergy, women religious, and laity. Our organization assists the priest or deacon in the preparation of his case, his defense, and to process his appeal if necessary.

Another important part of our ministry is to offer assistance to those priests who may find themselves abandoned by their bishops or in prison.

THE RIGHT OF DEFENSE

Canon law gives laity and clergy the right of defense. In his address to the Roman Rota, 26 January 1989, Pope John Paul stated: "I intend in today's annual meeting to emphasize the importance of the right of defense in canonical judgment." Pope John Paul II further stated: "The new Code of Canon Law attributes great importance to the right of defense. Canon.221 §1 states 'that Christ's faithful may lawfully vindicate and defend the rights they enjoy in the Church, before a competent ecclesiastical forum in accordance to the law.'" Paragraph 2 continues, "if any member of Christ's faithful is summoned to trial by the competent authority, they have the right to be judged according to the provision of law, to be applied with equity."

Pope John Paul II further stated in his allocution that one cannot conceive of a just judgment without the 'contradictory' due process of law, that is to say without the concrete possibility granted to each party to be able to know and contradict the requests, proofs, and deductions adopted by the opposing party. He further mentioned that "this right of defense in the case should be exercised according to the just depositions of positive law." He also stated that "in a penal case, however, there must be a de facto defense, indeed a technical defense, because in a penal trial the accused must always have an advocate." (Cf. Cc. 1481 §2; 1723)

It is clear from the doctrinal teaching and jurisprudence of the Roman Rota, Apostolic Signatura, and papal teaching that the right of defense is intrinsic to the essence of natural law and divine positive law. The Church has always understood that it cannot dispense from natural law. The right of defense, therefore, is a fundamental presumption of all law.

In conclusion, I maintain in the light of the above jurisprudence that any decree, issued without the right of defense, by the Supreme Pontiff, Roman Tribunals, Roman Congregations, decrees of bishops and ecclesiastical tribunals is null and void (*irrita est*) and does not have to be observed and it can be appealed.

REV. DR. MICHAEL HIGGINS, M.A., D.D., D.C.L.

EXECUTIVE DIRECTOR OF JUSTICE FOR PRIESTS AND DEACONS



*How can you speak of justice
without the right of defense?"*

John Paul II

MANY ABUSE CLAIMS AGAINST CATHOLIC PRIESTS ARE 'ENTIRELY FALSE'

In a stunning ten-page declaration recently submitted to the Los Angeles County Superior Court, veteran attorney Donald H. Steier stated that his investigations into claims of sexual abuse by Catholic priests have uncovered vast fraud and that his probes have revealed that many accusations are completely false.

Counselor Steier has played a role in over one hundred investigations involving Catholic clergy in Los Angeles. In his missive Mr. Steier relayed, "One retired F.B.I. agent who worked with me to investigate many claims in the Clergy Cases told me, in his opinion, about ONE-HALF of the claims made in the Clergy Cases were either entirely false or so greatly exaggerated that the truth would not have supported a prosecutable claim for childhood sexual abuse" (capital letters are his).

Mr. Steier also added, "In several cases my investigation has provided objective information that could not be reconciled with the truthfulness of the subjective allegations. In other words, in many cases objective facts showed that accusations were false."

Mr. Steier's declaration is a stunner. He is as experienced as anyone in studying the claims of abuse against Catholic clergy in the Los Angeles area. Also among Steier's eye-opening statements:

"I have had accused priest clients take polygraph examinations performed by very experienced former law enforcement experts, including from L.A.P.D., the Sheriff Department, and F.B.I. In many cases the examinations showed my clients' denial of wrongdoing was 'truthful,' and in those cases I offered in writing to the accuser to undergo a similar polygraph examination at my expense. In every case the accuser refused to have his veracity tested by that investigative tool, which is routinely used by intelligence agencies."

"I am aware of several plaintiffs who testified that they realized that they had been abused only after learning that some other person - sometimes a relative - had received a financial settlement from the Archdiocese or another Catholic institution."

"In my investigation of many cases, I have seen the stories of some accusers change significantly over time, sometimes altering years, locations, and what activity was alleged - in every case, the changes seemed to have enabled or enhanced claims against my clients, or drastically increased alleged damages."

"I am aware that false memories can also be planted or created by various psychological processes, including by therapists who might be characterized as 'sexual victim advocates,' if not outright charlatans."

"Most of the approximately seven hundred psychiatric 'Certificates of Merit' filed in these Clergy Cases, as required by [California] Code of Civil Procedure § 340.1, were signed by the same therapist." (!) (Note: A "Certificate of Merit" from "a licensed mental health practitioner" is required in California before filing an abuse lawsuit.)

Steier signed and submitted the declaration "under penalty of perjury" November 30, 2010. Los Angeles County Superior Court officially filed it at 11 a.m. on December 15, 2010. (Images of Steier's declaration: pages 1, 4, 5, 6, 7, 10.)

Steier also took aim at the outspoken advocacy group SNAP (Survivors Network of Those Abused by Priests):

They maintain an interactive Internet website with a user 'Forum' and 'Message Board,' among other features, where people can share detailed information between alleged victims pertaining to identity of specific alleged perpetrators, their alleged 'modus operandi,' and other details of alleged molestation. In effect, a person who wanted to make a false claim of sexual abuse by a priest could go to that website and find a 'blueprint' of factual allegations to make that would coincide with allegations made by other people. Law enforcement also uses the S.N.A.P. website to attempt to locate new victims and allegations against Catholic priests.

Needless to say, SNAP had a fit at the sight of Steier's declaration. In a frantic press statement dated December 13, 2010, SNAP derided Steier's declaration as a "legal maneuver" that was "among the most outrageous and hurtful ever made by a church defense lawyer." In addition to claiming it will file a complaint with the California Bar Association, it demanded that Los Angeles Cardinal Roger Mahony "denounce Steier's claims and to disclose how much archdiocesan money has been paid to Steier." (Gee, the last time I checked, SNAP steadfastly refused to divulge how much of its income is derived from the number of lawyers with whom it closely collaborates!)

Yet there is a glaring absence from SNAP's statement. The organization does not refute nor deny any of the specific claims made by Steier. It simply labels them as "outrageous" and "hurtful." That is hardly a blow to the explosive declaration aired by the veteran attorney.

Yes, Catholic priests terribly abused minors, and bishops failed to stop the harm. That's an undeniable truth. There

are few crimes that revolt more than sexual abuse. The abuse of minors is a dark episode that the Church will forever have to live with.

Yet major media outlets have largely ignored a major element to the entire Catholic abuse scandal narrative.

Here is Wall Street Journal writer Dorothy Rabinowitz:

"People have to come to understand that there is a large scam going on with personal injury attorneys, and what began as a serious effort has now expanded to become a huge money-making proposition."

Surprise: Ms. Rabinowitz made her remark in 2005. Since then, the Church has doled out an additional \$1 billion in settlements.

Will 2011 be the year that the media finally begins to take a closer look at many of the claims being made? What about the suspicious relationships between SNAP, lawyers, and many in the media? (Vincent Carroll at the Denver Post is a rare voice of acknowledgement: "[Fraudulent or highly dubious accusations are more common than is acknowledged in coverage of the church scandals — although they should not be surprising, given the monumental settlements various dioceses have paid out over the years" (Oct. 10, 2010).)

Stay tuned.

DAVE PIERRE IS THE AUTHOR OF THE DOUBLE STANDARD: ABUSE SCANDALS AND THE ATTACK ON THE CATHOLIC CHURCH. DAVE IS ALSO THE CREATOR OF THEMEDIAREPORT.COM AND IS A CONTRIBUTING WRITER TO NEWSBUSTERS.ORG.



"Care will always be taken to protect the rights of all parties involved, particularly those of the person claiming to have been sexually abused and of the person against whom the charge has been made. When an accusation has been shown to be unfounded, every step possible will be taken to restore the good name of the person falsely accused."

U.S. Bishops, Essential Norms, #13

RIGHTS OF ACCUSED PRIESTS

TOWARD A REVISION OF THE DALLAS CHARTER AND THE 'ESSENTIAL NORMS'

Since World War II, the Catholic Church has become a leading champion of the inviolable rights of individual human persons. Applying this principle, the bishops of the United States in November 2000 published *Responsibility and Rehabilitation*, a critique of the American criminal justice system, in which they upheld the dignity of the accused and rejected slogans such as "three strikes and you're out." Among other things, the bishops stated: "One-size-fits-all solutions are often inadequate.... We must renew our efforts to ensure that the punishment fits the crime. Therefore, we do not support mandatory sentencing that replaces judges' assessments with rigid formulations." "Finally," they said, "we must welcome ex-offenders back into society as full participating members, to the extent feasible."

In the case of the sexual abuse crisis, the United States bishops have taken positions at odds with these high principles. Meeting at Dallas in June 2002 under the glare of adverse publicity and under intense pressure from various survivors' networks, they hastily adopted, after less than two days of debate, the so-called Dallas charter and an accompanying set of norms that were intended, after approval by the Holy See, to be legally binding in the United States.

In the charter, the bishops rightly expressed the gravity of the problem that needed to be addressed. "The sexual abuse of children and young people by some priests and bishops, and the ways in which we bishops addressed these crimes and sins, have caused enormous pain, anger, and confusion." But in their effort to protect children, to restore public confidence in the church as an institution and to protect the church from liability suits, the bishops opted for an extreme response. The dominant principle of the charter was "zero tolerance." Even a single offense, many decades ago, no matter what the mitigating circumstances, was deemed sufficient to debar a priest for life from the exercise of his ministry. Having been so severely criticized for exercising poor judgment in the past, the bishops apparently wanted to avoid having to make any judgments in these cases.

The church must protect the community from harm, but it must also protect the human rights of each individual who may face an accusation. The supposed good of the totality must not override the rights of individual persons. Some of the measures adopted went far beyond the protection of children from abuse. The bishops adopted the very principles that they themselves had condemned in their critique of the secular judicial system. In so doing they undermined the morale of their priests and inflicted a serious blow to the credibility of the church as a mirror of justice.

Although the charter was modified as a result of consultation with Vatican officials, the revised norms are still subject to criticism. Groups of priests still protest that they are not accorded the basic requirements of due process. Continued discussion may be helpful because the Holy See granted recognition to the "Essential Norms" only for a period of two years from their promulgation (Dec. 12, 2002). If the norms are extended, they will probably be first revised. With regard to the rights of accused priests, the following 15 principles would seem to be pertinent for any re-evaluation of the "Essential Norms." ...

EQUITABLE TREATMENT

It is to be hoped that the revision of the "Essential Norms" in the coming year will be undertaken with a sincere desire to give a more equitable treatment to accused priests, especially those who may be presumed innocent. "Zero tolerance" may be appropriate in cases where a serious crime is known to have been committed and as long as there is a palpable risk of its being repeated. After doing everything necessary to create a safe environment for children, the bishops should strive to do what they can to see that innocent priests are not treated as if they were guilty and that all priests are treated with justice and Christian charity.

As the U.S. bishops themselves declared less than five years ago in *Responsibility and Rehabilitation*, "One-size-fits-all solutions are often inadequate." They appealed to the teachings of Jesus in the Gospels: "The parable of the Prodigal Son (Luke 15) shows God's love for us and models how we are to love one another. In spite of his younger son's reckless life and squandering of his inheritance, the father celebrates his return home, recognizing that his son has shown contrition and has changed his life. The lost who have been found are to be welcomed and celebrated, not resented and rejected."

Priests, like others, should be given due process of law. Even when it is clear that an offense has been committed, the church should not by her policies send the message that she does not care about the clerical sex offender or that she believes him to be beyond redemption. After correction of offenders should be welcomed back into their order "as full participating members, to the extent feasible."

EXCERPTED FROM A TALK BY AVERY DULLES, S.J.
AMERICA, JUNE 21-28, 2004
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CARDINAL AVERY DULLES, S.J., WAS THE LAURENCE J. MCGINLEY PROFESSOR OF RELIGION AND SOCIETY AT FORDHAM UNIVERSITY, BRONX, N.Y. THIS ARTICLE WAS GIVEN AS A LECTURE TO THE THOMAS MORE SOCIETY IN FORT LAUDERDALE, FLA., ON MAY 27, 2004.

CONCLUSION

The *Dallas Charter* was a crisis response by the American bishops to the sexual abuse of children by clergy. It effectively declared priests to live under martial law.

The authors who have contributed in this newsletter have voiced their concerns and frustrations with the *Charter*. They also provide some suggestions for revising it.

We are not under any delusion that the bishops' task is an easy one, especially in light of the media hype surrounding the issue and the implacable demands of victims' advocacy groups. Yet, justice demands a fair hearing for the accused priest as well as for the accuser. Thus far, many of the civil rights of the defendants have been circumvented.

The recent Circular Letter, *To assist Episcopal Conferences in developing guidelines for dealing with sexual abuse of minors perpetrated by clergy* issued by the Congregation for the Doctrine of the Faith (May 3, 2011), states that the bishops should cooperate with civil officials. We wholeheartedly agree. Unfortunately, however, law enforcement agencies have not always prosecuted these cases fairly. Caveat emptor! An excellent personal account of this assertion can be found in *The Conspiracy: An Innocent Priest*, by Monsignor William McCarthy (2010).

In the Circular Letter, the Prefect of the Congregation, Cardinal William Leveda states, "The accused cleric is presumed innocent until the contrary is proven. Nonetheless the bishop is always able to limit the exercise of the cleric's ministry until the accusations are clarified. If the case warrants, whatever measures can be taken to rehabilitate the good name of the wrongly accused cleric should be done." Anecdotal data proves that in the popular mind removal of the priest from his ministry implies guilt and that once placed on administrative leave the rehabilitation of his good name is difficult.

This being so, at least "probable cause," meaning that there is enough evidence for an arrest, should be the criteria for a cleric's removal. In cases where there is no present danger to minors because of the age of the alleged crime and no evidence of recidivism the priest should maintain his office and due process should be followed. Priests do not give up their rights as citizens when they are ordained.

The bishops now have available to them a more sober assessment of the causes of the aberrant behavior perpetrated by some priests. In a recently released report the John Jay College of Criminal Justice in New York City blamed the problem on poor monitoring of priests as well as stress caused by the social and sexual turmoil of the 1960s. This explains why the majority of reported cases occurred in the

two decades that followed. The report also found that fewer than 5% of the abusive priests exhibited behavior consistent with pedophilia, "Thus, [the study states] it is inaccurate to refer to abusers as 'pedophile priests'."

This updated sociological and psychological data, as well as the stories of exonerated priests, should move the bishops to discern how accused priests may be more justly treated. And, in the case of some of the guilty, how they can be rehabilitated into some type of ministry.

We raise our voices in prayer for the successors of the Apostles "...to do justice, to love kindness, and to walk humbly with [our] God" (Micah 6:8).

REV. DR. MICHAEL ORSI, ED. D.

AVE MARIA SCHOOL OF LAW, NAPLES, FLORIDA



"Finally, priests should be aware that, in virtue of their communion in the priesthood, they are under special obligation to any who are struggling with difficulties, giving them timely help and even, should the need arise, a discreet word of caution. If they have seriously failed in some way, they should treat them with largeness of mind and brotherly affection, constantly praying with earnestness to God for them, and behaving as true friends and brothers."

Decree on the Ministry and Life of Priests,
Vatican II, 8



"All priests, in that by their ordination they join the presbyteral order, are bound together by close sacramental bonds of brotherhood; more particularly do they form one priestly body in the diocese to the service of which they are attached under its bishop. Though engaged in a variety of duties, they nevertheless exercise a single priestly ministry for people, For all are sent to cooperate in the same task . . . All are aiming at one end, namely to build up the body of Christ."

Decree on the Ministry and Life of Priests,
Vatican II, 8

PRIESTS NEED PRIESTS

Ever since the Dallas Charter of June 2002 and the adoption of zero tolerance by the Church, the Catholic clergy have come under attack. This attack has been enhanced by the media and some liberal groups. Zero tolerance is a violation of our theology and biblical teaching on reconciliation and charity. There are different reasons why this happened, especially with the Vatican's treatment of laicization without any due process. Priests are summarily dismissed from their assignments. This does not happen in any other profession. There is also a double standard for priests and bishops. Twenty-six bishops have been accused of sexual misconduct. One bishop even admitted to ten cases of pedophilia. All these bishops still have financial support and medical benefits, and perform ecclesiastical ministry.

It is now more important than ever that we stand in support of each other. The best statement to be found regarding relationships of priests among themselves is the Decree on Priestly Life and Ministry, #8, Vatican II: "All priests, in that by their ordination they join the presbyteral order, are bound together by close sacramental brotherhood. Though engaged in a variety of duties, they themselves nevertheless exercise a single ministry, namely, to build up the body of Christ. Finally, priests should be aware that, in

virtue of their communion in the priesthood, they are under special obligation to any who are struggling with difficulties, giving them timely help, and even, should the need arise, a discreet word of caution." How much more true and needed is this statement today, especially in light of the crisis in the Church created by the Dallas Charter? Many of our fellow priests have been wrongfully harmed; their rights and dignity have been ignored or trampled upon. We need to band together as ministers of the Gospel, as fellow priests, in order to help and support each other.

St. John Vianney once stated: "When people want to destroy religion, they begin by attacking the priest; for when there is no priest, there is no sacrifice; and when there is no sacrifice, there is no religion."

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rights in Canon Law?**