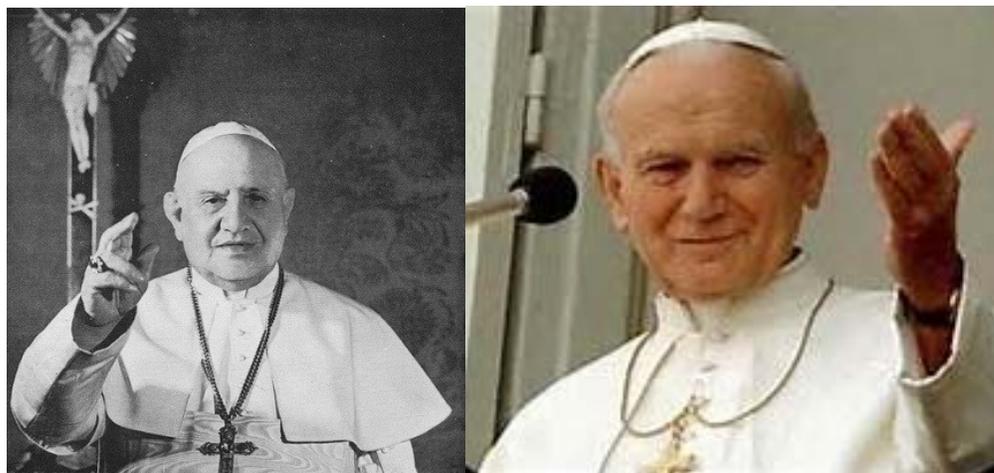


JUSTICE FOR PRIESTS AND DEACONS IS AN INDEPENDENT CANON LAW GROUP DEDICATED TO DEFENDING THE RIGHTS OF CLERGY
"If you want peace, work for justice."

Pope Paul VI

Justice for Priests and Deacons
IN SERVICE TO JUSTICE

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Saint Pope John XXIII

Saint Pope John Paul II

"The family is the first essential cell of human society."

"Trust Christ because Christ trusts you."

Some priests discard this newsletter. It is not wise to do so. Fr. Alex, retired, wrote: "In 2007 I started to receive your newsletters. I have kept them all in my library, thinking one day I might need them. I need your help now. I would appreciate your kindness and support."

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The Vatican Secretary of State wrote acknowledging receipt of our 2013 newsletter and praised us for the work we do. They promised us continuous remembrance in their prayers and wished us all the best in our ministry.

THE RIGHT TO PRIVACY AND RIGHT TO A GOOD REPUTATION (CANON 220)

*Robert J. Flummerfelt, J.C.L., J.D.,
Ukrainian Catholic, Las Vegas, Nevada*

Canon 220 of the *Code of Canon Law* states:

“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.”

This canon is crucial and fundamental when dealing with matters that implicate allegations against everyone, but particularly in our context, Catholic clergy. The canon reflects two basic rights that come to us from human nature, the right to possess and enjoy a good reputation and the right to protect one’s privacy. As has been said before and bears repeating, a person can spend decades building a good reputation, but in a matter of a mere five (5) minutes that good reputation can be destroyed and permanently harmed by a false accusation.

One of the most difficult aspects of representing clergy accused of various forms of misconduct is effectively protecting both their reputation and privacy. When an allegation has been brought forward against a priest, often in an effort to notify the parishioners or diocesan faithful, the Diocese will make known that an allegation has at least the semblance of truth and the accused cleric is placed on so-called administrative leave (if such has not already been done) in accord with canon 1722. At that moment, effectively protecting and maintaining good reputation has already been lost for the priest who has been accused. Henceforth, the priest will always be under a cloud of suspicion (at least to some degree), even if ultimately he is found to be not guilty of the allegation in a canonical process or civil process *or both*.

The challenge arising from such a circumstance is that once the proverbial bell has been rung with an allegation, even if proven to be false, that bell can never be un-rung. The damage done to the cleric’s reputation can never be fully restored – it is fiction to believe that it can be. Rather, at best, what can result is some mitigation of the harm to reputation that has befallen the cleric if he resumes ministry. That is the dilemma that faces advocates who deal with these situations daily on behalf of priests and deacons who call our offices in need of our assistance.

In consideration of this dilemma, how can we as advocates for clergy, when confronted with these circumstances, try and do our part to prevent the damage to reputation before

it occurs? What steps can we as counsel take to protect and vindicate both privacy and reputational rights of clergy? First, in my experience the best approach in this matter is to, as much as possible, work in collaboration professionally and charitably with the diocesan officials. As members of the Church we must recognize and balance our goals of effective advocacy with respectful dialogue – both can and must occur concomitantly to be effective for clerics accused and in service to truth and charity. There must be a deep overview and plan for the entire course of the cleric’s case from start to finish in consideration of both effective advocacy and also protecting his right to a good reputation and privacy. Each point of contact and each point of development of the process from the first notice that there is an allegation, to the first meeting with diocesan representatives on the merits of the allegation to what is stated publicly (and hopefully not at all!) regarding the allegation and what the Review Board hears, decides and is reported all impact substantively a priest’s reputation and privacy rights. Being engaged and involved from the outset is essential.

Referencing both privacy and reputational rights at the first moment an allegation comes forward brings the issue to the forefront for all involved. The weight of the allegation alone is enough to cause serious stress, anxiety and fear for an accused cleric. This weight is magnified significantly when the allegation is made public and acts as a source of breach of the accused cleric’s right to both good reputation and privacy.

As an advocate, we must actively take steps to ensure that there is no publicity if possible and if impossible in speaking with diocesan officials, take steps to make sure that what is expressed publicly does not place the accused cleric in a false or negative light, especially when the accused is adamant that the allegation is false. In furtherance of these goals, it is important to emphasize to diocesan officials what is also in the interest of the Diocese regarding the downside of making an allegation public.

Often when an accusation is made public against a diocesan priest for example, tension will arise in the parish. There will be those who support Father and who are vocal about their support, through setting up a blog, handing out flyers, trying to meet and build up support for the accused priest. Such a scenario, due to the publicity surrounding the matter often only acts to cause distance, division and harm among the faithful. Explaining to the Diocese how publicity can also harm the Diocese may be a way to realize that the reputation concerns are for all involved.

Furthermore as points of reference, it is also important to take into consideration the U.S.C.C.B. Essential Norms germane to our discussion that state:

Norm 6 states in part: "...During the investigation the accused enjoys the presumption of innocence, and all appropriate steps shall be taken to protect his reputation."

Norm 13 also states in part, "...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."

The aforementioned norms concretize in practice how the right to a good reputation and right to privacy are exercised. Nevertheless, the challenge has been and continues to be how to ensure that these provisions are implemented at each and every stage of the process for the accused cleric.

Perhaps as advocates we should assertively proclaim what the *Catechism of the Catholic Church* teaches about these important matters:

"2477 *Respect for the reputation* of persons forbids every attitude and word likely to cause them unjust injury. He becomes guilty:

- of *rash judgment* who, even tacitly, assumes as true, without sufficient foundation, the moral fault of a neighbor;
- of *detraction* who, without objectively valid reason, discloses another's faults and failings to persons who did not know them;
- of *calumny* who, by remarks contrary to the truth, harms the reputation of others and gives occasion for false judgments concerning them."

At what point does making an allegation known to the faithful implicate a cleric's right to a good reputation to the point of constituting calumny, detraction or rash judgment? Individual facts and circumstances will govern how we apply these principles to our practice in advocating for those accused clerics. But as advocates, if we are fully aware from the outset of these governing principles, we can be most effective at vindicating an accused cleric's right to a good reputation and right to privacy consistent with the letter and spirit of the law.



THE PRELIMINARY INVESTIGATION (CANON 1717)

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One of the most distressing phenomena in the Roman Catholic Church in the last twenty years is that of sexual offences committed against people (often, though not exclusively, very young people) by clerics and those in religious congregations. The very public nature of the accusations has caused scandal among members of the Church community and in society as a whole. No one can deny the harm caused to individuals, families and communities by those in positions of trust. As well as being a scandal, such abuse of children and vulnerable adults by people ministering in the Church has had serious implications for national and diocesan resources in terms of financing compensation, as well as raising concerns about the trust-worthiness and reliability of Church personnel overall, whether ordained or lay.

This has led to steps being taken to ensure that the abuses of the past are less likely to be perpetrated, with the Church's procedures for recruitment and deployment of personnel becoming more transparent. Within this, however, concerns have emerged as to whether, in seeking to uphold the rights of children and vulnerable adults, the protection of the rights of those working within the Church are in danger of being undermined. It is clear that the Church needs to take steps to protect those who are within its care. Further, as stewards of charitable funds, the various trustee bodies within the Church have a duty to exercise responsible stewardship and to take steps to minimize the risk to which these funds are exposed. However, there is question on whether some of the steps being advocated are blurring certain boundaries, and ignoring certain fundamental principles of canon law.

The way in which the systems of child protection set up in various countries has caused a great deal of controversy, not to mention anguish to a number of priests, because malicious or frivolous allegations appear to have been treated in the same way as any other claim of sexual misconduct. Also, in the last few years in England and Wales, any cleric accused has been placed on administrative leave, often remaining there even after a "not guilty" verdict has been handed down by the criminal courts. Increasingly, there are arguments to suggest that this "sledgehammer to crack a nut" approach is not necessarily the correct or just one.

While much continues to be written on this subject in all its wide-ranging aspects, this article looks at one canon of the 1983 Code in particular. Canon 1717 deals with a preliminary investigation in the penal process, and paragraph 1 reads as follows: *(continued next page)*

(CONTINUED) THE PRELIMINARY INVESTIGATION (CANON 1717)

“Whenever an ordinary has knowledge, which at least seems true, of a delict, he is carefully to enquire personally or through another suitable person about the facts, circumstances and imputability, unless such an enquiry seems entirely superfluous.”¹

There are a number of key points here that bear some examination. The first is the observation that any penal process is not to be undertaken lightly in view of the possible consequences for the person who is accused. The ordinary (who may be a diocesan bishop, a vicar general or episcopal vicar, or a major superior of a clerical religious institute)² may delegate the task of enquiry to a cleric or layperson. In some instances, it is recognized that a priest may be more effective in speaking to an accused cleric, while in other cases, people trained in dealing with children or young people may be preferable in talking to alleged victims.

The knowledge gained by the superior must seem true, or at least have the semblance of truth.³ Therefore, vague rumor alone is not enough to begin this process, though there is little indication what criteria may be employed to make a decision on the degree of knowledge required. Such an enquiry would “seem entirely superfluous,” perhaps because of the existing notoriety of the facts,⁴ or when the ordinary is already in possession of evidence that can generate moral certitude, or that the accused has already confessed voluntarily to the offence.⁵ In relation to the last point, any confession extorted by force or grave fear would lack any force.⁶

This preliminary investigation is to consider the facts of the allegation, the circumstances, and the question of imputability. On this latter point, canon 1321 §1 states “no one is punished unless the external violation of a law or precept, committed by the person, is gravely imputable by reason of malice or negligence.” Within the Code various factors that may diminish imputability are articulated, some within an individual’s control, and others not. These include drunkenness, the influence of drugs, or mental disturbance.⁷ At the same time, there are other factors that do not mitigate imputability (such as crass ignorance, getting drunk so as to commit a delict, or voluntarily fostered passion).⁸ Not only this, but there are other instances where imputability may be aggravated when one’s authority or office is abused to break the law: “this applies to both clerics and laity in official ecclesiastical positions” where such persons violate “their institutional trust.”⁹

Paragraph 2 of canon 1717 reflects canon 220¹⁰ in affirming “care must be taken so that the good name of anyone is not endangered from this investigation.” This requires that any investigation be carried out discreetly and with sensitivity. It also suggests that, at this point, there is a presumption of

innocence in favor of the person who has been accused. However, at this stage, “it is not necessary that the alleged delict be certain; it suffices that there be a strong probability that it has been committed...The determination of the existence of a delict with moral certitude...is the task of the subsequent penal process.”¹¹

What are the potential issues arising? Normally when any allegation is made, the priest is immediately removed from ministry until the criminal proceedings have been concluded. While this is understandable, it raises the question of to what extent he ought to have ongoing emotional and financial support from his diocese or religious congregation. It is also the case that priests may often have to fund their own legal representation. It may be argued that practices dealing with alleged abuses appear to have been borrowed from a secular context wholesale without taking into account the particular nature of priesthood, ordination and incardination, and the relationship with the bishop.

The process itself may take some time. It is not unknown for priests to be out of ministry for a year or longer, before it is established that there is no case to answer. Not only does this lead to financial problems, but can cause a great deal of emotional and psychological trauma. The maxim “justice delayed is justice denied” suggests that every effort be made to bring any canonical investigation to a speedy conclusion, particularly when civil authorities have clearly established that there is no case to answer and that the allegations are unfounded.

Finally, it is important in any jurisdiction that the system the Church uses to ensure safeguarding for children and vulnerable people are fit for purpose. Sadly, this is not always the case for there have been criticisms over the process established in some countries. William Richardson observes that in Ireland “the arbitrary procedures endorsed by the bishops’ conference in Ireland presume allegations of sexual abuse against clerics to be true.”¹² What is needed is an ongoing review to ensure that systems for dealing with these cases allow justice and equity for all involved.

1. *Canon Law Society of America, Code of Canon Law: Latin-English Translation, 1983*

2. See canon 134.

3. *Exegetical Commentary on the Code of Canon Law, vol. IV/2, Montreal, Wilson & Lafleur, 2004*

4. *Canon Law Society of Great Britain and Ireland, Canon Law Letter and Spirit: A Practical Guide to the Code of Canon Law, London, Geoffrey Chapman, 1995.*

5. See J. Beal, “To Be Or Not To Be That Is The Question: The Rights of the Accused in the Canonical Penal Process,” in *Canon Law Society Of America, Proceedings of the Fifty-Third Annual Convention, Washington DC, Catholic University of America, 1991, 83*

6. Cf. canon 1538.

7. See canons 1321-1324.

8. Canon 1325.

9. *Canon Law Society of America, New Commentary on the Code of Canon Law, New York, Paulist Press, 2000, p. 1546. Abbreviated to CLSA 2000, with page number.*

10. Canon 220: “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.”

11. *CLSA 2000, p. 1808.*

12. *CLSA 2000, p. 1808.*

BISHOP AND PRIEST RELATIONSHIP

*Rev. James Dallen, S.T.D.,
a priest of the Diocese of Salina, Kansas;
Emeritus Professor of Religious Studies,
Gonzaga University, Spokane, Washington*

The Dallas Charter will hurt the relationship between bishop and priests, Avery Dulles warned. He was right. Suspicion, distrust, and unjust treatment have interfered with the renewal of the relationship called for by Vatican Council II.

Presbyters assist the bishop as pastor, participating in and exercising with him the one priesthood of Christ. That is the close relationship between bishop and priests envisioned in *Christus Dominus*, Vatican II's decree on bishops. Presbyters are "prudent fellow workers" (15) and also the bishop's sons and friends (16). The bishop is the father of the presbytery (28). In the *Decree on the Life and Ministry of Priests*, priests are likewise "co-workers with their bishops" (4) who "make him present" (5). Priests and bishops so share the one priesthood that the unity of their consecration and mission requires priests communion with their bishops (7) and bishops to regard them as brothers and friends (7). Are they to function collegially, as the college of bishops with its head, the pope? Vatican Council II only hints at that.

Trent and Vatican II both sought reform. Yet much remains to be done. *The Decree on Bishops* did not detail all the ways in which bishops might be solicitous for the spiritual, intellectual, and material welfare of their priests (16), nor does canon 384 do so for priestly rights and episcopal responsibilities in church law. The bishop is the pastor of the local church, with priests assisting, and this means responsibilities to the whole of the local church and responsibilities to the priests who share in his pastoring.

Serious allegations against a priest do not deprive him of his rights or release the bishop from his responsibilities. Priests guilty of serious sin and crime remain his responsibility. Even "dispensed" priests, permanently removed from ministry by legal action, are canonically non-clerics but still priests and owed, in justice, the bishop's attention to their spiritual, intellectual, and material welfare.

The clergy sex abuse crisis has revealed not only the sins of priests but also those of bishops who have failed in their responsibilities to the whole local church or to their priests. Possible litigation or public reaction has prevented their forthright admission of failure and keeps them from helping the priest who has resigned or been removed. Justice for the Church requires bishops or priests who have seriously failed in their responsibilities to be removed, but justice for priests requires that they not be abandoned.



EPISCOPAL CRITIQUE AT DALLAS BISHOPS' MEETING, JUNE 2002

Bishop Howard J. Hubbard (ret.), Diocese of Albany, N.Y.

I would like to amend the policy of restoration to ministry to read that all present and future cases of sexual misconduct by a priest will result in procedures to remove the priest from ministry. However, for cases of sexual misconduct in the past, when the priest has received treatment, been restored to ministry and never re-offended, his removal or retention in ministry and the conditions for such retention will be reviewed by the diocesan review panel on a case-by-case basis.

First, let me note. I understand the need to assure our Catholic people and the public that we as bishops have gotten the message and we will not tolerate nor condone the heinous crime of sexual misconduct against children. And having listened over the years to the heartbreaking stories of victims such as we heard yesterday and the excruciating trauma they have endured, I could argue that given the harm done to victims in the past by priest abusers and the loss of trust and credibility in bishops for the way in which we have handled or mishandled these situations, that the common good demands a policy of removing every past, present and future offender and that without such an unequivocal policy healing can never come to victims and trust in the church and its leaders can never be restored.

However, I would argue that such a proposed policy, understandable as it may be from a public opinion perspective, is not consistent with the nature of who we are as a faith community which proclaims the central importance of conversion, repentance, forgiveness, compassion and reconciliation in responding to the Good News. Further, I would submit that such a policy is not consistent with the teaching promulgated by this body a little over a year ago in our pastoral letter entitled: Responsibility, Rehabilitation and Restoration: A Catholic Perspective on Crime and Criminal Justice. This pastoral rejects simplistic solutions like one strike and you're out but rather promotes restorative justice: a justice which strives to protect the community from harm, provide healing and restitution to victims and appropriate punishment and rehabilitation for offenders. Do we advocate this biblical concept as beneficial for the community at large but not for our own priests and other church personnel?

Is not a case-by-case review of priests guilty of sexual misconduct in the past, the best way to address this complexity fairly and justly? And why are we so afraid of such a policy? This review would be done by a panel of mostly laity, not in the employ of the church, and, if appointed properly, would include parents, therapists, those representing the criminal justice system and the victim's perspective. Are we afraid that this type of panel will be tainted by clericalism or

(continued next page)

EPISCOPAL CRITIQUE AT DALLAS BISHOPS' MEETING, JUNE 2002 (Cont'd.)

unconcern about children and their protection? Are we afraid to trust such a panel to make judgments that would address the nature and number of incidents, the treatment reports about the offending priest, his track record following restoration to ministry and the limitations that should be placed on his ministry? The diocesan panel would make this assessment weighing carefully the potential for further harm to children and the impact of restoration on the victim and on the church in general. At a time when lay involvement in the life of the church is more important than ever before, a policy of a case-by-case review of sexual misconduct by a lay panel is a most appropriate way to advance and benefit from such lay input.

While some, indeed probably most, in the Church will not accept anything short of a zero tolerance policy, others will be upset that we as a faith community may be abandoning restorative justice to appease the "one size fits all" approach our Criminal Justice Pastoral was designed to combat.

I hope, then, that with regard to priests who are guilty of sexual misconduct 20, 30 or 40 years ago, who are now in their 50's, 60's, 70's and 80's, who have been rehabilitated, have not re-offended and served the church well, we would heed the same sage advice about restorative justice that we offered to our public policy makers less than two years ago.

[Editor's note: Only two years after this address to the Bishops' Conference, Bishop Hubbard was himself publically accused and defamed by three false allegations of sexual misconduct, one with a minor. A 220 page independent investigative report published 6/24/2004 proved the allegations to be false., cfr. White Report 6.24.2004; Times Union 6.25.2004; or The Evangelist 6.24.2004. Could the average priest afford such an extensive and expensive defense against false allegations?

"It has been a profoundly painful and disillusioning experience to be falsely accused and to see and hear those falsehoods repeated over and over again, hundreds of times, in the media. I knew that I was innocent, but at times I was plagued by the fear that, with so many falsehoods being spread, the truth might not be found." Bishop Hubbard, June 2004

REQUEST A FREE COPY

We do not maintain a database of the names and addresses of bishops, priests and deacons in the United States. We purchase our mailing list from the National Catholic Directory. Some retired priests are not listed in the Directory. If you know of any priests who should have received this newsletter, send us their mailing information and we will send them a FREE copy.

THE "NOT IMPLAUSIBLE" STANDARD

***Roman Catholic Diocese of Duluth
December 31, 2013***

<http://www.dioceseduluth.org/cmanager/File/Communications/Names.pdf>

"As part of the Diocese of Duluth's ongoing efforts to foster safe environments for children and young people, Bishop Paul D. Sirba released on December 31, 2013 information about clergy members who have been credibly accused of sexual abuse of young persons while serving or residing in the Duluth Diocese."

"The list below includes those clergy members whose names were provided to the John Jay Study conducted in 2004, one diocesan priest against whom credible claims have been made subsequent to the compilation of the John Jay list and four non-diocesan clergy who worked or resided in the diocese and who are the subject of allegations made against other institutions. **The names included in the John Jay Study have had credible accusations made against them which, for purposes of the study, was a standard defined to be "not implausible." An allegation was considered "implausible" only if it could not possibly have happened under the given circumstances.**"



WHAT'S AN "IMPLAUSIBLE" ALLEGATION?

***Dr. Stanley Teixeira, J.C.D., J.D.,
Fresno, California***

Any allegation that is not implausible must then be plausible. But the question is: does the "plausible" allegation have any merit, is it corroborated by reference to anything outside of itself, and is there evidence sufficient to warrant that the allegation is more than itself?

X sees Y and Z leaving a hotel together and accuses them of having an affair. X's allegation is plausible (presuming that X is telling the truth, has no animosity or other purpose or ulterior motive to malign them), but in and of itself, it is a mere allegation. Even if A also happened to see Y and Z leaving the hotel at the same time, the conclusion that they were having an affair, without more, is speculation.

In civil law, a criminal case will proceed on the basis of allegations to be proved at trial. But a prosecutor will not file charges without prior investigation of those allegations. If the investigation fails to produce sufficient corroborating

evidence, charges will not be filed no matter how plausible the initial allegations. Further, even when a prosecutor believes there is sufficient evidence to warrant the filing of charges, a preliminary hearing is held as to whether, as a matter of law, the evidence appears to warrant to proceeding to trial, where the prosecutor must prove the matter "beyond a reasonable doubt."

Although the "beyond a reasonable doubt" standard does not apply to determinations as to whether to file charges and at the preliminary hearing, the nexus between the available evidence and the charges to be proved has to be such that a prosecutor will likely conclude the case is so provable, from the evidence currently available, in order to file the charges. **The standard of "plausible allegation" has as its only basis that the allegation is not implausible, but it fails to avert to any standard of sufficiency of evidence at any level.**



FROM "CREDIBLE" TO "PLAUSIBLE" ALLEGATIONS

**Rev. James Coriden, S.T.L., J.C.D., J.D.,
Washington, D.C.**

A three-judge panel of a court in Egypt sentenced five hundred and twenty-nine people to death after a two-day trial. This happened on March 24, 2014. Prior to their "trial" the defendants were not given access to the evidence against them, and neither the defendants nor their attorneys were allowed in court for the verdict. The United Nations human rights office expressed "deep alarm" and condemned the judgment as a violation of international law, calling the astounding number of persons sentenced unprecedented in recent history.

Other examples, closer to home for Americans, but more distant historically, are the incidents in 1861 and 1863 when President Abraham Lincoln, one of our heroic presidents and himself a lawyer, suspended the right to a writ of *habeas corpus* during the Civil War. Our U.S. Constitution states: "The Privilege of the Writ of Habeas Corpus shall not be suspended unless when in Cases of Rebellion or Invasion the public Safety may require it." The foundational document itself allows for extreme situations, like uprisings or invasions, when the public safety might demand the suspension of the writ.

Were the American bishops, gathered in Dallas in 2002, in such an extreme situation comparable, *mutatis mutandis*, to the struggle for public peace in Egypt or to the dangers of

subversion during the American Civil War? **It can be argued that the magnitude and depth of the clergy sexual abuse of minors scandal, finally fully public and realized in all of its tragic consequences, was indeed such a crisis for the American church. Did the situation justify the draconian measures (e.g., "one size fits all," "one strike and you're out") embodied in the Essential Norms that the Bishops' Conference adopted on that occasion?** Perhaps it did, but the crisis, the extreme situation, is now past, even though great psychological and financial consequences remain. Attitudes have changed. Serious and effective measures have been taken to prevent future abuses. Recent studies indicate that reports of new instances of abuse are few to non-existent. **The question arises, is it time to modify some of the radical rules of Essential Norms and restore a canonical balance to the whole scene?**

Here the issue is the trip-wire that sends an allegation to the Congregation for the Doctrine of the Faith for adjudication, the threshold judgment, often referred to as "a credible allegation." (Where did this expression come from?) At first hearing this standard sounds reasonable, but upon further reflection it becomes impossibly subjective. Credible to whom? A credulous person? Based on what? The unsupported word of one person? A distant memory distorted by the passage of time and subsequent experiences? **One recent report describes "a credible accusation" as one that is "not implausible," and an allegation was considered "implausible" "only if it could not possibly have happened under the given circumstances." So a "credible allegation" has been reduced to one that is not impossible! This is an absurdly low level of incrimination.**

The *Code of Canon Law* used the standard of "knowledge which at least seems true" (*notitiam, saltem veri similem*) to trigger a preliminary investigation (c. 1717.1), and "sufficient evidence" (*satis collecta elementa*) to allow the ordinary to discern whether or not to proceed with a penal process (c. 1718.1). The *Code of Canons of the Eastern Churches* used the criterion for this latter discernment, "if the investigation seems sufficiently instructed" (*si investigatio satis instructa esse videtur*), the Hierarch can decide whether or not to proceed (c. 1469.1). The Dallas Essential Norms used the standard of "sufficient evidence" that sexual abuse of a minor has occurred, to require the ordinary to notify the CDF (n. 6). **All of these criteria for an initial determination are objective; they focus on the evidence that the event actually took place, not on its mere possibility. It is time to return to more rational, objective, and fair standards.**



HOW COULD THIS HAPPEN? TRIBUTE TO A FRIEND

*Rev. Michael Salvagna, C.P., M.A.,
Passionist Retreat Center, Pittsburgh, Pennsylvania*

Father Francis is a friend of mine. I have long appreciated his learning, facility with words, and ability to do lots of things simultaneously. A popular professor, preacher, author, and spiritual advisor, Father Francis had it all. He displayed zest for life and related well to his students. Yet his religious community roots were never far from his identity and mission in life.

But now he is no longer known as Father Francis. In fact, he no longer teaches, preaches or does other ministry in the Church. He was stripped of his faculties and no longer lives in a religious community. How could this happen? It's a long story, far longer than the space I have here. But let me give some explanation from my vantage point.

The Internet has opened up a world of information and communications that have revolutionized the planet. Along with this magnificent instrument comes a flood of ugliness and criminal behavior that finds moralists and law enforcers unable to regulate. Francis became another statistic when he let his office computer, in a public place, be accessible to multiple users and always password open. Francis was charged by his superior of computer pornography involving minors. Police investigation, using a computer expert, determined that there was no viewing of pornography involving minors, but adult pornography was viewed. Francis denied ever looking at those websites.

A young man eventually came forward admitting his misuse of that computer. He was interviewed by the same computer analyst who had conducted the original investigation. The police were certain that this young man was the guilty party because they asked questions that only the perpetrator could answer correctly. Francis thought he was in the clear but not so. His superior did not accept the findings of the police report declaring Francis' innocence, but continued to insist that Francis was the sole guilty party. The decision that eventually came forth against Francis by the Congregation of the Doctrine of Faith made no mention of the police report.

Legal authorities exonerated Francis of improper behavior online or due to personal conduct. That should have been sufficient to clear his name. But months of recriminations on all sides had developed deep wounds between Francis, the college administration and his religious superior. From these he could not escape with integrity of vocation and

mission. The bad publicity generated by these accusations in print and online dragged on and on. Appeals to the Vatican by all sides did not bring compromise or reconciliation. In the mind of local authorities, Francis had become a pariah and an embarrassment. He had to go.

When strong willed, stubborn Christians go at one another determined to prevail, all sides suffer along with the Church at large. What started as small scale charges of improper behavior and improper use of social media escalated into a war of accusations and rebuttals? The need to defend one's turf and the rules that govern it brought much scandal and polarity to an esteemed academic community. And a good priest is no longer at the service of the Church. How could things get so far out of hand with no one capable of stopping the roaring engine? I have no answer.

Ecclesiastical authorities always have the upper hand when it comes to accusing an individual priest or religious. The Vatican position acts on the principle that if the ordinary or the religious superior with jurisdiction is the source of the accusation against a priest, then the Congregation of the Doctrine of Faith considers its responsibility to be reinforcement of local authority. The case against Father Francis was simply ratified up the chain of command almost by reflex. There is no justice when the accuser is powerful and his judgment is not questioned. Yet Vatican officials have a serious responsibility to dispense justice lest a priest or religious be victimized. Sometimes they get it right; sometimes they are wrong. Church history is replete with decisions against Christians by kings and popes that were later reversed. Might that happen here?

There is one last resort for my friend, Francis. It lies with another Francis, Pope that is. Pope Francis will need the Wisdom of Solomon to decide this case aright. A decision could be granted in favor of Father Francis that would restore his faculties as a priest, and reinstate him in his religious community. I believe this injustice needs to be corrected. But healing and reconciliation will be very difficult in that religious community. I pray that will happen.



FINANCIAL SUPPORT

This newsletter is provided to you through the generosity of our many benefactors---priests, deacons, and laity. It costs us \$32,000 to print, label and mail this Newsletter to all bishops and priests in the United States. 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 and deacons 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, their bishops have provided little support. There has always been solidarity among 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 needed. **The fact we received inquiries from more than 30 countries after the 2013 newsletter proves that need.** It is important that we all support one another and this organization. We are asking bishops and clergy to consider making a tax deductible contribution to *Justice for Priests and Deacons*. You can donate through our website, www.justiceforpriests.org, by credit card or you can mail your donation to:

Justice for Priests and Deacons
PO Box 87225,
San Diego, CA 92138-7225 USA

Gifts of stock may also be donated to us, and please remember our ministry in your will. We will be grateful for any donation you can provide.



WHAT DO I DO WHEN MY PRIEST-FRIEND IS ACCUSED?

*Michael N Kane, Ph.D., LCSW,
Professor of Social Work, Florida Atlantic University;
a Florida licensed psychotherapist; a priest of the Eparchy of Passaic and Pastor of Our Lady of the Sign Byzantine Catholic Church, Coconut Creek, FL.*

It is easy to accuse a priest of sexual or financial misconduct. Most priests shudder and hope it never happens to them. Hearing about a priest-friend who has been accused of misconduct is not uncommon. Still, it is shocking to hear that a colleague has been removed from ministry. **Even when accusations are found to be unsubstantiated, priests may remain in “limbo” and are not reinstated to active ministry.**

If you have a priest-colleague in this situation, being helpful and supportive is critical. It is important to consider what this priest-friend who has been accused is experiencing as well as how we can be of support. Imagine yourself in his shoes. Not intending to offer a script for all such situations, I offer some thoughts that might be helpful.

Allegations, On-going Stress and Your Priest-Friend: A priest may learn that an allegation has been made against him through a phone call received from a chancery official that summons him to a meeting. *Justice for Priests* has much advice to offer a priest about attending those meetings, responding to allegations, etc. If your priest-friend immediately notifies you before this meeting, urge him to obtain both civil law and canonical advice and to consult *Justice for Priests*. It is critical that he protects himself from the outset.

When a priest-friend discloses to you or if you become aware of his removal from pastoral ministry, it is not difficult to imagine how devastating this situation must be for him. This priest may experience immediate shock and denial, followed by anger and/or depression. Add to this caldron humiliation and embarrassment even if all evidence suggests his innocence. If this individual has a history of health problems, substance abuse, depression, an anxiety disorder or another mental health concern, these conditions may be exacerbated by these accusations. In difficult and challenging situations, some individuals, including priests, may contemplate suicide. Chances are good that this is one of the most challenging situations that this man has ever or will ever face in his priestly life. If your priest-colleague is having suicidal thoughts or articulates an intention to suicide, consider how you can best protect him from self-harm. Many codes of pastoral conduct require a priest to breach (cont. next page)

WHAT DO I DO WHEN MY PRIEST-FRIEND IS ACCUSED? (CONTINUED)

confidentiality when he has knowledge of an individual's intent to self-harm or to harm another.

Being accused of misconduct may shake this priest's perspective and faith. While asking how God could allow this to happen to him, he may also wonder about the response he will receive from his friends and family when they hear of these allegations. He may wonder whether he can trust his friends and family. He may wonder whether his family and friends will reject him or support and accept him. He may wonder if they will believe him to be guilty of misconduct, even if the accusation is found to be unsubstantiated later. Sadly, the odor of an accusation persists even when there is evidence to dismiss it. Now, more than ever, this priest needs support.

Being Supportive: Mental health professionals are to assume a position of unconditional acceptance toward someone who seeks their service. The goal is always to withhold any judgment of that help seeker because it could affect the quality of the service provided. To be a client's advocate, a professional must be able to view the client with positive regard and acceptance. Unconditional acceptance and withholding judgment are not easy. However, the ideal is consistent with the vision of Jesus. These positions are in harmony with priestly ministry too. Yet, priests, mental health professionals, and others fail miserably at this acceptance and the withholding of judgment.

There are faith communities that divorce themselves from those who are judged to be "sinful" or scandalous or who call negative attention to that faith community. This is shunning. Shunning has become recognizable through reality-television and other media. **Members of a faith-community may be explicitly or implicitly urged to cease contact and communication with a member who does not uphold the articulated values and beliefs of the community. Catholic bishops, priests, and laity have engaged in their own shunning of accused priests.** When a priest is accused, he is removed from ministry and told to leave the parish - immediately. This eviction occurs with little time to prepare, with no place to go, and often without financial support or a care for his personal need. This alleviates media pressure on bishops, may reduce negative publicity or liability risk on the Church, and seems to remove the "problem." Some bishops and chancery officials offer no financial or emotional support to an accused priest - even when the accusation has not been or cannot be substantiated.

The shunning may continue. Colleagues who have shared many years of ministry with an accused priest now ignore

him or avoid him. It isn't risk management at the priest-to-priest level, but discomfort about the situation. Perhaps there is also the concern of spreading suspicion or guilt through association. Priests who have been removed from ministry are expected to quietly disappear and not be an embarrassment to the rest of the Catholic Church. Priests who have been convicted and punished by civil authorities experience shunning through dispensation. Others who are not dispensed may be without contact or support from anyone in their home diocese. (*Justice for Priests* maintains some ministerial contact with incarcerated priests to reduce the shunning these individuals experience).

If you know a priest who has been accused of misconduct, consider how you might reasonably offer him your support. To help him make sense of his life and the new limitations imposed on him, he may require "an ear" to listen to him that offers unconditional acceptance, support and will not judge or convict him. In that listening moment, as a friend to an accused priest, hear him without trying to "fix" the situation. There is probably no easy "fix" or any good reason to know every last detail regarding the accusations. Let him talk and tell you what he wants you to know - you're there to be his friend, not his judge or lawyer. There is no need to help him experience more humiliation or embarrassment. It is likely that he is already sufficiently embarrassed and humiliated.

Like any other friend who is experiencing a major challenge in life, offer him emotional support and financial assistance if you are able or if he requests it. He may be in desperate need of both. Be available to him in a way and at a place that offers him comfort. The place and interaction should not be another opportunity to be embarrassed, humiliated or reminded of the accusation. Express your concern for his wellbeing. Refrain from giving advice. Most of all be a friend who can listen.



CANONICAL BILL OF RIGHTS: TOP TEN THINGS TO DO AFTER THE FATEFUL CALL

1. Get a canon lawyer to advise you.
2. Consult with a civil attorney and if need be hire him.
3. If the Bishop won't meet with you alone, take someone with you.
4. Remember the only friends you have are your canonist and civil attorney who cannot testify against you.
5. Appear before the Review Board only if you are allowed to bring legal counsel.
6. Respond only to evidence presented to you in writing beforehand.
7. Otherwise mention to the Review Board those things that make the accusation impossible (such as you were not ordained then or assigned there at the time, etc.).
8. Never sign anything without first consulting with your canonist and civil attorney.
9. When the ecclesiastical trial begins, do not take an oath.
10. Answer only the question asked preferably with a yes, no or I don't know.

THE RIGHT OF DEFENSE

(Cfr. justiceforpriests.org website, 2013 Newsletter)

THE RIGHT OF APPEAL

(Cfr. justiceforpriests.org website, 2013 Newsletter)

SECOND OPINION SERVICE

As a cleric, if you have been the target of allegations or accusations, your future has been jeopardized. You may want a second opinion of your options. If you have not yet confessed to being guilty, signed documents or are in the final stages of laicization, Justice for Priests & Deacons is willing to take a second look to see if your canonical rights have been violated. For more information contact:

Justice for Priests & Deacons
P.O. Box 87225
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Phone: 760-321-4842 Fax: 760-321-4894
Email: justiceforpriests@verizon.net

“GOSSIP IS MURDER”

POPE FRANCIS' HOMILY OF 9-13-2013

DOES THE PRACTICE OF PUBLICIZING UNPROVEN ALLEGATIONS CONSTITUTE SLANDER?

***Msgr. Michael Higgins, M.A., D.D., D.C.L.,
San Diego, California***

At the age of 16 St. John Climacus entered a monastery on Mt. Sinai and was taught about spiritual life by Martyrius (an older monk). After Martyrius died, St. John then lived as a hermit for 20 years. St. John wrote the *Ladder of Divine Ascent* c. 600 at the request of Abbot John of Raithu on the Red Sea. *The Ladder* soon became one of the most widely read books of Orthodox and Eastern Catholic spirituality.

Even today on the Fourth Sunday of Great Fast (Lent) Eastern Catholics and Orthodox feature some version of the icon of *The Ladder of Divine Ascent* for veneration on their tetrapod. (A tetrapod, similar to a *lectern*, is used to display icons.)

This icon features several monks climbing a ladder of 30 rungs, each rung based on a chapter of St. John's treatise. Angels are shown helping some climbers while devils try to drag others off the ladder. St. John devoted the tenth rung of his *Ladder* to “**Slander.**”



He wrote:

I imagine that no one with any sense would dispute that slander is the child of hatred and the remembrance of wrongs.

To slander is to speak evil of someone behind his or her back. It is to criticize and to malign them to others. It is common for people to disguise their slander by hiding behind pious intentions. (continued next page)

DOES THE PRACTICE OF PUBLICIZING UNPROVEN ALLEGATIONS CONSTITUTE SLANDER? (CONTINUED)

I have rebuked people who were engaged in slander, and, in self-defense, these evil doers claimed to be acting out of love and concern for the victim of their slander. My answer to that was to say: then stop that kind of love... If, as you insist, you love that person, then do not be making a mockery of him, but pray for him in secret."

St. John saw spiritual danger in slander because it is hypocritical. Slander is speaking nothing directly to the victim yet speaking negatively about him to others. This is hypocritical behavior.

A charitable and sensible mind takes careful note of the virtues it observes in another, while the fool goes looking for faults and defects.

Furthermore, St. John condemned slander because slander is the result of a judgmental spirit. Climacus quoted the Apostle James to explain that when we judge others, we invite God's strict judgment upon ourselves.

Judgment is without mercy to one who has shown no mercy. Mercy triumphs over judgment (James 2:13). How often are our judgments erroneous?

St. John shared a personal observation:

Do not make judgments and you will travel a quicker road to forgiveness of your sins.

In February 2009 Pope Benedict XVI stated that despite the fact St. John Climacus lived a hermit's life on Mt. Sinai 1,400 years ago, his treatise *The Ladder to Perfection* was nevertheless relevant to Christians today. Pope Benedict called the treatise of St. John Climacus one of the great works of Christian writers of both East and West. Pope Francis also appeared to be familiar with *The Ladder of Divine Ascent* given his homily of Sept. 13, 2013 in Santa Marta when he spoke on humility:

"Those who live judging their neighbor, speaking ill of their neighbor, are hypocrites, because they lack the strength and the courage to look to their own shortcomings." Pope Francis reflected the "Lord does not waste many words on this concept."

Pope Francis recalled that in John the Apostle's first letter, the Apostle stated "anyone who has hatred for his brother is a murderer, he who judges his brother walks in darkness," and those who judge or speak ill of others are "Christian murderers."

Pope Francis continued: "A 'Christian murderer'...It's not me saying this, it's the Lord. And there is no place for nuances. If you speak ill of your brother, you kill your brother.

And every time we do this, we are imitating that gesture of Cain, the first murderer in history."

"Gossip," Francis cautioned, "always has a criminal side to it. There is no such thing as innocent gossip." Quoting St. James the Apostle, the Pope observed that the tongue is designed to praise God, "but when we use our tongue to speak ill of our brother or sister, we are using it to kill God...the image of God in our brother."

Pope Francis challenged those present, saying perhaps none are blasphemers, but "if we ever gossip we are certainly persecutors and violent." "We ask for grace so that we and the entire Church may convert from the crime of gossip to love, to humility, to meekness, to docility, to the generosity of love towards our neighbor." (this article is based on: *Ascending the Heights: A Layman's Guide to The Ladder of Divine Ascent* by Rev. John Mack; Conciliar Press 1999)



THE UPPER ROOM CRISIS HOTLINE (TURCH) is a special service for the clergy and men religious of the U.S. Priests, deacons, and men religious call for assistance in many facets of their life, whether it is for talking to someone to clarify an issue, to find a referral, or to get help in an emergency such as crisis intervention, even suicide prevention. Our Line is available 24/7/365 at 888-808-8724.

One of the favorite programs offered is the "Sunshine Service" in which our Line calls an elderly priest or brother to check on their safety and wellbeing. This Reassurance Program is helpful in reminding these men to take their meds, to eat regularly and oftentimes just to be a friendly voice visiting them daily.

All services of the hotline are free of charge, but fundraising is an important task of administration. Honor your friend, or memorialize your departed pastor, bishop, or deacon, by sending a donation to ensure the future services of The Upper Room. Your tax-free donations are always needed and welcome. They can be sent to

**TURCH, P.O. Box 3572,
Joliet, IL 60434
Sr. Mary Frances Seeley, OSF, Ph.D.
Joliet, Illinois 815-341-9124 (O)**

GOD'S CHILDREN

Rev. Gerry Kleba
a priest of the Archdiocese of St. Louis, MO

Fr. Gerry Kleba's book, God's Children, is one that needs to have been written and his are stories that need to be told. A book about priests and kids? Oh, oh. Does that mean another sordid account of clerical predators abusing altar boys and taking advantage of children in orphanages and outreach programs? Will we get another detailed account of hierarchical irresponsibility, with bishops and diocesan officials moving known predators from parish to parish, exposing yet another group of children and youths to men who have proven themselves an obvious danger to the innocent?

This book by Fr. Gerry Kleba is poles apart from such modern horror stories – shamefully true though they be – but it is one that is much closer to the lived reality of the vast majority of priests, children, and former children – that is, today's adults, in the Catholic Church. Fr.

Kleba tells the stories of his personal and pastoral friendships with children, always including comments and corrections, where needed, by the “kids” themselves. He's not trying to make any point beyond that of showing that the bond of true friendship between priests and children is not only possible but a specially blessed relationship brought about by God's Spirit, meant for the spiritual enrichment of both parties, and for all those who their lives eventually touch. (extracted from the Forward by Thomas Michel, S.J.)

GOD'S CHILDREN (the introduction and first two chapters can be read on line at: <http://stcronan.org>, then select *godchildren* in top menu. Other works by Fr. Kleba: *The People Parish*; *Joseph Remembered*; and *Why Go To Mass*



ALCOHOLISM--DRUG ADDICTION TREATMENT CENTER GUEST HOUSE is North America's founding behavioral health and addiction program for Catholic clergy and religious. Since 1956, we've provided personalized clinical treatment with a spiritual emphasis. Guest House's mission is focused on successfully returning men and women to their ministries. Our accredited full time clinical staff provides these services at our tranquil, private residential facilities.

Jeff Henrich, M.A., L.A.D.C.
GUEST HOUSE 1-800-634-4155 or guesthouse.org
Executive Director Men's Treatment Center
Rochester, Minnesota

HAVE YOUR RIGHTS BEEN VIOLATED?

Has your Bishop or Provincial removed you from functioning as a priest or deacon, such as removal as pastor, denial of faculties, allegation of misconduct, forced laicization, withdrawal of financial support, or forced psychological evaluation and treatment? Done without due process, your canonical rights have been violated.

For more information, contact our organization for a canonical opinion and a competent canonist will advise you.

Save this newsletter in your files because you never know when you may need this information!

Justice for Priests & Deacons
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PROMOTERS OF INJUSTICE: **PROBLEMS WITH BISHOPS, CANON LAWYERS, AND DIOCESAN ATTORNEYS**

John Roberts, J.D.
La Jolla, CA.

As a life-long Catholic, my presumption was that image of the Church (be they bishops, canon lawyers or diocesan attorneys) would act in all matters with the utmost adherence to the Gospel message. As representatives of a Catholic Diocese, be they bishops, clergy or attorneys, my presumption was always that those individuals must adhere to the highest ethical standards and comport with the Church's magisterial teaching in all matters. In other words, I presumed and perhaps a better word should be assumed that the Church must through word and deed proclaim the Gospel message. My first interaction with the Catholic Church in the professional arena left me, for lack of a better word, scandalized.

I quickly learned that contrary to my assumptions, attorneys, canon lawyers and even sometimes the Bishops in charge do not operate out of a mindset of respect for Gospel values, but instead for pure secular values and tactics used without concern for what is just or right, but simply winning at all costs. I experienced this when dealing with one specific Diocese, which acted without any concern for Gospel values, but instead all that mattered was to win for their Diocesan client. I was frankly surprised that the representatives of the Diocese from Bishop to canonical advisor to counsel would act in this manner. I assumed I would encounter something better; I was wrong.

Attempts at resolution of the controversy prior to litigation were *ignored* by the Diocese and its representatives. I learned quickly that an extremely aggressive posture was what the Diocese took and pursued before and throughout the matter which was clear to me on behalf of my priest-client. This was disturbing - there is no other way to describe the situation. I did not imagine that the Diocese would simply roll over either. However, I did expect a higher level of professionalism, decorum and principled positions than I was presented in attempting to work through these matters with diocesan officials. However, after a short amount of time, sadly, from the Bishop and his canon lawyers to his attorneys, I realized this was just another wealthy corporation arguing and doing everything in their power to stamp out my client's legitimate claim against the Diocese.

While my experience may be different than the experience of others who have litigated against Dioceses, my experience has been eye-opening and shocking. **The Church as it appears on Sundays is not the Church as it appears on Monday through Friday. Moving forward, I hope that**

the Church who preaches justice and mercy on Sundays will act accordingly the rest of the week, so that the Church will practice what it preaches.



TESTIMONIALS

name withheld

Faculties Restored

I was called into my chancery without being told the reason for the meeting, confronted with an allegation received in a phone call, told I was suspended *and* losing my salary and health insurance immediately, and given three hours to get all of my belongings out of my rectory. I lived out of my car for some time until a priest friend in another diocese offered to let me stay in the basement of a house his family owned. I sought employment and began working three part-time jobs so I could afford gas, groceries, and basic necessities.

In this moment of despair and terror, a friend put me in touch with Justice for Priests and Deacons. I received so much hope just from having someone to talk to who assured me that my rights had been violated and that canon law gave me recourse to seek to have my "execution" undone. **Through the canonical counsel I received, I was eventually able to have my priestly faculties restored. Most importantly, I received encouragement to believe again in my own dignity as a human being. Thank you, Justice for Priests and Deacons, for all you do to support priests in the present climate where bishops often ignore canon law "for the good of the church."**

Robert B.

Prison Ministry

I reached out to Justice for Priests and Deacons some fifteen years ago, seeking advice on a canonical matter between my bishop and me. It was at that time that I met Msgr. Higgins---first by phone and mail, eventually in person.

Several years ago Michael identified priests who are still working in public ministry to become "pen pals" with priests in prison. The active priests who undertake this ministry also send a gift of \$50 a month to their pen pal in prison. Fifty dollars is a wonderful help and gift. The fraternal support that comes with it is just as important, and for some men even more important than the money. I will always be profoundly grateful to Justice for Priests and Deacons and to the supporters and benefactors who make their work possible.

L A ATTORNEY DECLARES RAMPANT FRAUD MANY ABUSE CLAIMS AGAINST CATHOLIC PRIESTS ARE 'ENTIRELY FALSE'

J Dave Pierre

Creator of *TheMediaReport.com*

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."**

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.

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." Yet SNAP steadfastly refused to divulge how much of its income is derived from the number of lawyers with whom it closely collaborates!

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 acknowledgment: "[F]raudulent 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).



WHAT WOULD POPE FRANCIS SAY?

**Rev. Dr. Donald Jolly, Ph.D., Chairman,
International Hyperbaric Research Institute,
Newport Beach, California**

Every month we receive letters from priests who have been accused of various offenses. These are men who chose to follow Christ, but never dreamed that, in so doing, they might be wrongly accused of crimes they didn't commit. Some who write to us are admittedly guilty. Others who insist on their innocence are all too often convicted. Only this week I heard from a priest who raised the question we hear so often from other priests and deacons who have been accused.

As I read his words, I recalled something Pope Francis said about forgiveness recently. The Holy Father said, "I think we too are the people who, on the one hand want to listen to Jesus, but on the other hand, at times, like to find a stick to beat others with, to condemn others. Jesus has this message for us. 'Mercy!' Jesus also said: 'I did not come for the righteous. I came for sinners.' And the only advice he gave them was 'Go and sin no more.'"

Our precious Lord "never tires of forgiving: NEVER!" Pope Francis said. Forgiveness is ingrained in Our Lord's very essence, just as it is written in the Aramaic Bible. In HIS native language, forgiveness means much more than just forgetting or letting go of everything you hold against your fellow

man. When an Aramaic speaker utters the word forgiveness, it implies what Jesus meant, that you must release all your grievances with your whole heart and soul so the wound between you will be forever healed.

Pope Francis reflected: "The church is the great family of the children of God. Certainly, it has human aspects from the members who comprise it, pastors and faithful. They have defects, imperfections, sins. Even the Pope has them---and he has many---but what is beautiful is that when we become aware that we are sinners, we find the mercy of God." "God always forgives. Don't forget this! God ALWAYS forgives," Pope Francis said.

Shortly before last Christmas, the Holy Father made a pastoral visit to the Parish of St. Cyril of Alexandria in Rome during which he addressed the anguish of Christian sinners seeking forgiveness, reminding those agonizing over their sins to keep in mind that, "life is a journey, a path that leads us to Jesus." "Along the way," the Holy Father said, "Jesus comes and forgives us---ALL of us!" And, in forgiving us, "Jesus heals our sins."

If you think you have not met Jesus along the path yet, you are forgetting one important thing. Every time you confess your sins you are encountering HIM...in the confessional.



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**Do you know your
rights in Canon
Law?**