



• NCCB GUIDELINES AND OTHER
CONSIDERATIONS IN PEDOPHILIA CASES •

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Bishop Quinn will address the moral responsibilities,
the canonical and civil responsibilities and rights of
Diocesan Bishops and Institutes of Consecrated Life in
pedophilia cases with regard to the offending member
and the victims and their families.

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1958, at St John Cathedral by Archbishop Edward F
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MIDWEST

CANON

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SOCIETY

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I would like to present to you His Excellency A. James Quinn

There are some handouts here. Not too many. Not all that much.

Those introductions are always like listening to your own obituary.

The handouts are a list of Canons that I think are relative to what we are talking about. We aren't going to march lock step through it all. We don't have the time to do it and it would get boring.

A little bit of a background, if we want scripture in the background, we could turn to Timothy and Timothy said pay no attention to an accusation against a presbyter unless it is supported by two or three witnesses. The ones who do commit sin, however, are to be publicly reprimanded so that the rest may fear to offend. I charge you before God, Jesus Christ, and the angels, apply these rules without prejudice and with complete impartiality. Never lay hands hastily on anyone or you may be sharing the misdeeds of others. And he says to the Bishop, keep to yourself pure. That is what Paul was saying to Timothy.

If we want a background in Canon Law as you know well, Canon 277 - Clerics are obliged to observe perfect and perpetual continence for the sake of the Kingdom of God and therefore, obliged to observe celibacy, a special gift from God for the building up of the Kingdom. 391, the Diocesan Bishop is to rule the particular church that is committed to his obligation. He is supposed to rule it with legislative, executive, and judicial authority. And 392 says since the Bishop must protect the unity of the Church the Bishop is bound to promote the common discipline to the whole Church and to urge the observance of the Ecclesiastical Law. Canon 128 is very interesting. Anyone, any of the faithful, and certainly that would include the Bishops, who unlawfully inflict damage upon someone by a juridic act, or indeed by any other act placed with malice or culpability, is obliged to compensate for the damage inflicted. We will say more about that 128 later.

Now a Bishop may find himself, and often does, having the unenviable position of being torn between his role as a chief pastor and a father of his priests, and he is obliged to maintain discipline and observe Ecclesiastical Law, as well as to protect his Diocese. The difficult task of maintaining a balance between relating compassionately to the Faithful, who have been scandalized or allege an injury, and also compassionate to his accused brother priest who may be suffering from an illness and also may be innocent of charges. There is nobody more vulnerable than a cleric. If we are compelled to minister to the needs of both flock and clergy we ought to have an understanding of pedophilia because that is what we are about today. In the event of a denunciation a Bishop will

probably have to deal with law enforcement officials, lawyers, media personnel, medical personnel, Canonists, child protection agencies, and the faithful, and we can never be totally prepared for this type of situation. The issues are complicated and very very charged with emotion. We have to hold clerics and diocesan employees responsible for their behavior, but in a way that says if you have a problem we are prepared to help in the best Christian tradition, and our help extends to the victims and to their families. Now understanding the complexity of pedophilia is really a prerequisite to our response. It is just absolutely essential. Its a myth to suggest that all persons are created equal to the extent that equal means the same. One way in which we are not the same is the area of human sexuality. A point to be made in discussing why persons experience particular kinds of sexual desires would be to emphasize that they do not do so as a consequence of a voluntary decision. We discover, not decide, the nature of our sexual orientation. In that discovery we can find that we differ from our neighbors. Discovering that one is sexually attracted to children obviously leads to conflict, anguish, and as we know difficulties galore. Pedophile is a name given to an adult who finds children to be sexually appealing. The essential feature of the disorder of pedophilia is the act or fantasy of engaging in sexual activity with pre-puberital children as a repeated preferred, or exclusive method of achieving sexual excitement. The male population is more involved in such behaviors. There is no social profile for the pedophile. The pedophile could be a judge, a lawyer, a teacher, a priest, anyone. Pedophile defys stereotypes, and it is incorrect to assume pedophiles are violent or homosexual or any other stereotypes. Physical violence is seldom associated with pedophilia. There is no evidence to indicate that pedophilia is anymore common in the priesthood than in any other profession. Treatment? Is there any? Well physicians such as Dr. Fred Verlin of John Hopkins think treatment - there is no cure, but there is treatment. Treatment includes psychotherapy, behavior therapy, medication, surgery. If the condition were irreversible, could not be modified or controlled, then an argument could also be made that a pedophile should be identified through as broad a net as possible and perhaps taken from the streets consistent with some form of due process and put into suitable confinement. However, if medical technology provides forms of treatment the mandatory confinement proposed argument lacks validity. John Hopkins hospital sexual disorder clinic in Baltimore and St. Lukes Institute in Maryland are among the leading institutions in the treatment of pedophilia and in research concerning the disorder. Statistical data for these institutions which treat priests reveal that priest pedophiles are involved with post pubertal youths and teen-agers more frequently than they are involved with pre-pubertal children. By as much as 80% to 90%. Being involved with slightly older children does not change the criminal and civil seriousness of the behavior since sexual behavior with minors is classified as a felony in all 50 states. The recitivism rate among the patients who have been treated at the two centers I mentioned has been much lower than that stated in the diagnostic and statistical manual of mental disorders which is sort of a desk handbook. However, the experience of these two institutions in treating this disorder don't span a great number of years.

Causes of pedophilia? Different theories. Environmental causes and considerations. Environment and life experience play important roles. Data reveals that a significant number of men being treated for pedophilic erotic urges as adults were sexually involved with adults when they were children, and in a study in 1984, the data suggested that pedophilia might occur more frequently within certain families. We are to be mindful that children engage in affection seeking behavior and pedophilia often occurs in part with the cooperation of the child, out of sexual curiosity or out of emotional needs. Its comparatively rare that pedophilic sex acts are forced on a child, and while this may seem to isolate the child from violence the trauma in the present and the future is serious, bringing on acute problems for the child. Its not uncommon that a very loving caring relationship between a pedophilic cleric and a child develops over a period of years during which there is no involvement in what one would call sexual activity and one incident of inappropriate caresses and touches can bring on a denunciation. A child may have a very loving attachment to the pedophile. Therefore, a child can have very secondary disturbances that are the results of the separation rather than the petting or the backrubs or whatever it was that brought on the denunciation.

In taking the clinical histories of priest patients it is not uncommon to find that as a child the cleric himself was abused by a priest. Like other sexual disorders pedophilia was seldom spoken of publicly in the past. It was just in the flow of those paraphelias. A name kind of thing. While today such incidents often receive overwhelming amounts of press coverage and especially if a cleric is involved.

Biological causes: Biology plays a role. Clinicians and researchers accept the fact that the force behind the sex drive is clearly biological. Dr. Berlin uses a language example to illustrate the point that people do not choose the nature of their sexual desires anymore than they determine the language in which they are going to think and speak. Dr. Berlin compares the difficulty in resisting biological sex urges with the difficulty that the overeaters have in resisting food. And Dr. Money, a researcher also at John Hopkins, developed a theory espousing sexual orientation developing in utero, and that theory was supported by Dr. Michael Peterson. Some of you may know him. But most clinicians believe in some biological influence, but they don't think that there is evidence in yet to support the in utero theory. Abnormalities in some pedophiles, however, do include chromosomal anomalies, abnormal testosterone levels, hormonal irregularities, abnormal CT scans (Cat Scans), pathological Eg's and others. Positron Emission Telegraphy, called PET, is a new technology that is being used in the study of pedophilia, and it measures the chemical change in the brain when sexual arousal takes place, and for some people sex seems to have almost addictive qualities, and if changes in the brain can be identified clearly then comparisons could possibly be made between individuals with and without various sexual disorders. Thus, it seems plausible to accept the theory that biology plays some essential role in the development of sexual orientation and affectional preferences.

Psychological Causes and Considerations: This is an area of current research. Its common for a priest to talk about his loneliness and reveal that his sexual acting out was an attempt to meet his human need for contact and attachment, his craving for emotional closeness to someone in his life. The pedophile is often confused about sexuality versus intimacy. He often needs help in clarifying the difference. He needs help in understanding that being genitally active does not provide the intimacy that he seeks. Efforts are being made through the testing of these patients to gather evidence that might show that the psychological or psycho-sexual development of the pedophile is at a different level from the rest of his personality. If a person has the sexual psychology of a seven year old then we can't deal with that person as if he were a normally mature adult. Dealing with pedophilia: Denial and guilt frequently play an important role in a pedophile's life. The pedophile often minimalizes the erotic component of his behavior. The initial goal of treatment is to help a pedophile understand the sexuality inherent in the behavior that he is involved in. And here again we are dealing with basic human needs. A desire for intimacy, for closeness, for companionship, and denial can easily lead a person to an almost fantasy life existence where he does not see the overall consequences of his behavior.

Guilt Induction: When the psychologist or psychiatrist does address guilt its not for the purpose of inflicting punishment, but really to help the patient grasp the seriousness of his actions. On the other hand, a patient can become so disgusted, fed up with himself, that he becomes suicidal. And lying by the way is something different than the psychological problem of denial. Clinicians affirm that some patients are simply lying, but denial exists when a person through psychological insufficiency is simply unable to grasp what is really going on in his life and how his activity is seriously harming someone. The presence of guilt seldom leads a pedophile to turn himself in for treatment. At St. Luke's Institute they recall only several instances where the priest presented himself to his Bishop or initiated treatment on his own. Its helpful to be aware that workers in the field, social workers etc., assume that if a youngster reports sexual mistreatment he or she is rarely being deceitful or dishonest. Alcohol and other drugs also play a role of course, and if so, they need to be treated.

Pedophilia is not a curable disorder any more than we might say alcoholism is. Treatment helps heal the damage that has been done, tries to arrest the development of the disorder and improve the quality of life generally so that the impact is minimalized, but pedophilia is an ongoing thing. The patient will never be cured in the sense that his problem will be forgotten. As with alcoholism a person can survive with the disorder. He can live with it, but he can't forget it. Working with youth can be as dangerous for the pedophile as being a bartender would be for an alcoholic. Its imperative to employ the services of trained professionals and that is why we suggest places like St. Luke's and John Hopkins. There are very few psychiatrists and psychologists that are really expert in the sexual disorders. Very very few. Outpatient therapy alone is something that ought not to be thought of. A residential multi-model program is required. Psychological assessment, neurological examination, physical examination, to rule out hormonal or chromosomal abnormalities. St. Luke's requires a minimum of four months in residence with eventual movement to half way house. A typical pedophile requires a minimum of

six months of residential treatment. Treatment centers are usually filled to capacity. They have a waiting list. St. Luke's will usually not proceed with comprehensive if criminal charges, civil charges, or both are pending. St. Luke's will evaluate the individual but they have found that individuals in the situation are usually so immobilized, terrified, and preoccupied by the idea of a pending trial date, imprisonment, that little effective treatment takes place, and this, therefore, could make it necessary for a diocese to arrange for supervised living and outpatient while a cleric awaits trial and treatment. In that case outpatient treatment is the best you can do, but you have to have it for a lot of reasons.

Medication: Depopravera and injectable medication sometimes described as part of the treatment for sexual disorders. Depoprevera, Hydroxprogesterone Acetate is administered by intramuscular injections usually once a week. It reduces testosterone close to pre-pubital levels and what happens to the patient is labeled erotic apathy. Side effects of the drug include weight gain, lethargy, hot flashes, cold sweats, headaches, nausea, insomnia, nightmares, and muscle-aches. Not all at once I hope.

Two common misconceptions first a feminization of the person's appearance. Second, it causes total impotence. Both are misconceptions. Most men on depoprevera are able to achieve erections. In one study 4 of 25 patients impregnated their wives while they were taking depoprevera. It is used to treat pedophiles. It works well, reducing both the intensity of sexual urges, urges devian for them, and the frequency of accompanying fantasy. As a result most patients experience a greater control over their behavior than they ever have before. Of course its important that the patient maintain a personal commitment to the treatment. Depoprevera is not a permanent solution, because within six to twelve months, after the last injection, the patient's testosterone levels return to normal. So while pedophiles are well suited to medication. Depoprevera is no panacea.

Therapy is probably the most widely used treatment today. Group therapy and psychotherapy. Physicians are not comfortable with psychotherapy alone. They favor comprehensive programs. Surgery is available. You are thinking only of castration I suppose but there is also brain surgery.

Treatment of Victims. Let's move onto that. Its very important. Sexual assaults in childhood often emerge as the root cause of psychiatric problems in adulthood. We can't afford, for all kinds of reasons, to ignore a victimized child! Some children experience tremendous guilt thinking that they were the cause of the problems, or guilt from regrets from having said anything, for having denounced the priest or the cleric. The victims relationship with God, with clergy, family, society, can be affected for life. A very good assessment and a psychological evaluation of the victim is essential. Caring for the victim and the families of victims is top priority, and that includes counseling. Good counseling. Families and parishioners struggle with feelings of anger and being betrayed by a person in a position of respect and trust. Fellow priests they suffer as they sense the public's suspicion. There is no way to count the number of victims. And all have to be dealt with in one manner or another. But to make any nearly adequate respondent we need to understand as best we can the disorder, and we need to understand what we are dealing with medically and that is why I spent time talking about pedophilia.

Bishop A. James Quinn
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We have to say it. We have to believe it. We have to know what we are talking about.

The Bishop's Responsibility: Lumen Gentium confirms that priests are prudent cooperators of the Episcopal College and the support, the mouthpiece. They represent the Bishop. It says the Bishop should treat the priests as his sons and friends as Christ calls his disciples not servants but friends. These teachings are restated in the new code, Canon 273. Canon 384 says the Bishop is to protect the rights of the priests, see to it that they correctly fulfill their obligations proper to their state. He is to protect their rights. Canon 392 talks about the unity of the Church and how the Bishop is bound to promote the common discipline of the Church. We should not underestimate the anguish that families experience when facing circumstances that bring them to denounce a priest. We acknowledge the painful situation and reassure them with compassion. WE acknowledge their right to bring such matters to the attention of the Church. Canon 212 reminds us that the faithful are invited to express their anguish. Canon 220 forbids anyone from unlawfully damaging someone's good reputation. We have to deal with that as best we can. The faithful, and this includes an accused priest, has the right to defend himself before a competent Ecclesiastical Court. Canon 221—He has a right to be judged in a accord with the prescriptions of law to be applied with equity. 221. He doesn't have to confess his guilt. The code provides a fifth amendment too. Canon 1446 calls all the faithful, especially Bishops, to strive earnestly to avoid law suits among the people of God as much as possible. I think we have actually had to do that. We have to make sure that we do it correctly. Canon 1389.2 states that anyone who through culpable negligence illegitimately places or omits an act of Ecclesiastical Power Administration or Function which damages another person is to be punished with a just penalty. That goes for Bishops too. They can't sit back and do nothing. That Canon can be used against us. A Bishop who does not respond canonically to the accusations against a priest, or does not properly protect the rights of a priest, in my opinion could be sued in civil court for 1)abuse of authority. Similar charges leveled against police officers who abuse their authority. And I suggest this possibility on the basis of Canon 1389 which specifically states that one who abuses Ecclesiastical power or function is to be punished. While each state has its own statutes specifying acts to be sexual child abuse, a cleric who perpetrates sins against the sixth commandment with minors below the age of 16 is responsible for canonical crime subject to penalty, including dismissal and that is Canon 1395.2.

Bishops should be prepared for criminal or at least serious accusations against priests. We should be prepared. A response team of competent

xxx Bishops should be prepared for criminal or at least serious accusations against priests. We should be prepared. A response team of a competent person.... a lawyer, and some medical person should be in place... contingency plans should be discussed. The bishop should be familiar with treatment centers and establish working relationships with them. People should know about archdiocesan policies regarding reports. They should be in place.

A diocesan policy regarding courts of accusation and child abuse should be communicated to the employees xxx of the diocese. And who are we talking about? We're not just talking about priests. I'm talking about the clerics, I'm talking about priests. If you're talking about clerics, they have specific rights we have to deal with. But we're talking about anybody and everybody who is diocese, particularly who is considered an employee of the diocese.

Now let me, I'm skipping things because I know time is

here. I'd like to talk about theories that can connect us ...or disconnect us to liability. Barriers that once protected religious(>) organizations from civil and even criminal liabilities have weakened. Charitable immunity once a great defence, the doctrine of charitable immunity is fast fading, it it hasn't departed.

This charitable immunity is a minority view not a foundation for defense. The trust funds, property held in trust, of the organizations should not be viewed as being judgement-proof.

Catholic charities have been subject to judgements in the majority of jurisdictions, as well as by the new cases in No charitable immunity - that's the theory most popular, followed by a majority of the jurisdictions. That is the theory the theories are applicable as stated in the restatement of torts. so one issue is that a charitable, religious or benevolent association is not immune. Respondeat superior, another theory, the bishop-priest relationship is not exhaustively defined in the canon code, at least not comprehensively in terms of defining the priest-bishop relationship under the code. We all hear that a priest's time is everyone's time. He has a 24-hour a day. The focus is on the deep pockets of the superior for whom the priest works. A man, Dr. John Neuman, once at Notre Dame, he subscribed to this theory. He's testified in court.

Dr. Neuman's theory, and by the way he is introduced as a cannon lawyer, but I don't think he is, <aparently someone in the audience said he does have a Canon Law Degree>

As an agency between the bishop and the priest, there is evidence that argues that contrary to the theory that the priesthood is an occupation occuring during church-specific time frame. For example, never on my day off.

Archbishop Daniel Watean (?) has testified, particularly in the Ambrosio case, that the relationship between pastors and bishops is really accountability. Pastors are accountable to bishops while engaged in parochial functions. A pastor is not accountable to the bishop in his private means of

recreational or other secular activities. In reality a bishop's supervision over his priests is somewhat limited by practical circumstances. Priests rarely think of their relationships to the bishops as master/servant or with respondeat superiori. Master/servant the bishop doesn't act as an employer who exercises total physical control. Complex variables contribute to uncertainty when attempting to apply respondeat superiori to a cleric-bishop relationship. Some courts, nevertheless, are more disposed than others to extend the responsibility of the diocese, the bishop, to the all-accountable 24-hours-a-day interpretation. Independent contractors - that's what some cases have held a pastor to

Negligence the currently-favored theory for including liability of a church for the tort of a cleric, an employee, under the doctrine of respondeat superior, is that of negligent hiring and supervision. That's when a diocese knowingly assigns an incompetent or dangerous cleric. The church is liable when it fails to use standards of reasonable care in the selecting and testing of its employees. That's in the majority of jurisdictions have held that charities are not immune from liability for the intentional acts of negligently hiring or supervising employees.

Negligent supervision really is the ^{h. e.} colonel of the famous John Doe's one-to-nine versus Hopka (?) really Wayne Fontineau (?) as it appeared before the court, he's talking

N about personal jurisdiction but the court says yes, they do have personal jurisdiction because prima facie there are facts that they deny that

Facts that they, the diocese of Lafayette, could be (such as they are) liable because of negligence. Another theory of tort liability finding its way into Church cases is that of intentional infliction of emotional distress and outrageous conduct. The criminal conduct of a cleric pedophile would be

considered outrageous. It would violate a confidence It is not unreasonable to expect a business to appoint competent personnel, and this tort imposes liability for conduct which exceeds bounds usually tolerated by society and activity which at the same time causes serious mental distress in a typical mind. In conclusion, what has been the history of the church liability in tort, from once almost complete immunity to current tort litigation boom within the lifetime of many of us. Dioceses and all of those who constitute the diocese must be more aware of the ramifications of the conduct and behavior on and off the campus<?>

I'd like to get into another section now that I call my checklist. Allegation where it produces denunciation. I have to say that every case of pedophilia that really is you can't have a checklist guideline that covers everything. We're dealing with acts of pediphilia that happened yesterday or last week or in another case it might be twenty years ago.

It might be the victim that is there to make a complaint, it might be you don't know where the victim is. Every case is different, but these are some of my suggestions:

The allegation or denunciation is made; a response team has been in place, a team of three is suggested, as long as there

is no one on that team that you would expect will be a judge if a canonical trial pursues. I suggest maybe, just maybe, the vicar or clergy personnel, the diocesan attorney, and someone from health personnel. And you might well have a woman because your response team is probably going to be talking to parents. A mother of a child might feel less threatened with at least one of the people on the team...

Evaluate the complaint immediately! Interviewing the child victim is not recommended. We believe it will do more harm than good. The experts are in agreement. We don't need to ...

to interview a child, the experts are there... ???

✓ The extent of the investigation is the Bishop's judgement call. Does the investigation precede or increase? Is it informal or second hand? Get done with kindness..or

without kindness.....???

If the bishop doesn't investigate and respond, I think

he can be considered an accessory after the fact, plus these other Canonical implications if not 1389 he's not moving at what he should have done. The old privilege of the forum is gone. There's no restriction on suing a priest or the diocese. We're subject to the jurisdiction that we live in and the code doesn't say that we can't comply with the civil law, can't avoid one who demands unity with it.

The bishop meets with the accused. We ought not to presume him guilty, because there are many, many, many, many cases where he hasn't. The bishop meets with the accused, the bishop should deal, the bishop should deal with the cleric. But he might have the response team who interviewed the complaint present

The bishop manifests the fatherly compassion for the victim and the priest. Now all states have reporting requirements concerning child abuse, so report the complaint to the proper governmental agency, usually the children's or county department of human services, children's service board. It's not left to the judgement of the diocese to judge the merits of the complaint. Suspicion is sufficient in most states to incur the reporting obligation and there are penalties for failure to do so, civil penalties. And that failure also

opens the door to awesome suits against the bishop and the diocese. So report!

Place that priest on voluntary, administrative leave, pending investigation. There is a chance at plea bargaining <?> Tell 'em you're going to need help and the Diocese wants to help you, and our suggestion is follow us, take your faculties away, take your residence, get you some treatment, that's protecting the priesthood or the cleric, because the evaluation might prove a lot of things. The withdrawal the faculties, that should be in written form, the less said the better, and the faculties are withdrawn pending further investigation of allegations. There is no presumption of guilt at this point. It would be very much like in many communities when a police officer fires his gun, he's put on a official leave, and an investigation. A bishop makes no promises about reinstatement, future assignment, no promises. The bishop should explain to the cleric that the administrative leave, what it means, and also to make a demand that the priest undergo psychiatric evaluation for his welfare as well as for the dioceses'.

Require temporary residence where you give him a situation where he can be monitored. And get him some outpatient treatment if he's not...if you can't get him into a center right away, because sometimes under those pressures they can

be suicidal. Or they could run off to the family and try to straighten things out with the victim's family and make a mess of it.

The cleric's salary and hospitalization should continue; the bishop should decide on the appropriateness of allowing the priest to celebrate mass privately. In most cases, any information pertaining to child abuse should be retained in a confidential manner so the bishop will put it in his secret archives (which we'll talk about).

If the preliminary investigation substantiates the alleged charges, the bishop has a choice either to proceed with an administrative process, to proceed without a trial, or with a judicial penal process. Most canonists today recommend today the bishops initially follow the procedures outlines in 1722, we'll look at that, which allow a bishop prohibit the accused from the exercise of the sacred mastery or from ecclesiastical office or position. The bishop, or his depty, we don't indict the accused, 'cause we're the promoter of justice. 1722 also allows a bishop to impose or prohibit reving<?> The process then, can be adjourned until the completion of the secular civil or criminal process is completed. We use 1722 as a beginning of formal proceedings. We can do that. 1724---1722 I suggest is the old informata confidentia that is not in the code. Suspension is a penalty that ordinarily can be applied after civil guilt has been

established. We don't need to rush to put together a criminal trial just to help the local prosecutor. And if we wait until what is going to happen civilly happens, then we can simply go down and buy the transcript of the civil trial and use those in our own judicial process. So early on in our scenario, in place are the temporary suspension, the bishop imposes an administrative leave that doesn't imply guilt, later he can suspend using a summary process. The bishop should give the accused an opportunity to hire competent legal talent. And while this is properly the cleric's financial responsibility, it's an ... igreally help, that's where the plea bargaining can begin to evolve. The attorney ought to be someone with ample criminal experience, don't get anyone who's a corporate attorney. The diocesan attorney should not represent the accused. Even in Canon Law the accused need not confess, so it is his right not to do so. Don't get mad if he doesn't. If an action is filed in a civil or criminal court, the action should be reported in writing to the apostolic nuncio. Report the complaint to the insurer. Most of us are not covered by it, but it's a good idea to report it to them anyhow. A clinical evaluation of the cleric should be made by a place likemaybe you know better places, but the best places I know are St. John's and St. Luke's. Meanwhile, require residence in a place where

there are priests coming back from places like St. Lukes and Johns Hopkins and I don't know how many other good centers in the West where reassignment is very possible. And the aftercare becomes very important. The question is how

Q. re: a man who reports abuse to a bishop who does nothing

A. I would think that if an individual truly suspects that theres child abuse and he has talked it over with his bishop, who does nothing, that for the good of the child, and for the good of the diocese, it might be well for the man to report it himself. But before he does that, I would tell the bishop what I'm going to do. The bishop may be able to say we

investigated that and we looked in the file and we've heard from this lady before or we've heard from this man before. Many of us know that there are people who are bonkers out there, and so what may sound as a terrible allegation to somebody, is kind of a routine complaint to somebody else, somebody who's been complaining about many things. But before I did it, though, I'd let the bishop know....

Q. re: any info about number of pedophile priests?

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A. There really isn't, and the sad thing is that -- and some of our own made those statements -- that in the American clergy they took small samplings, and went across the United States and said there are 2,500 of us or something running around, who are dyed-in-the-wool pedophiles: no, I think that their figures came right out of the blue, and quite frankly, there is no way of knowing how many people have this orientation. The whole treatment of pedophilia is -- we're talking about 15 years -- we're really talking ten -- so we're just beginning to talk about it publically. We knew it was there before. Most people talk about the pedophile as a homosexual. Now, we've discovered that it's quite different. So, I don't know how you get these. Probably some of these people at these centers who best help us are themselves trying to provoke this.

Q re:

A. That would be the psychologist. Most statutes in most states don't exempt medical personnel from reporting. In Ohio, for example, the only one who's exempt is the attorney client privilege. The rest of us, including priests, if we suspect it are obligated <to report>. But if we, when you

say suspect, if there's an allegation, or you as a bishop or chancellor, you suspect this man, and you have good grounds for it, you have the obligation <to report it>. But if what you suspect is that there is really something odd going on, and you're really sending him away to a counselor for evaluation, then there's no obligation to report it. It's, in other words, we don't have to look for it, for reasons to report somebody.

Q

A. You can begin 1722 at your convenience, that's really very easy. In citing the person, and talking to the promoter of justice, it's ad virem. And then suspend him at that point. Until...and that can be a long, long time. You can suspend a priest temporarily for a long time, because you're saying until the termination of civil and legal cases, until the end of treatment, and of course treatment itself has after - - generally there's the intense treatment itself and then there's the aftercare house, half-way house, and then he's still on trial for a long time. That suspension can be for a

long time. But when you've got someone who's really a contemptuous person, I think you have to adjust to his denial, I think you have to defend yourself by going ahead

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with a summary process and a suspension. And if you're that bit up, I suppose you could dust off the seventh canon and put together a trial process and dismiss him.

Q. Hans Schmidt

A. It's almost inconcievable, this case we had of a priest, who was it, Hans Schmidt, he was an associate in New York and had an associate pastor and an associate cook was Anna, and they got to know one another two well, and Anna died in an abortion attempt, this is like 1913 so don't get excited, it's not something that just happened. He and the dentist who helped procure the abortion, they sawed her in parts, they brought her on the ferry, and part by part he was dropping her off (laughter). The police eventually located him, and he was tried; at first he pleaded insanity, but the jury decided he was not insane, so he was executed. Where was it, Sing Sing. The State of New York did all the penal work for the diocese, I don't know exactly what the diocese did. That's the most bizarre case that I know of. The diocese really didn't have to do any more than, ...survive that...I suppose it will survive some of these other things.

Q What is the proper obligation of a bishop?

A. That's where this whole theory, especially the theory of negligence in hiring and supervising, and that's where the reallyif....a....the religious have an obligation to be in contact with the Ordinary anyhow, and in these areas where it's even suspected, at least, I think you would have to look at a man's file to discover whether there have been any allegations and what had been done with those allegations, have they been acted upon. That's really hard, but disclosure is so important for the individual too, because there might be somebody you really need to help. It's much easier to get help for them ahead of time than after something has happened. That's a good question, but the important thing is that the bishops did it. The fact that the individual uses the code to his advantage does not work against the bishops, does not show that the bishop is negligent in any way. He has acted, he has done all that he can. And in that case, I would think that he should apply to Rome for the dismissal. It's part of that plea-bargaining with the individual, if he's going to be someone that is going to cooperate, he can be helpful to both the diocese and himself. There is no doubt that if he is going to be a contemptuous man to deal with, personally, you'd have to dig out the Seventh Book. And even if we do, we see weaknesses. The real question is, can he even level the penalty against him, because it is a disorder. But my attitude is, do it. Do it anyhow, and send it over to Rome and say, " here, we did it" Dismissal is one of those

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the cleric can be monitored and outpatient treatment if possible -- guilty or not, the accused is going to need counseling, he's going to be under tremendous pressure and

they need... a few minutes of your time<!?!?!?>

Notify the governmental agencies - childrens services, If the hospital or center is outside the county or jurisdiction; don't just send them away outside the county. If charges have been filed, the court or the prosecutor requires notice too. And they may say no, we don't want 'em outside the county.

At the completion of extended treatment and a period of supervision, reassignment can be decided upon only after very very careful consultation with psychiatrists, preferably several who are experienced in sexual disorders, and with other professionals and attorneys present.

This is a case where this old appeal precept isn't very helpful. You can't call in a pedophile and say "I don't know whether you did it, or you didn't do it, but you do that once more and you're you're you're you're suspended." That's that's really bad. You can't do that. You have to be pretty certain that this fellow is going to have an aftercare

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program and that people at these centers will help them put together an aftercare program.

For the victim the diocese should contact the victim's family , , very early on, showing concern, willing assistance in terms of psychological counseling, show that ...to the

family. There is no/ the advice used to be don't approach them, they might be the plaintiff in a suit against you, so don't talk to them. Make sure you do. Make sure that they understand that - ah - that if damage has been done, that you're interested in acquiring counsel to that.

The faithful. Advise the diocesan media person. One spokesman should be carefully chosen, a person who has a feel for media attitudes. I don't think I'm that magic kind of person, for example, because I sometimes let what a media person says get me riled up. There are people who are marvelous at handling it -- the press. They let accusations roll off their back like water off a duck's back. Get someone who is informed including the diocesan policy, what is the diocesan policy, he or she should know that. And in their interview, they should register pastoral concern for the victim, the victim's family, the whole response should be more pastoral than institutional. If we're gonna' save ourselves, we're gonna'

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save ourselves big. Let's be pastoral!

Preparacy: Include in the statement concern for the victim, the victim's family; perhaps the best statement simply says that an allegation has been made against the cleric, and pending ^einvestigation and evaluation, the cleric has been placed on administrative leave. It should be made clear that every effort will be made to help the victim.

Under no circumstances give the impression that the diocese ✓

is denying, rationalizing, or stalling. All of these steps I have mentioned are taken almost immediately upon initiation. Meanwhile back at the diocesan office, from the time of the allegation, keep a log on what is happening..... at the Holy See<???\> 1719 requires the bishop to keep in a secret archive the acts of the investigation. The decrees of the Ordinary by which the investigation is open and closed and everything that comes in between.

So, you go to the office and examine the personnel file. Prepare for a discovery that brings a subpoena for the accused cleric's personnel records. The confidential, personal files of the personnel files of the diocese or a religious community are not privileged, and may be subpoenaed by a court or demanded by attorneys in the process of

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discovery. And that includes what the code of Canon Law calls the secret archives. Even the priest-penitent privilege is under attack in some quarters. We can talk about that this afternoon.

Nevertheless, personnel files should be carefully examined to determine their content. Unsigned letters alleging misconduct

→ should be expunged. Standard personnel files should contain no documentation relating to possible criminal behavior.

→ Serious moral questions, signed allegations, those should be

→ a part of the secret file anyhow. But they still subpoena

→ them. But comb through your files.

Now what files have been subpoenaed, they cannot be tampered with, destroyed, removed; that constitutes obstruction of justice and contempt of court. Prior, however, thought and study ought to be given if you think its going to be necessary; if there's something there you really don't want people to see you might send it off to the Apostolic Delegate, because they have immunity to protect something that-is potentially dangerous, or that you consider to be dangerous, you might send it there.

Most Canonists and diocesan attorneys that I know do not

recommend a formal Canonical trial, though it's theoretically possible. A guilty cleric may be counseled, and ought to be, I suppose,the petition program<?>..... and with the recommendation of the Ordinary, Rome is very considerate, if he wants it and the diocese recommends it.

Dismissal from the clerical state is a permanent executory<?> penalty, 1336, and is reserved to a collegium tribunal of three judges. However, many argue that the heat of sexual passion at the time of any sin against the Six Commandment excuses from the full rigor of the law, though of course not from all penalty. Furthermore, a pedophile suffers from a disorder or an addiction or a compulsion, which limits free consent, and therefore diminishes full accountability. And yet if the pedophile is convicted by a

tribunal, he will be penalized only by a penalty less than dismissal. The trial before a tribunal is subject to delays and appeals<unintelligible> ... The act of the trial may be subpoenaed if we worry about that dismissal it's simply a quandry. Meanwhile, when just causes preclude a full-blown judicial process, an Ordinary may impose by extra-judicial decree, using the administrative penal process, a temporary or indeterminate but not a permanent prohibition against exercising office, function, or faculties 1342.

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Our pedophile can be temporarily suspended pending outcome of future secular trial or trial treatment and hospitalization. Naturally, the Ordinary may also, by extrajudicial decree, impose a change of residence.

Remember, by the way, that even a perpetual, executory penalty, not reserved to the Holy See, can be remitted by the Ordinary of a place where the offender lives or moves. The ordinary reports himself to the other ordinary, but.....

I don't hear much talk about it, but it might be helpful in a particular situation to note that an Ordinary may be treated non-penally, and only after consultation with experts. That an accused is impeded from the exercise of orders on the basis of psychic defect, which renders him incapable of rightly carrying out his ministry.

After all of this, let me say that a temporary suspension may

and should be imposed by administrative decree. 1342.

Usually some time after the civil court has made its own finding of guilt, a permanent suspension may be imposed after Canonical trial. In either case, the cleric's rights to appeal remains intact.

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Where do we go now? The severe

.....NEW TAPE.....

....We get into the possibility of civil suits for the negligent failure to control the cleric or to inform other employers. Where do we go?

The severe continuing liability that befalls the Church in the cases of pedophillic clergy probably weren't envisioned in the code. In a formal penal process, there must be three judges, presentation of evidence, witnesses, documents,

> decrees, all discoverable. Contriteness and behavioral modification can derail a process; appeals can delay; illness or disability preclude imposition of ultimate penalties. A diocese therefore seldom proceeds to dismissing a priests pedophile. It is thought that we need a process wherein such cases as pedophilia we can act quickly by administrative decree without going through a judicial process that's slow

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and often more problematic than conciliative. Whatever process is followed, priests' rights have to be protected, because the integrity of any society depends on the rights of

individuals and how we preserve those rights. So we struggle to find a better way.

Now last March, the NCCB brought to Rome a request that would allow bishops to dismiss through an administrative process, priests determined to be offending pedophiles. And we're sure that their request was acted on seriously. The presenters left optimistic. In fact, I'm told a panel of five different congregations is presently reviewing the specifics of the request, weighing proposals. The intent is to preserve some mechanism of due process that will protect the cleric's individual rights but balance these rights against the common good of the church, and sometimes, the future welfare of the guilty party himself. The suggested process would not be conducted in a vindictive environment. It would be more akin to dismissal from a religious institute following a course of Canon 695-702. In that way, among causes for dismissal would be the preservation of the integrity of the community, for the avoidance of committing scandal that could befall the community. Canon 702 imposes upon a religious institute equity and charity toward a separated member and a diocese surely would have some responsibility towards the dismissed cleric. And I think in our own thing in 1350, in our own code, also even for a priest who is dismissed, there

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by a court or demanded by attorneys in the process of discovery. And that includes what the code of Canon Law calls the secret archives. Even the priest-penitent privilege is under attack in some quarters. We can talk about that this afternoon.

Nevertheless, personnel files should be carefully examined to determine their content. Unsigned letters alleging misconduct should be expunged. Standard personnel files should contain no documentation relating to possible criminal behavior. Serious moral questions, signed allegations, those should be a part of the secret file anyhow. But they still subpoena them. But comb through your files.

Now what files have been subpoenaed, they cannot be tampered with, destroyed, removed; that constitutes obstruction of justice and contempt of court. Prior, however, thought and study ought to be given if you think its going to be necessary; if there's something there you really don't want people to see you might send it off to the Apostolic Delegate, because they have immunity to protect something that is potentially dangerous, or that you consider to be dangerous, you might send it there.

— Quinn — 20 —

EXHIBIT A

