

provides an objective correlative to the "novus habitus mentis" which Pope Paul VI acknowledged and urged. As far as general norms are concerned, canonists must effect some kind of transposition. That is, instead of citing the jurists and legal philosophers to clarify their positions, the canonists must have recourse to the ecclesiology enunciated at Vatican II.⁴⁸ In this way, they not only recover the theological base central to canon law, but they also assist at that continual reform of persons and structures that we recognize as conversion. By keeping their instruments tuned to these modalities of vision and change, they reveal their capacity for contemporary concern, thereby putting themselves in continuity with the newness of the New Testament.

Procedures to be Applied in Cases of Alleged Sexual Misconduct by a Priest

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RÉSUMÉ — Face aux abus sexuels commis par des clercs ces dernières années, l'Église a été quelque peu démunie, car sa législation n'était pas adéquate. Aussi, les évêques canadiens ont-ils mis sur pied une Commission *ad hoc*, dans le but de les conseiller sur de nouvelles procédures. Le présent article est un commentaire des propositions de cette Commission, qui s'est surtout préoccupée de l'abus des mineurs par des prêtres, croyant qu'en partant des mesures proposées des adaptations pourraient être facilement trouvées pour les autres types d'abus. La Commission a voulu que ses propositions soient rapidement applicables, tout en étant prudentes; qu'elles restent d'usage interne, bien que tenant compte de la législation de l'État; qu'elles soient complétées par des interventions médicales, psychologiques, spirituelles; qu'elles soient toujours empreintes d'indulgence de la part des autorités, sans que celles-ci n'oublient leurs responsabilités. L'A. fixe ensuite le sens de certains termes employés souvent; énumère les principes qui ont inspiré la Commission; attire l'attention sur l'importance de garder les rapports confidentiels et de respecter les droits des accusés. Après cette longue introduction, l'A. divise son article en 5 points: 1. politiques diocésaines antérieures à toute enquête; 2. enquête préliminaire; 3. procédure administrative et procès criminel; 4. réintégration du prêtre dans son ministère; 5. aide à la communauté.

En terminant, l'A. souligne que chaque cas déborde ces procédures et mérite une attention spéciale. Dans tous les cas, les autorités ecclésiastiques montreront du respect pour les droits des accusés, mais auront tout autant sinon plus le souci des victimes et de leurs familles.

Preliminary Observations

One of the most painful situations that the Church in North America has had to face in the last decade has been that of sexual misconduct by clerics, religious and Church personnel. The issue has taken on particular

⁴⁸ For this programme, see L. M. ÖRSY, "Meaning of *novus habitus mentis*: The Search for New Horizons," in *The Jurist*, 48 (1988), pp. 429-447.

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dimensions because of a number of other factors beyond the Church's sphere of influence; these include a greater awareness on the part of society of the pernicious effects of child abuse, the recourse to criminal and civil litigation, and — in some ways, fortunately — the lack of experience on the part of Church authorities in handling such cases.

It is evident that the canon law of the Church was not drafted in the particular perspective facing bishops and major superiors in North America today. For this reason, a number of practical adaptations would have to be made in the application of the legislation, because various points not covered in the law must nevertheless be addressed.

In 1987, a preliminary procedure, spelling out what could be done when situations of sexual abuse of minors came to light, was drawn up and made available to various Canadian dioceses.¹ As a result both of the experience gained in applying this procedure and of the study of various other proposals put forward by dioceses and institutes, the Canadian Conference of Catholic Bishops asked in 1990 that the procedure be updated and, if necessary, revised. This was part of an overall task assumed by the Conference to address in depth the issue of sexual misconduct by members of the clergy and Church personnel.

Around the same time, what came to be known as the Winter Commission in St. John's, Newfoundland, also recommended a revision of the diocesan protocol, trying to give it a more pastoral tone.² Experience gained from the work of this Commission has been most helpful in updating procedures.

The task of preparing a new document was entrusted to a Work Group of the Bishops' Ad Hoc Commission on Sexual Abuse.³ The present study

¹ The text of this procedure may be found in J. E. PAULSON, "The Clinical and Canonical Considerations in Cases of Pedophilia: The Bishop's Role," in *Studia canonica*, 22 (1988), pp.121-124.

² See *The Report of the Archdiocesan Commission of Enquiry into the Sexual Abuse of Children by Members of the Clergy*, St. John's, Archdiocese of St. John's, 1990, vol. III, p. 28, recommendation no. 29: "[...] that the Archdiocese review and reflect on the policy and procedures for handling complaints of sexual abuse in the diocese of Bâton Rouge with the intention of producing a revised protocol which has a clearly enunciated victim-oriented philosophy, where the spiritual well-being of people is of primary concern (c. 1752)."

³ The author of this article was the chairperson of the Work Group. Other members included: Mr. Stephen AMESSE, Sr. Marie-Paule COUTURIER, F.M.A., Rev. Michael DOIRON, S.J., Dr. Francis FORDE, Jeffrey KING, Esq., Rev. Peter O'HANLEY, and Rev. Michael A. O'REILLY, O.M.I. The author expresses to them his gratitude for their insights and great assistance, but notes that he is solely responsible for the commentary.

constitutes a commentary on the Group's proposals. It is hoped that this would be helpful to those who are called upon to address such painful situations. These proposals have no pretense of being definitive. They are not an official document. They have been prepared at a time when "law" is still being created, and much use has to be made of c. 19 when addressing issues not directly covered in the *Code of Canon Law*. However, these procedures seem to take into account what has been found appropriate elsewhere and leave the door open for adaptation to local circumstances. Any observations on them would be gratefully received.

Introduction

1. As a result of experience gained over the past few years, the following procedures are presented as a means of addressing a particularly difficult pastoral and canonical situation. They have been drawn up by a Work Group of the CCCB Sexual Abuse Commission, after examination of various procedures presently observed by dioceses in Canada and elsewhere.

The procedures outlined in the document are but one means of addressing the situation. We should recall, though, that it would not be appropriate to rely solely on legal norms and procedures to resolve situations that are not legal in their origin or development. However, since in their consequences these situations almost inevitably have canonical consequences, they ultimately call for some type of canonical intervention. Obviously, this does not mean that the other areas of specialization (spirituality, pastoral care, etc.) are not relevant when addressing the issue in its entirety.

2. The cases under consideration concern situations of sexual misconduct by priests with particular reference to sexual abuse of a minor, although the procedures could, with the necessary adaptations, be applied in other situations relating to Church personnel who are not priests, or to situations where a minor is not involved.

In order for this general procedure to be manageable, it cannot be expected to cover all possible situations. That is why the steps set out here refer only to priests, whether diocesan or religious. With appropriate adaptations they could also be applied to deacons who would be bound by certain prescriptions of the Code relating to the clerical state.

They could also be used to some extent by men and women religious. In certain instances (for example, in pontifical clerical religious institutes) the major superior is an Ordinary with rights foreseen by law; in other cases, though, the major superior is not an Ordinary, and thus the procedures would have to be carefully adapted to that situation.

In the case of laypersons who are employed by a diocese, the prescriptions of the Code applicable to clerics, particularly concerning penal trials, would not be operable. It must be recognized that such employees do not have the guarantees arising from incardination or religious profession, and, for all practical purposes, would be more subject to the applicable secular legislation than to canon law. Nevertheless, the employer should have some procedures available to apply if such cases arise, in particular, norms relating to the eventual termination or suspension of employment.

Another possibility of adaptation would be to have the procedures apply to cases of sexual misconduct with adults, such as sexual harassment and the like. In such instances, though, since there are no reporting laws to observe, the investigation can centre on the persons directly involved, rather than on the parents or guardians of the minors. The canonical penal norms would not be applicable in many situations relating to adults, but general principles of law could apply.

3. Experience shows that the Church has to be able to act quickly when such painful situations arise; yet, at the same time it must act prudently and wisely so as not to deprive the person against whom allegations are made of the right to a fair trial, if need be, nor to jeopardize the State's right to see that justice is administered fairly and without prejudice.

If Church authorities delay unduly in responding to situations of abuse, for all intents and purposes they are considered to be acting irresponsibly. Where reporting laws are in effect, the action must be immediate, or as soon as reasonably possible.

Two dangers must be avoided when Church authorities intervene. Care must be taken to uphold the presumed innocence of the accused priest until the contrary is proven, and the trial should not take place beforehand through press releases or public opinion. In such instances, the State's right and responsibility to conduct a fair trial is also jeopardized.

4. These norms provide a general outline; they are intended for internal Church purposes. Nevertheless, since in

most civil jurisdictions there are also reporting laws that must be observed, even though these may vary somewhat in each province or territory, the follow-up to this reporting could significantly change the application of certain parts of the procedures outlined below, or at least the sequence of events. A written record of compliance with applicable civil legislation should be maintained.

Most civil jurisdictions in North America now have reporting laws and accompanying protocols that must be observed. Since, however, there are significant differences from place to place regarding the types of cases to be reported, the age of the persons involved, and so forth, it would be important to have the Church procedures coincide as closely as possible with those followed by the State. These procedures do not intend to replace the norms in effect in secular society.

In some instances, the first notice Church authorities receive of the misconduct comes from the secular authorities who have already completed a preliminary inquiry. In such cases, there is little that the Church should do (or could do); indeed, any intervention might even be seen as an interference in the legal system.

In order to show, however, that the Church did indeed observe all the applicable secular laws, it is important to keep a log of steps taken. It would not be appropriate, however, to indicate in the log what was said, because this might be used later as evidence in court; it suffices to be able to demonstrate that the reporting requirements and other elements of the legislation were complied with. As a corollary, it would even be advisable to keep a written record of warnings made in cases where there is no statutory duty to report.

It should also be recalled that the procedure outlined here is not mandatory. It is but an instrument made available to those responsible for intervening when situations of sexual abuse of minors come to light. What would be necessary, though, today, would be for a diocese or an institute to have some duly-approved procedure that could readily be applied. It is too late to develop a procedure when accusations are already made.

5. Many elements are involved in situations of alleged sexual misconduct by a priest: spiritual issues, public relations issues, medical issues, civil law issues, and canonical issues. None of these should be overlooked. Since no one person can be

expected, however, to have all the requisite knowledge in these various areas, a team approach will necessarily be required.

Anyone who has been involved in the painful situations being considered here soon realizes that the elements are too diversified to be handled well by one person. While the legal issues might be addressed appropriately in a given situation, it could happen at times that the pastoral ones would be overlooked.

Indeed, this is one of the difficulties. To which dimension does a diocesan bishop give priority? Anything said or done might be used against the diocese in a subsequent suit for damages. On the other hand, to do little or nothing portrays an image of Church that does not correspond to what the Church rightfully proclaims itself to be. It is here that the words of the Gospel can be applied in an accommodated sense: "These you should have practised, without leaving the others undone" (Lk 11:42).

It is for this reason that a team or committee approach was recommended. The committee would, hopefully, be composed of persons who are aware of the various dimensions at stake here and will be able to take them into consideration.

6. These procedures embody two attitudes which must mark the Church's response: compassion and responsibility.

Compassion towards those who have been abused will be demonstrated by showing that the Church does care and will do something about the situation. This same compassion will be shown towards the person who is accused.

Responsibility calls for seeking the truth in the situation and for bringing about satisfactory remedies. It also calls for forms of response and, where necessary, reconciliation through the actions of an authorized representative of the Church.

Both compassion and responsibility are facets of the Church's love; the quality of its response will be a determining factor in eliciting positive cooperation on the part of all those involved.

Since the Work Group had as one of its priorities to give a pastoral tone to its recommendations, no. 6 speaks of two pastoral attitudes that would be essential for a proper application of the procedures.

"Responsibility" is used in the sense of acting in a responsible manner, not in the sense of "liability." What is responsible, though, in one particular

instance, might not be so in another. If the allegations are true, the Church does care and will do something, but at times it is unable to act until the secular processes are completed. At least, it can show that it really is concerned and that it, too, has been hurt by the actions of one of its representatives. If the allegations are found to be untrue — as is often the case — then the Church's response must still be marked by charity and concern for the persons who felt led to make these allegations.

The dimension of "compassion" will be demonstrated primarily by taking allegations of sexual misconduct seriously and not by giving a bureaucratic response to persons who are deeply hurting. It must be remembered that it usually takes a lot of courage and strength to come forward with allegations because the person making the accusations will be expected to substantiate the claim.

7. In this report, because of particular situations to be addressed, the following terms will be used in a specified sense:

- "allegation," the statement of the facts intended to be relied on in support of a denunciation.
- "ecclesiastical authority," either the diocesan bishop or the major religious superior, or their authorized representatives.
- "minor" or "child," a person who has not completed eighteen years of age. Since the various applicable canonical and civil statutes mention different ages, attention should be given to the applicability of such laws in a particular case.
- "religious," a member of a religious institute or of a society of apostolic life recognized by the Catholic Church.
- "secular," as distinguished from the canonical or Church system. The term "secular courts" would apply both to criminal and to civil courts.
- "sexual abuse," the subjection of a child or vulnerable adult, by any person responsible for their care, to a sexual act which is in violation of the applicable statutes.

A number of terms have to be defined in the context of this document. Otherwise, there could be misunderstanding as to their application. The Work Group decided to use the word "allegation," when speaking of the

first approach, rather than "accusation" or "charge" because these are technical terms whose meaning is quite restricted.

Since in many instances there are two sets of court proceedings: one to lay criminal charges against the priest offender, and the other to sue for civil damages, the Work Group attempted to avoid using the word "civil" when applicable to both types of trials. For this reason, the word "secular" was used to distinguish such processes from any concomitant ecclesiastical ones.

Likewise, to simplify, the word "religious" was used in reference to members of religious institutes and to members of societies of apostolic life, even though the latter are not "religious" in the canonical sense. No reference was made to members of secular institutes because of the variety of situations that can be found. Each case would have to be examined on a particular basis.

Since it would be tedious to repeat continually reference to the diocesan bishop and to the major religious superior of the priest, the term "ecclesiastical authority" was used to cover both situations. Nevertheless, many references to the diocesan bishop could also be applied to the major religious superior.

One of the most difficult terms to use was the word "minor." In canon law, a person reaches the age of majority at 18, and so this was taken as a basis, even though some of the canonical penalties (c. 1395, § 2) apply only when the other person is under the age of 16. In many jurisdictions, likewise, the reporting laws apply to persons who are under the age of 16. In some places, though, certain sexual actions between unmarried persons or persons of the same sex are a crime until the other party has reached the age of 21. For these reasons, it was not possible to use a common specific age.

8. A certain number of guiding principles underlie the positions taken in this report. These include:

- taking allegations of sexual misconduct seriously;
- presuming compliance with applicable secular and canonical legislation;
- giving priority to the protection of children and vulnerable adults;
- presuming an accused person's innocence until proven otherwise;

- protecting the reputation of persons involved in instances of sexual misconduct.⁴

It is not an easy matter to determine a priority among the guiding principles. They all are equally applicable. This, however, calls for a delicate balance — showing compassion while at the same time protecting persons' reputations and presuming innocence. It would not be fair to conclude immediately that a priest is guilty of misconduct simply because an allegation has been made.

9. In contemplation of litigation and for the benefit of the legal counsel of the diocese, care should be taken to protect the confidentiality of written records and the reputation of all persons involved, depending to a large extent on the prevailing civil legislation. The written record shall be endorsed as being prepared for the benefit and assistance of the diocesan counsel.

While it is necessary for Church authorities to document their actions, and while it might even be appropriate to have notes kept regarding the contents of various interviews, it would be important to make certain that such notes are identified as being prepared for the benefit and assistance of the diocesan attorneys in contemplation of litigation. Otherwise, they could be the object of a subpoena, making public information that could be derogatory to persons' reputations. Furthermore, it would seem that such records should not be kept simply in the diocesan curia where they would be readily available, but be entrusted to the diocesan lawyers.

Obviously, in this regard, any prevailing laws regarding privileged information would have to be taken into account. It is possible that solicitor/client privilege might not be recognized with respect to most of the records and communications which might occur in following the steps suggested by the procedure.

10. A careful application of the canonical norms would protect the diocesan authorities by showing that due process was observed. Likewise, if the priest had recourse to the secular courts or to the Holy See against the action of the diocesan bishop or of the other persons involved, it must be shown that the priest's rights were respected.

⁴ See, in this regard, T. P. DOYLE, "The Canonical Rights of Priests Accused of Sexual Abuse," in *Studia canonica*, 24 (1990), pp. 335-356.

Given the delicate nature of such issues and in view of the fact that the canonical legislation is not detailed in many related areas, it would be most important for diocesan or religious authorities to be able to demonstrate that the applicable canonical and secular prescriptions were complied with.

While such prescriptions impose certain limitations on an authority's ability to act, since a number of rights must be respected, their observance means that if recourse is had to higher ecclesiastical authorities against the actions of a bishop or a major superior, it can be demonstrated that the basic principles were indeed observed and any decisions taken would most likely be upheld. Thus, for instance, before canonical penalties are imposed against a priest, the prescribed warnings must have been given and due process observed.

Of course, the careful observance of the prescriptions of the Code does not automatically protect diocesan authorities from civil liability. If there is a possibility of civil litigation, the diocese or institute should obtain the advice of its lawyers to ensure that its civil position is not jeopardized by steps taken in pursuance of the canonical procedure.

1 – Before Any Allegation is Made: Diocesan Policies

Before entering into a study of the procedures as such, it would be important to note that a diocese or institute should have a contingency plan available to implement when a situation arises.

The first part of the document, then, outlines a number of measures that would be taken **before** any allegations are made. Hopefully, such mechanisms would never have to be used, but if necessity arises, they are already in place.

11. Each diocese shall have a priest — hereinafter called “the delegate” — delegated by the diocesan bishop to conduct an inquiry when necessary (c. 1717, § 1); any allegation of sexual misconduct by a priest shall be referred to this delegate, whether such allegations are a matter of fact or of suspicion.

There shall also be appointed a priest to be a “deputy delegate” who shall have the same duties and functions as the bishop's delegate in the latter's absence or incapacity.

It is recommended that the delegate and the deputy delegate, as well as any designated examiners (see below, no. 26),

not be the judicial vicar of the diocese because if a canonical juridical process is later initiated, the person who carried out the preliminary inquiry may not take part in the process as a judge (c. 1717, § 3).

Experience seems to show that, because of possible conflicts of interest, it is preferable that it not be the diocesan bishop or the major superior who personally receives the allegation of sexual abuse. Rather, a priest (by analogy with c. 483, § 2) should be appointed to receive such complaints and to act upon them. Whether the priest so appointed is to be called a “delegate,” or a “pastoral vicar,” or some other name, matters little. What is important is that someone be officially designated to receive complaints on behalf of the diocese or institute.

Since, at some later date, canonical processes and possibly even a canonical criminal trial might take place, it seems preferable not to have the judicial vicar of the diocese directly involved as the person who is delegated to receive complaints since c. 1717, § 3, provides that the person who conducts the preliminary investigation may not act as a judge in a subsequent penal trial. However, if the diocese is shorthanded, and if the judicial vicar is the person most appropriate to receive the complaints, then he could also be appointed delegate for such inquiries. If, at a later date, a penal trial were to be held, arrangements would have to be made to appoint other judges, possibly on an *ad casum* basis, even making use of qualified personnel from another diocese. Or, if the diocese has a sufficient number of judges available, it could decide that the judicial vicar will indeed be the delegate for these cases.

Indeed, given the difficulties involved in conducting a penal trial properly, it might be preferable to consider constituting a number of panels of judges in different places who would then be available to serve in a particular case if circumstances so warrant.

12. The delegate shall be empowered and directed to act immediately to investigate and evaluate discreetly and pastorally any allegation of sexual misconduct to determine, within twenty-four hours or as soon thereafter as possible, if there are reasonable and probable grounds to believe that there has been sexual abuse by a priest.

If there are such grounds, then any applicable reporting laws must be complied with immediately.

The time limit of twenty-four hours was considered to be a reasonable period of time. In some jurisdictions, however, the local personnel insist on a report within one hour or as soon thereafter as reasonably possible. However, it is evident that it is not always possible to verify an accusation within one hour.

One key point in the procedures is their insistence on compliance with applicable reporting laws. It would be advisable for the delegate to establish a good working relationship with the person in the area responsible for receiving reports so that a reasonable understanding is reached between the two.

If it were impossible for the delegate or the deputy delegate to act in a given case, these powers could be delegated to another on an ad hoc basis (c. 137, § 3).

13. Each diocese shall have a committee of resource persons, ("the committee"), established by the diocesan bishop (or by a group of bishops — see below, no. 14), which shall be under the authority of the delegate and consist of at least five persons, of whom:

- (i) the delegate, who shall be the chairperson;
- (ii) a canonist;
- (iii) a criminal lawyer;
- (iv) a civil lawyer;
- (v) a licenced person experienced in the treatment of persons who have been the subject of sexual abuse, as well as in the treatment of persons who suffer from disorders related to pedophilia or other similar illnesses.

The committee should be as diversified as possible, comprising men and women who are well-suited to speak with the family on short notice and who are qualified to face the situation fairly and objectively.

It was felt that a minimum of five persons would be required for the committee, given the issues at stake. Since many of the elements refer to law, three legal representatives were considered: a canonist, a criminal lawyer (to advise the diocese or institute about implications of an eventual criminal process), and a civil lawyer (who is able to advise on matters

referring to litigation). The committee would be complemented by a person who is specialized in the area of treating sexual abuse, especially with minors.

There is nothing preventing the committee from having additional members, such as a social worker, but it would be important to avoid making it unwieldy. Possibly, the delegate might be chosen in such a way that he can represent one of the other areas of expertise.

It is felt that the committee should comprise both men and women so as to give better insight into the situation and its ramifications. It would be under the authority of the delegate, thus making clear the lines of communication.

14. If it is appropriate, a committee could be established for a number of dioceses (for instance, an ecclesiastical province, for dioceses within a given civil jurisdiction, and so forth). In such instances, the committee would report to the diocesan bishop directly concerned in a particular situation.

On the other hand, depending on the size and demography of the diocese (population, territory, languages spoken), it might be necessary to have more persons available who could, as appropriate, assist in various inquiries.

The proposals regarding the establishment of a committee must necessarily be flexible. Thus, for instance, because not every diocese has access to the same resources, it would be possible (and perhaps even preferable) to envisage a team of specialists for a number of dioceses governed by the same secular legislation.

Likewise, if many languages are spoken in a diocese, or if there are persons of diverse cultural backgrounds, then it might be appropriate to have more members, some of whom could be available to be called upon to assist in a particular case.

But, as was noted in the procedures, where the committee assists in many dioceses and where another bishop is requesting assistance, the delegate is accountable to the latter and not to the bishop who first established the committee.

15. The committee shall establish and maintain a current basic policy regarding situations of sexual misconduct. This policy, among other things, shall clearly set out the authority,

duties and responsibilities of the committee. Integral to it should be a process which is prompt, reasonable and fair to all those involved. This policy shall also ensure that the appropriate action is taken upon established facts or circumstantial evidence, taking into account existing Church and civil laws applicable to the civil legal jurisdiction concerned.

Before being applied, the policy would require approval by the diocesan bishop or major religious superior.

In addition to having a general diocesan or institute policy, it is also important that the committee itself establish a number of ground rules to ensure its smooth internal functioning.

It should determine policies for contacting persons involved, access to information, accountability to Church authorities, and so forth. For instance, it would be very important that no committee member embark on any investigation, interview or counselling without first obtaining the consent and direction of the delegate.

16. The committee shall ensure that there are certain other resource persons available, designated by the diocesan bishop; these persons, under the direction of the delegate and with his prior approval, if the case concerns minors, will meet with the parents, and eventually with the minors themselves, provided the parents and other responsible authorities have consented, in order to provide the opportunity for them to receive maximum pastoral support, and if necessary counselling and therapy services. Suitable financial arrangements would have to be made.

In addition to those who are directly involved in the work of the committee, other persons could be retained to assist in meeting with the parents and to offer pastoral support.

The minors involved should never be contacted directly without the consent of their parents or guardians, unless, of course, it was the minor who came directly to the delegate to make the allegation. Even in this case, it would be most important to make certain that the parents are made aware of the situation as much and as soon as possible.

The article presupposes that the diocese (or institute) has already made arrangements with therapists or other specialists in order to be able to direct the minor (and family, if appropriate) to them for assistance. If the family

wishes to avail themselves of the services of another counsellor, then the diocese (or institute) should assist in making suitable arrangements.

Obviously, some appropriate financial arrangements should be made with the therapists, and those engaged in meeting with the minors or their families will have to understand clearly whether they have authority to commit diocesan funds for these purposes and, if so, the extent of that authority.

17. The committee should identify appropriate institutions that would provide psychological testing and assessment for priests as well as assistance with addictions (if such were the case), and offer appropriate medical facilities. Good personal relations should be established with the directors of such centres.

A number of specialized institutions have been established in Canada and in the United States to offer psychological testing and assessment for priests, deacons, and religious. They also offer residential care if it is appropriate.

Since in many instances, the sexual abuse is the result of other problems, and not an isolated one in itself, the centre should be qualified to address the entire person. Thus, a holistic approach would be necessary, focussing on physical, spiritual, mental, social, and psychological health.

As with other specialists, it would also be important to establish good working relations beforehand with the directors of such centres so that when appropriate a priest may be referred on short notice for assessment.

The procedures distinguish between assessment and eventual therapy. Indeed, it might be preferable to delay any therapy until the secular proceedings are completed, so that the priest's state of mind is more at ease. However, a decision would have to be made in each case, taking into account the advice of the committee. The assessment report will enable the delegate (who would have to be authorized to receive it) to determine more clearly the situation and its consequences.

18. A media-relations person, who shall not be the bishop's delegate for conducting inquiries, should be designated by the diocesan bishop in each diocese to establish a good understanding with the media and hopefully to achieve a mutually agreed-upon format for any eventual press releases or statements.

Relations with the media should be based on principles that would protect the right of the accused to a fair trial, and the ability of the State to proceed to trial, provide as much information of a general nature as is possible and allow for availability.

Responding to appropriate requests for information with a positive reaction can result in constructive media relationships.

Particular concern should be shown for communicating appropriately with the parishioners involved.

It would be important to have a good public relations person designated by the diocese (or institute) so that information can be made available as appropriate. It is proposed that the delegate not be the spokesperson since many of the matters being dealt with are confidential and cannot be shared at this time with the public.

What is important is that there be a positive reaction to requests from the media, again presupposing good relations established beforehand.

It is also quite important for the parishioners to be made aware of the general circumstances of the situation (but not the details or the names of the persons with whom the priest was involved). This could take the form of a letter from the diocesan bishop (or some other appropriate person), asking for prayer and personal support during this difficult period for all concerned.

19. Arrangements should be made with insurance agencies in regard to the extent of any available coverage and to procedures to be observed in discharging the obligation to provide maximum pastoral support, as well as counselling and therapy services.

It would be important for the diocese to be aware of the extent of its coverage, as well as to make certain that it follow any procedures required by its insurance carrier. These could be integrated into the general diocesan procedures.

Also, it is significant to determine what policy was in effect when the misconduct took place. In some instances, although policies have since been terminated, they might have been in effect at the time.

20. Likewise, the diocese or religious institute should establish a contingency fund to cover legal, medical and counselling expenses.

Since, inevitably, there will be expenses involved in such situations, it is recommended that, where possible, a contingency fund be established to cover the needs. The purpose of this fund is to provide a better overview of expenses involved in such cases, without unbalancing unduly the other parts of the diocesan budget.

21. The ecclesiastical authorities should select lawyers (to be on retainer) capable of offering assistance in both criminal and civil proceedings.

As with the other specialities involved (therapists, treatment centres, the media, insurance agencies, etc.), so too could the diocese (or institute) make suitable provisions to have lawyers available to assist in a case. It could well be that the lawyers retained would be those who are on the committee, but this is not necessary, nor perhaps always appropriate.

Any lawyers so retained would not be able to represent the accused priest.

22. Once the diocesan procedures are established, they should be communicated to the priests who are to acknowledge in writing receipt of the policy, stating that they are indeed aware of its implications and, where applicable, of their obligation to report allegations of sexual misconduct to the appropriate secular authorities as well as to the delegate.

To make certain that the policies are understood, they should be generally communicated to the priests (and to other persons to whom they would apply). This would most likely entail organizing study sessions for the clergy, providing them with an opportunity to ask questions and receive clarifications.

Such formal communication of the policy could amount to a canonical warning (see c. 1347, § 1), so that any priest working in the diocese would be unable to say later that he was unaware of the consequences of his action.

It is for this reason that it is recommended that each priest sign a document stating that he has received the policy and is aware of its implications.

Any priest applying for faculties in the diocese would be given a copy of the policy and required to sign the statement at that time.

2 – When An Allegation is Made: The Canonical Preliminary Inquiry

Once the appropriate mechanisms have been set in place, if an accusation is made against a priest, they may then be put in motion. One of the primary elements to be observed when applying the 1983 canonical legislation is that there be an appropriate investigation into the allegations before any disciplinary action is taken. The law no longer foresees actions *ex informata conscientia* as was the case with the 1917 Code (c. 2186).

Canon 1717 now sets out the basic formalities to be observed in conducting this inquiry. The procedures we are proposing are somewhat innovative in that they envisage two phases or steps to this preliminary procedure. The first phase, carried out with maximum expedition, would consist in determining whether indeed there are enough facts to warrant having recourse to secular reporting procedures. The second phase would then determine whether there was matter to proceed with disciplinary Church action against the priest.

23. It should be remembered that, both in the secular courts and in the canonical penal system, a person is presumed innocent until proven otherwise. Therefore, care should be taken to ensure that this principle is always observed, even when encouraging a thorough yet sensitive inquiry.

The priest who is the object of accusations should be presumed innocent until proven otherwise. For this reason, the delegate or other diocesan authorities should be careful to make no oral or written statement that would imply guilt on the part of the priest.

On the other hand, this presumption does not excuse from conducting an inquiry that would be sensitive to the situation. The more publicity attached to a case, however, the less easy it is to conduct an impartial inquiry.

24. At no time after an allegation has been made should the diocesan bishop or any of the priests involved in the process hear the sacramental confession of the accused. The seal of confession is, of course, inviolable (see c. 983, § 1).

In order to make certain that the persons directly involved in the process (the diocesan bishop, the delegate, other priests conducting the inquiry) are not in conflict with obligations arising from applicable secular

laws and from the inviolable law pertaining to the sacramental seal, it would be essential that none of them hear the accused priest's confession.

This applies only to those priests directly involved in the process, not, of course, to other priests to whom the accused may have recourse for confession.

25. It should also be noted in a canonical inquiry that the accused person is not bound to admit to an offence, nor may an oath be administered to the accused (c. 1728, § 2) who should be informed of this provision before being questioned, even in a preliminary inquiry.

If the accused priest chooses to remain silent when questioned, that is his right. This should not be taken as a failure to cooperate with the inquiry. Even more so, he should never be asked to testify under oath before the persons conducting the canonical investigation or processes.

26. The delegate shall be empowered at any time to carry out his responsibility personally, or to appoint any number of persons, "examiners," who may or may not be members of the committee, to assist in conducting a preliminary inquiry into an allegation (see above, no. 11). The purpose of such an inquiry is to obtain information determining whether or not there are reasonable or probable grounds to believe that there has been a situation of sexual misconduct.

If the case is one that would be the object of reporting laws, the delegate shall make the necessary contact with the secular authorities (see above, no. 4).

It is not necessary that the delegate personally conduct the first phase of the preliminary inquiry. He can have another person or persons ("examiners") designated for this purpose do so. The object of this part of the inquiry is to determine whether there are reasonable or probable grounds to suspect that there was indeed sexual misconduct that would be subject to reporting laws. It is not necessary at this stage to have full proof of the action.

If there are reasonable grounds, and if the case is subject to reporting laws, then the necessary contact must be made immediately with the secular authorities.

27. In the case of a minor, a person selected for this purpose by the delegate would, if possible, and according to

the instructions of the delegate, meet with the parents on behalf of the diocese to offer pastoral support and show care and concern for those involved.

If such support is not desired, at least advice should be available to them as to where to obtain appropriate professional counselling for themselves and the minor.

If there are reasonable grounds to believe that abuse might have taken place, and if the parents accept, professional help should be offered immediately if it is available in the area. If it is not available, the parents and minor child could be referred elsewhere.

It would be important to explain to the parents that the matter has to go through legal processes, and that no judgement can be made before such processes have taken place and the matter resolved.

In all matters relating to this phase of the inquiry, professional secrecy is to be observed.

If it is verified that misconduct might have occurred, then it would be important to make certain that appropriate pastoral care is offered. This could entail, among other things, professional counselling if the minor and the parents are open to it at this moment.

The person selected by the delegate for the purpose of meeting with the parents could be chosen from within the committee or outside it. What counts most is that he or she be sensitive to the feelings of those involved in the situation. At the same time, though, it would be important for that person not to make any statement about the innocence or guilt of the priest involved.

There is, of course, always the risk that these efforts might later be characterized as having been made for the purpose of influencing the parents. For this reason, it might even be appropriate to notify the appropriate secular officers before initiating contact with the family.

The person visiting the family could explain the primary purpose of the visit and at the same time specifically mention that the minor and the family are at liberty to seek what they consider to be appropriate advice and assistance unconnected with the Church. It might even be advisable that a written statement be developed for this purpose and that those engaged in this task be directed to leave this statement with the families visited.

In order to protect the reputation of all those involved, it would be fitting to observe appropriate discretion. However, little can be done to prevent the persons involved (minor, family, priest) from discussing the case publicly if they so desire.

28. If the delegate determines the allegation to be frivolous or unsubstantiated, the inquiry will be terminated and the diocesan bishop and the accused priest will be so informed. If the priest in question is a religious, the competent superior shall also be informed.

If, however, in the meantime, the allegation has become public, appropriate steps must be taken to repair damage done to the priest's reputation.

If, as sometimes happens, it is found after the first phase of the preliminary inquiry that there is absolutely no basis to the allegation, the matter is to be terminated there and those involved are so informed.

If, in the meantime, the minor or the parents have made public allegations against the priest, then every effort should be made to repair any damage done; however, this is not easy and, regretfully, it must be recognized that in many instances the priest will remain a marked person. For this reason, suitable counselling assistance should also be made available to him at this difficult time.

29. An accused priest is encouraged to engage the services of a lawyer who shall not be the diocesan lawyer. Suitable arrangements would have to be made regarding the covering of legal expenses, taking into account the financial situation of the diocese.

Furthermore, considering the seriousness of these cases, if the accused is called for questioning at this stage of the preliminary canonical process, or if the case is to be treated administratively, it seems only just that he also have the aid of a canonical advocate. However, he should be informed that anything he says might be used against him in a secular criminal proceeding or in a civil lawsuit.

It would be appropriate that the priest retain the services of a qualified criminal lawyer and also of a canonist. Suitable arrangements should be made beforehand with the diocesan authorities regarding payment of legal fees. The diocese should not be expected, though, to pay all legal fees

involved if the priest is indeed guilty of misconduct. This is particularly important if there were to be a protracted hearing and eventually an appeal.

If he lacks sufficient means, a priest should not overlook the possibility of applying for legal aid in such an instance.

Since in many jurisdictions the canonical inquiries and those conducting them are not protected by laws relating to privilege, it would be important to inform the priest beforehand that anything he says might be used against him in any eventual secular proceedings.

30. If the delegate has reason to believe that there may be an allegation against a priest who does not hold an appointment from the diocesan bishop (e.g., certain religious, visiting priests), the delegate shall immediately communicate with and advise the ecclesiastical superior of the priest regarding the possible allegation.

When a priest is not directly subject to the diocesan bishop of the place where the events took place, it would be important to contact that priest's Ordinary immediately so that appropriate action can be coordinated. It does not seem necessary or appropriate to have the same inquiry conducted twice by both Ordinaries.

31. In the case where the accused priest holding an appointment in the diocese is a religious, the competent superior shall notify the diocesan authorities if the superior consents to the application of the diocesan procedures. The delegate conducting the inquiry shall report the outcome to the superior, and shall answer such legitimate inquiries about the progress of the matter that the superior may make.

If, on the other hand, the institute's own procedures for dealing with such matters have been invoked, a report of the outcome shall be made to the diocesan bishop's delegate, and the superior shall from time to time answer any legitimate inquiries that the delegate may make.

No. 31 provides for coordination between the Ordinaries involved. Both ecclesiastical superiors have a right to information relating to the inquiry. It would be appropriate to determine beforehand which procedure would be followed.

32. Upon completion of this phase of the preliminary inquiry, a meeting could then be held with the appropriate

civil counsel present; it would comprise the diocesan bishop or his representative, the diocesan lawyer, the accused priest and counsel for the accused. At this time, having heard the delegate, the diocesan bishop could make an interim disposition in respect of the priest's functions in the diocese (see below, no. 36).

It would only be once the first phase of the preliminary inquiry is completed that the diocesan bishop would meet with the priest. Such a meeting would not be required if the allegations were found to be frivolous. It is suggested that at this meeting both the bishop and the priest be accompanied by their respective lawyers so as to receive appropriate advice as to what to ask and say. Otherwise, the bishop might be in the awkward position of having to testify later in secular court against his priest.

It is at this point, after hearing the delegate, that steps would be taken by the bishop regarding the priest's functions in the diocese. These could include giving the priest administrative leave, removing faculties to preach and hear confessions, having him reside elsewhere, and so forth. The provisional procedures drawn up in 1987 had specified that these measures were to be invoked as soon as an allegation was made. Experience has shown, though, that this was not always appropriate or equitable, since many allegations were without foundation. For this reason, the new procedures suggest that no action be taken until the first phase of the inquiry has been completed. Since this phase takes only a few hours, there is little practical difference as regards the priest's presence in the parish, if he were assigned to parochial ministry.

33. If secular proceedings are taking place, it might be preferable to delay any further canonical inquiry until the matter has been resolved before the secular courts.

Because of the potential for conflict, if an interim disposition has been taken by the diocesan bishop, it might be preferable to leave the matter suspended in the canonical sphere until the criminal (and possibly even the civil) proceedings have been completed.

In this way, neither process would risk being jeopardized by the other.

34. If, on the other hand, there are no secular proceedings, and if the accused admits that the allegations are true, the delegate shall immediately present a report on the investigation to the diocesan bishop.

In some instances, there is no question of laying charges because the person involved is not subject to reporting laws and does not wish to proceed with an action before the secular courts. In such instances, it would be appropriate not to delay further the canonical intervention.

Two situations could be envisaged: the priest denies the accusations, or he admits to them. If he admits to them, it is not necessary to proceed further with an inquiry. If, however, he denies them, then further steps would have to be taken. These are spelled out in no. 35.

35. If, however, the priest denies the allegations which have at least the semblance of truth, then the preliminary canonical inquiry prescribed by c. 1717 could proceed to a second phase, ensuring that the rights to due process are fully respected.

Even though there are no secular criminal proceedings, the Church has the right to proceed with its own inquiry. If the priest denies the accusations, he should be given an opportunity to be heard at the preliminary inquiry so that his right of defence is respected (see c. 1720, 1°).

Although the Code does not speak of two phases in the preliminary inquiry, the procedures interpret the canon to allow for this. If an inquiry is "not entirely superfluous" (c. 1717, § 1) it would usually take more time than would be appropriate in the first phase where reporting laws might be operative.

36. If the priest admits to the allegations, or if the delegate finds that indeed there is matter for further action, the priest is to be given an administrative leave within twenty-four hours or as soon thereafter as possible, and an appropriate place chosen for him to reside pending the outcome of the inquiry. At no time, though, should he return to the parish or to the pastoral work where he is assigned (if such is the case) or approach the persons involved. If appropriate, a penal precept (cf. c. 1319) could even be issued to this effect.

Furthermore, the priest's faculties to preach (c. 764) and to hear confessions (c. 974, § 1) should be removed. He would also be asked not to celebrate Mass publicly. While such measures could be painful, they are necessary to protect the good of the community.

The measures outlined in no. 36 could indeed be considered to be painful. However, given the present circumstances, they appear to be

necessary. But, in a particular case, it might not be necessary to invoke all of them at once (for instance, the reference to a residence if he is not assigned to a parish or to a place where he would be in easy contact with the target population).

It should be noted that the priest is not suspended or censured at this point. The measures provided are those which the Code allows before a decision is taken. To do more would probably not be according to canon law, and thus could be subject to reversal if recourse were had to higher ecclesiastical authorities.

If the priest has not admitted to the allegations, he is still presumed to be innocent. If, on the other hand, he admits to them, then the presumption of innocence would cease.

3 – The Administrative Procedure and the Canonical Criminal Trial (cc. 1717-1728)

If it is considered opportune to proceed further with canonical processes, either to determine whether the priest is indeed responsible for his actions, or to impose sanctions, then a number of particular prescriptions of the Code are to be observed. The following points are but highlights of the norms relating to the penal procedure and should, therefore, be read in the context of this entire section of the Code.

37. If the ecclesiastical authorities concerned decide to proceed to the second phase of the preliminary canonical inquiry, the matter is taken up again by the delegate (see above, no. 11) who will conduct it. The lawyers designated above (nos. 21 and 29) or members of the committee (see above, no. 13) may be invited to participate. Great discretion is required in this phase of the inquiry, since care is to be taken that it does not call into question anyone's reputation (cc. 1717, § 2; 220).

The delegate would be responsible for conducting this phase of the inquiry, either personally or through another. It would be appropriate, however, for the committee itself to be actively involved at this stage to make certain that the various dimensions of the situation are taken into consideration. If the priest admits to the allegations, it is not necessary to proceed with this phase of the inquiry.

Since the inquiry might entail interviewing a certain number of persons, the risk is greater that the priest's reputation could be endangered; for

this reason, it would be important to show discretion in questioning the witnesses.

38. If the delegate, after hearing those who are bringing the complaint, is of the opinion that there is indeed reason to proceed further, the accused is to be given the right to be heard (right of defence, c. 1720, 1°).

Since the accused is denying the allegations, it would be most important that he be given the right to be heard. A canonical process of this nature could not take place behind the priest's back. At this time, it would be important for him to have access to canonical advice.

39. If there is reason to proceed further, the priest, with his consent, is then referred to the selected treatment centre (see above, no. 17) for appropriate assessment, if this has not already been done.

If the priest had not been assessed when the matter was first raised — possibly because it was in the hands of the secular authorities — and if the committee believes that there is reason to proceed further, this would be the appropriate time to have him assessed by one of the selected treatment centres.

However, it is of no avail to send him for assessment if he does not consent both to the evaluation and to the subsequent release of information.

If, on the other hand, he refuses his cooperation, then the diocese would not be obliged to offer him a pastoral assignment.

40. If the priest could be considered to be responsible for his actions (cf. c. 1321), the committee (see above, no. 13) should meet to decide whether it is appropriate to recommend that the matter be referred to the diocesan bishop.

Since one of the most difficult points to evaluate in conducting penal processes is the imputability of the offence, it is essential that the priest be found at least partially responsible for his actions. If he is responsible, then appropriate canonical action could be taken. The decision would be the bishop's at this point. He has two alternatives: either to proceed in an administrative manner, or to entrust the matter to the promoter of justice for a penal trial.

41. If the diocesan bishop or the competent religious superior decides to proceed in an administrative manner, then

he may impose the appropriate penalties according to the norm of law. It should be noted, however, that a priest cannot be deprived of the clerical state by an administrative process at the diocesan level or by the religious superior (cc. 1342, § 2; 1425, § 1, 2°).

If the preliminary inquiry shows that the priest is indeed partially responsible for his actions, and if he had been suitably warned beforehand, and if there is not to be a penal trial, then the diocesan bishop (or the competent superior) may take appropriate measures immediately. As will be noted later, these could include removal from office, removal of faculties, an order to reside in a certain place or to refrain from visiting a certain place, performing works of charity or penance, and so forth (see c. 1336).

The priest may not, however, be returned to the lay state simply by an administrative process; a full penal trial is required.

What often happens, though, is that there is not sufficient matter to proceed with a full penal trial, yet the priest is no longer interested in ministry and refuses to request a dispensation from his clerical obligations. Given the present state of the law, he cannot be laicized against his will simply by a decree issued by the diocesan bishop (or competent superior). He thus remains a priest incardinated in the diocese (or in the institute) until the Holy See intervenes, if it chooses to do so. In case he were to repeat acts of abuse, it would be important, then, to be able to show that the diocese (or institute) has taken all appropriate steps to discipline him and to sever as many ties with him as was canonically possible.

42. In those instances where the diocesan bishop determines that the case is to be judged by a canonical penal process, he passes on the evidence to the promoter of justice in order to begin a canonical penal trial.

If, however, it is possible or appropriate to conduct a penal trial, the diocesan bishop (or the competent superior) passes the case to the promoter of justice who is to decide whether, indeed, a trial should be held. Neither the bishop nor the promoter of justice can determine the outcome of the process — this is up to the judges — but they can ask that it take place.

43. If the promoter of justice considers it opportune to begin a canonical trial, the provisions of c. 1722 can then be applied: the accused can be prohibited from the exercise of sacred ministry or of an ecclesiastical office and position; or,

residence in a certain place or territory can be imposed or forbidden, and so forth.

If the provisions of c. 1722 had not been applied earlier, the diocesan bishop may now impose them on the priest; they would remain in effect until the decision of the tribunal is final or until they are revoked.

44. The judge would then summon the accused and the evidence is presented. The accused must have a canonical advocate, appointed freely by himself; if, however, he does not designate someone to represent him, then the judge is to appoint such an advocate (c. 1481, § 2). The accused or the procurator-advocate has the right to present his defence and, in fact, has the right to make written submissions or speak last (c. 1725).

At this stage of the process, it is essential that the priest be represented by a canonical advocate. Even if he does not wish to appoint one himself, the judge must designate one for him. In a parallel with marriage nullity cases where the defender of the bond has the final word before the case is brought to judgement, the law here provides that the final oral or written presentation is to be made by the priest if he so chooses.

45. The procedures prescribed by canonical legislation would be applied throughout this process.

It would be important to make certain that all the procedural norms as outlined in book VII of the Code regarding the interventions of the judge, proofs, respect of rights, and so forth, be respected.

46. If the priest is found guilty at the conclusion of the trial, then the appropriate canonical penalties are to be applied (not excluding possibly depriving him of the clerical state).

The priest has a right to appeal the decision of the tribunal to the ordinary appeal court, or to the Holy See. If he is to be deprived of the clerical state, a panel of at least three judges is required to render the decision (c. 1425).

47. In imposing penalties on a priest, except in the case of dismissal from the clerical state, care must always be taken that he does not lack what is necessary for his worthy support (c. 281).

If a person is truly in need because he has been dismissed from the clerical state, the diocesan bishop or the proper Ordinary is to provide in the best way possible (c. 1350).

The canons quoted here do not state that any assistance given to the priest must be given for life. Rather, what is required is assistance during a period of transition. As a rule of thumb, the poverty level for a single person in the region could be taken as a benchmark. Much would depend, though, on whether the priest has the means of earning his livelihood, on his age, state of health, and so forth.

48. During these processes and throughout any follow-up period, the priest, in addition to financial support, should be given appropriate personal support.

Probably as important as financial support is personal assistance. This will vary with each individual. The priest should not feel abandoned by the other members of the clergy; in spite of his delicts, he retains his human and priestly dignity.

49. Likewise, pastoral assistance should be continued in various ways for those directly involved and for their families, until such time as there is an agreement or evidence that this is no longer necessary or appropriate.

The form of pastoral assistance to be provided will, once again, depend on the circumstances. As noted above, it would be the responsibility of the diocese (or institute) to pay for such services.

4 – Reintegration of Priests Into Ministry

Once the secular and ecclesiastical proceedings are completed, if they were held, there still remains the delicate question of what to do for the priest, and what he can eventually do to exercise ministry. In some instances, we must face the fact that it will be practically impossible to reintegrate him into ministry because of the publicity given to his case, or because of scandal, and so forth. But this does not mean that a priest guilty of sexual misconduct with a minor could never be reassigned to pastoral duties.

Since a priest guilty of sexual abuse with a minor does not have a right to be reintegrated into ministry, and since there is danger of relapse in one form or another, it is entirely appropriate for the ecclesiastical authorities to impose a certain number of conditions to be fulfilled if the priest wishes to pursue ministry.

In practice, it must be recognized that the priest will remain vulnerable for the rest of his life, and thus will be subject to various types of monitoring in the course of his ministry. If he does not accept this, he is better to think of leaving the ministry altogether so as to avoid continued disappointments and tensions.

50. The decision regarding the reintegration of a priest into pastoral ministry is reserved to the diocesan bishop who is encouraged, however, to seek advice from competent laypersons and clerics before making any decision. Each case must be looked at individually.

A written record should be kept of all steps leading to readmission or to a decision not to readmit.

It is not the probation officer, or the director of the counselling centre who is responsible for determining whether the priest can be readmitted to ministry. However, it is obvious that their recommendations would be taken into account by the diocesan bishop or by the major superior who presents a priest to a bishop for diocesan faculties.

In view of the fact that the priest might experience other difficulties in the years ahead, it would be important to keep a record of what was done before he was readmitted in order to show that Church authorities acted responsibly in the situation.

A priest might be unable to be assigned to ministry in his home diocese because of adverse publicity, but he could nevertheless carry out good ministry elsewhere. The bishop who is willing to receive such a priest on an experimental basis should be given appropriate information as to the situation.⁵

51. Before a priest is readmitted to pastoral ministry, the diocesan bishop ought to consult with the committee (see above, no. 13) or with those professionals responsible for the therapy.

If the priest is authorized to return to ministry, provision should be made for him to participate in one or other self-help or support groups, including joining in established networks for the ongoing formation of priests.

⁵ See F. G. MORRISSEY, "Confidentiality Issues Regarding a Religious Institute and its Relationship with a Diocese," in *Bulletin on Issues of Religious Law*, no. 7 (Fall 1991), pp. 1-8.

If the priest had undergone therapy, it would be important for the diocesan bishop (or major superior) to consult with those in charge of the therapy programme, not only to receive their evaluation of the priest, but also to make certain that any aftercare projects are clearly defined and can be implemented.

Likewise, the committee would have an important role to play at this juncture. The members could well be aware of the feelings of the faithful in a given area; furthermore, since they know the circumstances of the case, they would be able to offer suitable recommendations to the diocesan bishop.

In some areas, various self-help groups for the continuing education and formation of priests have been established. While it would be important for any priest to be part of one or more of these groups, it would be even more important for a priest who has been involved in sexual misconduct in the past to be part of them in order to have the necessary clerical support and also for other priests to be able to detect danger signals before it is too late.

52. The priest should have a priest monitor, distinct from his confessor or spiritual director, acceptable to both the diocesan bishop and the priest, with whom he would meet regularly. The monitor would have appropriate freedom to report to the bishop and to advise him concerning the individual's ministry. He would also have the right to make suitable recommendations concerning the priest.

It would be extremely important for the priest to have a monitor (sponsor, supervisor), who would function on the level of the external forum and who could serve as an intermediary between the priest and the ecclesiastical authorities. It would be important to make clear that conversations with the monitor are not necessarily confidential and any monitor so appointed should be careful to avoid placing himself in a situation where he would be unable to act.

The priest's continuation in ministry would depend to a large extent on his cooperation with the monitor.

53. As another form of support and ongoing evaluation, the priest could also be asked to see a professional counsellor on a regular basis or as needed. His permission would be sought to allow the counsellor to report to the bishop concerning the priest's continued suitability for involvement in some form of ministry.

In addition to the pastoral monitor, it could be important for the priest to have access to a counsellor, either on a regular basis or as needed. The focus of this recommendation is to provide for the personal well-being of the priest. However, it would be very helpful if the priest would release the counsellor from confidentiality so that the latter could discuss with the diocesan bishop or the major superior situations that might jeopardize the priest's suitability for ministry.

54. With suitable consultation, attention should be focused on identifying those facets of ministry that could be appropriate in the particular case.

Any ministerial function will be so defined as to avoid any assigned responsibilities that would entail associating with individuals or groups similar to those with whom he has had difficulty.

In certain cases, it might be appropriate not to restore all the priest's faculties, but only those necessary for the assigned ministry.

Depending on the type of misconduct — with boys, girls, young adults, children, etc. — a pastoral appointment should be made in such a way that the priest would not have assigned duties that would expose him to danger. It is not possible to avoid any contact whatsoever with potential target groups, but conditions could be spelled out as to what is to be done in such circumstances. For instance, never being alone with a child, not visiting a school or playground, etc.

When granting the faculties of the diocese to the priest, the bishop could restrict them in various ways so that only those faculties necessary for the assigned ministry would be given, except in cases of danger of death or in other unforeseen circumstances.

55. Upon consideration of a return of the priest to active ministry, it would be important for the diocesan authorities to provide appropriate information to those having a need to know.

Before any reintegration takes place, some contact between the bishop or the delegate and those involved in the sexual misconduct and, if applicable, their families should take place.

Likewise, it might be appropriate, if the priest is to be assigned to a parish, that some form of parish discussion, moderated by an independent expert in the field, be held in advance, not to discuss the particular case or persons involved, but rather, the issue of sexual misconduct in general, in an effort to develop understanding and compassion.

It is important to protect the priest's reputation, yet at the same time provide him with suitable support in his ministry. Thus, it would be significant, for instance, for the priest(s) with whom he is living to be aware of the background. Likewise, if he is assigned to a parish, at least some members of the parish council could be informed to as to provide another supportive base.

What is more delicate is the way in which those who have been involved in the abuse and their families are to be informed that the priest is now functioning. To keep the matter secret is to keep the priest living under a sword; to make it too public is to draw unnecessary attention to the matter. In some instances, those who have been abused have not been interested in pressing charges or suing for damages on condition that the priest never again be assigned to ministry. This form of pressure or even, at times, blackmail should not be tolerated, because it can extend to so many other areas also. It is preferable for the matter to be addressed once and for all, no matter what the immediate consequences.

56. A priest who is not readmitted to ministry could consider retirement, or receive financial support (i.e., salary, realistic living expenses, educational expenses) for such period of time as is adequate to enable him to prepare himself for and secure suitable employment.

In some dioceses, according to the regulations governing the pension plan, the priest can take early retirement. Where such plans do not exist, the diocese can provide assistance during a transition period — for instance, up to two or three years. It does not seem that it is the diocese's responsibility to care for the rest of his life for a priest who committed serious crimes, especially if he was informed beforehand of their gravity and their consequences. The priest must assume responsibility for his own actions.

5 – *Helping the Community*

In addition to helping the priest personally, there are also other issues to be addressed. Among these, the faith of the local community would also have to be considered. It is not an easy matter to address this situation because many persons are involved and various reactions have been experienced. Nevertheless, the following points might be of assistance.

57. The Ordinary must take great care to ensure that every effort is made to address ongoing long-term effects of sexual misconduct. The continued care and concern for all parties must not end with the re-admission of a priest to ministry, or with the decision to discontinue active ministry. An ongoing process of healing and spiritual growth is necessary for the whole faith community.

A process of healing and spiritual growth is necessary for the entire community, including the other priests who have been seriously hurt by the events.

We are not yet fully aware of the long-term consequences of sexual abuse, although these are becoming clearer with time. It would be worthwhile, though, not to remain in the past with bitterness and anger, but to take steps that lead to the future where healing and growth are factors characterizing the life of the community.

58. Likewise, since the faith community is itself an agent of reconciliation, the diocesan bishop could encourage its participation in the recovery process to enable it to develop means to understand and help those affected by such cases.

Various processes are available for parishes to help them address the issue of sexual abuse of children. These can be quite helpful if approached in the right way. One spinoff of such processes is to enable the entire community to become better informed of issues underlying sexual abuse and misconduct and to take steps to avoid such in the future.

Indeed, if any good comes of the entire situation faced over the past ten years, it would be to make society as a whole, and the Church in particular, more sensitive to such tragedies, and enable both the Church and society to take steps to eradicate such a plague from its midst.

Conclusion

59. There is no easy solution to such a painful situation. The procedures outlined above have as their purpose to respect the rights of all involved.

Anyone who has been involved in a situation of sexual abuse of minors realizes that there is no one solution that will apply in all cases. The circumstances are so different. Some reactions can be too one-sided: concern only for those abused; concern only for the priest; concern only for a good public image, and so forth. Any procedure that does not attempt to address all of the issues is inevitably flawed and will not produce the desired results.

60. Hopefully, the experience which the Church has acquired in dealing with such tragedies can help the entire community to grow and develop, especially assisting it in eradicating the scourge of sexual abuse of minors or of vulnerable adults from its midst.

If the Church were able to eradicate sexual abuse and were to let it be known clearly that it will not tolerate situations where abuse is being carried out, it would be able to reassume its rightful place in society, serving as a beacon for others.

61. In particular, even though the matter is painful, special care should be taken to show the Church's concern for the children and their families.

While not disregarding the rights of the priest, and while taking into account the sensitivities of the parish and diocesan communities, the particular focus of the Church's concern at this moment should be those children who have been abused, and their families.

Indeed, everyone in the community is, in one sense or another, suffering from what has happened. The healing process is long and painful. However, the truth will set us free (Jn 8:32).

62. The spiritual well-being of all persons affected by sexual misconduct is of primary concern — "Salus animarum suprema lex" (c. 1752).

The procedure ends by quoting the final words of the *Code of Canon Law*: the supreme law is the salvation of souls. All other norms find their reason in this one. Thus, the procedures drawn up to assist those involved in sexual abuse have as their ultimate purpose to provide for their spiritual well-being.