

The Case of Father Robert N. Caparelli

Known Assignments

06/1964 – 09/1964	Queen of Peace, Hawley
09/1964 – 09/1967	St. Francis, Nanticoke
09/1967 – 10/1968	Most Precious Blood, Hazleton
10/1968 – 09/1974	St. Mary, Old Forge
09/1974 – 06/1981	Mercy Center, Dallas
06/1981 – 09/1991	St. Vincent, Milford
09/1991	Relieved of Duties
12/1994	Died in state prison

On May 23, 1964, Robert N. Caparelli was ordained a Roman Catholic Priest within the Diocese of Scranton. Between September, 1967 and October, 1968, Caparelli served as an assistant pastor at the parish of Most Precious Blood in Hazelton. On August 14, 1968, less than four years after Caparellis' ministry began, a letter was sent to Bishop J. Carroll McCormick from a police officer in Hazleton. The officer reported to the Bishop that Caparelli was contributing to the delinquency of two altar boys. These boys were brothers and were 11 and 12 years old. The police officer stated that Caparelli was "demoralizing them in a manner that is not natural for any human that has all his proper faculties." The officer stated that the mother had made the complaint to him, but that he was reporting it to McCormick. He explained that the mother of the victims was afraid to tell the boys' father due to the possible "deadly nature" of the ensuing confrontation. The policeman closed his letter with an offer to meet with the Bishop or provide additional information, if needed. He noted that there were "other situations" as well. The officer commented that if the situations were not curbed, violence would take place.

August 14, 1968
Hazleton, Pa.

J. Carroll McCormick, Bishop
Diocese of Scranton
Scranton, Pa. 18503

Your Excellency:

May I introduce myself to you. I am a Member of the Most Precious Blood Church in Hazleton. I am a Police officer in the city and very much interested in the well being of the Parishoners as well as the other citizens in our locale.

The reason I am writing this letter to you is in reference to an assistant in our parish, Reverend Robert Capparelli. It is a known fact that he has contributed to the delinquency of 2 minor boys, ages 11 and 12, by demoralizing them in a manner that is not natural for any human that has all his proper faculties. They are 2 brothers that were altar boys and the mother made them quit. The Father doesn't know about this incident and we are and must keep it a secret. The Mother is afraid to tell him for fear of repercussions that would be of a deadly nature. The Mother had the courage to come to me and tell me of the situation. She is a Registered Nurse and knows that there is need for a Doctor in this case. We all have the greatest respect for Monsignor Mark Mecca and think he is doing a fine job. We think the Monsignor should not be burdened with this situation and others that this assistant is responsible for. I would be willing to tell you about the other situations if you so desire. I think action should be taken to curb these situations before violence takes place.

If further explanation is needed, I would be willing to meet with you at your convenience.

Wishing you good health, I remain,

Your Sheperd,


Hazleton, Pa. 18201

DS 07527

Three days later, the head pastor of Most Precious Blood contacted McCormick. Father Mark Mecca had also reviewed the letter that the Bishop had received. Regarding it, he wrote to McCormick:

I have to say that it expresses the voice of many of my parishioners. I referred this matter to you at Thanksgiving-tide of last year, when I told you that I would try to solve this problem, to relieve Your Excellency of at least one of the many problems. This problem is too big for me. It has grown into something that is unbelievable. In other words all that this gentleman writes is true... but there is so much that is missing, and all very, very serious.

Mecca went on to note that at least one fellow priest, Monsignor Mussari, simply did not wish to know the details. He noted that Monsignor James Timlin was aware of at least one area of concern due to his presence when Mecca broached the subject on a previous occasion. Mecca closed his letter noting, "Your Excellency has definitely noticed that I am under an incubus . . . all on account of some of these things." The Grand Jury noted that "incubus" is a Latin term for "a male demon obsessed with the sexual" and can be a "nightmare known for causing oppression or burden."

MOST PRECIOUS BLOOD CHURCH
FOURTH AND SEYMERT STREETS
HAZLETON, PENNSYLVANIA 18201

Aug. 17, 1968

Most Rev. J. Carroll McCormick, D.D.
300 Wyoming Avenue
Scranton, Pa. 18503

Dear Bishop McCormick:

Concerning the letter which is enclosed, as was sent to you by the parishioner, I have to say that it expresses the voice of many parishioners. I referred this matter to you at Thanksgiving-tide of last year, when I told you that I would try to solve this problem, to relieve Your Excellency of at least one of the many problems. This problem is too big for me. It has grown into something that is unbelievable.

In other words all that this gentleman writes is true... but there is so much that is missing, and all very, very serious.

Mgr. Musari and I were in to talk to you, of different problems of course. (This he does not know of) I wanted to go over some of the things with Your Excellency. One of the topics would be that which I mentioned to your Excellency in the presence of Mgr. Timlin.

If there is need of my meeting with Your Excellency, or with any particular person with some facts to bring light on the subject, these persons can be supplied. In fact one of these is one of my lay-teachers.

Your Excellency has definitely noticed that I am under an incubus... all on account of some of these things.

With best wishes always, and reaffirming my deepest devotion to my Beloved Bishop, I am

Very sincerely yours in Christ,

Mark A. Mecca
Mark A. Mecca

DS 07526

Mecca Reports the "Incubus"

On August 19, 1968, another concerned parishioner wrote to McCormick. While noting general concerns about Caparelli's demeanor, the parishioner stated:

We tolerated all this but it is now a known fact in Hazelton that he is demoralizing young boys especially those that serve as altar boys. Many parents have withdrawn them and are being retained not to report him to the juvenile division of the Police Dept. We want to avert scandal. This is the consensus that we would overlook all the former complaints but this last one, may present a tragic situation.

On September 2, 1968, McCormick wrote a secret note that the Grand Jury obtained from the confidential Diocesan archives. McCormick wrote that he had spoken with Caparelli who "admitted acting too freely with 2 altar boys." Contrary to the reports about him, Caparelli insisted that he did not do anything immoral. While Caparelli agreed that the Bishop had to take action against him, he begged to be assured that he would be able to continue working as a priest in the Diocese.

Pathe

Capelli

~~Sept~~ Sept. 2, '68

admitted acting too freely

with 2 altar boys (brothers)

- insisted he didn't do
anything immoral -

claimed he was being misunderstood
by the mother of the two
boys (a nurse) who suggested
he see a doctor.

said he saw a doctor, who assured
him he was not a homosexual.
- he was very submissive, claimed
he would do what he was directed
to do. He cast aspersions
on the Pastor (Mrs. Mason)

- he prefers to go to the man's home while with
further direction.

- He agreed Bishop had to take
action against him on basis of
reports

- He begged to be absolved of being
able to work as a Priest in
Diocese.

- He was concerned for his financial
status, because he helped out at home.

(I said we would continue
his salary - that of a curate) I
suggested he get more data from
the Propagation Office.

+ J. C. Mc Cormick

Caparelli was subsequently sent to the Padua Retreat House. An internal Diocesan memorandum from October 1968 noted that based upon Caparelli's version of events, "the mother, a nurse, may have exaggerated." Any child sexual abuse was dismissed as "immaturity" and a change was suggested. McCormick ultimately assigned Caparelli to serve in the parish of St. Mary's in Old Forge in October, 1968. In 1981, Caparelli was appointed head pastor of St. Vincent's in Milford.

In 1985, while Caparelli was still in active ministry as head pastor at St. Vincent's, then-Bishop James Timlin dispatched a memorandum to all priests, religious and lay personnel of the Diocese of Scranton. The memorandum explained that the Pennsylvania Child Protective Services Act required reporting to civil authorities both "actual and suspected cases of child abuse." The memorandum explained that a report must be made to the head priest of a parish or the superior of a given diocesan institution. The Chancery noted that it stood ready to assist. In spite of this mandate, Timlin permitted Caparelli's continued ministry and no report was made regarding his conduct.

MEMORANDUM

TO: All Priests, Religious and Lay Personnel of the Diocese of Scranton
FROM: The Chancery
RE: Child Protective Services Act
DATE: July 23, 1985

The Pennsylvania Child Protective Services Act requires, under penalty, the reporting to civil authorities, actual and suspected cases of child abuse. To ensure compliance with these laws, His Excellency, Bishop Timlin, has directed that the enclosed information be transmitted to all persons, parishes, agencies, schools and institutions within the Diocese.

This information is submitted in order to update and expand the knowledge and skills which are necessary for effective ministry to and care for children.

In institutions of the Diocese which have a familiarity with the Child Protective Services Act, the reporting of suspected cases of child abuse is to follow stated departmental or agency procedures.

In situations where the provisions of the Child Protective Services Act have not been implemented, the reporting procedures as defined in the Act are to be followed by the person in charge.

In cases of suspected child abuse discovered by a priest the reporting of such suspected incidents is the responsibility of the pastor of the parish. The Chancery is available to assist in offering direction relative to the reporting of such incidents discovered by a parish priest. In cases discovered by a priest in an institution or high school within the Diocese, a report must be made to the superior or principal of that facility.

In situations where an accusation of child abuse, as defined by the Act, is made against any person or agency of the Diocese the following procedures are to be followed:

Where established guidelines concerning such institutions are in place the procedures so established are to be followed.

Where guidelines have not been established, the person with pertinent information must consult with their immediate superior for direction in implementing the provisions of the Child Protective Services Act. If this information is received by a priest, consultation must be made with the Chancery Office for direction in implementing the provisions of the Act.

Any questions relative to the Child Protective Services Act are to be referred to the appropriate head of the agency, school or institution, or to the Chancery Office.

DS 07456

The Mandated Reporter Memorandum

Within Caparelli's personnel file, the Grand Jury found a letter from John M. Quinn, Esquire. The letter, dated September 3, 1991 and marked received September 6, 1991, appeared to have been shared with the Diocese of Scranton through Bishop Donald Trautman of the Diocese of Erie. The letter suggested a way to reorganize any diocese to minimize recovery by victims of child sexual abuse in the event that "a large judgement is rendered against the Bishop and the Diocese in a pedophile case." The Grand Jury noted that at that time scores of predatory priests were still in active ministry in the dioceses of Pennsylvania, and one of them was Caparelli. However, before the end of 1991, Caparelli was criminally charged for the sexual abuse of a child.

QUINN·GENT·BUSECK & LEEMHUIS·INC.

Attorneys At Law

2222 West Grandview Boulevard, Erie, PA 16506-4508 Phone: 814/833-2222 FAX: 814/833-6753

John M. Quinn, Sr.

September 3, 1991

George S. Forde, Jr., Esquire
Stradley Roñon Stevens & Young
2600 One Commerce Square
Philadelphia, Pa. 19103-7098

RECEIVED

SEP 6 1991

S. H. B. Y.
G. S. FORDE

RE: Agenda matter - Diocesan Attorneys Meeting

Dear Mr. Forde:

As attorney for the Erie Diocese, I have been in extended discussions with our new Bishop Most Reverend Donald W. Trautman regarding steps which might be taken to insulate diocesan assets in the event that a large judgment is rendered against the Bishop and the Diocese in a Pedophile case. As I am sure you are aware, all insurance companies have withdrawn coverage for liabilities arising out of such events.

I have recommended to Bishop Trautman that two steps be taken: (1) that a number of diocesan corporations be created, each of which would have responsibility for the management, etc. of various diocesan assets such as its real estate, its Endowed Funds, its normal operational activities and its social concern corporations. The Ordinary would be the Sole Member of each of the corporations and he would retain the five responsibilities mandated by Canon law to-wit creation of the corporation and its by-laws, appointment and termination of trustees, control over the extraordinary disposition of assets by the corporation particularly in the real estate field, the sole power to amend the by-laws and the sole power to terminate the corporation. The trustees would be, to the extent possible, lay persons having no connection with the Diocese but having actual expertise in the matters of each corporation. (2) We are recommending that a Declaration of Charitable Trust be filed for each parish by which the ordinary would execute a Declaration of Trust appointing himself as trustee, naming the Roman Catholic Church as the sole beneficiary and stating that the parish assets, real, personal and mixed, (which are accurately identified) are held solely to carry out the charitable purposes of the Trust. The Trust would contain a Spendthrift clause which would state that its assets are not susceptible to any kind of legal process for non-trust



George S. Forde, Jr., Esquire
September 3, 1991
Page Two

purposes. Hopefully this would insulate the assets of the parish from execution.

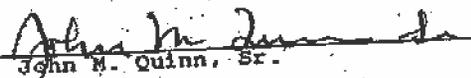
It is our conclusion that with regard to the diocesan corporations if they are created as above set forth actually hold meetings, create minutes and do the things for which they are created, a court would not "pierce the corporate veil" to satisfy a plaintiff's judgment in a pedophile case. In the case of the Declaration of Trust for the parishes, it is our thought that if such a document is filed with the Recorder of Deeds in the County in which each parish exists, this could well protect even the parish assets against the levy.

I believe because of the concern all of us have about the results of this type of litigation on our dioceses, that this is an appropriate agenda item for the Diocesan Attorneys meeting.

After you have had a chance to review this letter, it might be helpful if you would call me. I can be reached in the mornings at 814/452-7130 or in the afternoons at 814/833-2222. I will be away till 9/11, so please call after that date.

Very truly yours,

QUINN, GENT, ROSECK & LEEMHUIS, INC.

By 
John M. Quinn, Sr.

JMQS/jad

cc: Most Reverend Bishop Donald W. Trautman

DS 06789

Reorganization to Avoid Liability

Following the filing of criminal charges against Caparelli, Timlin issued a statement on behalf of the Diocese of Scranton. The statement announced the Diocese's full cooperation with law enforcement and its own thorough investigation. No comment regarding the Diocese's pre-existing knowledge of Caparelli's criminal conduct was made.

On December 17, 1991, Timlin personally took another complaint from a respected medical doctor and faithful catholic parishioner. The doctor disclosed that he had been a victim of Caparelli's when Caparelli had served at St. Mary's. He reported that he was 11 or 12 years old when Caparelli "sexually molested" him. The doctor reported that there were "other boys involved as well."

Second Draft - 12/12/91

Approved by Attorney James E. O'Brien, Jr.
and Attorney Mark Chopko

A Statement of the Diocese of Scranton

The Diocese of Scranton normally considers conduct on the part of its priests as an internal matter. However, due to the fact that, in this most unusual case, criminal charges of child sexual abuse have been brought against a diocesan priest, the diocese recognizes its responsibility to explain its actions with regard to this matter.

In accord with the guidance of the United States Catholic Conference, the Diocese of Scranton has implemented a multi-step approach, once allegations of priest sexual misconduct are raised and brought to the attention of appropriate diocesan officials. In this case, a prompt, thorough investigation was conducted, which led to the immediate suspension of the priest from his duties as pastor of St. Vincent's Church, Milford. The priest was then sent for psychological evaluation and intensive treatment at a facility in Maryland, where he remains at this time.

The diocese offered its full cooperation at all times, in the course of its own investigation and that of local law enforcement officials.

Any incident of this nature or any other reports similar to it are of intense concern to the diocese. Even one incident is viewed as tragic. The pain that results from child sexual abuse is deeply felt by the victim, the victim's family, the community and the Church itself.

DS 07696

RE. Rev. Robert Casarelli

This afternoon, Dec. 17, 1991, [REDACTED]

[REDACTED] Scranton, Pa.

[REDACTED] a 36 year old physician, called on me at the Chancery to tell me that he was sexually molested by Father Casarelli at St. Mary's in Old Forge, Pa. [REDACTED] was about 11 or 12 years old at the time. It happened over a long period of time, and [REDACTED] is absolutely certain that there other boys involved as well.

[REDACTED] is a [REDACTED] physician in Scranton and he has carried this burden all these years at great cost to himself emotionally and every other way. He was not looking for anything, no publicity, no money. He just wanted Fr. Casarelli to not be returned to a place where this could happen again or where he can cause such terrible trauma for other boys. He said I could use his name in talking to Father Casarelli.

I thanked [REDACTED] for his courage in coming to me. It was an extremely difficult thing for him to do. I assured him that we would keep this matter confidential, and only use it when necessary to confront Fr. Casarelli. [REDACTED] came forward at this time because he was encouraged to do so as a result of the publicity lately

+ James C. Tuttle
Bishop of Scranton.

DS 07748

On December 23, 1991, a civil lawsuit was initiated against the Diocese for Caparelli's criminal conduct. The Diocese aggressively fought back for a period of years before ultimately settling the matter. Timlin specifically took actions to protect the secret archives of the Diocese from legal discovery during the course of the litigation. These actions were taken despite the fact that the plaintiff's complaints were clearly consistent with diocesan knowledge that Caparelli had, in fact, molested the child. The lawsuit alleged that the child had been molested from September, 1985 through June, 1986 in the rectory of Saint Vincent DePaul. Specifically, the lawsuit alleged that Caparelli forcibly sodomized the child.

Catholic parishioners were not pleased at having been endangered and kept uninformed by the Bishops of Scranton. On January 9, 1992, one such parishioner, who attended St. Vincent's, wrote to Timlin stating:

Your misleading and deceptive tactics by sending a representative to the parish only was a further effort to circumvent the truth and cover up what possibly could be a true situation. To deal with parishioners in this matter as if they have no intelligence is perhaps more of a shock than what is presently facing us. To be dealt with as fools by those we trusted speaks of nothing but further non concern by you and the Diocese of Scranton. The Parishioners "rights to know the truth" has been violated and a distrust of the church and its hierarchy prevails. Perhaps this is even a greater scandal than the immediate crisis facing St. Vincent's parishioners.

6861316

1/17/92

Answered by phone.
Never got the first letter!
Everything ok - Now she
understands. HGT.

January 9, 1992

The Most Rev. Bishop James Timlin
Bishop of Scranton
300 Wyoming Avenue
Scranton, Pa. 18503

Dear Bishop Timlin:

The recent allegations and events concerning the Rev. Robert Caparelli, former Pastor of St. Vincent Church, Dingman Hills, Penna., have prompted me to again write to you. Perhaps you may recall that in September of 1988, I not only had a telephone conversation with Father Richards (of your office), but followed that conversation with a two page letter concerning Father Caparelli's drastic change in behavior and the possible need for professional help. You never so much as acknowledged the receipt of that letter that I took the time to draft out of concern for this troubled man. Perhaps you thought it was a "crank letter" from a disgruntled parishioner. Had you investigated the matter in 1988, perhaps we, as a parish family, would not be facing what we are today in such great proportion.

To have to see on TV, read the local headlines, or have some non-Catholic friends approach you about these alleged charges speaks poorly of the concern you have for both Father and the St. Vincent Parish Family "by keeping us in the dark" about any possible problems.

Your misleading and deceptive tactics by sending a representative to the parish only was a further effort to circumvent the truth and cover up what possibly could be a true situation. To deal with the parishioners in this manner as if they have no intelligence is perhaps more of a shock than what is presently facing us.

To be dealt with as fools by those we trusted speaks of nothing but further non concern by you and the Diocese of Scranton. The parishioners "right to know the truth" has been violated and a distrust of the church and its hierarchy prevails. Perhaps this is even a greater scandal than the immediate crisis facing St. Vincent's parishioners.

I am angered, not so much for what may be true allegations concerning Father Caparelli, but at you as a leader of the Catholic Church for the way in which you dealt with the situation.

-2-

Much healing is needed in the parish in order to survive the destruction done, not only by these allegations, but by your total disregard for us as a caring, forgiving parish family.

Very truly yours,

A large black rectangular redaction box covers the signature area.

Milford, Pa. 18337

DS 06245

The Parishioner's Letter

The letter bore a notation from Timlin, “Never got the first letter! Everything ok - now she understands.”

Another letter dated April 6, 1992 was found within the Diocesan records written by a retired captain of the Pennsylvania State Police. He stated that in 1974, a high school friend told him that Caparelli was touching the genitals of his son and others. In response, the captain met with the head pastor and Caparelli. Caparelli was confronted with the complaint that he was molesting children and he admitted that it was true.

The captain informed the head pastor and Caparelli that no one wanted to press criminal charges but that Caparelli’s conduct had to change. The head pastor assured him that he would take care of it. Caparelli was transferred within the year. Diocesan records showed that Caparelli was assigned as a chaplain at the Mercy Center in Dallas in 1974. In 1981, he was transferred again to St. Vincent’s as head pastor.

On July 14, 1992, yet another complaint about Caparelli was received by Timlin. The letter advised that Caparelli had abused 10-, 11-, and 12-year-old boys as far back as 1967 at Most Precious Blood parish. The writer indicated that he had knowledge of the abuse because he, his brother, and their friends were all victims. The letter stated:

There must have been other reported incidents of abuse in Caparelli’s career. It is inconceivable to me that this man molested altar boys in 1967 and never transgressed until 1991 when he committed 32 counts of indecent exposure, indecent assault, and involuntary deviate sexual intercourse with children.

14 July 1992

Bishop Timlin
Diocese of Scranton
300 Wyoming Ave.
Scranton, Pennsylvania 18503

*Answered by phone
7/20/92 - the
day this letter was received.
+ JCT.*

Dear Bishop Timlin:

I was deeply disturbed to read of the recent conviction of Reverend Robert Caparelli for sexual abuse of a teenage boy in Milford, Pa. You should be aware, if you are not already, that Caparelli sexually abused altar boys (ages 10, 11, and 12) as far back as 1967 at Most Precious Blood Church in Hazleton. I know this because my brother and I and a number of our friends were victims. Immediately upon learning of these heinous acts, my mother, together with other parish mothers met with Msgr. Mark Mecca (then pastor of MPB) and demanded that Caparelli be removed. Naturally, both Msgr. Mecca and Caparelli denied the abuse. Luckily, for our sake, our mothers did not give up. Upon the next incident of abuse (which occurred within days of the meeting), my mother removed us as altar boys and threatened to report Caparelli to the police. The Church persuaded my mother to avoid such actions, assuring us that Caparelli would be sent for treatment and would not again be placed in a position which afforded him access to young boys.

There must have been other reported incidents of abuse in Caparelli's career. It is inconceivable to me that this man molested altar boys in 1967 and never transgressed until 1991 when he committed 32 counts of indecent exposure, indecent assault, and involuntary deviate sexual intercourse with children.

My heart breaks for the boy who fell victim to this monster and for the boy's family. I, unfortunately, know first hand the anguish this boy experienced and the feelings of anger, guilt and despair his family must feel toward their Church. It saddens me terribly to know that, in my case (as in his), the Church failed to take sufficient, if any, action to end or condemn such heinous behavior. Instead, the Church chose to "protect its own" while jeopardizing the well-being of innocent children. It is difficult not to question one's faith in an institution that by its acts of denial and resistance commit and condone such sinful behavior.

Please do not ignore this letter. I expect some response from your office. Furthermore, I believe it is incumbent upon you to inform the Milford boy's family that the Church had been fully informed of this man's problem two and a half decades ago but continued to expose their precious child to this evil man.

Sincerely,



The Letter of a Victim

Over the years, many more victims came forward. Caparelli faced additional charges and ultimately pled guilty to offenses against children and received prison time. While in prison it was discovered that Caparelli had been HIV-positive for years. In December, 1994, Caparelli died while incarcerated.

Timlin and the Diocese of Scranton never fully disclosed the decades of knowledge and inaction that left children in danger and in contact with Caparelli. Press accounts and some limited public statements provided a few details of the abuse while the Diocese largely relied upon excuses related to a claimed lack of understanding of the depth of Caparelli's problem. The Grand Jury noted that even when no doubt could be left regarding Caparelli's guilt, the Diocese was determined to provide more aid to Caparelli than to his victims. A stunning example of this was found in a letter from Timlin to Caparelli's sentencing judge in October 1993 following Caparelli's convictions for crimes against children. The letter carbon copied the President pro tempore of the Pennsylvania Senate, Senator Robert Mellow. In it, Timlin requested that Caparelli be released from prison to a Catholic treatment facility – like those that had so often authorized the return of Pennsylvania's predatory priests to active ministry - Saint Luke's Institute in Maryland and the Servants of the Paraclete in New Mexico.

October 15, 1993

The Honorable Harold A. Thomson
Judges' Chambers
Pike County Courthouse
Milford, Pennsylvania 18337

Your Honor,

It has come to my attention that the Reverend Robert Caparelli is coming up before you for sentencing in the next few days. I write now to assure you that I am willing to make arrangements for Father Caparelli to be transferred from Lycoming County Prison to a health care institution approved by you if, indeed, you think this would be feasible and advisable. St. Luke's Institute in Suitland, Maryland, near Washington, D.C., and an institution in New Mexico are two facilities that specialize in these kinds of cases.

Such an arrangement would be a great financial savings for the State Government and it would mean that Father Caparelli would be able to continue his therapy. He would also be able to receive the medical care he very much needs, and he definitely would not be a threat to anyone while he is under the supervision of the authorities in the health care institution.

I would be most grateful to you if you could see your way clear to consider this option.

With every best wish, I am,

Sincerely yours,

Most Reverend James C. Timlin, D.D.
Bishop of Scranton

cc: Senator Mellon.

C
O
P
Y

DS 06669

The Bishop's Letter to the Sentencing Judge