
Chapter Five: Recommendations Regarding Archdiocesan Policies and Procedures for Responding to Allegations of Child Sexual Abuse by Priests

A. Introduction

The integrity of the Archdiocese has been impugned by the cases of priests' sexual misconduct with minors, and many people feel there has been a cover-up in the way the Archdiocese handled these cases. Nevertheless, while some see the process as a whitewash, others view it as a witch hunt.

The purpose of an archdiocesan internal inquiry is to determine (a) whether or not a priest has acted in a manner that precludes his functioning any longer in a parish setting or (b) whether or not he has merely acted imprudently and needs guidance or supervision. It is important to avoid conflicts in the process of inquiry in order to ensure fairness, objectivity, consistency, and credibility for all concerned.

The important ingredients for an effective response to allegations of sexual abuse by priests include: (a) the expertise of the person who conducts the inquiry and professionals who help evaluate the evidence, (b) the involvement of both peers and laity in the inquiry process, (c) the keeping of appropriate records, and (d) the decision of the Cardinal based on the information generated and the recommendations of these persons.

As noted above, one of the inherent problems in pedophilia and ephebophilia is the cognitive distortion which leads abusers to deny any wrongdoing. So, there is an issue of credibility whenever an accused person denies that he has sexually abused a minor. On the other hand, an allegation does not of itself imply that a person is guilty until proven innocent.

There is also an issue of credibility whenever a minor or an adult comes forward with an allegation of child sexual abuse.

When young children make such allegations, they usually carry great credibility, especially if the child is obviously distressed and is specific about what happened. However, it is also important to ascertain whether anyone is exploiting the child. There are circumstances today which lead to false accusations: for example, custody battles, divorce disputes, or cases where large sums of money are involved. This issue has been greatly politicized, and the rallying cry is "Children don't lie about such matters." This is an oversimplification. Each complaint must be

examined very seriously. It is important to know to whom the child has been talking, what pressures or influences he or she may be subject to, and how the investigation was conducted. The same is true of older children and adolescents.

General accusations coming later in life present more of a problem. Many people have not thought about these matters for many years. Things they recall much later in life may not be true, even though they sincerely believe that they are true. The human memory is fallible. Every allegation must be taken seriously in order to begin a healing process. One does not want to add insult to injury by not believing a person who eventually comes forward with an allegation regarding earlier child sexual abuse. Nevertheless, it is also terribly agonizing to be falsely accused of such behavior.

It is the function of the process of inquiry to assess all of the relevant factors to determine as best as possible where the truth lies when allegations have been made. This would mean that, while there may be no objective corroboration — such as eyewitnesses or medical reports — there can still be an evaluation of factors such as internal consistency of the story told, the demeanor of the accuser, other independently verifiable information given by the victim that lends credibility to the accuser's story, other accusations or information in the accused priest's personnel files, and so on.

The process of inquiry which the Commission is recommending to Cardinal Bernardin may still appear as a cover-up to some. However, an appropriate approach to confidentiality is not the same as a cover-up. The Archdiocese needs a way of intervening and confronting individuals, letting them know that a mechanism exists to help them. Preserving the rights of those involved to confidentiality does not mean avoiding the Church's responsibilities.

The Commission thinks that the following structure and procedure is both appropriate and necessary at the present time in the Archdiocese of Chicago. We feel it will remove some of the problems of the past and ensure that the process is fair, objective, consistent, and credible. We weighed the possibility of isolating the Cardinal from this process because of his pastoral and ecclesial relationship with his priests.

However, we decided that, in the present situation, he needs to be personally involved in the process. Indeed, we have every indication that he *wants* to be involved in it.

The Commission discussed often and at length whether there should be a different procedure for dealing with priests accused of sexual misconduct with minors and other archdiocesan personnel or volunteers. We concluded that there should be a separate procedure for responding to allegations involving priests for several reasons. First, by reason of their ordination and incardination, they have a special role in the Church, and they carry a sacred trust because they are priests. Secondly, they are not employees of the Archdiocese. Thirdly, the Church's own Code of Canon Law requires that priests be treated in a certain way because of their vocation. Finally, the majority of problems in recent years have by far involved priests rather than other archdiocesan personnel. This, in itself, calls for special attention and a separate procedure. This does not imply, however, that the structure and procedures we recommend could not be adapted for use with allegations of sexual misconduct by others.

The Commission recognizes that any policies and procedures adopted or implemented by the Archdiocese must be consistent with the requirements of the Church's Revised Code of Canon Law. To that end, the Commission has met and discussed the following policies and procedures with three eminent canonists: Fr. Francis Morrissey, O.M.I., an internationally recognized canonical expert in the area of clergy sexual misconduct with minors, Fr. Robert Kealy, the former Chancellor of the Archdiocese, and Fr. Thomas Paprocki, the current Chancellor. The Commission believes that the recommendations which follow are in accord with the requirements of canon law.

B. Recommendations

The Commission recommends that Cardinal Bernardin take immediate action to appoint a nine-person Permanent Review Board. It should consist of three lay professionals (a psychiatrist and a psychologist or social worker with experience in this area, and an attorney), three priests (one of whom should be in parish ministry), and three lay

representatives of the Church-at-large (a parent, a victim of child sexual abuse or a parent of a victim, and a parish council member).

All the lay members of this Board should not be employees of the Archdiocese. This Board receives evidence, consults, deliberates, and makes recommendations to the Cardinal who makes the final decisions in each case. This Permanent Review Board will replace the Advisory Committee to the Vicar for Priests' Office in cases of child sexual misconduct. The Board will meet monthly to monitor ongoing cases and on an ad hoc basis as new cases arise. It reports directly to the Cardinal. The Board needs direct access to the Cardinal or, in his absence, his delegate.

The Chancellor will be the contact person for the case manager (cf. below) in dealing with other archdiocesan administrators, with the Vicar General as a backup. The Cardinal or his delegate will sit in on all Board meetings, but will not chair the group or vote on its recommendations. The Cardinal may also bring other advisors to the meetings so that they, too, will hear firsthand what is said by the Board. The advisors are not present to impede the process, but we recognize the liability concerns of the Archdiocese that may follow from allegations of misconduct, just as pastoral responsibilities may follow from them. Our recommendations are premised on the need to protect the safety of the children and the integrity of the institution and should not be impeded by liability considerations.

The Cardinal's delegate will *not* be one of the three priests on the Board. Moreover, none of the members of the Board should discuss cases with the Cardinal on an individual basis (outside the meetings) nor should any member have individual contact with the victim(s) or priest(s). The Board needs to be independent. Further, beyond notifying the Cardinal whenever an allegation is made, the case manager, who also must remain objective and independent, should not discuss any case alone with the Cardinal.

The Commission recommends that the Permanent Review Board immediately hire a lay professional case manager who will need support staff.

The case manager's office is accountable to the Permanent Review Board. For administrative purposes, the office should be housed in the Chancellor's Office, but it does not report to the Chancellor. The administrative purposes are: physical location, budgeting, supplies, scheduling, secure files, and payroll. Besides conducting investigations into allegations of sexual misconduct by priests, the case manager will monitor the progress of all cases involving priests and the supervision of these priests. He will notify the Vicar for Priests when a priest is not meeting a mandate or therapeutic goal.

The Commission discussed whether the case manager should be an employee of the Archdiocese or not. Such a person needs to be available on short notice and needs to be able to deal effectively with both the victim and the accused. We concluded that the person should be employed by the Archdiocese to ensure both availability and competence. At the same time, the case manager will need a backup for times when he or she may be sick or on vacation.

The Commission recommends that the Vicar for Priests' files be moved to the case manager's office as soon as it is established.

The case manager, in consultation with the Permanent Review Board, will follow through on all past and present cases of sexual misconduct with minors by priests as well as any new ones which may arise. It is very important that the case manager be professionally trained and sensitive to the vulnerability of young victims. Someone with a legal-psychological background, and experience in the area of child sexual abuse, would be the best kind of person for this task. The case manager's task is to obtain all the pertinent information and to present it to the Permanent Review Board for decisions.

The Commission also recommends that the Archdiocese of Chicago establish a 24-hour hotline to receive all allegations of child sexual abuse by priests. The Commission would have no objection to this hotline being used for allegations regarding other archdiocesan personnel or volunteers.

Charges of sexual misconduct usually come from the victim or the victim's family. If a pastor, principal, or archdiocesan employee receives a complaint regarding an archdiocesan priest, orally or in writing, he or

she forwards the complaint immediately to the archdiocesan hotline. All such complaints are to be reported. The victim or victim's family may also directly call the hotline at any time in order to make a charge or allegation of child sexual abuse. The call will be immediately directed to the case manager's office.

The Commission recommends the following administrative procedure to Cardinal Bernardin in regard to allegations of child sexual abuse by priests:

1. **An allegation of child sexual abuse by a priest is made to the archdiocesan hotline.**
 - 1.1 **It is immediately forwarded to the case manager's office.**
 - 1.2 **All allegations involving a priest are to be forwarded of this office.**
 - 1.3 **The allegation may be oral or in writing.**
2. **The case manager's office takes immediate action.**
 - 2.1 **If the case manager did not personally receive notification from the hotline, he or she is notified.**
 - 2.2 **If applicable and not already done by someone else, the case manager immediately notifies the Illinois Department of Children and Family Services.**
 - 2.3 **The case manager notifies the Cardinal that an allegation has been made against a priest and its contents.**
 - 2.4 **The case manager then notifies the full Permanent Review Board that an allegation has been made against a priest and gives them the date, time, and place of their next meeting which is to take place within 48 hours.**
 - 2.5 **The case manager notifies the accused priest of the allegation.**

It is the Commission's position that the Cardinal should not meet with the accused priest until the first-stage investigation has been concluded and the Permanent Review Board has made its report to the Cardinal. There are certain administrative actions that the Cardinal would make during this initial period, independent of the investigative process, such as initiating a pastoral response, where appropriate, and notifying the archdiocesan director of legal services, the archdiocesan attorney, and the underwriters of archdiocesan insurance.

Assuming that the matter has not been made public, the investigative process is strictly confidential to protect the rights of the alleged victim(s) and the priest who has been accused. Confidentiality, moreover, helps ensure candor and depth during the interviews that follow. Because the Permanent Review Board will conduct its work in confidentiality, each member will be asked to sign a statement to that effect before being appointed.

The accused priest usually is not automatically placed on an administrative leave from his assignment as soon as an allegation is received. While not preventing him from exercising his office during the first-stage investigation (within 48 hours) may involve some risk, it also protects his rights, including the rights to confidentiality and his good name. Moreover, when he is notified that a charge has been made and a preliminary investigation will take place within the next 48 hours, this, too, should lessen the possibility of risk to others.

If the initial allegation is made to civil authorities, and archdiocesan officials learn of this directly from them or indirectly through the media, the case manager begins the process simply by notifying the full Board of its next meeting within 48 hours. In either case, the first-stage of the investigation follows.

3. First Stage Investigation

3.1 The first-stage of the investigation begins immediately.

The purpose of the initial investigation is to ascertain probable cause: Is there a basis for the allegation? The underlying concern is: Should the accused priest be in a ministerial position with access to minors? This investigation is an administrative, not a criminal, procedure.

3.2 The case manager creates a file on all cases.

All the reports will use the same format and will include both electronic and written copies. The case manager will also follow the same formal time schedule for all cases.

3.3 The case manager interviews the relevant persons: the victim, the victim's family, the accused person, and others as the case manager deems appropriate at this initial phase.

The case manager will tell the accused who made the accusation and what is being charged, in as detailed a fashion as necessary. The accused does not have a right to the investigative file, however, because corroborating witnesses may not want their names used. If such information is given to the accused, these witnesses may not cooperate with the investigation. Again, the primary purpose of this first-stage investigation is to ascertain the truth and protect victims and potential victims from risk.

An accused priest, like others, has a right to be treated fairly and justly. However, this does not imply that he must have an attorney present during this first-stage investigation. At the same time, by reason of their special vocation and their promise, at ordination, of obedience to their Ordinary and his successors, they have certain responsibilities to the Church and its pastors. If the priest refuses to talk with the case manager, the case manager will inform the Permanent Review Board about this.

However, if the priest admits the allegation and volunteers to leave his current assignment, the case manager should notify the Cardinal's delegate and proceed accordingly to make arrangements for housing and therapy.

3.4 The case manager obtains all of the priest's pertinent personnel files and any reports that may have been drawn up by civil authorities.

3.5 The case manager then prepares his or her confidential report for the Permanent Review Board.

Because of the limited time period of this first-stage inquiry, this report may be given orally. However,

after meeting with the Board, the case manager will draft a written report of the investigation for the file.

4. The next step is the first-stage Permanent Review Board meeting.

4.1 The Board meets with the case manager within 48 hours of the complaint to the archdiocesan hotline.

4.2 The Board receives and discusses the case manager's initial report.

The case manager is present to give the report and answer any questions, but does not participate in the Board's deliberations. The case manager may tell the Board whether or not he or she thinks further investigation is warranted.

4.3 A quorum consists of five members, requiring at least one each of the priests, professionals and lay members. The Cardinal or his delegate attends the meeting.

As noted above, the Cardinal may also bring other key advisors to the meeting. Neither the Cardinal nor his delegate chairs the meeting or votes.

The Vicar for Priests will not be part of the investigative process. The accused priest may invite the Vicar to minister to him. The Vicar will not have access to the investigative file of the case manager's office. He will minister to priests only in the internal nonsacramental forum. He has a responsibility to report any sexual misconduct to the Cardinal. He will not report however, to the case manager any sexual misconduct which priests may reveal to him.

The Permanent Review Board reviews the priest's personnel file, seminary file, and former Vicar for Priests' file if there is one (all of which will be forwarded to the Board by the Chancellor).

4.4 The Board determines whether there is probable cause to the allegation.

In effect, this determination helps the Cardinal assess risk. The Board's task is not to conduct a criminal procedure with a view towards taking away a person's freedom and sending him to prison. Because freedom is a constitutional right, taking it away requires "proof beyond a reasonable doubt." When the issue is restricting a person's access to

children or preventing him from temporarily exercising his priestly office, probable cause suffices. The principle that a person is innocent until *proven* (beyond a reasonable doubt) guilty is operative in criminal, not administrative, procedures.

Using the same criteria for all cases, the Permanent Review Board recommends what future action, if any, is to be taken. While it does so in the Cardinal's presence (or in that of his delegate), it also provides him with a written report, a copy of which is also given to the accused priest.

The Board has four fundamental options to choose in making its recommendations at the conclusion of the first-stage meeting.

4.5 If the Board concludes that there is no probable cause, they may (a) close the case or (b) restrict and monitor the priest's behavior, if appropriate.

- (a) If the case is unfounded — that is, the Board concludes that there is no probable cause to believe that the priest engaged in sexual misconduct — and merits no further inquiry, the Board signs off on the file and the case. The file is kept in confidential archives, and the priest is notified that the case is closed.
- (b) If the case is unfounded, but the Board concludes that the priest has acted imprudently, the Board may recommend that his activities be restricted and he be supervised, monitored, or counselled. In such case it will recommend that the Cardinal (1) send a letter to the priest outlining the specific restrictions and imposing the supervision and (2) notify the pastor. If the case involves a pastor, the Cardinal will notify his dean. If deemed appropriate, other parish and school personnel will also be notified.

4.6 If the Board concludes that there is probable cause, they will recommend that the priest be put on an immediate administrative leave with pay, pending the second-stage investigation.

If the Permanent Review Board determines there is probable cause to believe an allegation, it will continue the process. During this second-stage investi-

gation, the Cardinal or his delegate will place the priest on an immediate administrative leave with pay, away from his parish assignment and residence. The Permanent Review Board will not make this matter public, because the accused has the right to confidentiality until a final decision is made. The priest's right to confidentiality at this point outweighs the laity's right to know exactly what is happening.

There may be circumstances where a second-stage investigation is not necessary, because of the priest's admission of guilt. In those cases the Board will recommend that the Cardinal permanently remove the priest from his place of assignment and residence. The Cardinal or his delegate will send a letter of removal to the priest and notify his pastor. If the priest is a pastor, the Cardinal or his delegate will notify the pastor's dean.

4.7 The investigator notifies the victim of the Board's conclusions and recommendations to the Cardinal.

If the Board determines that there is probable cause, the second-stage investigation of between 30 and 40 days begins immediately. For serious reasons, the Board may grant an extension of this timeframe. During this time, the priest lives in a setting which does not provide him access to minors, and his activities are carefully monitored.

5. Second Stage Investigation

5.1 The priest is sent to the Isaac Ray Center at Rush-St. Luke's-Presbyterian Medical Center for a complete psychiatric/psychological assessment. If the Archdiocese decides to use a different facility, that center should do all the assessments.

The Center's reports are sent to the case manager, who shares them with the Permanent Review Board and the accused priest, but not with the Vicar for Priests, unless the accused priest wants him to have access to them.

5.2 The case manager may interview others; for example, key persons in previous parishes where the priest had been assigned.

5.3 The case manager prepares written statements and reports.

The case manager may also obtain police, other investigative reports, and other relevant material.

5.4 The case manager notifies the Permanent Review Board of the date, time, and place of the second-stage meeting which takes place within 30-40 days of the first-stage meeting.

5.5 The case manager prepares his or her full written report for this second-stage meeting.

The second-stage Permanent Review Board meeting is still an administrative procedure, not a criminal trial. While it may be informal, it may also be adversarial.

6. Second Stage Permanent Review Board Meeting

6.1 The same quorum is required, that is, five members of the Board, as long as all three categories are represented: professionals, priests, and laity. The Cardinal or his delegate also attends.

As in the first-stage meeting, the Cardinal may also bring key advisors to the session.

6.2 The Permanent Review Board reviews the case manager's full report and any written evidence which it has received.

Staff from the psychiatric evaluation center may be present to answer questions or elaborate on the written psychological report.

6.3 The accused priest may appear before the Board or submit a written statement.

6.4 The victim or the victim's parent may appear before the Board or submit a written statement.

6.5 Other witnesses determined relevant by the case manager may also appear.

6.6 Affidavits may be submitted.

Both the accused and the victim(s) have the right, but not the obligation, to appear before the Board during this second-stage hearing. The accused may have the Vicar for Priests, his attorney, and/or witnesses for his defense present. However, the Board may limit the number of witnesses lest the process become unwieldy.

6.7 After reading and hearing all the evidence, the Board votes on whether or not there is a preponderance of evidence to support the allegation.

6.8 After this determination has been made, the Board recommends to the Cardinal how to proceed.

The Board's final recommendation may be (a) restricted access to minors, (b) removal from parochial ministry, (c) conditions for a possible return to ministry, (d) retirement from the active ministry, (e) permanent removal (resignation and/or laicization) or (f) such action as the Board may deem appropriate. The Board may also recommend ongoing individual and group therapy and treatment, as well as ongoing supervision.

6.9 The case manager notifies the victim of the final decision(s).

The Commission recommends this notification of the victim after both the first-stage and second-stage meetings because, in the past, victims were left in the dark about what the Archdiocese was doing in regard to their allegations. This contributed both to their anxiety and their anger. This runs counter to the compassionate healing process which should be the hallmark of archdiocesan responses to allegations of child sexual abuse.

The Permanent Review Board is the appropriate group to monitor ongoing cases and make recommendations if the issue of a priest's possible return to ministry arises.

The Commission recommends that, as soon as these recommendations become final archdiocesan policy, they be printed in a special edition and distributed to all priests. A form should also be drawn up and distributed requiring every priest — archdiocesan,

religious, or extern — to sign it, indicating that he has read and, therefore, is familiar with the new policies and procedures. This form should then be sent to the Chancellor's Office and kept in the priest's file.

No policy and procedure is effective unless it is communicated to those for whom it was established. While priests may object to signing such a form, it is an essential step in preventing and eradicating child sexual abuse.

The Commission also recommends that the Cardinal tell the priests that they are expected to cooperate with the case manager and the Permanent Review Board.

This seems rather obvious given their special vocation and promise of obedience to their Ordinary.

The Commission fully recognizes that this proposed set of policies and procedures is not the last word. We recommend that Cardinal Bernardin accept it as a pilot program which can be revised and improved in the future. It will be essential to keep careful documentation in order for the process to be effective. It might be advisable to conduct a survey a year or two from now of the persons whose lives were impacted by the process to learn what its strengths and weaknesses are and to make the necessary adjustments.

C. Related Issues.

1. Vicar for Priests' Office. When Cardinal Bernardin arrived in the Archdiocese of Chicago, he established the Vicar for Priests' office to show his care and love for the priests. While this was a very worthy purpose, asking the Vicar for Priests to handle allegations and cases of priests' sexual misconduct with minors eventually tended to overwhelm the office and distort the Vicar's appropriate role.

The Vicar for Priests dealt with priests in a pastoral way, but he also had a responsibility to the larger Church because, in some of these cases, criminal behavior had occurred. There was a built-in tension between trying to be an advocate for the priests and an advocate for the Archdiocese. Many of the priests who had engaged in sexual misconduct admitted their guilt because of their personal rapport with the respective Vicar for Priests. However, in the past year, the credibility of the Vicar's role as pastor has been significantly diminished among the archdioc-

san priests. If he is ever to be seen again as an advocate or pastor for priests, he can no longer be the one who investigates allegations, but may be involved in the treatment and aftercare of priests who have offended.

We have great admiration for the three priests who have exercised the office of Vicar for Priests, as well as for Fr. Andrew McDonagh who has assisted on a part-time basis. Theirs has been a very difficult task, and it has taken a personal toll on them. The office deserves to be restored to its original purpose.

That is why we recommend that the Vicar for Priests no longer be involved in investigating new allegations of sexual misconduct with minors or in monitoring the existing cases. Likewise, while the Advisory Committee to the Vicar for Priests' Office may continue to advise the Vicar, its role in regard to allegations and cases of priests' sexual misconduct with minors will be assumed by the new Permanent Review Board.

2. Laity and the Review of these Cases. Our fourth mandate was to "present recommendations about how the Archdiocese might best incorporate laypersons into its review process." It should be clear that we have concluded that laypersons should be involved in the process as case manager and on the Permanent Review Board.

The issue was raised in many of our interviews, especially with archdiocesan personnel. There was widespread agreement that authentic lay participation, especially by women, is essential in this process. While very few of the letters we received from concerned laypersons and clergy objected to any lay involvement in this process, the vast majority said that lay involvement was necessary in order to restore credibility to the process.

As a Commission, we agree with this assessment. All of us in the Church have been hurt by the cases of priests' sexual misconduct with minors. And all of us share a responsibility for the Church's mission and ministry. Moreover, it is vital that the proposed Permanent Review Board include professionals who are not archdiocesan employees.

Because the Board will conduct its work in confidentiality, it is essential that its members be trustworthy. Because the workload, especially initially, will be very heavy, the members of the Board will have to be very dedicated and committed to their work. Because they will be called on short notice if a new allegation arises, they will also have to be flexible and generous with their time. We are confident that such people can be found in the Archdiocese.

Investigative Procedure

Allegation to Hotline	Office of Case Manager	First Stage Investigation	First Stage Permanent Review Board Meeting	Second Stage Investigation	Second Stage Permanent Review Board Meeting
1.1 Forward to Inquiry Office	2.1 Notify investigator	3.1 Commence investigation immediately	4.1 Within 48 hrs. of report to hotline	5.1 Psychiatric evaluation	6.1 Same quorum required, Cardinal or designee to attend
1.2 All to be forwarded	2.2 Report to DCFS	3.2 Create a file	4.2 Receive & discuss investigator's report	5.2 Further investigation	6.2 Review report and written evidence
1.3 Oral or written	2.3 Notify Ordinary	3.3 Interview relevant persons	4.3 Quorum of 5, Cardinal or designees to attend	5.3 Prepare written statements and reports	6.3 Priest may appear or submit written statement
	2.4 Notify full board of meeting within 48 hours hence	3.4 Obtain all Reports and files	4.4 Determine probable cause, yes or no	5.4 Schedule next meeting within 30-40 days	6.4 Victim may appear or submit written statement
	2.5 Notify accused	3.5 Prepare report for board	4.5 If no p.c., recommend close case or restrict & monitor, if appropriate	5.5 Prepare report	6.5 Appropriate witnesses may appear
			4.6 If p.c., recommend administrative leave with pay, further proceedings		6.6 Affidavits may be submitted
			4.7 Notify victim		6.7 Board vote on preponderance of evidence
					6.8 Recommendation to Ordinary
					6.9 Notify victim..

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