August 15, 2018

Rod J. Rosenstein, Deputy Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Re: ***Demand for Investigation and Prosecution of High-level Officials in the Catholic Church for Widespread and Systemic Rape and Other Forms of Sexual Violence***

Dear Deputy Attorney General Rosenstein:

Yesterday, the Pennsylvania Supreme Court released a grand jury report which sets out in clear, unmistakable terms and in horrifying detail widespread sexual violence by priests involving more than 1,000 victims and a coherent, cohesive, pattern and practice of cover-up by high-level officials in the Catholic Church in Pennsylvania and the Vatican.[1] The Pennsylvania report is very thorough, and the latest in a tragically long line of such reports from around the country, and indeed, the world.

It is long past time for the U.S. Department of Justice to initiate a full-scale, nationwide investigation into the systemic rape and sexual violence, and cover-ups in the Catholic Church, and, where appropriate, bring criminal and/or civil proceedings against the hierarchy that enabled the violations.

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Survivors have been calling for such an investigation at least since 2003, in the wake of the explosive revelations in the Boston archdiocese which exposed widespread sexual violence by priests and a systematic cover-up that reached to the highest levels of the Church hierarchy not only in the archdiocese but at the Vatican. In 2003, the Survivors Network of those Abused by Priests (SNAP) sent a memorandum "[o]n behalf of the children, men and women who have been *and will be* sexually victimized by Catholic clergy in the United States" to then-Attorney General John Ashcroft calling for investigation "into the administrative and institutional practices of senior management within the Catholic Church."[2]
At that time, as noted in the memorandum, "over the last two decades a multitude of cases [had] arisen in the United States concerning sexual abuse perpetrated by permanent employees of the

[1] 40th Statewide Investigating Grand Jury, Report 1: Interim, Redacted, Released August 14, 2018, available at http://media-downloads.pacourts.us/InterimRedactedReportandResponses.pdf?cb=5510158.

[2] *See* Peter Isely, Position Paper: Sexual Abuse and the Catholic Church: The Need for Federal Intervention, Survivors Network of those Abused by Priests, November 2003, at pp. 4-5, annexed hereto as Exhibit 1, Appendix B. (emphasis added).

Catholic Church" and there was a growing body of evidence that "senior management within the church unilaterally undermined the laws of the United States and have not been held accountable for these practices."[3] The memorandum provided insight into the structure and hierarchy of church entities – and how they operated to shield offenders, and facilitate more violations.

When SNAP called upon the Department of Justice in 2003 to initiate an investigation into the systemic sexual violence and cover-ups, it noted that a federal-level investigation was necessary because no one county or state-level jurisdiction could address the problem at its core because the "fragmentation of information" concerning reported offenders "spread across a multitude of Dioceses and Religious Orders in confidential personnel files… has enabled the Catholic Church to avoid criminal investigation and prosecution."[4]

There was no response from the Justice Department to SNAP and no investigation.

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Subsequent to that communiqué, more accounts of widespread sexual violence by clergy came to light in the United States and around the world, as did a greater understanding of the profound harm done to victims/survivors, including through the minimization of the harm and the lack of accountability.[5] In 2014, SNAP, along with the Center for Constitutional Rights (CCR), submitted a report to the United Nations Committee Against Torture in which the organizations denounced the failure of the United States government to address this widespread and systematic sexual violence by clergy and cover-up by Church officials around the country.[6]

The SNAP/CCR 2014 report to the UN Committee Against Torture highlighted more recent revelations within the United States demonstrating more cases of sexual violence and evidence of continued and ongoing cover-ups by Church officials, including in: the archdiocese of

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[3] *Id.* at 3.

[4] Letter from Survivors Network of those Abused by Priests to Department of Justice, November 2003, annexed hereto at Exhibit 1, Appendix B.

[5] The Survivors Network of those Abused by Priests and the Center for Constitutional Rights documented the widespread and systematic violations, the practices and policies of the Church hierarchy that enabled the harm, the physical and mental impact on victims and survivors, and the legal qualifications of the conduct in a series of submissions to international bodies. *See, e.g.,* Preliminary Communication pursuant to Article 15 to the Prosecutor of the International Criminal Court, May 19, 2011 available at https://ccrjustice.org/sites/default/files/assets/Survivors%20Network%20Art%20%2015%20Communication%20to%20ICC%20OTP%20(3).pdf; Victims' Communication Pursuant to Article 15 of the Rome Statute Requesting Investigation and Prosecution of High-Level Vatican Officials for Rape and Others Forms of Sexual Violence as Crimes Against Humanity and Torture as a Crime Against Humanity, September 2011, available at http://s3.documentcloud.org/documents/243877/victims-communication.pdf; Fighting for the Future, submitted to the Committee on the Rights of the Child upon review of the Holy See, February 2013, available at https://ccrjustice.org/sites/default/files/assets/SNAP%20Shadow%20Report%20to%20UN%20CRC.pdf; .Shadow Report, prepared for 52nd Session of the Committee Against Torture in Connection with its Review of the Holy See, April 2014, available at https://ccrjustice.org/sites/default/files/attach/2014/12/CCR_SNAP_Shadow_Report_apr2014.pdf. For more information, see generally: https://ccrjustice.org/home/what-we-do/our-cases/snap-v-pope-et-al.

[6] Survivors Network of those Abused by Priests and the Center for Constitutional Rights, THE FAILURES OF THE UNITED STATES TO PROTECT AGAINST AND PROVIDE REDRESS FOR THE NATIONWIDE AND SYSTEMIC SEXUAL VIOLENCE AND COVER-UP BY CATHOLIC CLERGY: SHADOW REPORT TO THE UNITED NATIONS COMMITTEE AGAINST TORTURE IN CONNECTION WITH ITS REVIEW OF THE UNITED STATES OF AMERICA, November 2014. Annexed hereto as Exhibit 1.

Milwaukee, Wisconsin (2013); the archdiocese of Los Angeles (2013); the archdiocese of Minneapolis (2013); the archdiocese of Philadelphia (2011). The report also pointed to earlier local investigations documenting the same kinds of violations and patterns and practices of cover-ups, including in Westchester County, New York (2002), Suffolk County, New York (2003), Diocese of Albany, New York (2012), Diocese of Manchester, New Hampshire (2003), archdiocese of Boston (2003), Philadelphia (2003 and 2005), and Arizona (2003).[7]

The 2014 report pointed out that as early as 2003 it was already reported that:

- that the crisis led to "nearly every diocese" in the United States, based on a survey conducted by the New York Times;
- that the Vatican's own officials were advised by experts that the number of victims in the United States alone is estimated to be at least 100,000;
- at least two-thirds of bishops were involved in concealment.[8]

The United Nations Committee on the Rights of the Child and Committee Against Torture have also taken up these concerns and expressed alarm at the global scale of the sexual violence and the Church policies and practices that have concealed and enabled the violence.[9] Of particular note, the Committee Against Torture recognized that sexual violence by clergy can qualify as the crime of torture.[10] Both committees have issued clear and strong recommendations to the Vatican aimed at ending the violence and system of cover-ups.[11] It should be noted that the Vatican has not complied with requests from both committees to provide additional information and with interim reporting requirements.

With regard to the United States, the Committee on the Rights of the Child expressed concern about the government's failure to properly investigate and prosecute cases pursuant to its obligations under the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, noting that:

> The Committee is deeply concerned at information of sexual abuse committed by clerics and leading members of certain faith-based organizations and religious institutions on a massive and long-term scale amounting to sexual slavery or servitude of children and about the lack of measures taken by the State party to properly investigate cases and prosecute those accused who are members of those organizations and institutions.[12]

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7 *Id*. at Exhibit 1, Appendix A.

8 *Id*. at 2.

9 *See* United Nations, Concluding Observations of the Committee on the Rights of the Child on the Second Period Report of the Holy See, CRC/C/VAT/CO/2 (31 Jan. 2014) ("CRC 2014 Concluding Observations"), paras. 29, 43; United Nations, Concluding Observations of the Committee Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on the Initial Report of the Holy See, CAT/C/VAT/CO/1 (17 June 2014) ("CAT Concluding Observations"), paras. 9-18.

10 CAT Concluding Observations, paras. 12-14.

11 CRC 2014 Concluding Observations, para. 44; CAT Concluding Observations, paras. 9-18.

12 Concluding Observations on the Second Periodic Report of the United States of America submitted under Article 12 of the Optional Protocol to the Convention on the Sale of Children, Child Prostitution and Child Pornography, CRC/C/OPSC/USA/CO/2 (2 July 2013) at para. 35.

The Committee urged the United States to:

> …take all necessary measures to investigate all cases of sexual abuse of children whether single or on a massive and long-term scale, committed by clerics, to issue clear instructions to all relevant authorities to actively prosecute those cases and to engage in a dialogue with faith-based organizations, religious institutions and their leaders, in order to enlist their active and open collaboration to prevent, investigate and prosecute cases.[13]

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The cases of sexual violence and evidence of Church cover-up have only continued to mount and survivors predicted they would in 2003. The Department of Justice must step up and conduct a thorough, full-scale investigation in this system-wide network of sexual violence and cover-up.

Accordingly, SNAP and CCR reiterate the call made to the Justice Department to investigate possible violations of federal law including but not limited to: Obstruction of Criminal Investigations, 18 U.S.C. § 1510; Obstruction of State and Local Law Enforcement, 18 U.S.C. § 1511; Tampering with a Witness, Victim, or Informant, 18 U.S.C. § 1512; Aiding and Abetting (Another Crime), 18 U.S.C. § 2; the Racketeer Influenced Corrupt Organizations Act (RICO), 18 U.S.C. § 1961 *et seq*, Kidnapping, 18 U.S.C. § 1201; Sex Trafficking of Children, 18 U.S.C. § 1591; Sexual Abuse and Exploitation of Children, 18 U.S.C. §§ 2241-44, 2251, 2251A, 2252; and Transportation for Illegal Sexual Activity, 18 U.S.C. §§ 2421-23.

Moreover, the Justice Department's Human Rights and Special Prosecutions Bureau is also urged to initiate an investigation into the acts or omissions of the Church hierarchy outside of the United States under 18 U.S.C. §§ 2340-2340A for torture and/or conspiracy to torture, for which there is no statute of limitations.

Sincerely,

Tim Lennon

President
Survivors Network of those Abused by Priests

Katherine Gallagher
Pamela C. Spees
Senior Staff Attorneys
Center for Constitutional Rights

cc: Brian A. Benczkowski, Assistant Attorney General, Criminal Division
Teresa McHenry, Chief, Human Rights and Special Prosecutions Section
John M. Gore, Acting Assistant Attorney General, Civil Rights Division
Tracy Toulou, Director, Office of Tribal Justice
Josh Shapiro, Attorney General, State of Pennsylvania

[13] *Id.* at para. 36.

Exhibit 1

Appendix A

Summaries and Findings of Key Investigations into Sexual Violence by Catholic Clergy in the United States

- **New York: Report of the Grand Jury, Westchester County (2002) ("Westchester Report")**

In April of 2002, a Grand Jury in Westchester County, New York, was convened in connection with complaints of sexual abuse and misconduct against minors by members of the local clergy. The Grand Jury met on 15 occasions and received testimony from 21 witnesses, including eight victims of sexual violence and reviewed 31 exhibits consisting of thousands of pages of documents. The Grand Jury report noted that "the specific types of abuse varied, including instances when the abusing clergy member masturbated the child victim to climax; engaged in oral sex; fondled the victim's penis and buttocks; forced the victim's hand onto the offender's penis; and engaged in mutual masturbation to climax by force" and further that the "overwhelming evidence demonstrated that sexual abuse and/or misconduct by a member of the clergy had shattering psychological effects on the victim-child."[1]

The Westchester Grand Jury also found that when it became aware of the abuse, the religious institution "rather than seeking to alleviate the trauma to the victim, increased it,"[2] and that it uniformly failed to report the offenses to civil law enforcement authorities.[3] Likewise, the Grand Jury also found that the religious institution "consistently shuttled the abuser from place to place each time an allegation came to light"[4] and purposefully kept the new congregation in the dark which served to "put more children at risk"[5] and further that the institution's "internal investigation of the allegations was primarily geared to delay, with the hope that the victim and his family would not persist in pursing their claim" and to protect the institution from adverse publicity and its economic welfare. [6]

Among the more insidious aspects of the church's practice were the lengths to which it would go to discredit the victims. The practice was summarized by the Grand Jury in this way:

> The Grand Jury also heard testimony and viewed evidence that, after an allegation of abuse became public by the filing of a lawsuit or otherwise, there was a concerted effort on the part of the religious institution to mislead the community: defending the abuser while simultaneously attempting to humiliate the victims and their families – even in the face of mounting credible

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1 Report of the Westchester County (New York) Grand Jury Concerning Complaints of Sexual Abuse and Misconduct Against Minors by members of the Clergy, at 2-3, 19 June 2002, *available at* http://www.bishop-accountability.org/resources/resource-files/reports/WestchesterGrandJuryReport.pdf.

2 *Id.* at 5.

3 *Id.* at 6.

4 *Id.* at 8.

5 *Id.*

6 *Id.* at 7.

> evidence against a particular abuser. Congregants where the abuser was employed were lied to during religious services in their house of worship. Articles in newspapers sponsored by the religious institution questioned the victim and his family's motives; further, the religious institution used the media to lie about the past record of certain clergy members, thereby willfully misleading the public. In one case in particular, the religious institution sent a high level religious official to the congregation to vouch publicly for an abuser against whom multiple claims had been lodged by separate victims.[7]

- **New York: Report of the Grand Jury, Suffolk County (2003) ("Suffolk Report")**

In May 2002, a special Grand Jury was empanelled to investigate the Rockville Center Diocese in New York. After interviewing 97 witnesses and reviewing the secret files of 43 priests, the Suffolk Grand Jury issued its report in January 2003. According to the report, the cases reviewed involved rape, sodomy, sexual abuse, endangering the welfare of a child, and use of a child in a sexual performance. The report described the cases as follows:

- One priest who raped and fondled 4 teenage girls was sent to psychological treatment where it was found he should not be sent back to his parish. This advice was ignored and he was returned to the parish, which was attached to a school, only to reoffend.

- One priest repeatedly raped a 15 year old girl until she was 19, and started a pattern of continuous fondling and masturbation of her sister when she was 12.

- Another priest assaulted four brothers. The first was only 9 when this began, with the Priest performing oral sex on him while he was sleeping, and continued with touching and oral sodomy until the age of 16. One of the brothers committed suicide.

- One priest would supply boys with drinks and when they passed out they would awaken to him masturbating them or performing oral sex.

- Another Priest sexually abused a minimum of six boys who ranged in age from 10 to 17, engaging in oral and anal sex with them.

As in the reports outlined above, the Suffolk Grand Jury concluded that the Rockville Diocese shifted predator priests from one parish to the next, deceived victims and prioritized protecting the diocese from scandal. The Grand Jury observed:

> Abusive priests were transferred from parish to parish and between Dioceses. Abusive priests were protected under the guise of confidentiality; their histories mired in secrecy. . . Aggressive legal strategies were employed to defeat and discourage lawsuits

[7] *Id.* at 8-9.

> even though Diocesan officials knew they were meritorious. Victims were deceived; priests who were civil attorneys portrayed themselves as interested in the concerns of victims and pretended to be acting for their benefit while they acted only to protect the Diocese. These officials boldly bragged about their success and arrogantly outlined in writing mechanisms devised to shield them from discovery. These themes framed a system that left thousands of children in the Diocese exposed to predatory, serial, child molesters working as priests.[8]

The Grand Jury further concluded that while "the protection of children was the written policy of the Diocese of Rockville Centre it was not the practice"[9] and, further, that this was no accident:

> The Grand Jury concludes that this was more than simple incompetence. The evidence before the Grand Jury clearly demonstrates that Diocesan officials agreed to engage in conduct that resulted in the prevention, hindrance and delay in the discovery of criminal conduct by priests. *They conceived and agreed to a plan using deception and intimidation to prevent victims from seeking legal solutions to their problems*.[10] (emphasis added)

Finally, the Grand Jury concluded that while that the history of the diocese "demonstrates that as an institution they are incapable of properly handling issues relating to the sexual abuse of children by priests."[11]

- **New York: Albany Diocese, 14 District Attorneys and a Memorandum of Understanding (2012)**

In February 2012, fourteen district attorneys whose counties are encompassed by the Albany diocese joined together to communicate their concerns about the diocese's handling of sexual abuse allegations.[12] This was the second time in ten years that the district attorneys of those counties have jointly raised concerns about these matters with the diocese. In 2002, the district attorneys issued recommendations with which the diocese agreed to comply. In the 29 February 2012 letter, the prosecutors disagreed with the diocesan counsel's claim that the diocese was fully in compliance with the 2002 recommendations made by prosecutors.[13] The prosecutors also faulted the diocese with failing to "promptly" report "all" allegations to the appropriate

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8 Grand Jury Report, Suffolk County (New York) Supreme Court, Special Grand Jury Term 1D, 6 May 2002, foreperson Rosanne Bonventre, at 107, dated 17 Jan. 2003, *available at* http://www.bishop-accountability.org/resources/resource-files/reports/SuffolkGrandJuryReport.pdf.

9 *Id.* at 131.

10 *Id.* at 173.

11 *Id.*

12 Brendan J. Lyons, *Clergy-abuse Reporting Under Fire From DAs*, The Times Union, 5 Mar. 2012, *available at* http://www.timesunion.com/local/article/Clergy-abuse-reporting-under-fire-from-DAs-3380015.php#ixzz1oHBBCRr3. *See also*, Letter from District Attorneys to the Howard J. Hubbard, Bishop of Albany, 29 Feb. 2012, and Memorandum of Understanding, *available here* http://www.documentcloud.org/documents/335960-2-29-12-hogan-1.html.

13 *Id.*

district attorneys' office.[14]

The D.A.s' letter followed on the heels of a notable trial last year of a priest who had worked in the Albany diocese and against whom complaints were made to diocesan officials in 2000 and 2008. The diocese never reported the allegations to appropriate authorities. When one of the now-adult victims learned that the priest was still working at a church affiliated with a school, he contacted the appropriate district attorney and recounted years of abuse by the priest. While the New York statute of limitations barred any charges against the priest, Massachusetts authorities were able to prosecute him as the offenses were not time-barred there.[15]

The fourteen prosecutors proposed a strongly worded new Memorandum of Understanding that requires the diocese to "immediately notify" the appropriate District Attorney's Office with jurisdiction over the matter and even defines what is meant by "immediate notification," i.e. "the same day or next business day." The memorandum also prohibits the diocese from transferring or re-assigning the accused member of the clergy during the pendency of the state's investigation. The memorandum further prohibits the diocesan officials from investigating the matter themselves, including "screening" of cases for truth or falsity.[16]

- **New Hampshire: Report of the Office of the Attorney General on the Investigation of the Diocese of Manchester (2003) ("Manchester Report")**

The office of the New Hampshire Attorney General launched an investigation in February 2002 "into the manner in which the Roman Catholic Diocese of Manchester handled allegations that priests committed sexual assaults against minors – an investigation that established that the Diocese endangered the welfare of children."[17] The report stated that the Attorney General's office was prepared to present indictments to the Hillsborough County Grand Jury in December 2002 charging the Diocese with multiple counts of endangering the welfare of a minor but that the Bishop negotiated with prosecutors and agreed and acknowledged that the "State had evidence likely to sustain a conviction against the Diocese for child endangerment."[18]

- One victim described his most painful memory was of taking a road trip with the offending priest and three other boys to Indiana for four to six weeks. He described the trip as a "rape fest" – Father Aube engaged in sexual contact with one boy after the other, in the same "session." Aube was accused of assaulting 17 victims, and was also reported as using physical pain and violence to get victims to agree to various sex acts.

- Another Priest, Gordon MacRae, who had 39 allegations against him, videotaped some of his sexual activity with his victims. Other victims of this priest reported being raped by McRae as well as

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14 *Id.*

15 *Id.*

16 *Id.*

17 Report on the Investigation of the Diocese of Manchester, New Hampshire. Attorney General of the State of New Hampshire, Jan. 2003, at 1, *available at* http://www.bishop-accountability.org/resources/resource-files/reports/NewHampshireAGReport.pdf.

18 *Id.*

two of his associates and being threatened by McRae.

- Although Roger Fortier was not convicted until 1998, the Diocese first learned that Fortier was a sexual threat to minors in 1984. He was indicted on 16 counts of sexual assault. One of his 14 yr. old victims was subject to fellatio one to three times per a month for a year.

As with the other reports, the Manchester Report concluded that the Diocese knowingly exposed children to sexual violence, engaged in deception and misdirection and prioritized avoidance of scandal and protection of church officials over the protection of children. Among the significant findings of the report:

> The specific facts supporting a conclusion that the Diocese acted "knowingly" will be addressed in subsequent memoranda in the context of each case. However, at this juncture it is appropriate to address some generally applicable principles that will apply across the board to each of the charges. In some instances the Diocese took some steps to address complaints that a priest had molested children, including referring the priest to counseling. The State was prepared to prove that the steps taken by the Diocese were so ineffective that they did not *negate the fact that the Diocese "knowingly" endangered the welfare of a minor*.[19] (emphasis added)

As discussed in the factual section of this report, the investigation uncovered instances where Diocesan officials made apparently false statements in the context of civil lawsuits and in the course of a presentencing investigation conducted by the Department of Corrections for the purpose of the sentencing of a Diocesan priest. *This conduct may have constituted perjury, false swearing, or unsworn falsification*.[20] (emphasis added)

> The Task Force obtained information that Diocesan officials may have secured confidentiality agreements from victims of sexual assaults in return for civil settlements and other benefits such as providing counseling to victims. This evidence demonstrates that the Diocese required confidentiality in return for remuneration. *In at least one instance, the investigation revealed that one of the reasons for the Diocese's insistence on a confidentiality agreement was to prevent the victim from speaking with law enforcement about the sexual offenses of the priest. Such conduct would support a charge that the Diocese engaged in compounding*.[21] (emphasis added)

In exchange for not proceeding with the indictments, the Attorney General's office obtained an admission of guilt from church officials who acknowledged "that certain decisions made by it about the assignment to ministry of priests who had abused minors in the past resulted in other

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19 *Id.* at 6.

20 *Id.* at 13.

21 *Id.*

minors being victimized."[22] The agreement also required that the Diocese participate in a system of accountability and State oversight to ensure transparency and protection of children.

The Attorney General hired an independent firm to monitor the Diocese's compliance with the agreement. In its report released in 2007, the firm determined that the Diocese of Manchester still was not meeting abuse-prevention requirements negotiated with the attorney general's office four years before and further that there were 'critical gaps' in programs to protect children from sexual abuse and that church leaders were reticent in complying. [23]

- **Massachusetts: Attorney General Report Regarding the Archdiocese of Boston (2003) ("Boston Report")**

As a result of media exposure of widespread and shocking accounts of sexual violence by priests and cover-ups in the Boston Archdiocese, the Massachusetts Attorney General office headed by Thomas F. Reilly launched an investigation which took 18 months and ultimately "revealed a dark side to the Church's relationship with its children."[24]

The Massachusetts Attorney General's report revealed that 250 priests and church workers stood accused of acts of rape and sexual assault of children and concluded that sexual mistreatment of children was "so massive and so prolonged that it borders on the unbelievable."[25] As with the aforementioned reports, the Boston Report concluded that "perhaps most tragic of all, much of the harm could have been prevented."[26] Additionally, despite the knowledge and awareness of top officials in the archdiocese of the extent of "widespread sexual abuse of children," they "regularly addressed and supported the perceived needs of offending priests more than the needs of children who had been or were at risk of being, abused."[27]

Like findings of the previous reports, the Boston Report concluded that "[f]or decades, Cardinals, Bishops and others in positions of authority within the Archdiocese chose to protect the image and reputation of their institution rather than the safety and well-being of children."[28]

The Attorney General's report also served to dispel claims of ignorance of the abuse which had been made by high-ranking church officials, including Cardinal Bernard Law, as the scandal unfolded in the media. In particular, according to the report:

> Cardinal Law and his senior managers had direct, actual knowledge that substantial numbers of children in the Archdiocese had been sexually abused by substantial numbers of

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22 *Id.* at 3.

23 Associated Press, *Audit Says Diocese Flouts Abuse Guides*, 5 May 2007, *available at* http://articles.boston.com/2007-05-05/news/29234397_1_diocese-sexual-abuse-audit (last visited 10 April 2014).

24 Office of the Att'y Gen., The Sexual Abuse of Children in the Roman Catholic Archdiocese of Boston (2003), at 1-1, Appendix, *available at* http://www.bishop-accountability.org/downloads/archdiocese.pdf.

25 *Id.* at 2-3.

26 *Id.* at 1-2.

27 *Id.* at 30.

28 *Id.* at 2-3.

> its priests.[29]

And further that:

> Law had direct knowledge of the scope, duration and severity of the crisis experienced by children in the Archdiocese; he participated directly in crucial decisions concerning the assignment of abusive priests, decisions that typically increased the risk to children.[30]

Subsequent to the scandal, Law submitted his resignation as Archbishop of Boston which was accepted by Pope John Paul II in December 2002. Law left Boston at that time and relocated to Rome. In May 2004, he was appointed to a privileged position in Rome as archpriest of St. Mary Major Basilica, a church under direct Vatican jurisdiction described by one Vatican official as "one of the four most important basilicas" in Rome where he "will be in charge of the administration of the priests and anything related to the basilica."[31]

- **Pennsylvania: Three Philadelphia Grand Juries (2003-2011)**

The comprehensive and painstaking work of three separate Philadelphia, Pennsylvania, grand juries over the past decade has yielded perhaps some of the most telling and striking insights into the practices, policies, and priorities of the Church with regard to the problem of sexual violence by clergy. Rather than showing an improvement in the situation in Philadelphia, the findings of the latest grand jury demonstrate that the same dynamics continue to exist including the cover-ups, lack of concern for victims, and exposing children to risk of sexual abuse, and obstruction. The findings suggest that the so-called reforms implemented by U.S. bishops with the consent of the Vatican are largely cosmetic and leave plenty of room for the same maneuvers utilized historically by bishops and cardinals as documented in all of the aforementioned reports.

Philadelphia Grand Jury I (2003) ("Philadelphia Grand Jury Report I"). In April 2002, the first Philadelphia grand jury was convened to investigate allegations of sexual abuse by priests and others in the Archdiocese of Philadelphia. Prior to the formation of the grand jury, and as noted in the Philadelphia Grand Jury's report (Grand Jury I Report), the Philadelphia archdiocese issued a statement suggesting that it had only received credible allegations of sexual abuse against 35 priests over the course of 52 years.[32] Soon afterward, Cardinal Anthony J.

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[29] *Id.* at 25.

[30] *Id.* at 31.

[31] Al Baker, Laurie Goodstein, & Daniel J. Walkin, *Cardinal Law Given Post in Rome*, New York Times, 28 May 2004, *available at* http://www.nytimes.com/2004/05/28/us/cardinal-law-given-post-in-rome.html (last visited 5 Sept. 2011).

[32] *See* Report of the Philadelphia Grand Jury, *In Re County Investigating Grand Jury*, MISC. NO. 01-00-89444, Philadelphia, PA (2001), at 1-2, *available here* http://www.documentcloud.org/documents/243721-14-2003-09-25-first-philadelphia-grand-jury.html [hereinafter "Grand Jury I"]. *See also*, Statement by Anthony Cardinal Bevilacqua, Archbishop of Philadelphia, on Restoring Trust: An Apology and a Commitment (26 Feb. 2002), *available at* http://archphila.org/press%20releases/pr000565.php; *see also*, Bishopaccountability.org, Examination of the Philadelphia Archdiocese's Response to the Grand Jury Report (21 Sept. 2005), *available at* http://www.bishop-accountability.org/reports/2005_09_21_Philly_GrandJury/da_response.pdf.

Bevilacqua assured the public in a television interview that he had a "zero tolerance" policy and had never transferred any priest who had abused a child to another assignment where he would have access to children.

The investigation of the grand jury encountered a much different and darker scenario. The investigation found that over the past 35 years more than 120 priests serving in the Philadelphia archdiocese had been accused of sexually abusing hundreds of adolescents and younger children and of conduct ranging from fondling to oral, vaginal, and anal rape. The evidence established that Cardinal Bevilacqua and his predecessor knowingly transferred priests who had been credibly accused of molesting children to new assignments where they retained access to and control over children:[33]

> We find that despite those identified risks, these Archdiocesan managers continued and/or established policies that made the protection of the Church from "scandal" more important than the protection of children from sexual predators. These policies were followed, even at the cost of giving priests who had not only been accused of, but in many cases admitted to, sexually assaulting children, access to untold thousands of additional innocent children. We find that Archdiocesan managers as a whole acted not to prevent the sexual abuse of children by priests but to prevent the discovery that such abuse had occurred.[34]

The first Grand Jury observed that "the human toll of the Archdiocesan policies is staggering. Children suffered the horror of being sexual assaulted by priests" and "were then victimized a second time by an Archdiocesan administration that in many cases ignored, minimized, or attempted to conceal their abuse."[35]

Philadelphia Grand Jury II (2005). Because the first Grand Jury could not complete its investigation before its term ended, a second Grand Jury was impaneled in 2003 to continue with the investigation. On 15 September 2011, Grand Jury II issued its 423-page report detailing its findings about the "careful methods by which the Archdiocese accomplished its concealment of … crimes."[36]

> The Grand Jury was able to document child sexual abuse by at least *63 different priests* in the Archdiocese of Philadelphia. We have no doubt that there were many more. The evidence also revealed *hundreds of child victims* of these sexual offenders. Again, we have no doubt that there were many more.[37]

The report also summarized what the evidence confirmed about some of the cases reviewed by

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33 Grand Jury Report I, *supra.*

34 *Id*. at 3.

35 *Id*. at 5.

36 Report of the Grand Jury, *In Re County Investigating Grand Jury*, MISC. NO. 03-00-239, at 2 (C. P. Philadelphia, 2003), *available at* http://www.bishop-accountability.org/reports/2005_09_21_Philly_GrandJury/Grand_Jury_Report.pdf [hereinafter Grand Jury II].

37 *Id*. at 2.

the Grand Jury:

- A girl, 11 years old, was raped by her priest and became pregnant. The priest took her in for an abortion.

- A 5th-grader was molested by her priest inside the confessional booth.

- A teenage girl was groped by her priest while she lay immobilized in traction in a hospital bed. The priest stopped only when the girl was able to ring for a nurse.

- A boy was repeatedly molested in his own school auditorium, where his priest/teacher bent the boy over and rubbed his genitals against the boy until the priest ejaculated.

- A priest, no longer satisfied with mere pederasty, regularly began forcing sex on two boys at once in his bed.

- A boy woke up intoxicated in a priest's bed to find the Father sucking on his penis while three other priests watched and masturbated themselves.

- A priest offered money to boys in exchange for sadomasochism – directing them to place him in bondage, to "break" him, to make him their "slave," and to defecate so that he could lick excrement from them.

- A 12-year-old, who was raped and sodomized by his priest, tried to commit suicide, and remains institutionalized in a mental hospital as an adult.

- A priest told a 12-year-old boy that his mother knew of and had agreed to the priest's repeated rape of her son.

- A boy who told his father about the abuse his younger brother was suffering was beaten to the point of unconsciousness. "Priests don't do that," said the father as he punished his son for what he thought was a vicious lie against the clergy.[38]

According to the Grand Jury, the "archdiocese leaders employed deliberate strategies to conceal known abuse" and even conducted 'non-investigations' designed to avoid establishing priests' guilt, and "bullied, intimidated, lied to and even investigated" victims of sexual assault.[39] The Grand Jury Report also described in detail the evidence which showed that Cardinal Bevilacqua engaged in priest shifting and 'reciprocity' in harboring priests from other diocesan communities. One abusive priest was transferred so many times, according to the report, that the Archdiocese's own records note, "they were running out of places to send him where he

[38] *Id.* at 3.

[39] *Id.* at 29, 31, & 50.

would not already be known."[40] In terms of harboring priests from other dioceses, the report noted that:

> Cardinal Bevilacqua also reciprocated with other dioceses, as part of what an aide referred to as the "tradition of bishops helping bishops." For five years, beginning in 1988, Cardinal Bevilacqua secretly harbored a New Jersey priest, Fr. John Connor, at Saint Matthew parish in Conshohocken so that the bishop in Camden could avoid scandal there. Cardinal Bevilacqua, despite an earlier acknowledgement that Fr. Connor could present a "serious risk," did not inform Saint Matthew's pastor of the danger. In fact, he told the pastor that Fr. Connor had come to the parish from another diocese because his mother was sick and he wanted to be near her. The pastor never knew, until he read it years later in a newspaper, that Fr. Connor had been arrested in his home diocese of Camden for sexually abusing a 14-year-old. As a result of his ignorance, the pastor did not worry, as he should have, when Fr. Connor showered attention and gifts on a boy in the parish grade school.[41]

After reviewing all of the evidence and testimony presented, the Grand Jurors observed:

> In concealing the crimes of sexually abusive priests while keeping them in ministry, the Cardinal and his aides did not merely fail to protect children from terrible danger**.** *They greatly increased the danger and the harm to Archdiocese children. When Cardinals Krol and Bevilacqua promoted and celebrated known abusers – rapists and molesters of children – and left them in positions as pastors, parish priests, and teachers, they in effect vouched for their holiness and trustworthiness and encouraged parents to entrust their children to them.* When Church leaders hid allegations against priest child molesters and deliberately placed them in parishes where unsuspecting families were kept in the dark, they minimized parents' ability to protect their children. When they transferred the priests to new parishes to avoid scandal, they greatly increased the numbers of potential victims. When they withheld from parents knowledge of their child's abuse, they sentenced that child to years of lonely suffering. By not reporting the crimes to law enforcement, they frustrated safeguards designed to protect children in society at large.
>
> What makes these actions all the worse, the Grand Jurors believe, is that the abuses that Cardinal Bevilacqua and his aides allowed children to suffer – the molestations, the rapes, the lifelong shame and despair – did not result from failures or lapses, except of the moral variety. *They were made possible by purposeful decisions, carefully implemented policies, and calculated*

[40] *Id.* at 5.

[41] *Id.* at 38.

indifference.[42](emphasis added)

Philadelphia grand Jury III (2011). Like the Cloyne Report concerning the diocese in Dublin, the third set of Grand Jurors impaneled to look into the handling of allegations of sexual assault in the Philadelphia archdiocese had the opportunity to see what effect new reforms were having on the handling of allegations of sexual assault. In Cloyne, the new reforms were embodied in the Framework Document adopted by Irish bishops in 1996. In Philadelphia, the reforms were those introduced by the U.S. bishops in 2002.

Unfortunately, the report demonstrates that even the policy that the church now holds out as a model for dealing with allegations of 'child sexual abuse' was, at least in Philadelphia, a sham. As discussed more, the United States Conference of Catholic Bishops adopted what it called a 'zero tolerance policy' in the wake of the scandal in Boston, according to which accused priests are to be removed from ministry upon allegations of abuse pending investigation. Yet the Philadelphia archdiocese, which had been certified as functioning properly and in accordance with the model policy, was shown to have 37 credibly accused predator priests still freely serving in ministry with access to congregants as recently as February 2011.[43]

> Most disheartening to the grand jury was what we learned about the current practice toward accused abusers in the Philadelphia Archdiocese. We would have assumed, by the year 2011, after all the revelations both here and around the world, that the church would not risk its youth by leaving them in the presence of priests subject to substantial evidence of abuse. That is not the case. In fact, we discovered that there have been at least 37 such priests who have been kept in assignments that expose them to children. Ten of these priests have been in place since before 2005 – over six years ago.[44]

In fact, the jurors concluded that the Archdiocese:

> …continues to engage in practices that mislead victims, that violate their trust, that hinder prosecution of their abusers and that leave large numbers of credibly accused priests in ministry... [t]he procedures implemented by the Archdiocese to help victims are in fact designed to help the abusers, and the Archdiocese itself.[45]

The third Grand Jury investigation began because two survivors came forward to report more recent abuse. During the course of the investigation, it became clear to the Grand Jury that

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42 *Id.* at 55.

43 Gloria Campisi, *Rigali Puts another Two on Leave - But Doesn't Name Them*, Philadelphia Daily News, 31 Mar. 2011, *available at* http://www.philly.com/philly/news/pennsylvania/118954554 html.

44 Report of the Philadelphia Grand Jury, *In Re County Investigating Grand Jury XXIII*, MISC. No. 0009901-2008, at 9, Philadelphia PA. 23 Jan. 2011, *available at*

http://www.bishop-accountability.org/reports/2011_01_21_Philadelphia_Grand_Jury_Final_Report_Clergy_Abuse_2.pdf [hereinafter Grand Jury Report III].

45 *Id.* at 1.

dozens of credibly accused priests were still in active ministry.

The report described the case of "Billy," who at 10-years-old, was raped orally by one priest and then "passed around" to two of the priest's colleagues, also priests, who also orally and anally raped him. He reported that afterward he stopped talking with friends and began doing drugs and "would often gag and vomit for reasons that doctors could not discern."[46] The other case investigated by the Grand Jury involved another priest who was accused of sexually assaulting "Mark" from the age of 10 until finally anally raping him at the age of 14.[47]

According to the report:

> The present grand jury, however, is frustrated to report that much has not changed. The rapist priests we accuse were well known to the Secretary of Clergy, but he cloaked their conduct and put them in place to do it again. The procedures implemented by the Archdiocese to help victims are in fact designed to help the abusers, and the Archdiocese itself. Worst of all, apparent abusers – dozens of them, we believe – remain on duty in the Archdiocese, today, with open access to new young prey.[48]

The grand jurors also noted problems with the way that the Archdiocese's review board, also mandated by the 2002 reforms, has functioned in these cases and found that when it has taken action, "the results have often been even worse than no decision at all."[49]

> In one case, a 44-year-old man said he had been abused by a priest while in second grade. The board calculated that the man would have been in the second grade in 1969. The priest in question did not arrive in the parish until 1970. Therefore, ruled the board, the man must not be telling the truth. Apparently there was no possibility that, after almost four decades, the victim could have been off by a few months about the date, but still right about the conduct. A year after this "incredible" report, the same priest was the subject of an independent allegation by another victim. Despite a wealth of corroborating evidence, the board also declared this second man incredible. The man killed himself shortly after the board's decision.
>
> In another case, the accused priest submitted to a lie detector test. He was asked whether he had shown pornographic movies to minors, whether he had fondled himself in front of children, and whether he had touched boys' genitals. He flunked every question. The board nonetheless declared the victim's accusations "unsubstantiated." The same thing happened to a woman who came forward to report that two priests had fondled her when she was a teenager. One of the priests admitted the report was true. The other denied it, but then flunked his polygraph test. The

46 *Id* at 31-41.

47 *Id* at 3.

48 *Id* at 1.

49 *Id* at 9.

> review board initially found the report about him credible, but then took a re-vote two months later, on the ground that some of the board's members had been absent the first time due to "inclement weather." This time, on the same evidence as the original vote, the board gave the second priest a clean bill of health – as if the victim had some reason to tell the truth about the first priest, who admitted it, but was lying about the second priest, who just happened to flunk the lie detector for no reason. That priest remains in good standing, still "ministering" to men, women, boys, and teenage girls.

The jurors concluded that even with the so-called reforms in place, such as the review board, "[t]hese are simply not the actions of an institution that is serious about ending sexual abuse of its children. There is no other conclusion.[50]

One of the more shocking revelations about cover-up and obstruction of justice on the part of diocesan officials came to light in 2012 through a court filing in a criminal case involving priests and an official from the Philadelphia archdiocese. On 24 February 2012, attorneys for Monsignor William Lynn filed a motion to dismiss the charges of child endangerment against him on the basis of newly discovered evidence, which consisted of documentary proof of an order given by Cardinal Anthony Bevilaqua to destroy a list of thirty-five priests credibly accused of sexual violence that Lynn had submitted to Bevilaqua in 1994.[51]

The order was recorded in a hand-written note made by the person who was ordered to destroy all existing copies of the document, Monsignor James Malloy, and was witnessed by Rev. Joseph Cistone.[52] Malloy secretly stored the memo of a meeting and the shredding of the document in a safe which was not opened until after his death in 2006 when archdiocesan officials found it and hired a locksmith to open it. It is unclear why the documents were only turned over to Lynn's attorneys and prosecutors years later, though the hand-over appears to have happened after the Bevilaqua's death on 31 January 2012.

Malloy, the priest who destroyed the list on Bevilaqua's orders, died in 2006 but prior to his death expressed his reasons for documenting the destruction of the evidence:

> I couldn't be sure that I could trust my superiors to do the right thing. I wanted my memos to be there if the archdiocese's decisions were eventually put on the judicial scales. This way, anyone could come along in the future and say, this was right or this wrong. But they could never say it wasn't all written down.[53]

Bevilaqua appeared at least ten times before the grand jury and denied knowing the details or playing a significant role in the handling of allegations of sexual violence by priests, even

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50 *Id* at 9-11.

51 John P. Martin, *Court filing: Bevilaqua Ordered Shredding of Memo Identifying Suspected Abusers,* The Philadelphia Inquirer, 25 Feb. 2012, http://articles.philly.com/2012-02-25/news/31098596_1_church-lawyers-abuse-complaints-priests/2.

52 *Id.*

53 Tom Roberts, *A deep look Into Philly's clerical culture,* National Catholic Reporter, 28 Feb. 2012, http://ncronline.org/blogs/ncr-today/deep-look-phillys-clerical-culture.

testifying at one point that he "saw no evidence at any time that we did any cover-up"[54] and had publicly declared in 2002 that he had a "zero tolerance" policy and never transferred any priest who had abused a child to another assignment where he would have access to children.

That Grand Jury found otherwise:

> We find that despite those identified risks, these Archdiocesan managers continued and/or established policies that made the protection of the Church from "scandal" more important than the protection of children from sexual predators. These policies were followed, even at the cost of giving priests who had not only been accused of, but in many cases admitted to, sexually assaulting children, access to untold thousands of additional innocent children. We find that Archdiocesan managers as a whole acted not to prevent the sexual abuse of children by priests but to prevent the discovery that such abuse had occurred.[55]

- **Arizona: Agreement Between Maricopa County District Attorney and Bishop Thomas O'Brien**

In June of 2003, a prosecutor in Maricopa County, Arizona, announced an agreement with the Bishop of Phoenix which required that the bishop acknowledge his criminal actions and agree to cooperate with state officials to work to ensure the safety of children in exchange for not being prosecuted for obstruction of justice. The text of the agreement confirmed that a Grand Jury had been investigating and considering information relating to the criminal sexual misconduct by diocesan personnel and "whether Bishop Thomas J. O'Brien or the diocese placed or transferred priests or other Diocesan personnel in or to a position to commit additional criminal conduct after becoming aware of prior criminal conduct." [56]

The agreement also noted that while no credible evidence had been received that would establish that O'Brien himself personally engaged in criminal sexual misconduct, the investigation did develop evidence that he "failed to protect the victims of criminal sexual misconduct of others associated with the Roman Catholic Diocese of Phoenix."[57]

In the agreement, Bishop Thomas J. O'Brien stated:

> I acknowledge that I allowed Roman Catholic priests under my supervision to work with minors after becoming aware of allegations of sexual misconduct. I further acknowledge that priests who had allegations of sexual misconduct made against them were transferred to ministries without full disclosure to their supervisor or to the community in which they were assigned. I apologize and express regret for any misconduct, hardship or

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54 Martin, *supra* note 103.

55 Grand Jury I, *supra* note 84, at 1-2.

56 *See*, Agreement between the State of Arizona, Maricopa County Attorney, and the Bishop of the Roman Catholic Diocese of Phoenix, 3 May 2003, at 1, *available at* http://www.bishop-accountability.org/az-phoenix/phoenix-agreement-resignation.htm.

57 *Id*. at 2.

> harm caused to the victims of sexual misconduct by Roman Catholic priests assigned to the Diocese.[58]

In addition to acknowledging the criminality of his conduct, O'Brien was required to agree to a series of conditions aimed at ensuring the diocese's compliance with all applicable laws relating to criminal sexual conduct by its priests and others associated with the diocese. The conditions included, *inter alia*, the appointment of a Youth Protection Advocate responsible for implementation and enforcement of policy on sexual misconduct by Diocesan personnel. The policy was to be reviewed and modified with input of the Maricopa County Attorney's Office.[59]

- **Ohio**

In Cincinnati, prosecutors worked out a plea deal which actually required Archbishop Daniel E. Pilarczyk to plead to five counts of "failure to report a crime" as part of a settlement agreement after an 18-month long investigation into allegations of sexual violence by priests and cover-ups in the archdiocese. When Pilarczyk entered the guilty pleas to the charges, Judge Richard Niehaus observed that the church officials covered up the crimes "at the expense of the victims" and further stated:

> I believe that this case today is an extremely tragic event… I believe that a religious organization that not only should follow the civil law but also the moral law lost its way… I am disappointed as a citizen that any religious organization would be involved in criminal activity… such that I believe self-preservation exceeded their moral duty to minister to those people and to prevent future abuse.[60]

As in Maricopa County, the Cincinnati Archdiocese had to agree to a number of conditions and reforms in exchange for the plea to the misdemeanor offenses, including establishing a victim's compensation fund and establishing reporting procedures and transparency.[61]

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[58] *Id*. at Tab A.

[59] *Id*. at ¶¶ 1-14.

[60] *See*, Kimball Perry, *Archdiocese Guilty of Coverup*, Cincinnati Post, 21 Nov. 2003, *available at* http://www.bishop-accountability.org/resources/resource-files/timeline/2003-11-21-Perry-Coverup.htm.

[61] Settlement Agreement between Archdiocese of Cincinnati and the Hamilton County Prosecuting Attorney, 20 Nov. 2003, *available at* http://www.bishop-accountability.org/resources/resource-files/courtdocs/2003-11-20-Pilarczyk-Agreement.pdf.

Appendix B

Survivors Network of those Abused by Priests
PO Box 6416
Chicago, Illinois 60680
(312) 409-2720
November 2003

John Ashcroft
Attorney General
Office of the Attorney General
US Department of Justice
950 Pennsylvania Avenue
Washington, DC 20530-0001

Dear Sir,

On behalf of a large segment of men and women who were sexually molested by Catholic clergy, we are writing the Department of Justice (DOJ) to request a meeting to discuss our concerns about the actions of senior management within the Catholic Church regarding clergy sex offenders and to ask for a Federal investigation into these administrative practices. The Survivor Network of those Abused by Priests (SNAP) is an association of sexual abuse survivors from across the nation. As an advocate for those victimized by clergy, we believe that senior management within the Church have unilaterally subjugated sex abuse reporting statutes across the United States, have not been held institutionally accountable for these practices, and as a non-profit corporation continue to selectively circumvent our Nation's laws. We are particularly distressed that sex offenders continue to evade legal accountability and represent a serious risk to the general public. We believe this is occurring because of the Church's national corporate policies and procedures, deliberately facilitated and supported through their management infrastructure, who work together to ensure that sex offenders will not be investigated or arrested. Enclosed with this letter, we have provided a more comprehensive position paper on these issues for your further review ("*Sexual Abuse and the Catholic Church: the Need for Federal Intervention"*).

In general, we are concerned that the Roman Catholic Church, a non-profit corporation operating throughout the United States, has committed conspiratorial acts in an organized fashion by:

- Willfully withholding information on employees who were known sexual offenders from legal authorities, their parishioners, and the general public. By doing so, sexual abuse continued to be perpetrated against children.
- Financially supporting employees who are sex offenders, paying for their transportation across State lines and transferring offenders between their corporate regional territories where offenders continued to sexually victimize children and minors.
- Developing a network of Catholic owned treatment centers and intentionally transporting offenders across States lines to these facilities in order to circumvent reporting laws since

these treatment professionals are not legally required to report sex offenses occurring in another State. This avenue has been well known to senior management in the Church and to the treatment centers who advise them since the 1980's.

- Transporting sex offenders across international borders, not reporting them to legal authorities, financially supporting them, and frequently bringing them back into the United States where they continue to employee them.
- Offering monetary payments to victims reporting incidents of sex abuse perpetrated by clergy and binding them to settlements requiring non-disclosure, while offenders continued to operate as employees with unsupervised access to children.

As the Federal law enforcement arm of the United States government, it is our belief that the DOJ stands in a unique position to ensure that all corporate bodies, regardless of their affiliation, adhere to the laws of our country. Because the Catholic Church operates in all US States and Territories, a swift and consistent application of the law has been nearly impossible in cases of sex abuse perpetrated by their clergy. While several District Attorneys have ordered local Dioceses to turn over personnel records on known sex offenders, other District Attorneys have refused to make such requests despite public pressure to do so. Because of the complexity of the Church's organizational structure, investigators are not receiving an honest accounting of clergy sex offenses and the actual number of offenders within a given Diocese or Religious Order. Since church sponsored treatment facilities, such as St. Luke's Institute in Maryland, refuse to report sex abuse against children when they treat clergy offenders who committed offenses in other States, cases of child molestation are not being investigated or prosecuted because legal authorities are unknowingly denied access to information on sex crimes committed within their local jurisdictions. By doing so, we believe that legal infrastructures are impaired, appropriate treatment not provided to traumatized children, and the safety of local communities compromised as sex offenders continue to reestablish themselves in positions of public trust unencumbered by legal constraints and oversight. The fragmentation of information on clergy sex offenders, spread across a multitude of Dioceses and Religious Orders in confidential personnel files and concealed in records among a select group of treatment facilities, has enabled the Catholic Church to avoid criminal investigation and prosecution of employees who are sex offenders.

We strongly feel, as does the American public, that sex offenders being shielded by the Catholic hierarchy must be held accountable for their crimes, both to rectify the lifelong damage they have inflicted upon innocent children and to protect future children from such harm. If our religious institutions are unable to provide a safe haven for children, then we believe society must intervene to ensure such protection. The Church's decision not to remove employees who are sex offenders, their unwillingness to voluntarily surrender all information on sex offenses committed by their clergy to legal authorities, and their misguided belief that they can treat and police sex offenders, has left the American public outraged - demanding full and unequivocal accountability by the Catholic Church. We believe this accountability can only be provided by a comprehensive investigation of this corporation by the Department of Justice and the Federal Bureau of Investigation.

Therefore, we are requesting an opportunity to meet with representatives of DOJ to discuss our concerns more fully. In order to expediently address these issues, upon receipt of this letter we will contact your office within two weeks if you have not had an opportunity to reach us.

Thank you for your time and consideration in this matter. We look forward to the opportunity to speak with you and continue this important discussion.

Sincerely,

_____

Barbara Blaine Date
SNAP President

_____

David Clohessy Date
SNAP Executive Director

CC:

Robert S. Mueller, III, Director, Federal Bureau of Investigation
Peter D. Keisler, Associate Attorney General, US Department of Justice
Michael Chertoff, Assistant Attorney General, US Department of Justice, Criminal Division
Ralph F. Boyd, Jr., Assistant Attorney General, US Department of Justice, Civil Rights Division
Tracy Turlou, Director, US Department of Justice, Office of Tribal Justice
Guy A. Lewis, Director, US Department of Justice, Executive Office for the United States Attorneys

Sexual Abuse and the Catholic Church:

The Need for Federal Intervention

Survivors Network of those Abused by Priests (SNAP)

Position Paper

November 2003

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1. Introduction

Over the last two decades a multitude of cases have arisen in the United States concerning sexual abuse perpetrated by permanent employees of the Catholic Church (i.e., priests, religious Brothers and Sisters, and non-ordained teachers and staff). Despite extensive media coverage, civil settlements and criminal convictions, we are concerned that senior management within the church unilaterally undermined the laws of the United States and have not been held accountable for these practices. As a legal, non-profit, corporation operating within America, the Catholic Church has willfully violated our Nation's laws and continues to protect and harbor known sex offenders. We are particularly distressed that sex offenders are not being held legally accountable, and therefore pose an ongoing danger to the general public. We believe this is occurring because of the church's national corporate policies and procedures, deliberately facilitated and supported through their management infrastructure, operates to ensure sex offenders will not be investigated or arrested. This has been possible, in part, through the development and use of a network of strategically located psychiatric treatment facilities that can ensure local law enforcement remain unaware of sexual offenses occurring within their jurisdictions.

The Survivors Network of those Abused by Priests (SNAP) is an association of sexual abuse survivors from across the nation. Founded in 1989, we advocate on behalf of clergy abuse victims, and have asked for over a decade that the Catholic Church take greater responsibility and accountability for sex crimes committed by their employees. As a consistent voice for those victimized by clergy, it has been our hope that given the basic premise of the church's institutional mission, senior church leadership would recognize their corporate role in mitigating these crimes, as well as their legal and social responsibility to adhere to laws of the United States by working with law enforcement to ensure that children are safe from sexual abuse perpetrated by their employees.

Sadly, this has not been the case. Recent corporate decisions indicate that institutional management within the church has decided not to remove employees who are sex offenders or report them to legal authorities, regardless of the nature of their sex offenses and when they occurred. This vote, clearly in opposition to opinion poles conducted with American Catholics and the general public,[1] is based in long-standing corporate policies

[1] See USA Today/CNN/Gallup Poll indicating that 77% of those polled believe guilty priests should be removed from the priesthood, 75% feel the church is doing a bad job of dealing with abusive priests and 87% feel the Pope should remove a cardinal or bishop who knew that a priest had been sexually abusing young people and had moved the priest to another parish rather than report him to the police (USA Today, 6/3/02, "Catholics show little tolerance").

and practices to resist legal authorities, protect and harbor of sex offenders across the country, intimidate victims, and conceal sex crimes that continue to place children at risk for further victimization. We are concerned that church leaders have and continue to engage in an organized conspiracy by willfully withholding information concerning employees who are sexual offenders and transporting them across State lines to church sponsored treatment facilities or other territorial offices in the United Sates and abroad. These treatment centers do not report these crimes to law enforcement and return offenders to a church which has traditionally authorized the return of their offenders into ministerial roles within the community without notifying local law enforcement. As a result, a number of offenders continued to sexually victimize children.[2]

Despite its status as a tax-exempt corporation operating within the United States, its questionable involvement in the protection of sex offenders and the concealment of these crimes, the Catholic Church has attempted to shield itself through the First Amendment and avoid accountability for these actions.[3] We believe that historical sensitivities regarding the freedom of religion have complicated legal interventions into these matters, resulting in an uneven application of the law.

As a non-profit corporation, the Catholic Church is not empowered to investigate, prosecute and police sex offenders. Nor is it their right to make corporate decisions about whether to comply with established laws. We believe that Federal law enforcement should provide the investigative and legal framework to ensure that citizens are protected equally across the United States, the civil rights of children maintained, and the laws of our country adhered to regardless of the institution or its proclaimed mission. [4]

On behalf of the children, men and women who have been and will be sexually victimized by Catholic clergy in the United States, we are writing this position paper to request that the Department of Justice conduct an investigation into the administrative and institutional practices of senior management within the Catholic Church. Such an

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[2] See "Betrayal: The crisis in the Catholic Church" (Investigative Staff of the Boston Globe, 2002, Little, Brown & Company: NY) for cases of sexual abuse committed by Catholic Clergy while they were in these treatment centers or after they were discharged and allowed to continue working as ministers in the Catholic Church. Also see Suffolk County Supreme Court Special Grand Jury (May 6, 2002). Grand Jury Report CPL 190.85(1)(C).

[3] In 1996, the National Catholic Conference of Bishops petitioned the Supreme Court of Texas to hold that the First Amendment of the US Constitution requires they be dismissed from all litigation and declared immune from suit and from discovery in cases involving sexual abuse of children by Catholic clergy. In the past, church lobbyists have successfully reduced the statute of limitations on suing the church for clergy sexual abuse, blocked legislative requirements to make clergy mandated reporters, and opposed or bottled up statutes of limitations laws. Recently, this trend has changed and new legislation is being passed to hold the church more accountable. ("Catholic Clout is Eroded by Scandal," The Washington Post, July 6, 2002).

[4] While the church recently lent its verbal and financial support to a United Nations initiative to set up an international criminal court to protect human rights across the globe ("Vatican backs new international criminal court, Catholic News Service, July 3, 2002), they continue to resist full cooperation with US law enforcement entities to protect the civil rights of children abused by clergy. Investigations such as President Bush's DOJ criminal task force to ensure accountability of corporate leadership, illustrate the American publics concern and support for accountability at the highest levels. ("Bush urges crackdown on business corruption, The Washington Post, July 10, 2002).

investigation should encompass not only uninvestigated cases of sexual abuse committed by Catholic clergy, but also the actions of a select group of Catholic owned treatment centers that advise senior church administrators and provide avenues to circumvent established reporting laws across the country.

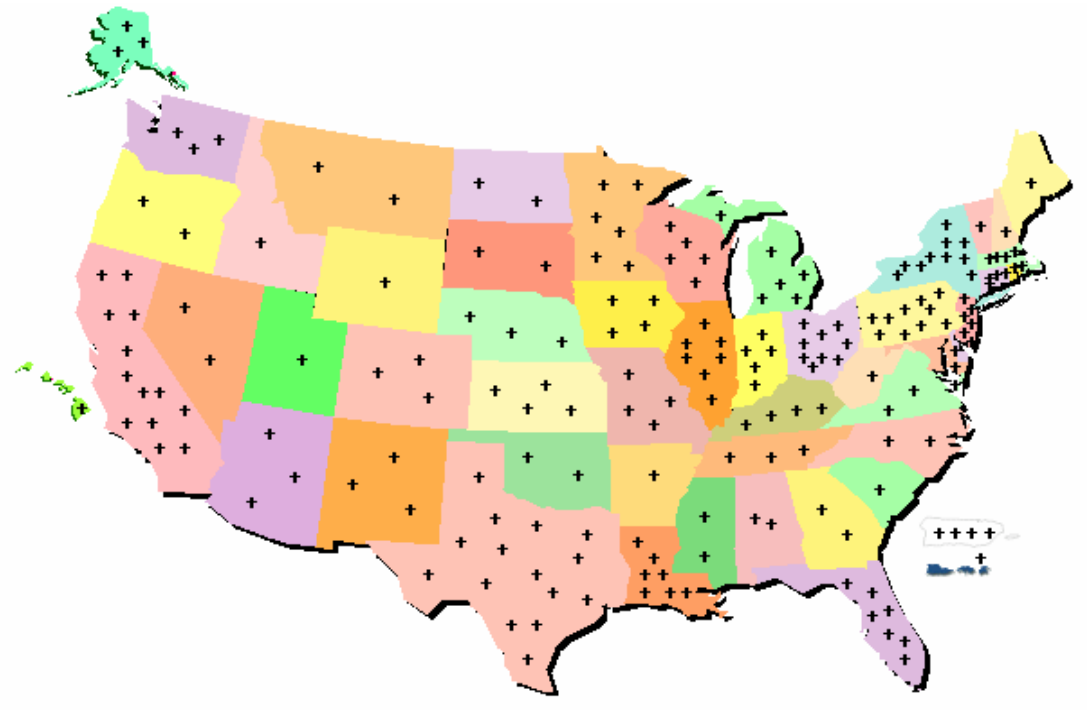
2. Organizational Overview of the Catholic Church

For many the church can be a confusing and complex institutional structure, in which the clarity of organizational roles and management positions are difficult to understand. We believe that understanding this complexity is important when considering the legal responsibility of the Catholic Church for sex offenses committed by their permanent employees.

Unlike many other Christian denominations that are united by religious beliefs with varying degrees of organizational affiliation, the Catholic Church is an institution with numerous affiliate organizations operating under a single, global, corporate structure. A Chief Operating Officer (CEO), known as the Pope or Pontiff, is in charge of the global headquarters (the "Vatican"), located in Rome, Italy. A lifetime appointee, the Pope is elected into office by a global senior management team of "cardinals." Beneath cardinals is another layer of senior management called archbishops. These corporate leaders are assigned throughout world in various senior management positions in order to govern large regional territories called an archdiocese.

Similar to the Pope and his cardinals, archbishops are selected from a management level of bishops who preside in turn over regional territories called dioceses. Throughout the world, these territories are led by a senior bishop and functions as a regional headquarters for all Catholic sponsored activities within their jurisdiction.[5] These non-profit organizations include, but are not limited to, individual parishes, educational institutions (grade schools, high schools, universities, etc.) and social service agencies. The basic line staff of the church, ordained Catholic priests, hold a variety of jobs within these organizations. The typical parish, for example, has a manager (pastor) and line employees (i.e., associate pastors, parish priests). However, "ordained" clergy and secular employees also manage Catholic institutions (seminaries, colleges, high schools, grade schools, etc.). Some clergy are also professional educators, medical personnel and mental health practitioners. Illustrated below, within the United States there are approximately 194 dioceses (including Puerto Rico and the US Virgin Islands).

[5] While it would seem that dioceses administratively fall beneath archdioceses, they do not. This is a distinction in kind, not by hierarchal structure. Although an archbishop has a degree of organizational influence over a bishop of a diocese by virtue of his higher rank, a bishop does not report to an archbishop. Similarly, a cardinal is senior to an archbishop and can be placed in charge of an archdiocese, but has limited influence over fellow archbishops or bishops - who lead dioceses. The Bishop, Archbishop or Cardinal who leads a particular diocese or archdiocese is called "The Ordinary." The Ordinary of each diocese or archdiocese is in charge and is accountable to the Pope.



U.S. Catholic Archdioceses and Dioceses

2.1 Religious Orders within the Church

Organizations known as Religious Orders (Franciscans, Jesuits, etc.) also operate within the Catholic Church but are distinct from the aforementioned priests and bishops. Operating a similar hierarchal structure, Orders also have separate reporting responsibilities and global affiliations. Additionally, they not only have employees who are ordained priests, but religious "Brothers" and "Sisters." Each Religious Order has territorial structures operating around the world that are called "provinces." Each province has an elected president, typically known as a "provincial," who has direct reporting responsibility to a global headquarters and elected CEO. Approximately 300 male Religious Orders are operating within the United States, with a total membership of 25,000 priests and Brothers. Religious Sisters represent an even larger segment of vowed church employees with an estimated 81,000 members.[6]

Despite their independence from the traditional church structure, all Religious Orders must receive permission to function and live within the territorial regions specified by the Vatican. In doing so, these religious organizations submit to a dual reporting structure, both to provincial offices and to the archdiocese or diocese in which they reside. It is the

[6] "Catholic Religious Orders Let Abusive Priests Stay," New York Times (August 10, 2002) and "Leaders of orders ok plan on clergy abuse," Boston Globe (8/11/02). Also see the website for the Conference of Major Superiors for Men (http://www.cmsm.org/index htm).

diocese or archdiocese that has final operational (management) authority for any activities occurring within a local regional territory.

2.2 Organizational Structure

The Catholic Church, a corporate structure containing numerous and varied non-profit organizations across the globe, is one of the largest organizations in the world. While the reporting lines of authority may seem highly complex, all Catholic clergy are ultimately tied to a global headquarters in the Vatican, which maintains exclusive decision making authorities regarding the removal ("defrocking") of "ordained" Catholic employees. Only Catholic priests and deacons are "ordained,[7]" a critical distinction with special privileges that involve the administration of certain "sacramental" duties.

Although Religious Orders also have ordained priests, only the Vatican can give permission to fire or release priests from employment. When a priest is dismissed or wants to leave the priesthood, his Religious Order must seek special permission from the Vatican. In this regard, the Catholic Church is similar to enlisted military personnel within the United States. Within the church's policies and procedures, priests, Brothers, and Sisters cannot resign their commission. They must be released from duty.

The Catholic Church is a very hierarchal structure, with an established chain of command, beginning and ending at the Vatican. In the 1960's, the Catholic Church underwent an organizational restructuring, known as Vatican II, changing portions of their internal laws and to some degree decentralizing church authorities. One major administrative change was the establishment within each country of a national body of Catholic bishops, in America known as the United States Conference of Catholic Bishops (USCCB), that speaks nationally for the church on policy matters, conducts studies and investigations, and enjoys legislative power (with final approval by the Pope).[8] Each diocese and archdiocese contributes money to the USCCB (located in Washington, DC) and assists in national fund raising for the administrative body. Senior leadership from all US dioceses and archdioceses meet annually, vote on national polices, and each bishop and archbishop serves on USCCB committees and workgroups.

Similar to the USCCB, Religious Orders operating within the United States are represented by associative bodies such as the Conference of Major Superiors of Men (CMSM). The association is officially recognized by the Vatican as the national representative body of male Religious Orders for the United Sates and has formal ties with the USCCB. Vowed religious women also have such an association – known as the leadership Conference of Women Religious (LCWR). [9]

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[7] The Catholic Church now allows married men to be "ordained" as deacons. These employees are essentially volunteer workers who assist in some priestly functions, such as performing wedding ceremonies.

[8] See USCCB's website at http://www.usccbuscc.org/" for more information.

[9] Websites: CMSM: http://www.cmsm.org/index htm; LCWR: http://www.cmswr.org/

Regardless of whether an organization is specifically diocesan or a Religious Order, a portion of all its revenues are given to the organizational hierarchy above each layer within the institution, and ultimately to the Vatican. For example, an individual parish collects money for their parish and on behalf of their headquarters – the local diocese or archdiocese. The diocese or archdiocese accepts direct donations and allocates money to various organizations within its territory. Money is also given to their administrative national body (USCCB) and to the Vatican.

2.3 Key Components

While our brief summary of the church's organizational structure may appear to oversimplify a complex institution, we believe it is important to emphasize the following basic points:

- An elaborate management and financial relationship exists between all Catholic institutions in the world and the Vatican. While these organizations appear similar to partnerships within some non-profit organizations that act independently from one another, the Catholic Church is operationally one corporate structure with clear reporting lines and direct managerial authority. The Vatican has complete authority in decision-making on major institutional policies and procedures (not ordaining women priests, celibacy, appointment of cardinals and bishops, dismissal of priests, etc.), and has a very elaborate legal system governing operational and personnel practices known as "Canon Law."
- All dioceses and archdioceses have required membership in a national governing board. The United States Conference of Catholic Bishops enacts legislation and policy for all American dioceses, by a 2/3 ruling vote, and any major legislation on policies or procedures must by approved by the global headquarters in Rome (Vatican). This national board speaks for all US bishops, and also conducts studies and investigations. Money is given by all dioceses to financially support the USCCB and their initiatives.
- Appointees to the highest positions in the church must be selected and approved by the Vatican. This includes, for example, cardinals, archbishops and bishops. The Vatican also decides where they will be employed as the senior most management in the church. Since these are not elected positions, appointees cannot resign or leave their posts without direct permission of the Vatican. [10]
- All cardinals, bishops, priests, as well religious Brothers and Sisters, must take a vow of obedience to their superiors and to the Vatican. Disobeying superiors can result in reassignment, dismissal from employment or potentially even the complete dismissal from the Catholic community (known as excommunication).
- All ordained priests (all bishops and archbishops are first priests), as well as religious Bothers and Sisters, must take a vow of celibacy. Notably, women cannot be ordained priests. Priests are the only employees who perform the church's most important religious rituals. Thus,

[10] As an example, Archbishop Weakland of the Milwaukee Archdiocese was not allowed to retire from his position after submitting his resignation to the Vatican until a recent sex scandal (occurring several months later) was reported about him in the press – at which time the Vatican immediately granted his request (May 2002).

only priests can be promoted to the senior most management positions within the church (bishops, archbishops, cardinals, and the Pope).

- Personnel decisions are made within the context of the intuitional hierarchy and must be obeyed by the ordained or religiously vowed employee. Virtually no decision-making power rests with congregations or recipients of the services provided by the church. For example, parish pastors and priests are assigned to parish communities and are not selected by a congregation as in common in other Christian denominations. This is also true in regards to an archdiocese and diocese. Those who are members of the Catholic Church (i.e., the "laity") are not empowered to select religious Brothers or Sisters, priests, pastors, bishops or archbishops for their communities; they likewise lack any voting power concerning church laws or regulations.
- Archdioceses, dioceses and Religious Orders recruit, educate, ordain and accept vows of their priests, and religious Brothers and Sisters. While diocesan priests are tied organizationally to their particular diocese or archdiocese, procedures exist to allow them to work within other dioceses across the nation and around the world. In contrast, Religious Orders are not tied to a specific diocese and tend to cover large geographical areas. Still, they are required to seek permission from the diocese in which they are located to work within its territory. After doing so, they must report to and abide by the authority of that diocese. While many priests, Brothers, and Sisters also have overseas assignments, the vast majority of those currently ministering within United States are American citizens.
- While archdioceses and dioceses are financially independent from each other, they are fully accountable to the church's senior management, can share money with each other, and have direct reporting lines to the Vatican.

3. Sexual Abuse and the Catholic Church

Within the Catholic Church, long-standing policies and procedures have existed to protect employees identified as sex offenders and to undermine sex abuse reporting laws across the country. Through a complex network of archdioceses, dioceses, and provinces within Religious Orders, church leaders have successfully shielded offenders by moving them into new positions within their regional territories or by reassigning them to jobs in other parts of the country or abroad (see Appendix A). The concealment of these crimes has also been accomplished through the use of a select network of psychiatric treatment facilities, owned primarily by the church and often directed by Catholic priests. Staff at these facilities have systematically circumvented State reporting laws on child sexual abuse by not reporting these offenders to law enforcement or child welfare agencies.

The extent of sex crimes committed by Catholic clergy is not publicly known. This absence of definitive information is due, in part, from a questionable assumption that church personnel records constitute privileged information inaccessible to legal authorities. Additionally, clergy have not historically been "mandatory reporters" of child abuse in all States, leaving them in a unique position to protect clergy who are sex offenders and conceal their crimes. However, recent civil lawsuits and criminal prosecutions have forced some dioceses and Religious Orders to release personnel records of some offenders. For example, some District Attorneys offices have ordered and successfully secured diocesan personnel records of those identified or accused of sex

crimes, and are currently investigating these matters. Over the last year, prosecutors have stepped up inquires (over a dozen grand juries) into whether bishops endangered children by ignoring crimes.[11]

3.1 Prevalence of Clergy Committing Sexual Abuse

Although archdiocesan and diocesan personnel records are maintained locally and kept completely confidential, copies of files on clergy sex offenders are also sent to Rome. Since the Vatican is the only management structure that can dismiss a priest from his official title and privileges, such information is critical for their review and direction. While it has been speculated that six percent of Catholic clergy, or roughly 4000 American priests, are sex offenders,[12] the extent of sex crimes committed by Catholic employees is difficult to estimate given confidentiality policies. In a review of cases gathered from court records, news reports, public church documents and interviews, the New York Times calculated that 1,205 "named" Catholic priests have been accused of sexually abusing over 4000 minors in the United States. While the survey only counted priests who had been accused by name, these cases implicate nearly every American diocese. Given the secrecy involved in these cases, as well as the reluctance of victims to publicly acknowledge their abuse, the investigative report noted that the survey may underestimate the total number of offenders since experts believe many more victims have remained silent about their abuse and that many bishops have released only partial lists of accused priests, or have refused to identify any.[13]

In addition, recent disclosures of sex crimes perpetrated by clergy from various dioceses across the country suggest previous estimates vastly under-represent the actual number of sex offenders and their victims. For example, under intense scrutiny by the general public and legal authorities, the Boston Archdiocese was forced to disclose an unprecedented number of cases (70 clergy sex offenders).[14] Given the extent of crimes reported across the United States in virtually all of the church's regional territories, this number probably approximates a more realistic prevalence rate among individual dioceses and archdioceses. Presently, the following is known:

- While church officials have suggested that sex crimes committed by priests and religious Brothers and Sisters constitutes a relatively new phenomena, historical records indicate that these crimes have plagued the church for centuries (see Appendix B).

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[11] "Role of Bishops is now Focus of Grand Juries," New York Times, July 12, 2002.
[12] Sipe, A.W.R. (1995). "Sex, priests, and power: Anatomy of a Crisis," New York: Brunner Mazel
13 "Decades of Damage; Trail of Pain in Church Crisis Leads to Nearly Every Diocese" (New York Times, Goodstein, L. & Zirilli, A., January 12, 2003).
[14] "Scores of Priests involved in sex abuse cases" (Boston Globe, January 31, 2002). In Baltimore, an estimated 6.2 percent of priests ordained in the last half-century have been implicated in the abuse of minors. In Manchester, New Hamshire, the percentage is 7.7% and in Boston it is 5.3% (Laurie Goodstein, "The Trail of Pain in the Church Crisis Leads to Nearly every Dioceses, January 12, 2003).

- Lawsuits, investigative reports, and church personnel records indicate that employees of the Catholic Church have been involved in sex crimes within the United States at least since the early 1900's.[15]
- An accurate estimate of sex offenders who are priests, and religious Brothers or Sisters is not possible at this time because of the secrecy maintained by the church and its treatment facilities. Although estimates have ranged as high as 6% among American Catholic priests, this may represent only a fraction of the actual number. We have found, for example, that sex offenders from Religious Orders are often not included in a diocese's "official" disclosure of known offenders. This occurs, in part, because bishops do not consider these men to be diocesan personnel, despite the fact that they are ministering within these dioceses under their direct authority.
- Victim estimates are also unknown. Some have suggested 100,000 American children and adolescents have been subjected to sexual abuse by Catholic clergy, but these are rough estimates at best.[16] However, research suggests that only a fraction of those abused as children report such crimes. This is particularly true with male victims due to the negative stigma associated with same-sex contact and the subsequent trauma resulting from such crimes. Contrary to a concerted effort by church officials and those treating clergy sex offenders to minimize the extent of these crimes and the pathological nature of priest offenders, it is common for sex offenders to have abused numerous victims over the course of decades, including male and female children, and target various age groups.[17]
- The number of out of court settlements is not known. However, it is estimated that the Catholic Church in America has spent anywhere from 300 million to 1 billion dollars in attorney fees and victim settlements.[18] While insurance companies have financed a portion of this money, it is unclear where this money was appropriated and how it was tied to tax exempt donations solicited from the American public.
- Although it is unknown how many Catholic clergy or Religious Brothers and Sisters have been accused and convicted of sex crimes, a number of successful criminal prosecutions have occurred across the United States.

4. Corporate Responsibility and Complicity

As noted earlier, over the centuries the Catholic Church has established a hierarchal structure with clear reporting lines of authority. It is one corporation with regional offices throughout the world – offices that do not act independently from the Vatican. All field offices within these dioceses are under the authority bishops or archbishops, who are responsible for all fiscal, operational and personnel matters.

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[15] See Carini v. Beaven (1914). Northeastern Report, 106, p. 589.

[16] Greeley, A.M. (1993). How serious is the problem of sexual abuse by clergy? America, Vol. 168, pp. 20-27.

[17] See Decades of Damage; Trail of Pain in Church Crisis Leads to Nearly Every Diocese" (New York Times, Goodstein, L. & Zirilli, A., January 12, 2003), and "Child sexual abuse and the Catholic Church: An historical and contemporary review" (Pastoral Psychology, Vol. 45(4), pp. 277-299, Isely, P.J.).

[18] In a recent review by the Associated Press, it was also found that since last January at least 300 civil lawsuits alleging clerical sex abuse have been filed in 16 states and 250 of the nation's more than 46,000 Roman Catholic priests have either been dismissed from their duties or resigned. A diocese in Kentucky, for example, faces 122 lawsuits, at least 73 suits have been filed in Massachusetts, an additional 25 lawsuits have been filed in California, and another 41 claims have been made in New Hampshire.

We are concerned that the Roman Catholic Church, as a legal non-profit corporation operating within the United States, committed conspiratorial acts in an organized fashion by willfully withholding information concerning employees who were known sexual offenders from legal authorities, church parishioners, and the general public. By doing so, sex offenses were committed against children after the offender's superiors and senior management knew of their previous sex crimes. Senior officials continued to financially support employees known to have committed such crimes, by paying for their transportation across State lines, as well as their room and board, and transferring them between the church's regional territories (i.e., archdioceses and dioceses), where offenders continued to abuse unsuspecting minors. In some dioceses, senior officials transported offenders across international borders (to a church owned treatment center in Canada, etc.) and financially supported them. These same perpetrators were subsequently returned to the United States by the church and reemployed. The archdiocese of Los Angeles, for example, withheld information on sex crimes from police, allowing clerics facing prosecution to flee to foreign countries.[19] Concurrently, money was paid to victims reporting crimes to senior church management, in which settlements required non-disclosure agreements, while offenders still operated as employees with access to children. Due to such activities, insurance companies are refusing to pay settlements on behalf of the church, and have removed such protections from policies. Appendix A, an investigative report by the Dallas Morning News, provides additional details and examples of how senior leadership within the Catholic Church have institutionally involved themselves in these cases. However, this accounting does not fully depict the extent of the problem.

If U.S. corporations such as General Electric, Rockwell and McDonnell Douglas, and the accounting firm of Arthur Andersen can be indicted and prosecuted for violating criminal and environmental statutes, laws prohibiting bribes paid to foreign officials to obtain business contracts from foreign governments, and obstruction of justice, why should the Roman Catholic Church be afforded immunity for activities arguably as devastating to American citizens?[20]

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[19] In at least 5 cases, archdiocesan officials urged, supported or requested priests under criminal investigation or at risk for arrest to leave the country. Prosecutors are still trying to extradite some of these priests. See "Archdiocese for Years Kept Allegation of Abuse from Police: Church also let priests facing prosecution flee abroad, documents and interviews show," Los Angeles Times, August 18, 2002. Other examples include a priest recently arrested in India for sexually assaulting a teen- age girl in Chicago. A former pastor of St. Tarcissus Parish in Chicago, he fled the United States in May 2002 as civil authorities were preparing to investigate allegations (see Ann Brentwood, Catholic News Service, June 2003).

[20] While we do not claim expertise in determining what Federal laws are applicable to the corporate behavior of church officials regarding their involvement with clergy sex offenders, we believe the following should be given consideration:

- *Obstruction of Justice, Title 18, United States Code, section 1510;*
- *Obstruction of State and Local Law Enforcement, Title 18, United States Code, section 1511;*
- *Tampering with a Witness or Victim, Title 18, United States Code, section 1512;*
- *Aiding and Abetting (Another Crime), Title 18, United States Code, section 2;*
- *Criminal Conspiracy, Title 18, United States Code, section 371 (two or more persons agree to violate a criminal law (e.g., Obstruction of Justice) and take some affirmative step toward commission thereof (whether or not they complete the crime/object of the conspiracy);*

4.1 Corporate Policies and Procedures with Sex Offenders

Over the last few decades, church management has conducted numerous internal investigations of sexual abuse committed by their clergy and presented findings to their established organizational hierarchy. It is our understanding that the results of such investigations were not disclosed to law enforcement authorities within the United States. As a result, sex offenders who are church employees have remained at large. In our opinion, corporate management within the Catholic Church who have protected and financially supported sex offenders have acted as if they are "above" the law. This belief that has allowed them to establish national policies which are contrary to public opinion with virtually no accountability to city, county, State or Federal authorities. Unlike other legal corporations within the United States, the Catholic Church has been allowed to decide whether to investigate, judge and police employees who are sex offenders outside of the established legal structure of the United States - free of criminal liability. By not reporting cases to law enforcement, the church enabled further victimization of innocent parties.

Although not commonly viewed as corporations, most religious groups operate within the non-profit sector, collecting donations and payments for services, and otherwise enjoying the status of a legally established corporate entity. Within each of the 50 States and US territories, the Roman Catholic Church has established non-profit organizations that are provided with tax-exempt status under Federal and State laws. By doing so, they operate as a business, legally responsible to uphold the laws of our Nation, and socially responsible to the citizens who fund and receive church related services.

The Constitution grants organized religions protections to practice freely their religious beliefs. This protection does not imply, however, that religious staff are free to violate sexual assault laws. It is not intent of our Constitution or any other law to protect sex offenders, or corporations who support and harbor them, against prosecution. Such acts of sexual abuse, molestation and child rape have nothing to do with the free and uninhibited practice of religion.

Although the United States established a "diplomatic" relationship with the Vatican under a previous Administration, Roman Catholic clergy do not enjoy diplomatic status and protection, nor do their activities or associated facilities. Catholic archdiocesan and diocesan offices, parishes, social service agencies and schools are not embassies, their land is not the sovereign property of another nation, and their personnel records and property are private only to the degree that the church obeys the laws established within our country.

- *The Racketeer Influenced Corrupt Organizations Act ("RICO"), Title 18, United States Code, section 1961 et seq. RICO specifically lists violations of Title 18, United States Code, sections 1510 (relating to obstruction of criminal investigations), 1511 (relating to the obstruction of State or local law enforcement) and 1512 (relating to tampering with a witness, victim, or an informant) as racketeering activity. The RICO statutes requisite "pattern of racketeering activity" and "predicate acts" of racketeering activity are demonstrated by the widespread criminal violations that have been established.*

4.2 Corporate Complicity and Sex Crimes

Over the past several decades, various legal concerns have been raised about the involvement of church officials in sex offenses committed by their employees. More specifically, their protection, support and continued employment of known or suspected perpetrators of sexual abuse have led to further violations. As outlined below, several issues about this behavior suggest a level of organizational complicity that extends beyond isolated events occurring within one or two dioceses or Religious Orders. For example:

- In general, clergy have not been required by most State laws to report the sexual abuse of minors to local law enforcement or child protective services. As corporate entities operating within the United States and providing numerous services to American citizens, historically they have chosen not to report sexual abuse perpetrated by their employees.
- Over the decades, senior managers of the Catholic Church systematically withheld information on sexual abuse perpetrated by their employees from legal authorities, fellow employees and field managers (pastors), as well as their customers (parishioners). They knowingly reassigned offenders to other parishes and further sex crimes were committed. In other cases, church officials reassigned offenders to new archdioceses or dioceses in other parts of America and only disclosed the employee's sexual offenses to the accepting territory's archbishop, bishop or superior. These assignments have included, for example, parishes, educational institutions (high schools, etc.), US military chaplaincies, and work within American Indian country (reservations that have unique Federal jurisdiction).[21]
- It is well known that senior church management has paid for the transportation of known sexual offenders across State lines to church sponsored and other privately contracted treatment facilities, without informing legal authorities. Some of these treatment facilities allowed offenders to work in local parishes while they were still in treatment, in which some men continued to perpetrate sex acts against children. In general, these offenders have been returned to their home dioceses, placed into new parishes or assignments, where their criminal history was kept secret. Not surprisingly, this resulted in repeated acts of sexual abuse against children and minors. Transportation, treatment, and living expenses were paid by the offender's diocese or archdiocese. This practice continues today (see Appendix B for a more extensive discussion on this topic).
- The church's internal legal system (the Code of Canon Law) clearly indicates that sexual activity with a minor by a Catholic cleric is "particularly heinous" and considered a crime. This internal prohibition regarding sex with minors dates back to the "earliest days of the church and is found repeatedly in collections of ecclesiastical laws." The penalties are severe, including the removal of the cleric from the church (see Appendix C).[22] Under Canon law (in essence a global Human Resource policy), the church has determined it own statute of

[21] Although not discussed in the press, it has come to our attention on several occasions that Indian reservations have experienced significant difficulties with clergy sex offenders, in which there is large presence of Religious Order priests and brothers.

[22] Appendix C is written by Written by Fr. Thomas P. Doyle, O.P., J.C.D., a noted canon lawyer and military chaplain, who helped to author the report in Appendix D. He recounts events in the cases of Frs. Rudolph Kos, Robert Hughes and William Peebles, including the roles of the USCCB/USCC and the Military Vicariate. See the SNAP website to obtain a copy.

limitations on sexual abuse cases involving clerics.[23]

A recently discovered Vatican document, issued in 1962 and titled “Crimen Sollicitationis” (On the Manner of Proceeding in Cases of Solicitations), clearly shows that the Catholic Church has deliberately intended to keep such sex crimes a secret. While the document focuses on "crimes” initiated as part of the confessional relationship, it also singles out other "worst crimes," such as "any obscene, external act" committed by a cleric "with youths of either sex." It outlines a procedure for bishops to handle allegations and requires anyone aware of the "solicitation" to take a vow of silence "under the secret of the Holy Office” or face excommunication (dismissal from the Catholic Church). It orders priests to be transferred if possible and all records of unproven accusations destroyed.[24]

4.3 An Organized Network to Systematically Circumvent State Reporting Laws

Clergy offenders are frequently placed into church or other privately owned treatment centers and seen by licensed mental health practitioners (i.e., psychiatrists, psychologists) who are mandatory reporters of sexual abuse.[25] However, since these offenders committed sexual abuse against children and minors in other States within the US, these practitioners are not technically obligated to report the abuse to legal authorities (see Appendix B). Since the ethical and legal responsibility of reporting child abuse is well known among mental health professionals, it is impossible that these practitioners and mental health managers were unaware of this unique loophole in the existing reporting laws. It seems equally unlikely that management at these centers did not discuss such legalities with church officials and their lawyers so that all parities understood that by transporting sex offenders across State lines for treatment mandated State reporting laws were being circumvented. By doing so, all parties willfully participated in a corporate wide effort to avoid the prosecution of known sex offenders under their employ and to protect the church from public exposure, criminal investigation, and civil accountability.

The premise that church officials, both locally and as a national body, had little awareness of the State reporting laws and were merely acting in the best interest of victims and society by providing comprehensive treatment for clergy sex offenders, is seriously challenged by internal documents that became public in late the 1990’s. In 1985, the National Council of Catholic Bishops received a report authored primarily by the Director of the St. Luke’s Institute (a Catholic sponsored mental health facility

[23] See “Bishops Proceed Cautiously in Carrying out Abuse Policy,” New York Times, August 18, 2002.
[24] Kristen Lombardi, “Law and the law.” Boston Phoenix, Aug 15, 2003.
[25] Although dioceses have at times used local mental health providers to treat offenders, they have primarily used church owned facilities: the St. Luke Institute in Suitland, MD; the Institute of Living in Hartford, CT, the Servants of the Paraclete in Albuquerque, NM (no longer operating), and Southdown Institute in Aurora, Ontario, Canada. However, according to the Post-Dispatch, a newspaper from St. Louis, approximately one dozen treatment facilities work with such priests across the United States. Other centers include the St. Jean Vianney Renewal Center, run by the Servants of the Paraclete and the Wounded Brothers Project, a center run by a priest, outside of St. Louis. The Paracletes also run St. Michael's Community in Sunset Hills. (Post-Dispatch, “A Quiet Refuge Under Watchful Eyes, March 3, 2002).

licensed by the State of Maryland) outlining recommendations for all senior management across the United States.[26] Fr. Michael Peterson, M.D., a Catholic priest and licensed psychiatrist, was assisted in preparing this report by both church and civil lawyers. The report and subsequent briefing attended by senior bishops informed the church that sexual contact with minors and children was a crime in all 50 States and that each State has reporting laws for these crimes. It further recommends a course of action to address mandatory reporting laws when sending offenders into treatment. The report urges the church to investigate, with the help of legal counsel, mandatory reporting laws required of mental health professionals in each State wherein a treatment facility is located before sending a sex offender. Since the church had been sending offenders to their own treatment center in New Mexico long before 1985, it also seems unlikely it was ignorant of State reporting laws and the consequences for offenders. Regardless, the following examples of the report (Appendix C) documents that senior management was made aware of these reporting laws in the 1980's:[27]

- "One of the most difficult concepts for all of us to understand at this time is that reporting laws concerning physical, psychological and sexual abuse of children are changing rapidly in most states and that clerics are NEVER an exception to the reporting laws. Our dependence in the past on Roman Catholic judges and attorneys protecting the dioceses and clerics is GONE."
- "There are a lot of criminal laws which pertain to an Ordinary in instances of sexual molestation of children by their subjects. Primarily there are two broad areas under which this criminal responsibility falls. First, the area of reporting. Failure to report information regarding sexual molestation of a child by a priest when such information is available or in the possession of the Ordinary, is considered a criminal offense in some states. Secondly, to allow a priest to continue to function, endangering the health of children, following the receipt of private, confidential knowledge that this priest victimized a child is considered to be "criminal neglect" (a crime in many states)."

  "As soon as the Ordinary has ascertained that there is some truth to the allegations of sexual abuse by a cleric, arrangements should be made the same day or the following day at the latest for the priest's transfer to an evaluation center. The Ordinary may be familiar with a competent evaluation center or may have discussed such a center with the priest-psychologist. It is especially important to understand that evaluation centers may be located in states having reporting laws which might prove problematic for the Ordinary. For examples some states have enacted legislation that does not extend privilege of communication between a patient and his psychologist or psychiatrist to cases involving child abuse, including sexual abuse of children. In Massachusetts a therapist, no matter what his training, must report the incident to the local authorities if there is any indication that the incident occurred within the state of Massachusetts. It is also possible that this extends to people who were involved with other adults who were involved with the incident in the state of Massachusetts. For this reason this state would be a hazardous area to send a priest for evaluation because of the stringency and extent of the reporting laws. Almost all states require and suspend the privileged communication between mental health professionals and the child if the child is the patient. A sexually or physically abused child seen by such a mental health professional must be reported in all 50 states along with the names of the persons offered by the child.

[26] This Report was used as evidence in the 1997 trial of several plaintiffs vs. Fr. Kos and the Diocese of Dallas (see Appendix C).
[27] Grammatical errors etc. are found in the original text.

> The point here is that the Ordinary should determine the reporting laws in the states of possible evaluation centers. It would be wise to consult with attorneys knowledgeable of these issues prior to sending the priest for evaluation."

While the report provides contradictory advice to the bishops, it plainly indicates that significant harm to the child or minor occurs as a result of such abuse, in which psychological assistance should be rendered to them. It warns that In general, the report primarily focuses on procedures to protect the church, senior management, and the priest. It states that such abuse constitutes a "felony" with severe legal consequences to both the offender and management.

4.4 Church Treatment Centers

Since the public exposure of clergy abuse in the early 80's, directors of church sponsored treatment centers have involved themselves in media campaigns to assure the American public and church personnel that their unique brand of offender treatment has resulted in overwhelming success/recovery rates with clergy sex offenders. Unheard of within the professional literature, their reports of nearly 100% success rates (i.e., little or no relapse rates) remain unsupported by clinical evidence. Claiming that the majority of clergy sex offenders victimized adolescent males, they have successfully introduced into the lexicon of sex offender treatment (mostly in the media, church sponsored publications, and several books) unofficial diagnostic categories to bolster their unsupported hypothesizes regarding men who sexually assault "minors" versus prepubescent children. Officials of the church have rallied around this distinction, echoing unsubstantiated claims of greater treatment success and significantly lower numbers of victims per offender. Some have even claimed less harm occurs to victims who have reach puberty when they are molested. Though virtually unchallenged, their assertions are not supported by research. These unusual offender typologies, furthermore, have only been used and advocated in professional literature by those who treat clergy (see Appendix B).[28] In a recent review of priests publicly named as sex offenders of children or minors, the New York Times discovered that 43 percent of the 1,205 accused priests sexually victimized children age12 or younger.[29]

Unlike traditional "patient/doctor" confidentiality privileges, it is our understanding that not only does the Catholic Church have a corporate relationship with these health providers, they also have access to the clinical records of employee sex offenders undergoing treatment. As with guardianship of a child, the church orders men into

[28] Fr. Stephen Rossetti (Director of St. Luke Institute) and Dr. Lothstein (Institute of Living) have actively promoted a diagnostic category (not endorsed or used in psychiatry or psychology) that creates a distinction between those who molest minors (ephebophilia) versus children (pedophila). Notably, they have also published together and advocated that most clergy offenders can be returned to ministry in the community (see the book: Slayer of the Soul: Child Sexual Abuse and the Catholic Church, 1990). It is noteworthy that most of these publications are not in peer reviewed professional journals, but in Catholic publications or published by Catholic printing houses.

[29] "Decades of Damage; Trail of Pain in Church Crisis Leads to Nearly Every Diocese" (Goodstein, L. & Zirilli, A., January 12, 2003).

treatment, pays for it, reviews progress, and discusses clinical decisions with the treating mental health providers and jointly decides if the offender can be returned to their assigned station to continue work. This highly unusual relationship with adult employees is supported in part by a network of treatment facilities owned and operated by the Catholic Church. Unlike managers for public and private ("secular") treatment centers, they are led by Catholic priests who have a direct reporting relationship to church hierarchy.[30] Within this dual capacity, significant conflicts of interest and ethical irregularities are generated. They advise, for example, the United States Conference of Catholic Bishops and other church bodies on sex offender policy and procedures. A cornerstone of that advice is the placement of church sex offenders into their treatment centers.

It is also known that church management has knowingly transported sex offenders out of the country, paid for their living expenses and thus placed children at risk in other countries (see Appendix A). While in general the American Catholic Church has used the same treatment facilities for offenders,[31] they have similarly transported sex offenders, paying for lodging and treatment, to a facility in Canada (Southdown Institute), a Catholic owned treatment center directed by clergy and Religious personnel. [32] Investigative reports on these treatment centers are now appearing in the press. Since the first wave of national attention in the 80's, priest psychologists and psychiatrists have rarely been questioned about their diagnostic framework for clergy offenders or the church's use of their own treatment centers to bypass reporting laws. However, investigative reporters are now beginning to question these practices and St. Luke Institute is under investigation by State health officials in Maryland. The current Director of St. Luke Institute, Fr. Stephen Rossetti, has been particularly brazen in his response to reporting laws, in which he openly admits the practice of not reporting clergy sex

[30] Some have estimated that the Catholic Church has spent at least 50 million treating priest sex offenders at these treatment centers ("Priest treatment unfolds in costly, secretive world: Psychiatrists, church trade misdeed charges," Boston Globe, April, 3, 2002).

[31] The first Catholic center, directed by the Brothers of the Paraclete in New Mexico, treated 2,000 priests between 1947 and 1978 and returned them to active employment within church field sites (parishes, etc.). Lawsuits in the early 1990's eventually lead to its closure in 1994 (children were sexually assaulted by clergy that were allowed to work in local parishes while undergoing treatment). During the first wave of media interest in clergy sex abuse (the mid 1980's), however, the Catholic facility St. Luke Institute assisted church superiors by also providing treatment to priest sex offenders, but without the neighborhood's knowledge. Now relocated to a spacious campus in Silver Spring Maryland, the 70-bed facility cost $300 a day and has been full since it opened. Another treatment facility, Institute of Living in Connecticut, is a specialized program for treating clergy and is housed in a 35 acre, private psychiatric hospital. While continuing to treat priests, management of the Institute has recently stated that the church generally ignored their discharge recommendations. These statements were issued in response to church officials blaming psychiatrists for misadvising them about the potential risk of certain sex offenders (see "Priest treatment unfolds in costly, secretive world: Psychiatrists, church trade misdeed charges," Boston Globe, April 3, 2002). Before these recent media stories, however, the same treatment centers were stating that they were able successfully returning these offenders to minister in the community. Two other church facilities have also been used, the Southdown Institute located in Canada, and the St. John Vianney Center, a treatment center for clergy and religious run by the Archdiocese of Philadelphia.

[32] John Allan Loftus, S.J., Ph.D., was executive director of the center during the 90's. The current director, Donna Markham, Op, Ph.D., is a Catholic nun.

offenders to authorities – blaming State legislation for these loopholes and claiming he does not have to report sex abuse as a mental health professional if the victim is an adult and statue of limitations has expired on reporting.[33] What he fails to mention, however, is that reporting laws are often more complex and that ethical standards of practice compel therapists to consider potential criminal acts that might be perpetrated by such offenders.[34] It has been the practice, therefore, of the St. Luke Institute to not report sex offenders treated at their facility in Maryland if they committed sex crimes in other States.[35] As mentioned earlier, it was this same treatment facility that informed the highest senior leadership of the American Catholic Church about these reporting laws and recommended them to first investigate States laws before transporting a sex offender for an evaluation.

Other well known consultants to the United States Conference of Catholic Bishops, such as Dr. Fred Berlin a psychiatrist who treats priests at Johns Hopkins Sexual Disorder Clinic in Maryland, has argued that treatment professionals should not be required to report current or newly revealed acts of child molestation.[36] More disturbing, Dr. Berlin, a founder of the clinic, has admitted publicly that he covered for sex criminals, angering legislators, child-advocacy groups and State officials in Maryland. Considered by Dr. Berlin to be one of his mentors, the clinic's cofounder, Dr. Money, has stated that a mutual sexual relationship between a 10 or 11 year-old boy and an adult is not pathological. Additionally, Dr. Paul McHugh, former chairman of the Department of Psychiatry and Behavioral Sciences at John Hopkins University School of Medicine, was recently chosen by the American bishops as the chief behavioral scientist for their new clergy sex crimes review board. In the past, Dr. McHugh has stated that the clinic was "justified in concealing multiple incidents of child rape and fondling to police, despite a state law requiring staffers to report them." When he was Director of Psychiatry and oversaw the sex clinic, Dr. McHugh publicly stated that "we did what we thought was appropriate," and agreed with the actions of his "subordinate, clinic head Fred Berlin, who broke the then-new child sexual abuse law on the grounds that it might keep child molesters from seeking treatment."[37]

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[33] See the recent article authored by Fr. Rossetti in the Jesuit periodical "America" (April 25, 2002) entitled "The Catholic Church and Child Sexual Abuse."

[34] For example, if an adult sexually abused during childhood discloses such incidents to a therapist and the professional has reasonable belief that the abuser has recently been abusing children or is at risk of abusing children (i.e, lives in a household with children, is a teacher at school, supervising children), they may need to report such a crime.

[35] A recent investigative report indicates that St. Luke's policy "has always been not to notify police when its patients tell therapists about abuse that occurred outside Maryland. The institute's officials maintained that they were not legally required to make such reports, and they argue that doing so would violate doctor-patient confidentiality." The institute's Director, Fr. Stephen J. Rossetti, states the "hospital" has "protected hundreds of children from being molested," and that reporting sex crimes would be a "loss to society" because it might deter some priests from seeking treatment at their facility ("Hospitals for Priests not required to Report all Suspected Abuse, The Washington Post, Sunday, June 30th, 2002, page C04).

[36] Berlin, F.S., Malin, H.M., & Dean, S. (1991). "Effects of statutes requiring psychiatrists to report suspected sexual abuse of children." American Journal of Psychiatry, 148(4), p. 449-453.

[37] Reisman, J. & Jarrard, D. (August, 21, 2002). Strange Bedfellows. The Washington Times.

By systematically protecting sex offenders, not reporting them to legal authorities and allowing them to continue working as employees in unsupervised contact with children, we believe that the Catholic Church repeatedly violated the civil rights of children by allowing known sex offenders to work with minors. Victims, according to the Boston Globe, "especially those who were molested by priests who had been in treatment, now wonder bitterly why the church used its own treatment centers." Cardinal Egan, they write, has recently blamed treatment centers such as Institute of Living for his return of priests sex offenders into community ministry after treatment – men who swiftly reoffended children.[38] And while this treatment center has claimed that the church was not following their advice, it is clear that these sex offenders were never reported to legal authorities by either church officials or the psychiatric professionals who treated them - even though both had full knowledge of their crimes and could have prevented further abuse of children and minors by these offenders.

In New York, a Grand Jury report on a diocese in Suffolk County also questioned why the church continues to send sex offenders to church related psychiatric facilities, frequently returning them into ministry where some priests have again sexually victimized children. Their conclusions, similar to the concerns outlined in this position paper, express similar dissatisfaction with explanations by church officials regarding their involvement in these cases:

- "The formal written policy promulgated in 1992 also required that, in cases involving the sexual abuse of a minor, the priest involved would be sent to a non-church related facility for evaluation. This requirement was almost always ignored. Most of the priests from the diocese were sent to church related psychiatric facilities. The grand jury received no adequate explanation for why this was done. High-ranking officials denied it was to keep the extent of the problem of clergy misconduct from being discovered by individuals outside the ambit of the Catholic Church. The Grand Jury finds there is no other plausible explanation for the practice." [39]

4.5 Senior Management and Offenders Evade Investigation

It is unclear why a non-profit corporation such as the Catholic Church, whose protection of sex offenders from criminal prosecution has resulted in subsequent sex acts against children, has generally eluded Federal or State investigation. These corporate managers have knowingly transported sex offenders across State borders, to numerous field offices within various Regional territories, for employment in positions involving contact with children. While they disclosed sex offenses perpetrated by employees between senior management (bishops) across dioceses, to their global headquarters, and at times to management in their field offices, they did not disclose these sex offenses to legal authorities and to the public who are the recipients of their services. They send sex

[38] The Investigative Staff of the Boston Globe (2002), "Betrayal: The Crisis in the Catholic Church," Little, Brown, and Company: New York, NY. (pp. 172-175)
[39] See pages 133-134, Suffolk County Supreme Court Special Grand Jury (May 6, 2002). Grand Jury Report CPL 190.85(1)(C)

offenders to church sponsored treatment centers, which circumvent reporting laws, regardless of whether a sex offender's victims required mental health services and assistance. And due to these corporate policies and procedures, legal authorities within the United States were unable to protect children against predatory sex offenders within their local communities. It is questionable if similar non-profit corporations, such as the Boy Scouts or Goodwill Industries, would be allowed to operate in such a fashion.

Although such corporate activity has become public, the Catholic Church has continued to define the legal parameters by which it will operate within our country. Despite legal cases and numerous investigative reports, this corporation has been able to operate outside the confines of the American legal system and make decisions about how they will judge and punish employees who are sex offenders, without oversight by city, county, State or Federal authorities. At conferences for senior management, they have devised internal, national, policies on how to judge and discipline such employees regardless of existing laws or public opinion. They have been generally free to act without impunity. The Conference for Major Superiors of Men (CMSM), representing all male Religious Order priests and Brothers within the United States, recently issued an official statement that they will not expel sexual predators from their Religious Orders. Notably, the current president of the CMSM is Fr. Candice Connors, a past director of the St. Luke's Institute in Maryland, who has published numerous articles claiming unprecedented success rates with offenders and advocating the return of sex offenders into public ministry. In a recent speech, Fr. Conners stated that abusive priests are being scapegoated and he denounced zero tolerance of sex offenders within the church as a "war slogan." While this August CMSM finally approved a plan to protect children from abusive clerics, they have also voted to allow sex offenders to remain within their Religious Orders as priests and Brothers.[40]

Victims of sex offenses committed by Catholic employees remain perplexed as to why this legally established corporation, operating an extensive network of field offices within the United States, is generally free from criminal investigation, oversight and prosecution. Over the last several decades, they have evidenced an inability to police or manage these offenders despite their insistence on doing so, placing multitudes of children at risk. In general, they have been unwilling to cooperate with legal authorities, continuing to assert their authority in such matters, despite unprecedented public concern and increased local involvement by some District Attorney offices.

In our opinion, it seems unlikely if corporations such as Enron or Arthur Anderson had conducted similar practices, they would be free of Federal Grand Jury investigations, allowed to set up internal boards of inquiry, select the board members, and merely issue general apologies for their behavior without a single resignation by senior management.[41]

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[40] See: "Orders have let abusers remain" (The Dallas Morning News, August 2, 2002), "Catholic Religious Orders Let Abusive Priests Stay" (New York Times (August 10, 2002), and " Leaders of orders OK plan on clergy abuse (Boston Globe, August 11, 2002).

[41] Except for Cardinal Bernard Law (who recently resigned in December of 2002), to the best of our knowledge, no cardinals, archbishops, or bishops have resigned, or been allowed to resign by the Vatican, due to their involvement in concealing this criminal activity, providing protection for sex offenders, or

Yet the Catholic Church, contrary to opinion poles indicating that the vast majority of Catholics are demanding the removal of all sex offenders and resignation of senior management who aided and abetted these offenders, continue to act in a manner of their choosing, resisting the demands of our citizens and those legal authorities who are attempting to protect our Nation's children. Apparently, the Catholic Church is convinced it is beyond the confines of established law.

Facing enormous public pressure, senior management within the American church overwhelmingly voted last June (239 to 13) for a national charter on clergy sexual abuse. The bishops agreed to permanently remove from ministerial work any priest who committed at least one abusive act against a child, to report every abuse allegation to legal authorities, to conduct background checks on church employees who work with children, to establish abuse prevention programs, to appoint special ministers to help abuse victims, and to create "lay" committees (review boards) to assess allegation against priests. They did not, however, vote to remove sex abusers from the priesthood despite opinion polls indicating that the majority of American Catholics (89%) believe that they should be removed or "defrocked."[42] An investigation conducted last August by the New York Times revealed, however, that bishops are not complying with their own charter - a mandatory policy for all American dioceses. According to some bishops, this was occurring because they were waiting for the Vatican to officially accept the new policies.[43]

Much to the disappointment of clergy abuse survivors and American Catholics, the Vatican subsequently rejected the bishops' charter. Instead, the Vatican sent representatives to work with them on a revision that significantly rolled backed the progress made in June where bishops promised major institutional reform. The revised charter places almost complete discretion in handling abusive priests with the local bishop, often the same bishop who covered the offender's crimes, and increases the level of secrecy in these cases by adding clerical run tribunals. It also made the use of lay review boards entirely optional. While no licensed profession working with children in the United States (such as therapists or doctors) has a time limit on revoking a license to practice if one of its members has been known to rape and molest children, the revisions in this charter include this option for offenders. It includes, for example, allowing sexual predators the option of appealing to the Vatican to remain in ministry, or if removed to return to ministry. Under this charter, a sexual offender could also theoretically be allowed to work as a priest in another country, since the norms only cover the United States. The current policy, unlike the original charter, no longer requires reporting to civil authorities.[44]

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placing children at risk for sexual assault by assigning unsupervised sex offenders to parishes, schools or similar organizations. The only other senior managers to resign over these events occurred with bishops whose own sex crimes became public.

[42] "Defrock Abusers, most Catholic say," USA Today, June 20, 2002.

[43] Bishops Proceed Cautiously in Carrying out Abuse Policy, New York Times, August 18, 2002.

[44] Milwaukee Journal Sentinel (Nov. 16, 2002), "Good bishops on their own."

5. The Need for Federal Involvement

As the Federal law enforcement arm of the United States government, the Department of Justice (DOJ) stands in a unique position to ensure that all corporate bodies, regardless of their affiliation, obey the law. Because the Catholic Church operates throughout the United States, including Federally protected American Indian country, a swift and consistent application of the law has been nearly impossible in cases of clergy sex crimes. As you are aware, free movement by our citizens across State lines, in which age of consent laws vary and numerous jurisdictional conflicts prevail, frequently prevents rigorous application of our laws.[45] As a community based institution, Catholic dioceses and Religious Orders are strongly tied to local political infrastructures and deeply influential within their communities. The emerging stories of clergy sex crimes, and the institution's involvement in concealing and supporting these offenders has seriously challenged their relationship with these communities, as the general public increasingly demands accountability from church officials.[46]

Given the facts that we have outlined, it is our sincere conviction that criminal activity perpetrated by employees of the Catholic Church, the concealment of these crimes, and the ongoing protection of these sex offenders has led to a general disregard for public safety that will never be rectified unless the Department of Justice strongly intervenes in this national crisis; a crisis that has reached such epidemic proportions that even the President of the United States discussed his concerns about clergy sex offenders with the Pope.

While we have not detailed the extent of trauma clergy sex abuse has inflicted upon a multitude of victims and their families, a just accounting of the role that this corporation has played in perpetuating sexual offenses against American children is required to ensure that our society is safe for all of our citizens. No other institution in the history of America has been afforded such extraordinary latitude to internally address its illegalities without legal intervention and sanction. And yet, senior management within the Catholic Church has continued to reconstruct the fundamental protections afforded to every child in this country by choosing to abide by our laws at their convenience and assuming they are immune from basic responsibilities expected of any institution operating within the United States. It is our contention that senior management within the church did not need to construct a national policy on sex crimes. Such laws already exist within each city,

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[45] An additional area of concern, jurisdictionally, is the transport of children across State lines by Catholic clergy who subsequently sexually assaulted and abused them. In a recent gathering in Dallas, for example, a group of adult survivors of clergy sexual abuse were asked if they were transported and sexually assaulted by an offender in more then one State in the US. Roughly half of the participants raised their hands. Such activity, as well other criminal behaviors (photographing child victims, infecting victims with the AIDS virus, etc.), can further complicate these cases and raises numerous questions around the statue of limitations, etc., that we are concerned have not been sufficiently addressed (see Appendix A).

[46] See "Catholic Clout is Eroded by Scandal," The Washington Post, July 6, 2002. Also see the New York Times (Sam Dillon, November 14, 2002), "Bishops Fail to Heed Calls for an Audit," which discusses the anger of Catholic philanthropists when their request to the USCCB for a nationwide audit detailing how much the crisis of sexual abuse by priests has cost the church was ignored.

county and State in America; and, it is not an option for senior management from any corporation operating within our borders to vote on how they will abide by them.

While several District Attorneys have ordered archdioceses and dioceses to turn over personnel records on known sex offenders (i.e., New York, Boston), other District Attorneys have refused to make such requests (Milwaukee, WI, etc.) despite public pressure to do so. To the best of our knowledge, no Federal investigation has been initiated to resolve this inconsistent application of the law.[47] Because of the complexity of the church organizational structures, we are also concerned that State investigators are not receiving an honest accounting of clerical sex crimes and the actual number of offenders within a given dioceses or Religious Order. If investigators do not realize that a diocese has numerous Religious Orders under its authority/jurisdiction, and do not specifically inquire about these clerics, a bishop might only be releasing information on his diocesan priests.[48] Bishops and archbishops are also required to keep "secret archives" on personnel matters such as sex offenses committed by clergy, which only they can access. These records are not considered part of diocesan personnel records or files and may also be escaping the attention of investigators (see appendix D).

Since church sponsored treatment facilities refuse to report sex crimes against children occurring across the United States, cases of sexual victimization are not being investigated or prosecuted because legal authorities are unknowingly being denied access to information on child sex offenses committed within their jurisdictions. By doing so, legal infrastructures are impaired, appropriate treatment not provided to children, and the safety of local communities compromised as sex offenders continue to reestablish themselves in positions of public trust unencumbered by legal constraints and oversight. The fragmentation of information on clergy sex offenders, spread across a multitude of dioceses in confidential personnel files and concealed in records among a select group of treatment facilities, has enabled the Catholic Church to avoid criminal prosecution, civil liability, and public mistrust; a trust that has significant financial and social repercussions to their institution.

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[47] The US Attorney's office in Milwaukee, WI recently investigated the improper use of church funds to pay for the concealment of a sexual relationship involving an archbishop. Notably, this was not an investigation regarding sex crimes committed by church employees across the archdiocese. More recently, survivors of clergy abuse in the State of Massachusetts have requested their US Attorney to consider federal charges against the Archdiocese of Boston after the state Attorney General determined that under current State law church officials could not be prosecuted (Kristen Lombardi, "Law and the law." Boston Phoenix, Aug 15, 2003). It is our understanding that this type of investigation by Federal authorities has never occurred.

[48] The Archdioceses of Chicago, for example does not include religious priests and brothers, nor priests from other dioceses allowed to work in the Archdiocese, in their official count of Chicago priests accused of sexually victimizing minors. "Since January 1, 1993, the Archdiocese of Chicago's independent Review Board has determined there was reasonable cause to suspect that sexual abuse of a minor occurred in 55 matters dating back 40 years involving 36 Archdiocesan priests. These matters do not include allegations against religious order priests and priests from other dioceses granted faculties in the Archdiocese" (See document on the Chicago Archdiocesan website, www.archdiocese-chgo.org, " Ten Year Report on Clerical Sexual Abuse of Minors in the Archdiocese of Chicago").

We believe that the Interstate aspects of this organization, the extent of sexual victimization perpetrated by their employees, and the institutional effort at concealment of these offenses, are exactly what the DOJ and Federal Bureau of Investigation (FBI) have the ability to comprehensively investigate and prosecute. It is our understanding that many local and State jurisdictions simply do not have the RICO and Obstruction of Justice legislations that would extend the Statue of Limitations in the Federal arena. Since such concealment continues in many dioceses today, these acts would be considered ongoing, and all cases concealed (no matter how long ago they occurred) should still be within the Statute of Limitations. We are concerned that no single District Attorney's office has jurisdiction that adequately covers the organizational crimes that we believe have occurred and continue to occur. They do not have the manpower or the ability to reach the evidence that is being withheld from them by the church's national and international corporate headquarters.

It is our sincere belief that only the Department of Justice and the FBI has the ability to provide a central point of investigation to conclusively address the multitude of sex crimes committed by Catholic clergy within the United States and the ongoing concealment and protection of these offenders. We strongly feel, as does the American public, that the sex offenders being shielded by the church hierarchy must be held accountable for their crimes, both to rectify the lifelong damage they have already inflicted upon innocent children and in order to protect future children from such harm. If our religious institutions are unable to provide a safe haven for children, then we believe society must intervene to ensure such protection. The complex network of regional territories and field offices across the United States among dioceses and Religious Orders, complemented by the strategic use of Catholic owned or supported treatment facilities, has enabled senior church management to circumvent reporting laws, avoid prosecution of their employees, and manage public information and trust. This reckless course, which they continue to affirm and support, has led them to a dangerous legal and ethical precipice as they continue to "protect their own" at society's expense.[49] Their decision not to remove sex offenders from their employ, their unwillingness to voluntarily surrender all information on child sex offenses committed by their clergy to legal authorities, and their misguided belief that they can treat and police sex offenders, has left the American public outraged - demanding full and unequivocal accountability by the Catholic Church. We believe this accountability can only be provided by a comprehensive investigation of this corporation by the Department of Justice and the FBI.

[49] This attitude appears to be held within Vatican legal circles as well. Fr. Gianfranco Ghirlanda, a Vatican appeals court judge, Dean of the Canon law faculty at Rome's Gregorian University, and consulter to several Vatican agencies, recently wrote in an influential Catholic magazine (contents reviewed prior to publication by the Vatican) that "it is not a good pastoral practice for the bishop to inform civil authorities of abuse allegations against a priest, so that the bishop can avoid being implicated in any future civil action taken by an accuser." He further states that when a sex abuse offender is reassigned in a parish "the bishop should not inform the new parishioners of the past abuse." ("Vatican official says bishops usually not liable for abuse by priests," Catholic News Service, May 16, 2002). Similar comments made by Bishop Daily of New York who stated that "I'd be prepared to go to jail rather than harm one of my priests" (later retracted), is seen among other senior church leaders, such as Cardinal Rodriguez who has compared US media coverage of sex abuse to the actions of Stalin and Hitler and suggested victims are just interested in money (McBien, R. P. "A meditation in imperfection," July 12, 2002).