



BORDEN COMMITTEE RECOMMENDATIONS

RECOMMENDATIONS OF THE COMMITTEE TO REVIEW THE POLICIES OF THE DIOCESE OF CAMDEN FOR THE PROTECTION OF CHILDREN

Presented to
Most Reverend Nicholas DiMarzio, Ph.D., D.D.
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INTRODUCTION

It is necessary to note, preliminarily, that the *Charter for the Protection of Children and Young People* (hereinafter “the *Charter*”) approved by the United States Conference of Catholic Bishops at its June 2002 General Meeting, and the *Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests, Deacons or Other Church Personnel* (hereinafter “the *Norms*”) decreed at the same time, have provided a framework for our Recommendations. Clearly, it would not have been productive to work towards our conclusions without reference to them, and although we were convened by Bishop DiMarzio before the *Charter* or the *Norms* were adopted we have inevitably structured a substantial part of our Recommendations within their framework.

However, we have gone beyond the *Charter* and the *Norms* both in our review and in these Recommendations. In our review we were aided by the background information provided to us in the presentations of David Ingle, Ph.D., of the Joseph J. Peters Institute who spoke to us about the mind of the adult sexual offender, and Julie Lippman, Ph.D., of the Center for Children's Support, who addressed us on the effect which sexual abuse has on victims. These presentations assisted us in understanding the disorders which can lead to the victimization of children and in understanding the aftermath of such victimization. We were also aided by the information provided as to the background checks conducted on prospective teachers in schools operated under the auspices of the Diocese and its constituent parishes, and by information which was provided concerning criminal history background checks which are conducted on seminarians and permanent deacons and - in accordance with the statewide policy adopted by the Catholic dioceses of New Jersey - on those who regularly interact with children.

I. THE PROVISION OF ASSISTANCE TO VICTIMS

VICTIM ASSISTANCE COORDINATOR

We are aware of the position of the Diocese of Camden in providing counseling and other needed professional assistance to those who have been abused by a cleric. We have been informed of the long-standing practice of the Diocese in making such assistance available.

However, it is our understanding that, in regard to the offer of counseling, the "outreach" to those who allege that they have been victimized is the simple offer of such counseling without the follow-up that we believe is so often necessary with such individuals in the event that the first offer of counseling is declined. We are of the opinion that those who have been victimized may not fully understand the benefits of counseling and professional intervention and that an initial refusal to accept the Diocese's offer in this regard should - within the bounds of propriety and with complete respect for privacy - be followed by an explanation of the advantages of accepting the Diocese's offer and by encouragement to do so.

We are of the opinion that this outreach ought to be formalized and placed in the hands of a trained professional. While a process of initial review, and examination of periodic updates, appears logical to us we believe that the long-range health of the victim requires that both the initial and periodic reviews be undertaken by a trained professional. Indeed, it is our recommendation that the entire process be overseen by such a person with the opportunity being provided to that person to recommend modifications to the manner in which such assistance is provided.

Consistent with Section 3 of the *Norms* a Victim Assistance Coordinator should

be appointed by the Bishop as soon as practical. This individual should have the requisite training and experience to assist victims of abuse in obtaining the necessary counseling and other professional assistance that might be needed. This individual is to be charged with implementing the directive in Article 1 of the *Charter* that counseling, support groups and other types of social services are to be fostered and encouraged. In this way the policy of the Diocese of Camden in providing counseling and professional assistance to victims, which policy has already been in place for over fifteen years, will not only be continued but will be enhanced.

In order to provide that the offers of counseling are made to those in need any reports which are received on the toll-free number which the Diocese maintains, or which are received by any representative of the Diocese, should immediately be provided to the Victim Assistance Coordinator so that the victim can be contacted unless doing so would interfere with a criminal investigation.

We cannot lose sight of the need for spiritual intervention and assistance which is so often a part of the healing process, especially in situations such as those with which we are dealing. Recognizing the effect that can often result from pastoral intervention we therefore recommend that where pastoral assistance is appropriate the Victim Assistance Coordinator is to be able to call upon the necessary resources of the Diocese of Camden to provide such assistance.

VICTIM ASSISTANCE BOARD

In order to assure that the work of the Victim Assistance Coordinator would adequately and thoroughly address the needs of the victims of abuse a Victim Assistance Board should be established. This Board would be charged with the responsibility of conducting regular reviews with the Victim Assistance Coordinator of whatever help was being provided to those who had been victimized. This Board would also provide a vehicle whereby there could be a permanent and independent source of advocacy for victims. In short, it would help in giving a voice to the abused, and in providing representation for them, in this overall process.

While we recognize that the Diocese already engages in outreach to victims this outreach can be enhanced by actually encouraging victims - in appropriate cases - to obtain counseling and professional assistance rather than only advising them that such help is available. We also emphasize, as noted in Article 1 of the *Charter*, that such assistance can take various forms - "counseling, spiritual assistance, support groups and other social services" - and the efforts of the Victim Assistance Coordinator with this Victim Assistance Board will help in making available to victims the full spectrum of assistance that is appropriate.

MEETING WITH VICTIMS

Article 1 of the *Charter* calls for the “Bishop or his representative” to offer to meet with victims and “listen with patience and compassion to their experiences and concerns.” The arrangements for such meetings will necessarily differ from case to case and must protect the legal rights of all concerned. However, the Bishop’s pastoral responsibility is of the greatest importance.

ESTABLISHMENT OF PARISH OUTREACH PROGRAMS

The Bishop should immediately appoint a delegate to develop parish outreach programs to deal with any faith community in the unfortunate event that the removal of a cleric assigned to such community becomes necessary. We understand the effect that the removal of a cleric can have on a parish, and we realize that whatever effect there might be is exacerbated when he is removed for any type of misconduct involving a minor. We are of the opinion that immediate intervention within the context of a developed program will serve to alleviate the impact of such a troubling and disturbing situation.

When clerics have been removed from their parish assignments in other areas the people have been told the reason for such removal and assistance to the members of the parish has been provided. The individual appointed pursuant to this recommendation should contact those other locales to determine how such situations were addressed and what approaches best served the needs of the people.

We emphasize that any such outreach program must be sensitive to the reputation of the cleric involved. Except in the rare instance, and even when the cleric has been placed on administrative leave while the accusation is reviewed, the presumption of innocence is to prevail and the cleric’s reputation is to be treated accordingly.

II. THE RESPONSE TO ACCUSATIONS

REPORTING ACCUSATIONS

Article 2 of the *Charter* calls for a review board whose functions are set forth in Section 4 of the *Norms*. These would include the assessment of allegations (4-A), the review of policies and procedures for dealing with such allegations (4-B), and the provision of recommendations concerning fitness for ministry (4-C).

Of course, in order for any entity charged with reviewing accusations to be

responsive to its charge, there must be an established method for accusations to be brought to the attention of the Diocese. Hence Article 2 of the *Charter* speaks of procedures for making a complaint being “readily available.” It is essential that a victim know how to report abuse and to whom such a report should be made. We believe that the toll-free number which the Diocese established in April of this year (1-800-964-6588) should be maintained permanently. We are also of the opinion that the toll-free number, along with the telephone numbers and addresses of the county prosecutors, and the number of the child abuse hotline maintained by the New Jersey Division of Youth and Family Services and the addresses and telephone numbers of the regional offices of the Division, continue to be featured on the Diocese’s web site.* Announcements should be made semi-annually in all institutions affiliated with the Diocese calling attention to the fact that there is a mechanism in place for the reporting of abuse. We believe that such announcements should appear semi-annually in all parish and school bulletins and similar publications. We are of the opinion that the Victim Assistance Coordinator should be charged with the development of other means to encourage all those served by the Diocese and its parishes and affiliated entities to report instances of abuse. Finally, reports which are received should be brought to the attention of the Bishop of the Diocese and the Diocesan Review Board immediately so as to insure that the appropriate steps as to reporting to public authorities have been taken and in order that the investigation of the allegation can be undertaken.

DIOCESAN REVIEW BOARD

Section 4 of the *Norms* calls for the establishment of a Diocesan Review Board to assess allegations of child sexual abuse and to make recommendations concerning fitness for ministry in certain situations. We recommend that the membership of the Diocesan Review Board (hereinafter the “DRB”) ought not to be exclusively Catholic. A majority of its members ought to be laypersons, and there should be a sensitivity to gender diversity in its composition.

Having reviewed the *Charter* and the *Norms*, we are of the opinion that the DRB should consist of nine members. Since we understand that it will sometimes be necessary for the DRB to act with dispatch, we recommend that five members would constitute a quorum. We are also of the opinion that the DRB should include representatives from the legal community and the educational community.

Consistent with the directives in Article 5 of the *Charter* and Section 9 of the *Norms* any accusation against any priest or deacon (regardless of how received) who is involved in any way in ministry - in addition to its being reported to the appropriate governmental authorities - is to be reported to the DRB in order

* *Editor’s Note:* The Division of Youth and Family Services is now the Division of Child Protection and Permanency.

that a recommendation can be made to the Bishop of the Diocese of Camden as to the individual's fitness for continued ministry. We further recommend that, subsequent to the effective date of these recommendations, any accusation or report shall result in an automatic suspension of the cleric from ministry for three business days to permit a preliminary review unless the DRB determines that the accusation is patently incredible. The administrative leave is to continue for a period of fourteen business days during which time the DRB will conduct its investigation, meet, and make a recommendation to the Bishop. Any remuneration provided to any cleric who is so accused shall continue to be paid during such period of review.

Bearing in mind the directive in Section 4-A of the *Norms* that the DRB "can act both retrospectively and prospectively on these matters," it should review those few cases where - because the Diocese has concluded that such accusations are not deemed to be credible - it has retained in ministry individuals against whom accusations of past misconduct have been made. Such review should be conducted expeditiously.

Section 4-B of the *Norms* provides for the DRB to review the policies and procedures which are in place "for dealing with these allegations at least every two years." We believe that the DRB should take the opportunity, on an ongoing basis, to ascertain whether the Recommendations which we have set forth are always practical and appropriate and - if it concludes that they are not in certain instances - to promptly recommend modifications.

REMOVAL FROM MINISTRY

Article 5 of the *Charter* and Section 9 of the *Norms* provide for permanent removal from any active ministry when sexual abuse of a minor by a cleric is admitted or established. This policy has already been implemented in the Diocese of Camden by Bishop DiMarzio and it should be continued. We recommend, however, that this policy be strengthened by taking the appropriate steps to see to it that the offending cleric is never permitted to return to any form of ministry.

Article 5 and Section 9 further provide that the diocesan bishop may request a removal from the clerical state by the Holy See when a cleric's sexual abuse of a minor has been admitted or established; and it gives "advanced age" and "infirmity" as two reasons why dismissal from the clerical state might not be appropriate. It is our recommendation that, in every case where the sexual abuse of a minor by a cleric has been established, the bishop should petition the Holy See for his removal from the clerical state. Where it is warranted by infirmity or the individual's advanced age the Diocese - out of charity and in accordance with canonical requirements - can provide for the individual's sustenance.

REMOVAL FROM EMPLOYMENT OR VOLUNTEER STATUS

When any employee of the Diocese or any of its constituent parishes, or of any entity operated by the Diocese or under its auspices, or any individual who serves as a volunteer in any such facility or operation, is accused of the sexual abuse of a minor then the matter - in addition to its being reported to the appropriate governmental authorities - is to be reported to the DRB. Such accusation shall result in an automatic suspension of the individual from such position for three business days to permit a preliminary review unless the DRB determines that the accusation is patently incredible. The DRB will conduct its investigation, meet, and make a recommendation to the individual's supervisor all of which shall be completed within fourteen business days. Any remuneration provided to any employee who is so accused shall continue to be paid during such period of review.

REPORTING TO PUBLIC AUTHORITIES

Article 4 of the *Charter* and Section 10 of the *Norms* call for the reporting to the public authorities of accusations of sexual abuse of those who are currently minors. They further call for cooperation with civil authorities in their investigation and handling of such matters.

The law in New Jersey has, since 1971, required all citizens to report to the authorities instances where they have reasonable cause to believe that a minor has been subjected to abuse and we have been advised that the Diocese has acted in accordance with that requirement. However, the policy of the Diocese of Camden, implemented this year by Bishop DiMarzio, which calls for reporting to the local county prosecutors all past allegations - regardless of whether the victim is now an adult and regardless of whether it would appear that the criminal statute of limitations has expired - ought to be continued. In reporting past allegations to the county prosecutors every effort should be made to protect the identity of the victim if that victim has requested such confidentiality.

In the case of a victim who is an adult at the time of reporting the abuse to the Diocese a victim should be reminded of his or her right to report the incident to the authorities. Further, the individual receiving the report should - regardless of whether the victim chooses to report the incident to authorities - use the toll-free number which the Diocese maintains to report it.

CONFIDENTIALITY AGREEMENTS

Article 3 of the *Charter* addresses the confidentiality agreements which are often contained in the written arrangements which resolve or settle claims. Article 3 states that such confidentiality agreements are not to be entered into

“except for grave and substantial reasons” which have been “brought forth” by the victim. Accordingly, no such confidentiality agreement should be entered into unless specifically requested by the victim. We are also of the opinion that, if the victim requests a confidentiality agreement as part of the resolution of any claim, such confidentiality agreement should provide that it is entered into at the request of the victim and should further provide that it can be unilaterally canceled by the victim upon the provision of notice to the Diocese of his or her intent to do so.

III. COOPERATION WITH OTHER ORGANIZATIONS

Article 16 of the *Charter* expresses a willingness to “cooperate with other churches and ecclesial communities, other religious bodies, institutions of learning and other interested organizations” in the conduct of research in this area. We are of the opinion that efforts in this regard are significant in society’s attempts to protect the young and we recommend that there would be full cooperation - bearing in mind a respect for confidences and privileged communications - not only with other entities conducting research in this area but most importantly with individuals and organizations attempting to develop methods for the protection of the young.

IV. ONGOING EFFORTS TO PROTECT CHILDREN

CRIMINAL HISTORY BACKGROUND CHECKS

We have been advised by the Diocese that the Vocations Office, the Office of the Permanent Diaconate, the Office of Youth and Young Adult Ministry, the Office of Religious Education and the Catholic Youth Organization have registered with the New Jersey State Police as nonprofit youth serving organizations. This entitles them to have federal and state criminal history background checks conducted through the submission of fingerprints which are taken by a law enforcement organization. We have, therefore, considered the effectiveness, practicality, non-economic cost and risk-reduction potential of criminal history background checks and the following is recommended as a fair, practical and balanced procedure.

SEMINARIANS

Although the policies of the Diocese provide for criminal history background checks to be conducted on all seminarians prior to their first ministerial assignment, the current practice of conducting such checks at the time of one’s acceptance into the priesthood formation program should be continued and be permanently established.

TEACHERS

All background checks, including criminal history background checks conducted on all those who apply for teaching positions in schools operated under the auspices of the Diocese and its parishes, which are now conducted by the Schools Office of the Diocese, are to remain a function of the Schools Office regardless of any corporate restructuring of a particular school. This will enable a central office, with experience in the conduct of such checks, to continue to coordinate and oversee this essential element of the educational ministry.

PERMANENT DEACONS

The policy of conducting criminal history background checks on all applicants for the permanent diaconate in the Diocese of Camden is advantageous and should become a permanent requirement.

OFFICE OF YOUTH AND YOUNG ADULT MINISTRY, OFFICE OF RELIGIOUS EDUCATION, AND THE CATHOLIC YOUTH ORGANIZATION

The DRB should closely monitor the implementation of criminal history background checks in the programs maintained by the Diocese, or under its auspices, which serve minors. Any organization which is affiliated with any of these programs, or with any parish or parish organization in the Diocese, is - at a minimum - to comply with the criminal history background check policy adopted by the Catholic dioceses of New Jersey. This policy provides that any person who began employment or commenced status as a volunteer as of October 1, 2001, and who maintains substantial and direct interaction with children on a consistent basis, or whose status presents the possibility of individualized contact with children, is to have a criminal history background check. Notwithstanding the practical impediments, the DRB should examine the feasibility of conducting criminal history background checks on those individuals who began employment or undertook their volunteer service prior to October 1, 2001. In doing so the DRB should give consideration to the possibility of conducting such checks on an annual random basis.

We cannot help but be concerned that none of the parishes in the Diocese has thus far submitted any fingerprint cards for processing. While some parish employees and volunteers will be included within one of the other groups it is unlikely that every such individual who is involved with minors would be so covered. Additional outreach is needed and a report form, which would contain a reminder of the parish's obligations in this regard, should be promptly sent to each parish. The continued failure of a pastor, or administrator of a parish, to

cooperate in this important program should constitute a basis for his removal from such position in accordance with canonical norms. Additionally, a written report should be made to the DRB within three months of the submission of these Final Recommendations as to what steps have been taken in regard to parish participation in this program.

V. THE COMMON RESPONSIBILITY

In regard to the protection of children each of us is the “appointed watchman” of whom the Prophet Ezekiel speaks. It is for this reason that anyone who has reasonable cause to believe that a child is being sexually abused, and does not take every means possible to stop such abuse, is unfit to hold a position of responsibility or authority. We are not suggesting that anyone’s reputation be recklessly endangered; everyone’s reputation is precious and must be protected against falsehoods. Nor are we suggesting any type of campaign that would ride roughshod over every person’s entitlement to a presumption of innocence. However, everyone is equally responsible for the implementation of the directives that arise from these Recommendations, and everyone must be vigilant to protect the most vulnerable members of our society. This obligation often falls most heavily upon those in positions of responsibility and authority and one of the qualifications for such a position must be their willingness and ability to carry this obligation.

It is important to note that in many of the incidents of sexual abuse the horrific conduct of the abuser has been facilitated and fostered by the unwillingness of others to act decisively. Those who have failed to act are, in many cases, as responsible for later incidents of abuse that have occurred as the deviant abuser himself. Consequently, it is our recommendation that there be a specific, permanent directive from the Bishop that: (a) reminds all diocesan clerics, religious, employees and volunteers that it is their solemn duty as protectors of children to be watchful for indications of sexual abuse and to report any such indications to those in a position to investigate and remedy any problem, including particularly the DRB; (b) charges those in positions of authority, particularly pastors, school principals, and those in senior administrative positions in the Diocese, with the personal and individual responsibility to treat such reports seriously and to see that they are investigated with dispatch; (c) states that a failure to so act may be grounds for discipline, and for disqualification or removal from a position of authority in the Diocese, and (d) states that knowingly withholding information of sexual abuse, or acting or failing to act with the purpose of secreting knowledge of such abuse so as to protect the abuser and thereby expose others to abuse in the future, shall be treated in the same manner as if such person had committed sexual abuse of a minor.

CONCLUSION

We wish to note that we have not addressed all of the items raised in the *Charter* since certain of them are not directed to local dioceses. Article 8 of the *Charter*, for example, calls for the establishment of an Office for Child and Youth Protection at the national headquarters of the United States Conference of Catholic Bishops, and Article 9 calls for its work to be monitored by a Review Board. Article 10 calls for the reconstitution of the Ad Hoc Committee on Sexual Abuse and Article 11 calls upon the President of the Conference to call to the attention of the Holy See the efforts of the entire Church in the United States to address this situation. Article 14 of the *Charter* deals with the steps to be taken regarding the transfer of a cleric to assure that there are no outstanding accusations against him; Article 15 provides for the Conference of Major Superiors of Men to meet and determine how the *Charter* can be applied to their institutes; and Article 17 pledges the cooperation of the bishops of the United States with the Apostolic Visitation of seminaries.

Neither have we addressed all of the issues raised in the *Norms* since certain of them are also not addressed to local dioceses. Section 1, for example, speaks of the method by which the *Norms* would become particular law; and Section 6 addresses the establishment of appellate review boards to offer advice in regard to the work of the Diocesan Review Board called for in Section 4 of the *Norms* and Article 2 of the *Charter*. Section 11 of the *Norms* addresses the transfer of a cleric and the effort to assure that there is nothing in his background that would preclude his serving in ministry; and Section 13 addresses the recognition needed before the *Norms* can become particular law.

Much has been done in the Diocese of Camden to protect the children entrusted to its care and to reach out to those who have been victimized. However, steps need to be taken in certain areas to reinforce these efforts and periodic reports should be made to the DRB in order to assure that there is an independent review of these efforts.

We thank Bishop DiMarzio for the opportunity to assist the Diocese of Camden in this most crucial undertaking, and we thank each other for working so cooperatively in reaching these Recommendations.