

The Church and Sexual Predators

Lessons from the grand jury report on child abuse by Catholic priests in Pennsylvania

[RICHARD R HAMMAR](#) ON AUGUST 22, 2018

In 2016, the Pennsylvania attorney general initiated confidential grand jury proceedings to investigate:

- allegations of child sexual abuse by individuals associated with six of the eight Pennsylvania dioceses of the Roman Catholic Church
- failure of church officials to make mandatory reports of child abuse
- acts by Catholic priests endangering the welfare of children, and
- obstruction of justice by church officials, community leaders, and public officials.

As required by the Pennsylvania General Assembly, these proceedings were conducted under the umbrella of secrecy pertaining to grand juries, subject to the discretion of the supervising judge to permit the public release of information.

Prior to the expiration of its term, the grand jury submitted a 900-page report of its investigation to its supervising judge, the Honorable Norman A. Krumenacker. Significantly, the report is not generally couched in conventional “investigatory” terms addressing the character and quality of the evidence according to the application of a probable cause standard. Rather, the introductory passages of the report state that the grand jury identified over 300 “predator priests” by name and described their conduct in terms of “what they did — both the sex offenders and those who concealed them ... shining a light on their conduct, because that is what the victims deserve.” The balance of the report furnishes detailed elaborations condemning the conduct of the alleged predators and those within the church hierarchy who may have facilitated the abuses or failed to intervene.

The Pennsylvania Supreme Court, in allowing the publication of the grand jury report, observed: “The ... grand jury undertook the salutary task of exposing alleged child sexual abuse and concealment of such abuse, on an extraordinarily large scale, which the grand jurors have pronounced was perpetrated by trusted members of a religious institution. Thus, the grand jury submitted a report for publication specifically finding that more than 300 people, identified by name, committed criminal and morally reprehensible conduct.”

The report begins with these words:

We, the members of this grand jury, need you to hear this. We know some of you have heard some of it before. There have been other reports about child sex abuse within the Catholic Church. But never on this scale. For many of us, those

earlier stories happened someplace else, someplace away. Now we know the truth: it happened everywhere.

We were given the job of investigating child sex abuse in six dioceses — every diocese in the state except Philadelphia and Altoona-Johnstown, which were the subject of previous grand juries. These six dioceses account for 54 of Pennsylvania's 67 counties. We heard the testimony of dozens of witnesses concerning clergy sex abuse. We subpoenaed, and reviewed, half a million pages of internal diocesan documents. They contained credible allegations against over three hundred predator priests. Over one thousand child victims were identifiable, from the church's own records. We believe that the real number — of children whose records were lost, or who were afraid ever to come forward — is in the thousands.

Most of the victims were boys; but there were girls too. Some were teens; many were prepubescent But all of them were brushed aside, in every part of the state, by church leaders who preferred to protect the abusers and their institution above all.

As a consequence of the coverup, almost every instance of abuse we found is too old to be prosecuted. But that is not to say there are no more predators. This grand jury has issued presentments against a priest in the Greensburg diocese and a priest in the Erie Diocese, who has been sexually assaulting children within the last decade. We learned of these abusers directly from their dioceses — which we hope is a sign that the church is finally changing its ways. And there may be more indictments in the future; investigation continues.

But we are not satisfied by the few charges we can bring, which represent only a tiny percentage of all the child abusers we saw. We are sick over all the crimes that will go unpunished and uncompensated. This report is our only recourse. We are going to name their names, and describe what they did — both the sex offenders and those who concealed them. We are going to shine a light on their conduct, because that is what the victims deserve. And we are going to make our recommendations for how the laws should change so that maybe no one will have to conduct another inquiry like this one. We hereby exercise our historical and statutory right as grand jurors to inform the public of our findings.

This introduction will briefly describe the sections of the report that follow. We know it is very long. But the only way to fix these problems is to appreciate their scope.

At the grand jury's request, the FBI agreed to assign members of its National Center for the Analysis of Violent Crime to review a significant portion of the evidence received by the grand jury. Special agents identified a series of practices that regularly appeared, in various configurations, in the diocesan files they analyzed. The grand jury report states that "it's like a playbook for concealing the truth." The FBI agents identified seven factors that arose repeatedly in the diocesan response to child abuse complaints:

Use of euphemisms. Mischaracterization of assaults and misleading designations for the removal of a priest for a complaint of child sexual abuse. Violent criminal sexual acts, for example, were often described only as “inappropriate” contact or “boundary issues.” The temporary or permanent removal of a priest from service was often coded as “sick leave” or “leave.”

Deficient or biased diocesan investigations. Investigations conducted by untrained clergy or teachers, given authority to make credibility determinations about fellow clergy members. Use of untrained support personnel for victims services.

Treatment provider bias. Use of church-run psychological facilities that regularly relied upon the “self-reports” of the offenders, who typically downplayed or denied their criminal conduct. Failure to provide contrary information supplied by victims. Reliance on clinical “diagnosis” rather than actual conduct. Misallocation of the burden of proof: Absent a definitive diagnosis, child abusers were often simply returned to ministry.

Lack of public disclosure. Failure to disclose criminal sexual conduct to parishioners — information that the community needed to protect children. Use of terms such as “retired” or “reassigned” that disarmed parents who might otherwise have looked for signs of abuse.

Financial support. Continuing to fund abusive priests, providing them with housing, transportation, benefits and stipends — and leaving abusers with the resources to locate, groom and assault more children.

Transfer rather than removal. Regular, systemic and institutionalized practice of reassigning a priest to a new location — rather than removing him from ministry — after complaints of child sexual abuse. Priests regularly returned to ministry even after confessing to sexually abusing children. Only bishops and certain high level diocesan administrators knew, and they held information within secret or confidential archives of the diocese. Not surprisingly, priests reassigned to ministry often abused additional children.

Insufficient reports to law enforcement. Refusal to make any report to law enforcement, or significantly delaying reports, or providing stripped-down reports. These minimal reports often lacked sufficient specificity to relay the gravity of the crime, the scope of the conduct, or relevant dates and locations. Even confessions or corroborating pieces of evidence were often withheld.

The report noted that “we think of this constellation of factors as the circle of secrecy.” Although the FBI could see how the dioceses were doing it, that “doesn’t mean we know how much they were doing it. The agents were clear that we will never really know how many abusers there were, and how many victims there were. It was hard enough for victims to come forward; but when they did, the complaints were often forgotten about, misplaced, shrugged off, or immediately discounted. The church’s response not only depressed the number of confirmed complaints, but discouraged additional victims from reporting, knowing they might be rebuffed or ridiculed. As a bishop said, it was a circle.”

The 900-page report is replete with examples of child abuse by priests. It notes that “we have heard them, and will tell their stories, using the church’s own records, which we reproduce in the body of the report where appropriate.” Here are a few illustrative examples:

- Despite a priest’s admission to assaulting at least a dozen young boys, the bishop wrote to thank him for “all that you have done for God’s people. ... The Lord, who sees in private, will reward.”
- Another priest confessed to rape of at least 15 boys, as young as 7 years old. The bishop later met with the abuser to commend him as “a person of candor and sincerity,” and to compliment him “for the progress he has made” in controlling his “addiction.” When the abuser was finally removed from the priesthood years later, the bishop ordered the parish not to say why; “nothing else need be noted.”
- A priest impregnated a 17-year-old, forged the head pastor’s signature on a marriage certificate, then divorced the girl months later. Despite having sex with a minor, despite fathering a child, despite being married and being divorced, the priest was permitted to stay in ministry thanks to the diocese’s efforts to find a “benevolent bishop” in another state willing to take him on.

The grand jury report concludes with the following recommendations:

First, we ask the Pennsylvania legislature to stop shielding child sexual predators behind the criminal statute of limitations. Thanks to a recent amendment, the current law permits victims to come forward until age 50. That’s better than it was before, but still not good enough; we should just get rid of it. We heard from plenty of victims who are now in their 50s, 60s, 70s, and even one who was 83 years old. We want future victims to know they will always have the force of the criminal law behind them, no matter how long they live. And we want future child predators to know they should always be looking over their shoulder — no matter how long they live.

Second, we call for a “civil window” law, which would let older victims sue the diocese for the damage inflicted on their lives when they were kids. We saw these victims; they are marked for life. Many of them wind up addicted, or impaired, or dead before their time. The law in force right now gives child sex abuse victims twelve years to sue, once they turn 18. But victims who are already in their 30s and older fell under a different law; they only got two years. For victims in this age range, the short two-year period would have expired back in the 1990s or even earlier — long before revelations about the institutional nature of clergy sex abuse. We think that’s unacceptable. These victims ran out of time to sue before they even knew they had a case; the church was still successfully hiding its complicity. Our proposal would open a limited “window” offering them a chance, finally, to be heard in court. All we’re asking is to give those two years back.

Third, we want improvement to the law for mandated reporting of abuse. We saw from diocesan records that church officials, going back decades, were insisting they had no duty to report to the government when they learned of child abuse in their parishes. New laws make it harder to take that position; but we want them tighter. The law penalizes a “continuing” failure to report, but only if the abuse of “the child” is “active.” We’re not sure what that means and we don’t want any wiggle room. Make it clear that the duty to report a child abuser continues as long as there’s reason to believe he will do it again — whether or not he’s “active” on any particular day, and whether or not he may pick a different kid next time.

Fourth, we need a law concerning confidentiality agreements. They’ve become a hot topic in recent months in sexual harassment cases — but it turns out the church has been using them for a long time. The subpoenaed records contained quite a few confidentiality agreements, going back decades: payouts sealed by silence. There are arguments on both sides about whether it’s proper to use these agreements in securing lawsuit settlements. But there should be no room for debate on one point: no non-disclosure agreement can or should apply to criminal investigations. If the subject of a civil lawsuit happens also to concern criminal activity, then a confidentiality agreement gives neither party either the right or the obligation to decline cooperation with law enforcement. All future agreements should have to say that in big bold letters. And all this should be enacted into a law.

The grand jury report underscores the importance of prompt reporting of child abuse by any church employee or volunteer.

“We think it’s reasonable to expect one of the world’s great religions, dedicated to the spiritual well-being of over a billion people, to find ways to organize itself so that the shepherds stop preying upon the flock,” the report says. “If it does nothing else, this report removes any remaining doubt that the failure to prevent abuse was a systemic failure, an institutional failure. There are things that the government can do to help. But we hope there will also be self-reflection within the church, and a deep commitment to creating a safer environment for its children.”

The grand jury’s report concludes with this observation: “We need to end with this note. During our deliberations, one of the victims who had appeared before us tried to kill herself. From her hospital bed, she asked for one thing: that we finish our work and tell the world what really happened. We feel a debt to this woman, and to the many other victims who so exposed themselves by giving us their stories. We hope this report will make good on what we owe.”

Lessons from the Grand Jury Report

The report of the Pennsylvania grand jury on the sexual abuse of minors by Catholic priests contains several lessons for church leaders. These include the following:

1. *Public revulsion.* The stunning revelations of child abuse in the grand jury's report will deepen the public revulsion not only at acts of child sexual abuse by clergy, but also at the woefully inadequate response by some church leaders to such acts. Church leaders should keep this in mind when making decisions regarding the selection and supervision of employees and volunteers who work with minors, and in deciding whether to report child abuse to civil authorities.

2. *The risk of pedophilia.* The grand jury report notes that many of the victims were prepubescent at the time of their abuse. Church leaders must be aware of this risk, and take steps to reduce or eliminate it.

The term *pedophile* is widely used but poorly understood. Often, it is used synonymously with *child molester*. The American Psychiatric Association's current *Diagnostic and Statistical Manual of Mental Disorders* (DSM-5 2013) identifies the following "diagnostic criteria" for pedophilia:

A. Over a period of at least 6 months, an equal or greater sexual arousal from prepubescent or early pubescent children than from physically mature persons, as manifested by fantasies, urges, or behaviors.

B. The individual has acted on these sexual urges, or the sexual urges or fantasies cause marked distress or impairment in social, occupational, or other important areas of functioning.

C. The individual must be at least 18 years of age and at least 5 years older than the children in Criterion A.

This definition implies that pedophiles are both promiscuous and predatory. These characteristics were noted in *Child Molesters: A Behavioral Analysis* (2010), by former FBI agent Kenneth Lanning. He notes: "Although a variety of individuals sexually abuse children, preferential-type sex offenders, and especially pedophiles, are the primary acquaintance sexual exploiters of children. A preferential-acquaintance child molester might molest 10, 50, hundreds, or even thousands of children in a lifetime, depending on the offender and how broadly or narrowly child molestation is defined. Although pedophiles vary greatly, their sexual behavior is repetitive and highly predictable."

The Association for the Treatment of Sexual Abusers website states: "Offenders who seek out children to victimize by placing themselves in positions of trust, authority, and easy access to youngsters can have hundreds of victims over the course of their lifetimes. One study found that the average number of victims for non-incestuous pedophiles who molest girls is 20; for pedophiles who prefer boys, over 100."

Church leaders also should be aware that pedophilia generally is considered to be incurable, and very difficult to control. In addition, pedophiles have a high recidivism rate, meaning that those who are convicted and sentenced to prison are likely to revert to such behavior upon their release. The Association for the Treatment of Sexual Abusers website states that "predatory pedophiles, especially those who molest boys, are the sex offenders who have the highest recidivism rates. Over long follow-up periods, more than half of convicted pedophiles are rearrested for a new offense."

In summary, it is important for church leaders to understand the definition of pedophilia, since this condition is associated with several characteristics, including the following:

- promiscuity
- predatory behavior
- incurability
- high recidivism rates.

3. *Risk management.* The risk of child abuse can be mitigated by several precautionary measures that include the following:

- An interview of anyone who seeks to work in any capacity, as an employee or uncompensated volunteer, in a position involving access to minors.
- A written application.
- Obtain “institutional references” from other institutions (i.e., churches, schools, youth sports teams) with which an applicant has worked with minors.
- A six-month rule restricting eligibility for any volunteer position involving the custody or supervision of minors to those persons who have been members in good standing of the church for a minimum period of time, such as six months. Such a policy gives the church an additional opportunity to evaluate applicants and will help to repel persons seeking immediate access to potential victims.
- “Benchmark” church policies by comparing them with the policies of other charities and the public schools.
- Periodic review of your policies, and conformity with them, by outside legal counsel.
- Adopt a two-adult policy prohibiting a child from being alone with an unrelated adult.
- A criminal background check consisting of a nationwide search of sex offender registries, and a national criminal file search. Many denominations and insurance companies offer special pricing for such checks.
- Prompt reporting of all cases of child abuse for which a reasonable basis exists.

Note that performing criminal background checks on youth and children’s workers does not, without more, protect a church from liability for acts of child molestation. To illustrate, a state denominational agency hired a pastor for a new church. It performed a criminal background check and sex offender registry check, neither of which revealed a criminal history. As a result, the pastor was hired. A few months later, he sexually abused a minor in the church, and it was later revealed that he had molested minors in two prior churches where he was employed, but neither church reported the abuse to the authorities, and so the pastor did not have a criminal record. The trial court, in awarding \$12.5 million in damages, noted that the pastors of the two prior churches testified that they would have revealed the prior incidents of abuse in response to a request from the defendant church, but it was never asked. In summary, the failure to obtain references rendered the church negligent despite the fact that it had obtained a criminal records check.

4. *Follow the recommendations of the FBI.* The FBI National Center for the Analysis of Violent Crime, in response to the grand jury's request, identified seven practices that were used by Catholic dioceses to conceal cases of child abuse by priests. Those practices are described above and must be scrupulously avoided.

5. *Child abuse reporting.* The grand jury report refers repeatedly to the failure by diocesan officials to report cases of clergy child abuse to the civil authorities pursuant to the state child abuse reporting law. The lesson for church leaders is the importance of compliance with child abuse reporting laws. All 50 states enumerate categories of persons who are under a legal duty to report abuse to designated civil authorities. In most states, such "mandatory reporters" must report both actual and reasonably suspected cases of child abuse. Failure to do so is a crime (usually a misdemeanor).

The grand jury report underscores the importance of prompt reporting of child abuse by any church employee or volunteer. Many clergy will conclude that the duty to protect innocent children transcends any other consideration, including the clergy-penitent privilege or permissive status under the state child abuse reporting law.

SECTION PRACTICE

CATEGORIES

TAGS CHILD ABUSE SEXUAL
ABUSE PEDOPHILES CHILDREN SAFETY LEGAL