

Bishops' Double Standard

Bishop Howard Hubbard of Albany strenuously denies allegations that he sexually abused three men when they were minors. He has stated unequivocally that he has never violated his promise of celibacy. Bishop Hubbard's denial of the accusations was read from many of the pulpits in his diocese. The Albany Diocesan Review Board has hired as an independent investigator Mary Jo White, the prominent former U.S. Attorney for New York. Her office has disclosed that her hourly fee is \$770 per hour and this will be paid by the Diocese of Albany.

OBS supports Bishop Hubbard in his fight to clear his good name. In our opinion, the steps he is taking are appropriate. At the same time, they illustrate a double standard in the way accused priests are treated. They also illustrate the unjust procedures of the U.S. Bishops *Charter for the Protection of Children and Young People* as they are applied to accused priests.

On November 14, 2002, the United States Conference of Catholic Bishops issued a statement on how allegations of sexual misconduct against bishops would be handled. This "Statement of Episcopal Commitment" says in point 3: "In cases of an allegation of sexual abuse of minors by bishops, we will apply the requirements of the charter also to ourselves, respecting church law as it applies to bishops. In such cases, the metropolitan will be informed when an allegation has been made against a bishop ...". This statement seems to recognize that a diocesan review board, which is advisory to the diocesan bishop, cannot stand in judgment of the bishop and so the matter is to be referred to the metropolitan archbishop, who is to oversee the investigation. In effect, Bishop Hubbard recognizes that he cannot rely on a canonical process to render a just verdict on the accusations and clear his good name, so the Diocese of Albany has created a process *sui generis*.

Leaving the matter of jurisdiction aside, it is clear that accused priests are not accorded the same rights which are being legitimately exercised by Bishop Hubbard. If a priest faced similar accusations, this is what would happen in most dioceses:

1. The diocesan review board, acting on unsworn accusations, would decide that the accusations were "credible," i.e., they were not obviously false. The diocese would announce that finding, but it would not announce that the accused has denied the allegations. The accused priest would not be allowed to use the pulpit, the diocesan newspaper, or a parish bulletin to profess his innocence.
2. The diocese would announce that the accused priest has been removed from active ministry.

3. The accused priest would be ordered to leave his residence within 24 hours. Either he would have to find his own place to live or he would be ordered to reside in a “restricted, monitored setting.”
4. The accused priest would be ordered not to wear his Roman collar or to present himself as a priest.
5. The salary of the accused priest would be cut. In many dioceses, he would not be given any money to pay for his room and board. In some dioceses, his total compensation would be reduced to a few hundred dollars per month, thus forcing him to seek secular employment.
6. Many dioceses would not pay for a civil lawyer or a canon lawyer for the accused priest. Since his low wages as a priest did not allow him to accumulate any significant savings, the accused priest would be forced to beg for financial help from friends and/or to try to find a lawyer who will work *pro bono*.
7. The accused priest may be ordered to undergo a psychiatric evaluation.
8. If any investigation is done, it would be very limited in scope. In all likelihood, it would be conducted by someone with no training in civil law or canon law and little experience in investigation.
9. The accused priest may not be allowed to see any of the testimony or evidence in his case.
10. The case of the accused priest would be referred to Rome, to the Congregation for the Doctrine of the Faith, where a decision would be made as to whether there is sufficient evidence to warrant a canonical trial. It may take more than two years from the time a priest is removed from ministry for a decision to be received from Rome. If a canonical trial is ordered, it would then take about another year. During this period of two to three years, the accused priest remains in a state of limbo.
11. More often than not, the diocese would decide not to defend against the allegation and would enter a settlement agreement with the accusers. Often the accused priest would not even be informed that the diocese has entered into settlement discussions. When the diocese reached a settlement agreement, it would announce the amount of the settlement “of allegations against Father so-and-so.” Even though there had been no finding that the allegations were true, in the public mind the settlement would reinforce the notion that the accused priest was guilty.
12. If the finding in the canonical process were inconclusive, the accused priest would still be denied permission to exercise priestly ministry.

13. Even if a canonical process determined that there was no probable cause to support the allegations against the accused priest, so much damage would have been done to his good name that it would be next to impossible to rehabilitate his reputation.

A bedrock principle of American law and church law is that a person is innocent until proven guilty. The U.S. bishops stand that principle on its head in dealing with accused priests. Basically, an accused priest is deemed guilty and the burden is on him to prove his innocence. It is hard to imagine a more unjust process. It is no wonder that American priests feel vulnerable.