

# Forensic Consultation and the Clergy Sexual Abuse Crisis

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The sexual abuse of children by clergy is neither a new phenomenon nor solely confined to one religious faith or denomination.<sup>1–3</sup> In the past year, however, revelations of numerous incidents of sexual abuse of children by Catholic clergy, of the deliberate obfuscation of this criminal behavior for decades by church leaders, and of the severe misuse of confidence placed in religious institutions have added up to a major betrayal of the trust of children, their families, and our communities. Drawing on my experience as a volunteer consultant asked to devise new church policies during the crisis that followed, I have concluded that the crisis may have considerable impact on the nature of future psychiatric and forensic consultations in this arena.

## The Cardinal's Commission for the Protection of Children

During the 1980s and 1990s in Massachusetts, the public became aware of the abusive sexual practices of two Catholic clergy. This prompted the establishment of a professional review board charged by the Archdiocese of Boston to make recommendations regarding clergy who had been involved in sexual behavior with minors. Few people had any awareness of the extensive nature of this abuse or the role of church officials in maintaining secrecy.

After the court filings alleging numerous instances of clergy sexual abuse of minors, the Boston press

followed with a series of articles spotlighting this alleged abuse of children that stirred up a maelstrom of protest from many of the more than 2 million congregants in the Boston parishes.<sup>4</sup> In January 2002, Massachusetts Suffolk Superior Court Judge Constance M. Sweeney ordered the release without delay of all church records regarding past allegations of abuse by clergy. Almost immediately, a bill mandating that clergy prospectively and retrospectively report suspected abuse of children, not just sexual abuse, began working its way through the Massachusetts Legislature and by May 2002, this bill was signed into law by the governor.<sup>5,6</sup> Now, more than a year later, moral outrage regarding clergy sexual abuse continues to reverberate throughout the country.

Under increasingly intense public scrutiny, Cardinal Bernard Law, Archbishop of Boston, announced in March 2002 the appointment of a panel of medical, mental health, social science, educational, and legal experts to provide consultation on policies for the protection of children in the Archdiocese of Boston. The charge given to the Cardinal's Commission for the Protection of Children was to (1) review and recommend immediate improvements to policy and protocols with regard to allegations of abuse; (2) advise on how to address responsively the persons, parishes, schools, and other communities and groups directly and indirectly affected by child abuse; (3) explore ways to further safety and prevention through supplemental outreach, education, and research initiatives, as well as develop screening policies; and (4) advise on appropriate responses to those who have committed abuse or have been accused of abuse.

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The commission understood that the report of their recommendations would be taken to the meeting of the U. S. Conference of Catholic Bishops to be held in June 2002 in Dallas.

During the commission's tenure, key events significantly affected the direction of the panel's four work groups on policy, victim-survivor advocacy, education, and seminary screening and formation.

Throughout the spring of 2002, the continued revelation in the media of hitherto secret documents pointed to the scope of the problem and reinforced a crisis environment in which the assembled professionals committed themselves to forceful and practical recommendations.<sup>7</sup>

Skepticism about the intent of the church to provide genuine change temporarily extended to the commission in late April and had to be publicly addressed. By mid-May, when the commission released a bulleted list of its main recommendations in draft, the panel had also begun discussion of vetting the next draft with various advocacy groups and regulatory agencies, such as the district attorneys in the Commonwealth and the state agency charged with the protection of children, before submitting the final report.

In June, the initiative of commission members brought about a series of productive meetings between the policy subcommittee of the commission and representatives of the Massachusetts Attorney General and of the Department of Social Services to work out knots in the draft recommendations and to encourage the Archdiocese to act. In July, at the end of the vetting period, the attorney general praised the efforts of the commission and charged that the Archdiocese was "dragging its feet on implementing measures to protect children from sexual abuse."<sup>8</sup> The attorney general's particular questions at this time referenced (1) the independence of a church-sponsored but secular advocacy center for abused individuals; (2) the failure to establish a hot line for reporting abuse; and (3) the omission of any language in the draft policy that obligated the church to apply appropriate sanctions for failure to follow through on the new policies of reporting, preventing, and protecting. In the legal community, there was open discussion about the attorney general's consideration of possible injunctive relief for the protection of children under the civil rights statutes.

As the commission attempted to write regulations for the reporting of abuse similar to those governing

others in civil life, the significance of canon law, which was not well understood by many of the psychosocial and educational experts on the panel, came to the forefront of discussion. On the one hand, the canons required certain guidelines and procedures focused on the rights of the complainant, the rights of the alleged perpetrator, and the nature of the church's internal investigation and process, and these had to be respected under first amendment standards. On the other hand, when the media reported Cardinal Law's deposition, explaining a link between canon law and his agreement to settle many claims against the Archdiocese, the potential cultural conflict between two different legal mentalities became very clear.<sup>9</sup> The commission resolved not to engage it and to pursue a practical course of action that would emphasize civil processes. Legal scholars opine that canon law, which is threaded throughout by an instruction to avoid scandal, urged the church to use a pastoral approach in handling problems and, inadvertently, contributed to decisions that resulted in covering up crimes.<sup>10,11</sup> Ironically, the attempts to avoid scandal and to cover up criminal behavior probably contributed to the eventual resignation of Cardinal Law.

These events and others added weight to the commission's strong emphasis on independence for the Advocacy and Outreach Center for persons abused and for the oversight board designed to monitor implementation of the recommendations.

### **Potential Roles for Psychiatrists in the Aftermath of the Church Crisis**

The role of psychiatrists in consulting with church officials in past years has been complex and uneven, and the crisis provides an opportunity to clarify several aspects of the function as well as its limitations. Psychiatrists are frequently called on to offer expertise in medicine and the psychological nature of human behavior in both clinical and forensic matters. Yet, regarding the opinion provided, the very nature of consultation allows the consultee to "take it or leave it."

#### ***As Consultants on Policy***

In 1993, not long after the U.S. Conference of Catholic Bishops recommended "Five Principles to Follow in Dealing with Accusation of Sexual Abuse" in June 1992, mental health experts were invited to

meet with Cardinal Law and other Catholic religious leaders to discuss policies of zero tolerance of clergy abuse of children and the reporting of cases to civil authorities. During the crisis of 2002, several experts recalled that they were thanked by church leaders for their advice and never heard from the leaders again. One member of an expert panel consulted in 1993 noted, "I'm angry that the Cardinal asked for our advice and then ignored it."<sup>12</sup>

As dioceses across the nation prepare to implement new policies and, in many states, new laws emerge pertaining to the prevention of the abuse of children by clergy, more ecclesiastical or civil panels will demand greater access to professional expertise. Psychiatric consultants are never guaranteed that those who hire them or seek out their voluntary services will follow their advice. Thus, some professionals will seriously question the value of participating on these high-profile panels, especially when such appointments may be met with intense media coverage and professional scrutiny.<sup>13</sup> Nevertheless, the presence of psychiatrists providing this professional expertise is needed more than ever and contributes an important service to the general community.

### **As Consultants on Personnel**

Clearly, some psychiatric consultation and psychological testing has already become normative in formation programs for those training to become pastors or lay ministers. Likewise, pathological behavior has required consultation, but the follow-through on recommendations on actual allegations of abuse has sometimes been neglected. Ten years ago, a well-respected and experienced forensic psychiatrist was asked by officials of a large religious diocese located in the eastern United States to join a multidisciplinary panel that included religious leaders and a canon lawyer. This panel was charged to evaluate complaints about clergy and to make recommendations regarding their suitability to continue their religious duties. The complaints discussed were numbered to maintain the anonymity of the writer, with the understanding that this was an appropriate process from a risk management perspective, both for the consulting professionals involved and the diocese. There was, however, no follow-up information on whether the recommendations of the panel, regarding more than 50 cases, were ever followed.

### **As Consultants in Outpatient and Inpatient Settings**

The role of consultant in outpatient and inpatient settings includes recognition of professional boundaries and the different needs of abusers, of victims and their families, of those in religious or priestly formation, and of communities. Practicing outside the area of professional expertise is clearly a breach of professional ethics that often results in significant harm to others. Problems in consultation have also occurred, however, when inadequate or bad advice has been delivered or good recommendations have not been followed. Prominent psychiatric hospitals across the country have for many years provided diagnosis and treatment to abusive priests, for example. Yet, in some instances clinicians were provided little or no information regarding the allegations of child sexual abuse, and their evaluations were used to justify reinstatement of the offender into the active clergy.<sup>14</sup> In a now infamous case, evaluations of a member of the Catholic clergy in 1984 by a general practitioner and a psychiatrist, both of whom had no expertise in the assessment of sexual offenders, found "no psychiatric contraindication to pastoral work at this time."<sup>15</sup> A series of other evaluations—inpatient and outpatient—warned of the risk of this individual's harming young children. In a pastoral career of 34 years, with accusations of abuse of more than 130 children, another 14 years passed before this cleric was removed from the priesthood.<sup>16</sup> As forensic experts, we must maintain vigilance regarding our professional and ethical boundaries and strive to safeguard against the use of our credibility and professional expertise in a manner that may result in significant harm to others.

### **Other Consultant Roles**

The crisis has made plain that the largest groups of individuals who are in need of psychiatric services are young children abused by the clergy in childhood, adults abused as young children, and their families. The pain of abuse is especially tragic for families who sought and unknowingly encouraged the relationships between their children and the clerical abuser, which, in some cases, involved multiple siblings and other relatives. Many parents experience a terrible and lasting guilt that they were not more protective of their children.

Finally, in addition to the role of plaintiff expert, psychiatrists may be needed to provide supportive

services to other groups affected by this crisis, including clergy who have been falsely accused and feel tainted by the scandal, Catholic seminarians on the path to the priesthood, individuals who acknowledged their guilt and are now in prison, and faith communities struggling with the experience of the scandal and betrayed trust.

## Conclusion

The media played a crucial part in alerting the public about the extensive nature of the sexual abuse of children by the clergy. A new phase in the crisis may be precipitated by recent attempts of attorneys for the Boston Archdiocese who, before litigation, are attempting to depose psychotherapists of individuals allegedly abused by the clergy. Psychiatric professionals are frequently called on to evaluate allegations of sexual abuse and to act as treating psychotherapists for abused persons. Despite the described limitations of the consultant's role, psychiatrists have important expertise to assist communities toward stabilization following the betrayal of trust that many have experienced through clergy sexual abuse. The policy statement of the Cardinal's Commission for the Protection of Children and Prevention of Sexual Abuse was designed as a work in progress, with the understanding that the statement would need fine-tuning with practical experience. Similar multidisciplinary workgroups are being established across the country as communities grapple with the full impact of the clerical abuse of children. A large part of this work will include writing regulatory protocols for handling abuse allegations and referrals to civil authorities for investigations, providing direct mental health services, and improving psychosexual education for children, families, and others involved in working with children about

abuse prevention. When the opportunities arise, I encourage my professional colleagues to consider serving on one of these church-related boards and/or involvement in one of the consultant roles, as previously defined. Despite the differential handling by some church officials of psychiatric input and the tendency for some of us to become disaffected by the tenuous nature of our involvement, forensic psychiatrists still represent an important resource and can make genuine contributions to the lives of the many children, adults, and families affected by this church crisis.

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