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Philadelphia's fall raises questions elsewhere

Tom Roberts | Mar. 25, 2011

Theresa Coleman of North Wales, Pa., protests along with others outside Cathedral Basilica of Sts. Peter and Paul before an Ash Wednesday Mass in Philadelphia March 9. (AP/Matt Rourke)

The recent Philadelphia grand jury report, a scathing assessment of the archdiocese?s handling of sex abuse allegations against priests, has wider implications for the church, say several experts, because it exposes inherent weaknesses in the process that is employed nationally for dealing with allegations against Catholic clerics.

The evident failure in the Philadelphia archdiocese of the system set up by the U.S. bishops in 2002 raises the question of whether similar circumstances exist in other dioceses, most of which have not come under the scrutiny of a grand jury or other law enforcement agencies. The question that keeps surfacing is: Are there other Philadelphias out there?

?There could be, but we don?t know,? said Nick Cafardi, a member of the original National Review Board established by the bishops to oversee implementation of the Charter for the Protection of Children and Young People, adopted during the bishops? national meeting in Dallas in 2002. The charter, essentially an acknowledgement of the problem and a promise by the U.S. bishops to implement procedures and programs to deal with the crisis, is enforced by ?Essential Norms,? promulgated in 2002, that have the force of canon law.

In recent separate interviews with Teresa Kettelkamp, executive director of the Secretariat for Child and Youth Protection, an office of the U.S. Conference of Catholic Bishops; Ana Maria Catanzaro, chair of the review board of the Philadelphia archdiocese and a member of the National Review Board; and Cafardi, several common concerns surfaced about:

- Disparities in definitions and language among diocesan officials, review board members and civil authorities;
- Fears that standards and norms are not being uniformly applied in all dioceses;
- The limits of the audit process;
- The ongoing effects of clericalism;
- The fact that much of the process depends on a level of trust among church leaders, review boards,

alleged victims and those responsible for outreach to victims;
- Whether accused priests can receive fair treatment and gain access to due process.

?There is a certain level of trust involved? in making the process work, said Cafardi, a canon and civil lawyer and dean emeritus of Duquesne University School of Law in Pittsburgh. For instance, he said, review boards, made up mostly of lay volunteers, trust that they are receiving all the relevant files on priests who have been accused, and that they will have the freedom to deal with the files independently and that their recommendations will be heeded.

The same is true of the auditing system, which initially was done on-site every year but now is done on-site only every three years. The auditing process depends on information self-reported by the diocese, and he said it is ?a valid perception? that in those places, such as Philadelphia, where civil authorities investigate and gain access to documentation, the number of cases of abuse is always greater than the number initially volunteered by church authorities.

The most recent grand jury report, the second in five years investigating the Philadelphia archdiocese?s response to the crisis, charged three priests and a lay teacher with rape and indecent assault. The grand jury also charged Msgr. William Lynn, former secretary of priests for the archdiocese, with two counts of endangering the welfare of children. This is the first time a diocesan official has been criminally charged in the scandal. The report alleged that he had permitted ?dangerous? priests to be reassigned to ministries where they had access to children.

Kettelkamp said her first reaction on hearing of the report was ?How on earth can this happen? We are years removed from Dallas, we have been auditing every year, we have good auditors,? as well as procedures in place for handling such matters. Then, she said, she told herself that ?all the facts have not been determined. I don?t know what information was provided the grand jury and how that compared to what was provided to the diocesan review board.?

The grand jury report was in places highly critical of the local board and some of its recommendations, arguing, ?In cases where the archdiocese?s review board has made a determination, the results have often been even worse than no decision at all. The board takes upon itself the task of deciding whether it finds ?credible? the abuse victims who dare come forward. It is the board, though, that strikes us as incredible.?

Catanzaro said she was ?shocked? at such sweeping statements, especially since no one from the seven-member review board, which had been established as part of the Dallas norms, had been called to testify. According to a Feb. 12 report in *The Philadelphia Inquirer*, a spokeswoman for District Attorney Seth Williams countered that the archdiocese had the opportunity to suggest people to appear before the panel. ?They did not request, suggest or offer that members of the board do so,? the spokesperson told the paper.

The archdiocese then responded that ?who appears before an investigating grand jury is solely within the province of the District Attorney?s Office.?

Catanzaro emphasized in a March 20 phone interview with *NCR* that she did not want to be perceived ?as being adversarial against the archdiocese, the grand jury or the district attorney. We are interested in getting the truth out.? At the same time, the job of overseeing cases and making recommendations is riddled with tensions and conflicts, some of which will never be resolved. ?We don?t know what they [the grand jury] based? their comments on regarding the review board?s recommendations because ?they didn?t know what process we used.?

The grand jury report claimed that 37 priests remained in active ministry despite credible allegations against them. With the release of the report, the archdiocese hired Gina Maisto Smith, a former assistant district attorney who prosecuted sex crimes, to review the cases. She determined that 21 of the priests should be temporarily suspended and that their cases be further investigated. The review board had seen evidence against only a third of the 21 and determined that there was insufficient evidence against the seven to recommend removal from ministry.

One of the frustrations the board encounters, said Catanzaro, a nurse and college professor, is the differences between canon law and civil law in defining ?sexual abuse.? She also noted that the function of the diocesan board is advisory only. It has to work with the cases forwarded to it by the archdiocese, where complaints are initially vetted to determine if they meet the threshold of sexual abuse according to the norms. What is meant by the term ?credible allegation? can also take on different meanings depending on whether civil or canon law is applied.

Among the 21 cases being reviewed, said Catanzaro, there may have been instances of inappropriate behavior that did not amount to sexual abuse. She said she believes the grand jury ?looked at inappropriate behavior through the lens of the state child protective services act,? which includes any kind of abuse reportable to a child abuse hot line. ?There are a whole lot of things -- neglect, physical abuse, any number of things? that might be considered abusive, but whether they rise to the level of crime or of sexual abuse is another matter.

Such differences can be frustrating, and she said she would like to see the church use broader categories to determine questionable behavior on the part of priests. She said she would like to see the review board receive all complaints of inappropriate behavior, not just those deemed a potential sex abuse case by someone in the chancery office. Often there are patterns that evolve that may not, as discrete events, suggest sexual abuse but that together might raise red flags and be cause for concern.

Canon law can be overly restrictive, she said, in determining whether someone should be removed from ministry. ?Is grooming sexual abuse or isn?t it?? she asked. ?We said yes, and the canon lawyer said no. If there were grooming behaviors but the priest didn?t touch the kid until after he was 18,? it still should be considered sexual abuse of a minor, she said.

Pornography is another issue that has caused debate, she said. She said one canon lawyer, arguing on behalf of a priest client, said that if it is impossible to determine if someone depicted in pornography is a 16-year-old or an 18-year-old, then a canonical charge of sexual abuse of a minor can?t apply.

?We need to be clearer on this stuff,? she said. ?These are some of the struggles that review boards are dealing with. The interpretation of sexual abuse is too vague and really leaves a lot of room for interpretation.?

As angry as she can get in situations where priests and church leaders seem more intent on protecting the reputation of a priest than getting at the truth of an accusation, she also has great concern for priests, including the 21 who have been identified in the press, who immediately are stigmatized as sexual predators to the general public. They may have been accused of much lesser offenses or even incorrectly accused, she said. Yet their reputations are immediately damaged. It appears a no-win situation without a resolution.

Kettelkamp said she hopes to learn lessons from the Philadelphia situation that can be applied nationally. She is awaiting the report from Smith, the former prosecutor. Some discussion has already occurred at the national level among her office, the national review board and a number of bishops. She said both the grand jury report and Smith?s report will be ?dissected? by her office and committees of the national review board dealing with best practices and audits. Both groups, she said, are chaired by judges, and they will make recommendations to the bishops? committee.

The news from Philadelphia, she said, has been ?devastating to all the people who work so hard in all the dioceses to make the charter work.?

[Tom Roberts is *NCR* editor at large. His e-mail address is troberts@ncronline.org.]

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