NATIONAL CATHOLIC REPORTER
Published on *National Catholic Reporter* (http://ncronline.org)

Did Belgium get it right?

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Examining the Crisis [1]

When Belgium authorities moved in on the offices of the Roman Catholic church to obtain documents did they do the correct thing? The world press recorded the operation on June 26: In an unprecedented move, Belgian police authorities raided the offices, private residences, and the graves of Belgian Catholic church officials who may be linked to the ongoing sexual abuse scandal.

Should civil authorities in the United States be more aggressive in pursuing church records and documents about sexual abusing clergy and Catholic bishops who support them? While the legal dimensions of the question are out of my ken, I am aware that the Belgium judge authorized search warrants based on factual evidence. Others can speak about the law. My perspective is different.

I do not ask that question easily or without experience with the maneuvers bishops in the United States have used over the past two decades to avoid accountability in face of widespread allegations and proof of sexual abuse of minors by clergy.

American bishops have implemented positive protective procedures in their hiring practices; they have instituted good educational initiatives. At the same time most have done everything possible to impede investigations, withhold documents and obstruct justice for the victims of sexual crimes by priests and themselves. They have used every method conceivable to avoid responsibility for crimes; some procedures are within legal limits and others questionable, unthinkable or indefensible, including intimidation, destruction of documents, evasion, deception, and obfuscation of the truth.

Grand juries that have been convened to look at how diocese handled sex abuse cases have all come to conclusions remarkably similar to the grand jury in Rockville Centre, N.Y.: "The grand jury does not believe that the diocese ? has the demonstrated capability to properly handle the issues of clergy sexual abuse." And further, "the conduct of certain diocesan officials would have warranted criminal prosecution but for the fact that the existing statutes are inadequate." (1) Many U.S. priests have escaped prison for their crimes simply because they are clergy and as a result of inadequate statutes of limitation laws.

Cardinal Tarcisio Bertone, the Vatican secretary of state, rendered the opinion that the church "faced this trial with great dignity and courage" and he hoped, "other institutions and social agencies will face this same problem with their members, with an equal degree of courage and realism as the Catholic church has done." (2) One hopes that what the church has experienced will in the end prove to be useful and even a model for preventing abuse and protecting the vulnerable. However, this statement was a public relations illusion that does not take the American Catholic reality into account.

The Philadelphia grand jury, the most thorough so far published, concluded: "The evidence before us established that archdiocese officials at the highest levels received reports of abuse ? and chose not to conduct any meaningful investigation." In addition bishops, "left dangerous priests in place or transferred them to

different parishes as a means of concealment. ?They chose to protect themselves from scandal and liability rather than protect children from priests' crimes." (3)

The actions of only 63 of 160 or so questionable priests even came under consideration in the report.

Cardinal Bernard Law of Boston and Cardinal Anthony Bevilacqua of Philadelphia were both saved from criminal indictment by technical limitations of the existing legal codes (i.e. need to prove criminal intent or statutes of limitation) not for lack of probable cause. The attorneys general of New Hampshire and Phoenix made special accommodations to save bishops McCormack and O'Brien from criminal indictment. (4)

Even the depositions of bishops and cardinals taken under oath demonstrate repeated questionable testimony. So far none have been cited for perjury. "Why not?" is a question yet to be addressed.

Let me put it as clearly as I can from my layman's understanding -- many bishops and cardinals have appeared to lie.

Some lies I have witnessed with my own ears and eyes; (5) other discrepancies I discover in the transcriptions of clergy depositions. Let me say it again: according to documents and records in American cases of clergy abuse many bishops and cardinals have appeared to lie. The Belgium authorities were seeking documents because they could not trust the veracity or openness of church authority.

Under certain pressure and in defense of the church's image, bishops can become frankly untruthful. It is not merely a tactic; it is a cultural code. An auxiliary bishop of Baltimore provided the most striking example when he said in defense a clear prevarication, "I only lie when I have to." That was in 1994. When I told the story to a chancery staff member from the St. Paul archdiocese, she said that she had heard the exact words from her boss then vicar general.

Stereotyped responses in depositions and even in court trials deny knowledge and defy credibility: a frequent flat denial is "I don't remember." "I have no memory of that" "I can't recall" "I'm not aware" may be justifiable mental reservations in the judgment of clerics.

The available depositions of Cardinal Law and in particular the 2004 and 2010 depositions of Cardinal Mahony are remarkable examples of what a layperson would call "lying." Mahony denied any knowledge of instances of abuse in a previous deposition and on the witness stand in a court trial. But in 2004 his testimony was reviewed and he was confronted with copies of letters he wrote and signed that proved what he said under previous oath was not true. His only self-defense and explanation of the discrepancy between his under-oath testimony and the documents was that he must have "forgotten" because he was "busy" at the time of his deposition and court trial with an upcoming visit by the pope. (6)

Despite clear admissions of destroying documents and conspiracy to hide crimes little response has been forthcoming from the criminal justice system. Cardinals and bishops have so far escaped any criminal charges of perjury. The bishops utilize existing statutes of limitations to protect themselves while they continue to oppose any extension that would help bring victims and abusers justice.

Despite repeated promises of action, the bishops have not instituted significant reform of the clerical system or installed effective oversight of clerical sexual offenders. This is in stark contrast to bishops' recent reaction when priests embezzle parish money. There is no question that there is discordance between the hierarchical speed and decisiveness in cases of abuse that are easily forgiven and covered up and cases of embezzlement that have been swiftly subjected to civil intervention.

Even worse examples of ecclesiastical value discordance exist when the speed of bishops' actions in censuring a

priest for liturgical deviance (or similar infraction) contrast with the lethargic and resistive response to reports of abuse. One prime case in my experience was that of Eusebius Beltrand, archbishop in Oklahoma, who responded immediately via a stern letter to a parishioner's complaint that pastor Fr. James Rapp of the Oblates of St. Francis de Sales had violated some rubrical nicety at the same time he ignored (until forced by parental report to the police) the priest's abusive behavior. The archbishop knew Rapp's previous abuse history when he accepted him into the diocese, but waged years-long legal fight against responsibility. (7) Are too many hours, vast amounts of lawyer-labor and church resources wasted on protecting possibly incriminating documents and guilty churchmen?

The Belgium maneuver of civil authorities seizing documents and probing graves to obtain proof of abuse blasts previously unthinkable questions into American Catholic consciousness: would children be better protected, would the real interests of the Catholic community be better served, would justice be better accomplished if civil authorities treated bishops and priests with less deference? Should Mafia-like behavior by bishops and priests be viewed as "organized crime" rather than peccadilloes best tended to within the clerical brotherhood? Even as recently as 2010 Cardinal Mahony counseled his priests that clergy abuse is a "family problem" and should be treated as such.

Do the grand jury investigations and reports from New York to Arizona give an accurate enough account of the pattern and practice of the Catholic church in America to warrant a Belgium-like intervention? The eight-year grand jury investigation of Los Angeles and Cardinal Mahony has met unconscionable obstructions and gobbled up millions of dollars of church and state resources. To what ends? The protection of children? No. To control abusers? No. In the cause of justice? No. To protect the image and an important church official? Yes.

The traditional ecclesial value system is distorted and inadequate to meet current pressures and needs. Values are exposed as bishops respond to revelations of abuse and scheme to fight discovery of facts. The primary clerical value is the avoidance of scandal -- preserving *bella figura* in Vatican terms. What historian Richard Trexler notes of the 14th to 16th century hierarchy of values still holds true: clerical secret sexual transgressions even fornication were "infinitely preferable to those types liable to have public repercussions." Above all there is a desire to avoid scandal. "Scandal, after all, was what compromised the organizational priest's ability to function." (8)

Money concerns are also pervasive. Preservation of clerical property and power are major values and follow closely behind the concerns over image. Teaching and doctrine need to be defended, but are somewhat pliable in the service of other demands. Lastly -- in a distant fifth place -- the protection and service of the laity are duties that demand attention and regulation by church law.

Would a Belgium-like intervention curtail abusive behavior within the clerical system and facilitate reform?

The U.S. government is traditionally respectful of religious institutions, even beyond the provisions of the First Amendment; it also has a well-developed tort system that has been effective in assisting some victims achieve justice, and rendering some measure of punitive damages from a guilty church while calling international attention to the problem of abuse. Secrecy, resistance, intimidation and religious duress have not served church or society well. The Catholic church is not struggling effectively against a systemic cancer that is eating at it from the inside. Does the U.S. Catholic church need the kind of intervention that Belgium civil authorities are willing to institute?

Read all the contributions to the NCR series **Examining the Crisis** [1].

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(1) Suffolk County Supreme Court Special Grand Jury Report [2]. May 6, 2002. P.173-4.

(2) Receiving the Gaudium et Spes Award from the Knights of Columbus in Nashville. August 6, 2007.
(3) Philadelphia Grand Jury Report [3], Sept. 19, 2005.
(4) Cf. Boston Grand Jury Report, July 23, 2003;
(5) Cf. Note on Bishop Robert Brom on www.richardsipe.com; also check the depositions of Cardinal Roger Mahony, 2004 where I was present & 2010 both available on BishopAccountability.org.
(6) Depositions are available on BishopAccountability.org.
(7) Rapp was found guilty of abusing 2 minor boys and sentenced to 40 years in prison. At sentencing Fr. Rapp pleaded with the judge that at 60 years of age he was getting a life sentence to which the judge responded, "you gave these boys a life sentence."
(8) Synodal Law In Florence and Fiesole, 1306-1518. P.50; Rome. Vatican Press, 1971.

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