

## BEFORE DALLAS

By Nicholas P. Cafardi, J.D., J.C.D.

Many informed American Catholics are familiar with the actions that the bishops took at their Dallas meeting in 2002, when they adopted the zero tolerance policy for priests who had sexually abused children, a policy that, with the approval of the Apostolic See, became canon law for the United States. This was a drastic measure, meant to deal with drastic facts. It resulted in the removal of over 700 priests from ministry.

However, very few people are aware of what led up to Dallas. What did the bishops do before 2002 while the disaster was building? In the middle of the 1980's a crisis of historic proportions exploded in the Church in the United States. In 1984, in the small diocese of Lafayette, Louisiana, a parish priest, Father Gilbert Gauthé, was arrested and charged with multiple counts of child sexual abuse. The first victims' parents to come forward had not originally gone to the civil authorities, but rather to the Lafayette diocesan chancery. Only when diocesan officials failed to act did the victims' parents turn to the police. Lafayette is "ground zero" in the priest-child sexual abuse crisis that dominated the history of the American Church in the last two decades of the twentieth century. Soon after Gauthé's arrest, two other priests of the diocese were charged with similar sexual crimes against children.

Once the dam of silence was broken in Lafayette, more victims in more dioceses across the country came forward, and more priests were indicted or sued in civil court (together with their bishops) for the sexual abuse of children. Lafayette became a national epidemic, and Lafayette's handling of its abusive priests proved to be paradigmatic. It is clear beyond cavil that diocesan officials in Lafayette knew about Father Gauthé's sexual abuse of children long before he was arrested. It is also clear that they failed to treat

Father Gauthé's actions as the violations of Church law and civil law that they clearly were. Instead, diocesan officials asked him to undergo therapy, which he refused to complete, at which time he was simply re-assigned to another parish, where he went on to sexually abuse other children. This pattern repeated itself in diocese after diocese. Parents would complain to diocesan officials about a priest who had sexually abused their child. Diocesan officials would act sympathetically. Father would be sent away for treatment because he was "sick." Promises would be made that no more children would be harmed by this man.

The child and the family would be offered counseling to be paid for by the diocese. Sometimes money would change hands, rarely large sums, and usually accompanied by a "confidentiality" agreement, binding the family never to talk about the incidents. In three months, or six months, sometimes longer, Father, after a turn at therapy or treatment, and some professional assurance that he was no longer a risk, was assigned to another parish in the diocese, usually as far away from his previous assignment as possible. At the second parish, Father would find more young victims, whose parents would complain to diocesan officials, who would purport to be surprised by the allegations, and the same vicious cycle would perpetuate itself.

As news of the sexual abuse of children by Catholic priests began to break in dioceses across the country, there was panic in the chanceries of the land. What was to be done? How could this crisis be contained? Most bishops turned to their canon lawyers for help, help that, unfortunately for the Church in the United States, was not very apt. The sexual abuse of a child by a priest is a canonical crime, and has been for centuries, yet canon lawyers did not advise the bishops to treat these matters as canonical crimes. There was no investigation of these crimes, no citation for them, if the charges were found to be credible, no canonical criminal process in which the victims could tell their stories and priests could offer a defense, and no penalty for those priests who were proved to have committed these crimes, all as the Code of Canon Law required. There was, in fact, an almost total breakdown of the canonical system.

Rather than face a canonical process for their crimes, priest perpetrators were coddled, sent off to some of the most expensive treatment centers in the nation, many of them Church-run, in an extravagant reading of the Church's canon law, which many canonists claimed, favored "pastoral solicitude" for these priests over pastoral firmness.

In the middle of this crisis, the national body of bishops, then known as the National Conference of Catholic Bishops (NCCB) was in almost complete paralysis. Every year beginning with 1985 and continuing thereafter, in the executive sessions of their semi-annual meetings, the bishops discussed the problem of priests who had sexually abused children. They had educational sessions on how to prosecute these canonical crimes. They had advice from their national staff on the legal, pastoral and public relations issues involved. However, all of this came to naught in adopting a national policy to deal with priest child abusers because a small number of bishops managed to stymie the national body every time it tried to take uniform national action on the matter. In this, they were aided by the 1983 Code of Canon Law, which ignoring the promise of Vatican II on the role of the college of bishops, had vastly limited both the teaching and the legislative role of national bishops conferences. Unless Rome either asked for or approved of national legislation on priest child abusers, the U.S. Bishops Conference was powerless to do anything. And Rome chose not to act.

Only in 1992, after yet another major national scandal, when the many dozens of sexual abuse victims of the former Father James Porter of the diocese of Fall River, Massachusetts, came forward, were the bishops spurred to something like group action. That year in their November meeting, the bishops adopted a five-step program to address the crisis. The program was still only advisory, because the bishops had no ability to legislate on this issue, but the program included

- 1) report all allegations promptly
- 2) where sufficient evidence exists, remove the priest from ministry and have him psychiatrically evaluated
- 3) meet all civil law reporting requirements
- 4) reach out to victims and their families
- 5) deal as openly as possible with the members of the community about the incident

This was the best that the bishops could manage in late 1992, a full eight years after the crisis of the clergy's sexual abuse of children had seized the national attention. Nothing in the five steps referred to treating child sexual abuse as the canonical or civil crime that it clearly was. Nothing referred to prosecuting the priest for this crime. The priest offender, rather, was to be medically evaluated and treated. Nonetheless, this program finally did give the impression that the bishops had seized hold of the problem and were at least trying to deal with it effectively as a body. Aided by a piece of good luck that occurred at the start of 1993, namely the foolish prominence that the national media gave to flimsy charges of sexual abuse against Cardinal Bernardin, only to look extremely foolish when the charges were withdrawn, the bishops were no longer on the defensive.

So why then did this crisis explode one more time, with an even greater vengeance, almost ten years later? It was well understood by the end of 1992 that the Catholic Church in the United States had an extremely serious problem with sexually abusive priests in ministry. The fact that abusive priests had been sent back to parishes after "treatment" and had abused more youngsters was in the national knowledge bank. Yet, in the court of public opinion, the Church, with the actions that the bishops took in 1992, was seen as having learned its lesson. With the false accusations against Cardinal Bernardin in 1993, the public spotlight was finally off, it was almost as if the American public was saying, "Okay, bishops, you have made some serious mistakes, but you have also promised to change. You are on probation. Don't let it happen again."

However, it did happen again. Some bishops did keep sexually abusive priests in ministry long after 1992-1993. When this became public knowledge with the revelations of the Boston Globe in 2002, the terms of the Church's public probation were off, and the entire Church was penalized for its infractions as far back as memory ran. It was the failure of only a handful of bishops to follow the 1992 NCCB recommendations and to understand that sexually abusive priests, even after treatment, could not be re-

assigned to parishes that allowed the clergy child sexual abuse crisis to fester in the United States after 1992-1993 and then to erupt with such violence in 2002.

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