

These are responses to several of the questions that were asked at our parish Listening Sessions on September 21 & 22. Many of the questions do not have simple answers. However, we hope that the answers do provide some basic information about a very sad and complicated situation.

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What happens when an accusation is made?

There are two different law systems that come into play—the secular system and the canonical system. Because of the separation of Church and State, both systems must work together with each acting in its own realm and according to its own laws.

When a diocese receives an allegation of sexual abuse by a cleric, the usual process is to first inform the local police or district attorney's office of the allegation and then inform the accused cleric. The secular authorities determine whether or not the alleged offense is actionable. If it is, the case is handled through the secular system. This can often take a number of months to complete. Once the secular system has completed its work, the case is then transferred to the canonical system for further action.

What happens in the Church after the secular law has finished?

When a case is finally returned from the secular law system, the Church begins its own investigation. A professional investigator is hired to interview the accuser and possible witnesses—such as family or contemporaries. The investigator should record and transcribe any such interviews in order to avoid bias. The investigator will also gather additional information as necessary for the particular case. This may include a background check of the accuser, pictures of the place where the alleged behaviors occurred, school records, etc. Lastly the investigator will interview the accused and, again, transcribe the interview.

What happens when an investigation is completed?

The materials gathered during the investigation along with a statement from the accused are then presented to the Diocesan Review Board. Some review boards only accept written information, others permit the accused and his canonical counsel to appear and provide additional information. According to USCCB guidelines—the review board does not conduct the actual investigation, but only offers a recommendation to the bishop for his action. They are supposed to determine whether or not the accusation has a “semblance of truth.”

What rights does an accused cleric have?

When the cleric is informed of an allegation, he is normally placed on administrative leave—a canonical process that restricts his ability to function as a cleric—until the investigation and necessary legal procedures are completed. He is encouraged to obtain the services of proper counsel—a secular attorney or a canonical attorney. He is informed of the accusation and given the opportunity to respond and provide contrary evidence and to participate fully in any penal process that might be conducted. He also has the right to appeal any decision.

If the cleric is found guilty a number of penalties can be imposed. These can range from sanctions to dismissal from the clerical state. The guilty could also be asked to make additional retribution or remuneration.

What is meant by a “semblance of truth”?

A “semblance of truth” simply means that there is a low-level possibility that the accusation may be true. Many review boards use the incorrect terms of “credible” or “substantiated.” Many boards say they use the criteria of “a preponderance of the evidence”—a purely secular law term that does not always translate well in the Church law system.

If the accusation has a “semblance of truth” and it concerns a minor, the case must be referred to the Congregation for the Doctrine of the Faith along with the Bishop’s *votum* or evaluation of the case. The bishop asks for direction in handling the case asking for either a trial or administrative penal process. If the case lacks a “semblance of truth” the law directs the bishop to remove any restrictions, replace the cleric in ministry, and do all he can to restore the cleric’s good name.

What happens if the cleric is deceased?

Cases involving deceased clerics are much harder to investigate and adjudicate. The cleric cannot defend himself. Witnesses are often deceased as well. The places where the abuse is alleged to have occurred may have been altered or even be non-existent today. And, the accusation may be only one person’s word. There may be no other allegation and there is no response that can be given by the deceased cleric.

How long does all of this take?

In order to accomplish all of the above tasks and to ensure they are done properly takes a great deal of time. A review of an allegation given to the District Attorney may take 3 to 6 months. If there is a secular law litigation of criminal charges, it could take a year or more to complete the process. The canonical investigation can take up to six months after a case is returned from the secular authorities. It could take 6-12 months for a review of the case by the Congregation for the Doctrine of the Faith. Once the case is returned from Rome, it can take another year, or more, for the adjudication in the canonical court.

When and how do we find out if the accusations against our Bishop Emeritus - who confirmed our kids - are true or false?

Whenever a respected and trusted leader of one’s community is accused of heinous crimes our confidence in that person can be shaken. We may want to dismiss the accuser as lying or we may want to believe whatever we have heard unconditionally. However, a critical analysis is in order. What do we know about this person? What do we know about the accusation? How does our knowledge of the leader coincide with the facts of the accusation? While confidentiality requirements in the law may preclude sharing every piece of information about an accusation, we should withhold our opinion until we can obtain more information or receive a judgement from a court.

There are false accusations made by some people. There are accusations made by those who have been abused that are mistaken about the person who did abuse them. And, sadly, there are true accusations made against those whom we would never have suspected. With Bishop Emeritus Hubbard, the public may never know all of the facts. However, we do know that he was fully investigated in the past about accusations for crimes of abuse. We do know that his entire past was examined to determine whether he had ever sexually abused anyone. We do know that he has been declared innocent of any such previous behaviors.

As of the time of writing, we know little about the accusers or why they have accused Bishop Emeritus Hubbard. We may never know those answers. But as the secular and canonical processes run their course, we will have our answer as determined by the courts.