News
Vatican



Jesuit Fr. Federico Lombardi, Pope Francis, Cardinal Blase Cupich of Chicago and television reporter Valentina Alazraki of Televisa are pictured during the third-day of a meeting on the protection of minors in the church at the Vatican Feb. 23, 2019. Pope Francis promulgated 'Vos Estis Lux Mundi' following that summit. (CNS/Vatican Media)



by Joshua J. McElwee

View Author Profile

Join the Conversation

Send your thoughts to *Letters to the Editor*. Learn more

May 27, 2020
Share on BlueskyShare on FacebookShare on TwitterEmail to a friendPrint

It is a bit early to assess the effect of Pope Francis' new global system for how the Catholic Church evaluates reports of clergy sexual abuse or cover-up by individual bishops, say canon lawyers who spoke to NCR.

They also raised questions about the new process, first established in May 2019, which involves the empowering of archbishops to conduct investigations of prelates accused in their local regions.

Among their main concerns with the procedure, outlined in Francis' *motu proprio Vos Estis Lux Mundi* ("You Are The Light Of The World"): the possible bias that can arise in asking one prelate to investigate another, and whether there has been an appropriate level of transparency about bishops who are being investigated.

Nicholas Cafardi, a civil and canon lawyer who was a member of the U.S. bishops' original National Review Board, highlighted the latter point.

Mentioning that the procedure does not mandate that Catholics necessarily be told when a bishop is being investigated, Cafardi said: "It seems to me that the faithful have a right to know if somebody is a possible danger."



Members of the clergy are seen during the second day of the four-day meeting on the protection of minors in the church, at the Vatican Feb. 22, 2019, in this screen grab taken from video. (CNS/Reuters)

"You would think by now the church would have learned the lesson that secrecy in these matters does not work," said Cafardi, dean emeritus of Duquesne University School of Law in Pittsburgh. "What is done in the darkness will be seen in the light. Maybe not right away, but eventually."

Msgr. Frederick Easton, a former president of the U.S. Canon Law Society, said he believes the new process does not mandate the immediate disclosing of possible cases so as to protect the reputation of accused bishops while investigations are still in their earliest stages.

At that point, said Easton: "You have a claim … but you don't know whether it's got any validity to it."

"The process does not want to get things into the public forum prematurely, but it will get there," said the priest, who served for 31 years as the judicial vicar for the

Indianapolis Archdiocese.

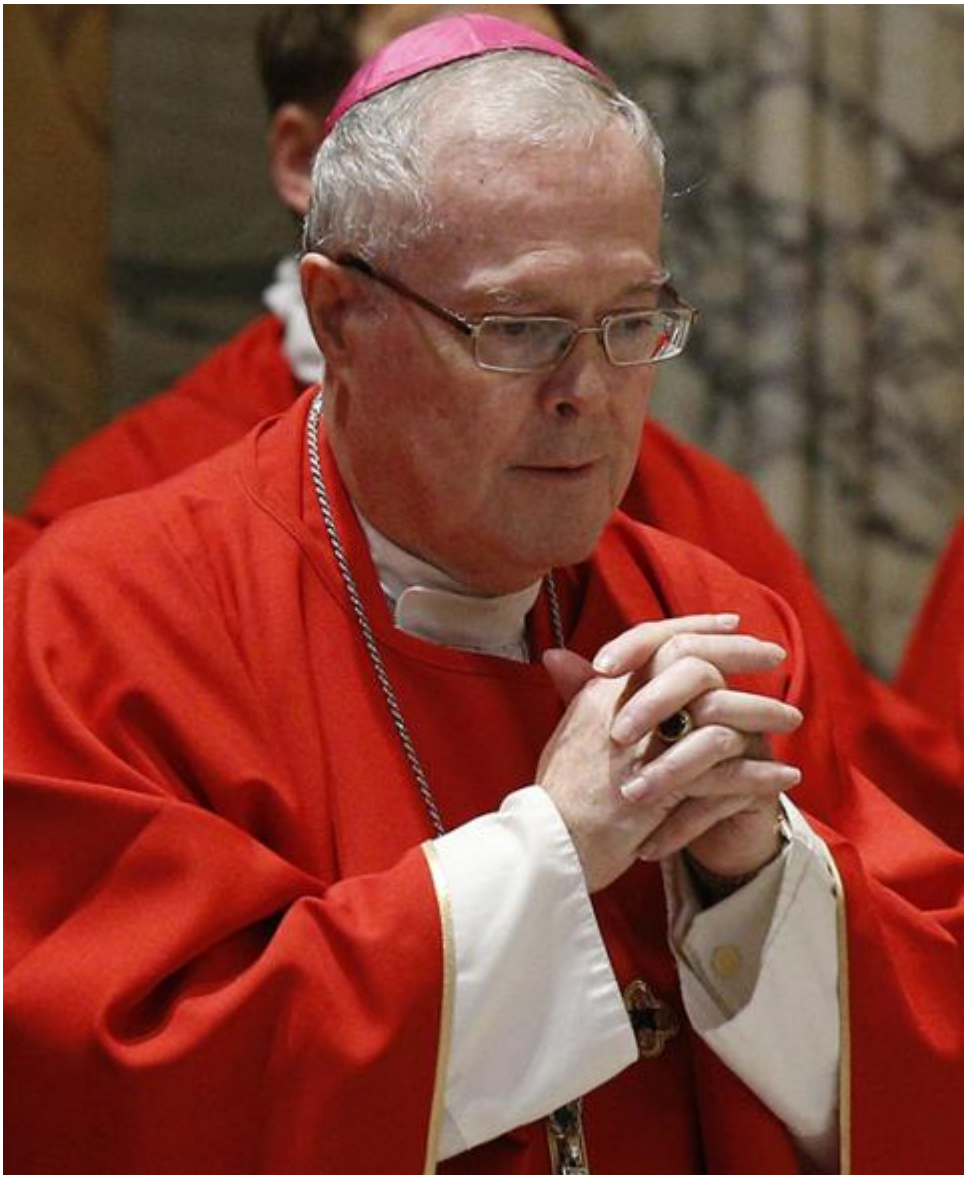
Related: Reactions to new church abuse laws: a good step, but more are needed

Until Francis created the new process, investigations of abuse or cover-up made against individual bishops could only be initiated by the Vatican. As part of the new procedure, archbishops who receive reports regarding such possible behavior are now tasked with proactively requesting authority from one of several Vatican offices to conduct investigations.

Once the investigation is complete, the archbishop is to send his report on the matter back to the Vatican for its decision about how to go forward.

The U.S. bishops' conference has created a new national reporting system, available at ReportBishopAbuse.org, to receive reports of possible abuse or cover-up by bishops. Those reports, once evaluated, are sent to the appropriate archbishop for review.

An FAQ posted at the reporting website also states: "Some reports, such as those involving minors, will be reported to law enforcement."



Bishop Michael Hoeppner of Crookston, Minnesota, concelebrates Mass at the Basilica of St. Paul Outside the Walls in Rome Jan. 15. (CNS/Paul Haring)

Only two U.S. bishops are publicly known to currently be under investigation as part of the new system: Brooklyn Bishop Nicholas DiMarzio and Bishop Michael Hoeppner of Crookston, Minnesota.

DiMarzio was accused in November of molesting an altar boy as a priest in the 1970s. He has strenuously denied the allegation, which the Vatican's Congregation for the Doctrine of the Faith empowered New York Cardinal Timothy Dolan to investigate.

Hoeppner is accused of mishandling cases of priests accused of abuse. The Vatican's Congregation for Bishops empowered St. Paul and Minneapolis Archbishop Bernard Hebda to investigate the matter. After sending an initial report to Rome in November, Hebda was asked in February to investigate further.

A third possible case involved now-former Cincinnati Auxiliary Bishop Joseph Binzer, who had been accused of not reporting complaints made against a priest in his archdiocese and resigned his position May 7.

A spokesperson for the Archdiocese of Cincinnati told NCR that Archbishop Dennis Schnurr had been informed by the Vatican in December that Francis' new investigatory procedures "did not apply to this matter." The spokesperson said they were unable to provide further details.

Easton said it was his understanding that Binzer was not subject to a protracted investigation because he acknowledged his failure to report complaints against the priest in question.

"I would judge in this case this was not a full-blown *Vos Estis* process as is outlined in the *motu proprio*," said the monsignor. "I don't think there would be any need for it."

"I think the process was so simple because the man admitted it," said Easton. "Sometimes it can be as simple as that."



Bishop Nicholas DiMarzio of Brooklyn and other U.S. bishops from the state of New York walk through the Apostolic Palace after meeting Pope Francis at the Vatican Nov. 15, 2019. The bishops were making their "ad limina" visits to the Vatican to report on the status of their dioceses to the pope and Vatican officials. (CNS/Paul Haring)

For some, Dolan's investigation of DiMarzio has highlighted the possible bias that can occur when one bishop is tasked with investigating another. After the cardinal was empowered to investigate the bishop Jan. 7, he talked about the matter on his SiriusXM radio show Jan. 21.

Although Dolan said he had to take the matter "seriously," and promised the investigation would be handled by outside professionals, the cardinal also called DiMarzio a "good friend" and said: "I love the guy."

Responding to Dolan's characterization of his relationship with DiMarzio, Cafardi said: "If Dolan considers Bishop DiMarzio to be such a close friend, then he's the wrong person to do the investigation."

Related: Editorial: Dolan investigating DiMarzio points up flaws of 'Vos Estis'

"The whole point of the investigation is that it needs to be credible," said Cafardi. "And if the investigator appears to be biased, how can the investigation be credible?"

Easton noted that if the Vatican thought there was reason to question Dolan's impartiality, it could have decided to ask another bishop to investigate DiMarzio. But he added: "From a canonist's point of view, I would call it unfortunate if the metropolitan [archbishop] would talk about it at all, until the investigation is concluded and he's sent it off to Rome."



New York Cardinal Timothy Dolan is seen in this 2018 file photo at the fall general assembly of the U.S. Conference of Catholic Bishops in Baltimore. (CNS/Bob Roller)

"If he is stymied in his ability to be an objective gatherer and reporter of facts because of his friendship with the bishop under investigation, that makes it difficult," said Easton.

Joseph Zwilling, the director of communications for the New York Archdiocese, said in an email that Dolan's investigation is underway and that the archdiocese has been providing "regular updates" to the Vatican on the matter.

Zwilling also confirmed that Dolan has tasked the international law firm of Herbert Smith Freehills to oversee the process, and hired former FBI Director Louis Freeh's consulting group to conduct the investigation.

Easton and Cafardi both said that trying to evaluate the impact of Francis' new investigatory procedures only a year after their promulgation was difficult. "I think we're feeling our way on this whole thing," said Easton. "There is no jurisprudence yet, as far as I know."

Advertisement

Mercy Sr. Sharon Euart, a former associate general secretary of the U.S. bishops' conference and a noted canonist, also said the effect of the new process has been partly made "uneven or difficult to read" by the ongoing pandemic, which has caused the cancellation of various workshops or conferences focused on implementing the new law.

Euart, now the executive director of the Resource Center for Religious Institutes, said she hoped those events would be rescheduled soon.

"I think it may be premature to attempt an evaluation of the use of [*Vos Estis*] given the effects of the pandemic, namely, offices closed in Rome and U.S dioceses, the ongoing need for clarity about the procedures and their implications, and the lack of opportunity for follow-up discussions among the U.S bishops since November 2019," she said.

[Joshua J. McElwee is NCR Vatican correspondent. His email address is jmcelwee@ncronline.org. Follow him on Twitter @joshjmac.]

A version of this story appeared in the **June 12-25, 2020** print issue under the headline: 'Vos Estis' at one year: Some question pope's process for investigating bishops.