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Capuchin admission puts spotlight on sex abuse reporting for orders

by Joshua J. McElwee

Two former leaders of the lay group set up by the U.S. bishops in 2002 to monitor the church's sex abuse policies nationwide have said questions remain over how religious orders are being audited for their adherence to those policies.

The comments of the leaders came in interviews with *NCR* Monday before the release of a wide-ranging audit Tuesday, which concluded that the province of one order acted inadequately in responding to sex abuse allegations over a period of eight decades.

That province, the report concluded, placed the needs of priest-abusers above their lay victims and gave deference to lawyers who "re-victimized" those victims in an attempt to protect the clerics from costly lawsuits.

One of the former leaders of the U.S. bishops' lay group to monitor sex abuse policies, Judge Michael Merz, said religious orders are not bound by the same rules for abuse reporting as bishops across the country.

While 194 of 195 of U.S. dioceses have agreed to abide by the policies set in place by the bishops in 2002, known as "The Charter for the Protection of Children and Young People," orders of religious are not bound by that charter, said Merz, a federal district court judge in Ohio who served as the chairman of the U.S. bishops' National Review Board for clergy sex abuse from 2007 to 2009.

Instead, Merz said, the religious orders are only bound to a narrower set of policies called the "Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons."

Unlike the charter, the Vatican's Congregation for Bishops officially approved the norms. Thus, they carry the weight of church law in the U.S.

While the charter, a set of 17 articles agreed upon by U.S. bishops and dioceses, mandates that the church entities submit themselves to annual audit process of their abuse policies and reporting, the norms, a separate set of 13 obligations, do not make specific mention of such audits.

Instead, the norms deal most specifically with what to do with a cleric who has abused children, mandating that "when even a single act of sexual abuse" by a cleric can be proved, "the offending priest or deacon will be removed permanently from ecclesiastical ministry."

"[Religious orders] don't have any options on the essential norms -- that is to say, if they've got a guy who's abused, he's got to go," Merz said. "But on terms of the whole, how you make that happen, it's structured differently from the way the charter is."

Tuesday's report concerned the St. Joseph Province of the Capuchins, which is headquartered in Detroit but oversees approximately 170 friars serving in a diverse swath of the country and in Nicaragua and Panama.

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The province has been the subject of scrutiny in recent years, particularly over its handling of abuse at one of its seminaries in the Milwaukee area in the 1990s.

The report frankly concludes that since the 1930s, when it says records were first available, the province rarely reported abuse to authorities, spent more money on hiring lawyers than on aid to victims, and routinely moved offenders between positions without divulging complaints against them.

Following the charter guidelines, one-third of U.S. dioceses are audited each year for their policies and handling of sex abuse. The bishops' conference releases a report each year of those audits.

Although religious orders do not take part in that process and are not specifically bound by the charter to undergo audits, many seek accreditation for their abuse procedures through third-party reviewers.

Since 2003, the Conference of Major Superiors of Men (CMSM), an umbrella group based in Washington representing approximately 17,000 men in about 200 religious orders in the U.S., has recommended that orders seek such accreditation from Praesidium, a Texas-based firm that specializes in what it calls "abuse risk management."

While Capuchin Fr. John Pavlik, the conference's executive director, said his group does not keep statistics on how many U.S. orders seek such accreditation, he said "a religious community would be very unwise not to participate in the programs, not to have policies, not to have procedures in place."

And while Pavlik said participation in the audit scheme is "ultimately" voluntary, he said diocesan participation in the charter's audit scheme is also voluntary because any bishop, as the ultimate leader of

their diocese, can decide he doesn't want to follow the charter's norms.

"It's the same for dioceses, if you think about it," said Pavlik, who is a former provincial of a separate Capuchin province, the province of St. Augustine, headquartered in Pittsburgh. "There's a certain amount of moral pressure, obviously" for bishops to continue to abide by the charter. "And I would say it's the same for religious as for dioceses," he said.

Al Notzon III, who succeeded Merz as chair of the national review board and concluded his term in the post this month, said he attended the annual convention of the CMSM last year and was "more impressed than I was prepared to be" with how the conference is helping religious orders of men report abuse.

During a workshop at the event, Notzon said, he was particularly impressed with how members of the orders talked about their systems of background checks and safe environment training to prevent abuse.

"I was not expecting it," said Notzon, who also previously served as the chairman of the diocesan review board in San Antonio. Referring to the fact that the orders are not required to follow the charter, he said, "I was frankly looking for ammunition to see if we could come under one standard."

But the question the orders face, Notzon said, is, "What kind of independent audit is being done to provide assurance they're following a standard?"

The difference between dioceses and orders, Notzon said, is that "in the diocese, we know there is an independent audit that is, in fact, happening in every diocese every three years."

Regarding the conference's ability to require individual orders to conduct audits, Merz said the conference "has even less legislative authority ... over the orders than the bishops' conference does over diocesan bishops, which is very little."

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