

Vatican abuse prosecutor says Rome 'well aware' of accountability problem

John L. Allen Jr. | Nov. 25, 2013 NCR Today

The Vatican's top prosecutor for sex abuse cases says Rome is "well aware" of how frustrated many people are with perceived confusion about how to hold bishops accountable when they're accused of failing to make a "zero tolerance" policy stick and hopes a solution will emerge from debates over curial reform under Pope Francis.

Fr. Robert Oliver, a New York native who helped lead recovery efforts from the abuse crisis in the Boston archdiocese before being appointed as the Promoter of Justice in the Vatican's Congregation for the Doctrine of the Faith in late 2012, spoke to *NCR* on Friday.

He made the comment on accountability in the context of a question about Bishop Robert Finn of Kansas City-St. Joseph, Mo., who was convicted in September 2012 of a misdemeanor crime of failure to report a priest suspected of abuse and has remained in office.

This week, Oliver will be in the United Kingdom for a series of talks as well as meetings with abuse victims and child services professionals. It marks a fairly rare public outing for the 53-year-old canon lawyer, who so far has not developed the same high profile as his predecessor, Charles Scicluna, a Maltese cleric who became the face and voice of the cleanup effort on sex abuse under Pope Benedict XVI before returning to Malta as an auxiliary bishop a year ago.

Oliver's conversation with *NCR* marks his first extended interview since taking his present position.

Oliver grew up on Long Island, and in some ways, a legal career was written into his DNA. His father was a justice of the New York State Supreme Court, and his grandfather was chief justice of the U.S. Customs Court.

As a canon lawyer, Oliver served as director of Boston's Office for Investigations from 2002 to 2005 and was part of a training team for implementation of the U.S. Conference of Catholic Bishops' charter for the protection of children and young people from 2003 to 2008.

Oliver is a member of the Brotherhood of Hope, a religious community founded in 1980 that grew out of the Catholic Charismatic Renewal.

Other highlights from his *NCR* interview:

- Oliver asserted that recent reports suggest "a dramatic drop in incidents of abuse" committed by Catholic personnel, confirming, in his view, that "the church has made great strides in all parts of the world."
- He conceded that in some instances, processing abuse cases both at the local level and in Rome "takes too long" and said his office is working on the problem.
- Oliver said in an average month today, the number of abuse cases reported to Rome is in the dozens, most dating from the distant past.

- He commends the United Nations Committee on the Rights of the Child for taking an interest in child sexual abuse, including the Vatican's record on the problem, despite suspicions in some Catholic circles that it's an excuse for attacking the church. He confirmed that the Vatican is preparing a response for the committee ahead of a scheduled Jan. 16 hearing in Geneva.
- Without commenting directly on recent charges of abuse against a papal nuncio in the Dominican Republic, Oliver said such situations offer a reminder that the problem "never goes away" but also that "the changes the church has made are working."
- Oliver said it's legitimate for church leaders to be concerned about the impact of litigation related to the abuse scandals, but they need to make clear that "our main concern is not about protecting the church's money."

The text of Oliver's interview appears below.

NCR: Where do things stand on the church's fight against child sexual abuse?

Oliver: In general, I think the church has made great strides in all parts of the world. Experts often say that the Catholic church has become the safest place we know for children. All the data we have suggests that the number of priests harming minors today is very, very low, and that's based on reports not just from the United States but from other nations as well, where we see a dramatic drop in incidents of abuse.

Certainly, we have much more to do, which is why our congregation asked episcopal conferences around the world to review their abuse guidelines. Much of our focus now is on that project, as well as encouraging bishops to develop prevention programs, the formation of seminarians, support of priests, assisting victims in the process of healing, cooperating with civil authorities, and so on.

You've been Promoter of Justice in the Congregation for the Doctrine of the Faith for almost a year. What have you been doing?

Much of the work of the congregation involves supporting bishops and local churches when reports of abuse arise, especially handling cases from around the world when they come in. Working on the responses to those cases is one of the most important, and also most time-consuming, things I do.

Can you step us through the process?

The initial responsibility lies with the local diocese. When a bishop or his representatives receive a claim regarding an incident of abuse, it's their responsibility to gather the initial evidence to determine how best to handle it, which includes making an initial determination as to whether it's credible enough to move forward.

If the charge is found to be credible, then the law requires that the case be sent to us. We generally also ask the bishop to send along his *votum*, which is the technical word for his recommendation on how the case should be handled. We study the case to decide what further steps should be taken, considering the good of the victim, due process for the accused, the good of the church, and so on. That includes determining if a penal process [regarding the accused party's future as a priest] is warranted, and if so, where it should be held, meaning whether we should do it here or in the local church.

From soup to nuts, how long does it take to process these cases?

How long it takes a bishop to complete a preliminary investigation and for us to respond varies greatly, and in many cases, frankly, it takes too long. That's one of the things we're working on. Regarding the most recent cases we have received, once a case gets to us, we're responding much more quickly than it has taken to respond to historic cases dating back to the '50s, '60s and '70s.

The time a case takes also depends on how contentious it is. Some trials are still taking years, even though the law says a trial is to be finished within one year, and the appeals can take several more. On the other end of the spectrum, some priests admit culpability and request the Holy Father to dispense them from the obligations of the clerical state (commonly called laicization). We often complete those cases within two or three months. Most cases fall somewhere in between.

In an average month, how many cases are reported to the Congregation for the Doctrine of the Faith today?

We don't have precise statistics, which is something we're trying to develop. I suppose in an average month, we're talking in the dozens from around the world, including cases which date back many years.

We don't have many present-day allegations of abuse, though it's important to remember that there's often a delay in people coming forward to make reports. Let's be clear: One case is one too many. Yet as we look around at this problem today, we can see many positive effects from the efforts the church has made.

Can you identify any impact of Pope Francis vis-à-vis sex abuse?

Shortly after becoming pope, he said quite clearly to our prefect that this is an important area and he wanted us to continue along the lines that Popes John Paul II and Benedict XVI initiated. We take that as our mission statement.

Beyond that, I'd say that Francis right now is laying out a vision of effective management in the church. You have to bring people together, listen to their ideas, and explore different possibilities in order to ensure that you make the best decisions. That's how he's doing things, and it's a model for our work, too.

Our prefect speaks with Pope Francis every two weeks, which gives him a chance to update the pope on our work and to discuss questions and ideas. That interaction has been very fruitful in terms of setting the direction we're going to take. [Francis] has indicated some principles, and beyond that, he's said he wants the process to unfold, encouraging people to bring up ideas and talk about them.

On Jan. 16, the U.N. Committee on the Rights of the Child is scheduled to hold a hearing on the Holy See's response to the abuse scandals. What do you make of the U.N. looking at the church's record on abuse?

I know the Secretariat of State is preparing a response to that inquiry, collecting input from interested parties, including our congregation.

In general, I think it's positive that the U.N. is taking an interest in child abuse. The protection of children is a worldwide issue, one that touches every facet of society, and if the U.N. can broaden our understanding, encouraging best practices and fostering mutual support among the various elements in society, that would be a service both to the protection of children and the common good.

You don't see it as a way of beating up on the church?

I suppose that's always a risk, but the issue is important enough that it's worth cooperating wherever we can.

Recently, the papal nuncio in the Dominican Republic, Polish Archbishop Jozef Wesolowski, was removed following accusations of abuse. Does his situation illustrate that the scandal is still alive, or is it actually proof that the system works?

I can't comment on open cases, as you know. If you wish, here's a general observation: Every incident of abuse is a crime, and when they happen, they're a reminder that this danger never goes away and we have to remain vigilant.

Also with every allegation of abuse, the church cooperates with civil authorities in order that they do their work on the criminal side. We then implement our own canonical process in a just way to decide if the accused can continue to function as a priest, doing it all with transparency and accountability. Present-day cases are, therefore, also reminders that the changes the church has made are working.

The Vatican has said repeatedly that the church is committed to full collaboration with civil authorities, yet in Chile, the archbishop of Santiago recently refused to appear before a congressional committee looking into abuse at church-run children's homes. Is there a contradiction there?

I don't know the situation well, so I can't comment on it in detail. I am aware, however, that the archbishop continues to keep our office well informed. When you refer to statements about "full collaboration," it's important to distinguish the investigation of crimes of sexual abuse from legislative hearings. Since things are different around the world, I think the latter has to be a local decision.

The recent "Betrayal of Trust" report in Australia heavily criticized the church's handling of abuse cases in that province, concluding that "No representative of the Catholic church directly reported the criminal conduct of its members to the police." What do you make of it?

As I understand it, the report was talking about historical cases rather than what's happening in the present. I can't comment on their judgment, but I believe the intent of the commission was a good one, which was to understand how this problem was handled historically so we can do a better job of it now. There's no denying that in many parts of the world, these crimes weren't handled properly in the past, so the report is another reminder of how important it is that we remain committed to transparency and collaboration with public authorities to avoid these kinds of failures.

Leaders of the church in Australia have expressed ambivalence about a recommendation in the report about incorporating the Catholic church in order to facilitate civil lawsuits. You were in Boston when much of the abuse litigation in America moved through the courts. Looking back, what do you make of those lawsuits?

I think for the victims of sexual abuse, the ability to be heard and to receive vindication was a contribution to healing. They were able to make use of the legal system in order to seek justice, and in that sense, there were benefits. In a larger legal sense, I think how these cases developed showed that there are ups and downs in the process, with some positives and some negatives.

It's completely legitimate for the church to insist that whatever legal process is followed must be fair. When we talk about this litigation, however, it's important to make it clear that our main concern is not about protecting the church's money, but rather what the best way is for the church to live up to its mission and its responsibilities.

Some will never accept that the church's "zero tolerance" policy means anything until they see a bishop punished for failing to apply it. For instance, critics point to Bishop Robert Finn of Kansas City, who was

convicted of failing to report abuse more than a year ago and still remains in office. What do you say to that criticism?

First of all, it's important to say that whatever happened in the past, there are clear rules today for what bishops are supposed to do. We have norms that say when a bishop becomes aware of an abuse report, he has to look into it, and if it's credible, he's required to report it to us. He's also supposed to report it to the civil authorities and to allow the criminal justice system to take its course.

Of course, what you're really asking is what happens if somebody feels that a bishop hasn't followed those rules, and I have to say it's an underdeveloped area. For instance, there's a question of what canon lawyers call "competence." The code states that the metropolitan bishop is to investigate any abuses in church discipline in the suffragan dioceses and report to the Holy Father. It is not always clear, however, to somebody who wants to bring a complaint in a church court against a bishop for what you might call "negligent supervision," what court do they bring it to? Who has the right to hear the case, and what process do you use? We often don't really have clear answers for these people, and work in these areas needs to be done.

One point to make is that no matter what happens, there's always going to be some local discretion. For instance, suppose a bishop gets a report of abuse and he takes it to his own review board, as well as relaying it to the civil authorities, and both come back to say there's no evidence of a crime, so the bishop doesn't move forward. He's followed the process as it's laid out, and in the end, it comes down to a local decision.

What if someone feels that decision was horribly mishandled?

Every member of the faithful always has the right by law to bring a complaint directly to the Holy Father. But that said, many people are telling us we need a better process, a better way of handling these situations.

Right now, there's a broad conversation going on about reform of the Roman Curia, which includes taking a new look at the relationship between the Holy See and other levels of authority in the church, such as the episcopal conferences, the metropolitans, and so on. My hope is that a good response to this question [of episcopal accountability on abuse cases] will become a piece of that puzzle, because we're well aware how important it is to many people.

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