

Preliminary Expert Report by
THOMAS P. DOYLE, M.A., M.Ch. A., J.C.D., C.A.D.C.

In the case of
State of Minnesota v. The Archdiocese of St. Paul and Minneapolis, a Minnesota
Corporation

Expert Background, Qualifications and Experience

1. My name is Thomas Patrick Doyle. I was ordained a Catholic priest in the Dominican Order on May 16, 1970. I also served as an officer in the United States Air Force from 1986 until 2004. I currently reside in Vienna, Virginia. My *curriculum vitae* is attached.
2. I have earned the following degrees: B.A. in Philosophy, Aquinas Institute of Philosophy, River Forest, Illinois granted in 1966; M.A. in Philosophy, Aquinas Institute of Philosophy, 1968; M.A. in political science, University of Wisconsin, 1971; M.A. in theology, Aquinas Institute of Theology, Dubuque, Iowa, 1971; M.Ch.A., Catholic University of America, Washington, D.C., 1976; M.A. in Canon Law, University of Ottawa, Ottawa, Ontario, 1977; J.C.L. (Pontifical Licentiate in Canon Law) St. Paul University in Ottawa, Canada, 1977 and a J.C.D. (Pontifical Doctorate in Canon Law), Catholic University of America, 1978. I am also a fully certified addictions counselor. I graduated from the Naval School of Health Sciences in San Diego.
3. I have held several part-time academic positions from 1974 through 1995. These have included Visiting Lecturer in Canon Law at Catholic Theological Union in Chicago, Illinois from 1979-1981; Visiting Lecturer in Canon Law, Catholic University of America, Washington, D.C. from 1981-1986; and faculty member, Midwestern Tribunal Institute, Mundelein Seminary, Mundelein, Illinois from 1979-1986. In addition, I have served as a part-time Tribunal Judge for the Diocese of Scranton, Pennsylvania from 1986-1990, for the Diocese of Pensacola/Tallahassee and the Archdiocese of Military Services from 1993-1995, and the Diocese of Lafayette in Indiana from 1991-1993.
4. I have extensive experience serving in various administrative and judicial posts in the Catholic Church in the United States. These have included appointments as an advocate and later a judge in the Tribunal of the Archdiocese of Chicago and appointments as a judge in the tribunals of the dioceses of Scranton, PA, Pensacola, FL and Lafayette, IN. I have also carried out various administrative duties in the Archdiocese of Chicago due to my training as a canon lawyer.
5. In addition to teaching and administrative work, I have written several books and articles on a variety of subjects related to theology and Canon Law. Included are one book, several articles and contributions to several books on subjects directly

related to clergy sexual molestation of minors and vulnerable adults. A complete list of my publications can be found in my curriculum vitae.

6. I continued to do parish work on weekends until I entered the military in 1986. I served as a reserve chaplain with several active duty assignments until 1990 when I became a full-time active duty officer and chaplain. I have held the following permanent assignments: 1990-1993, Grissom Air Force Base, Indiana; 1993-1995, Hurlburt Field, Florida; 1995-1997, Lajes Field, Azores; 1997-2001, Tinker Air Force Base, Oklahoma; 2001-2003, Ramstein Air Base, Germany; and 2003 to 2004, Seymour Johnson Air Force Base, North Carolina. I have also been deployed to Operation Joint Forge, Operation Southern Watch and Operation Iraqi Freedom.
7. From the fall of 1981-1986 I served as secretary and Canon Lawyer on the staff of the Vatican Embassy in Washington, D.C. During my tenure at the Vatican Embassy, accusations of child abuse by Catholic priests and bishops as well as members of religious communities of men and women were reported to the Vatican Embassy by the local bishops. In these cases I was given responsibility for preparing files, following correspondence and preparing responses to letters received by the Vatican Ambassador. I first became involved with sexual abuse by Catholic clergy in 1982 in the course of fulfilling my duties at the embassy. Since that time I have been consistently involved with this issue in a variety of ways throughout the United States and in other countries as well.
8. I have testified as a qualified expert witness and consultant in criminal and civil cases involving clergy sexual abuse since 1988 and have studied documentation in cases from approximately 190 of the 195 Catholic dioceses in the United States. I have also served as an expert witness in civil and criminal cases in Canada, Belgium, The U.K., Ireland, New Zealand and Israel. I have been directly involved with and studied documentation and personnel files from several religious orders with foundations in the U.S., Canada, Ireland, the United Kingdom, Belgium, Mexico, Italy, Germany and Austria. The religious orders and congregations I have studied have included the following, among others: Jesuits, Dominicans, Order of Friars Minor, Capuchin Franciscans, Carmelite Fathers, Maryknoll Fathers and Brothers, Basilians, Pallottine Fathers, Christian Brothers of Ireland, DeLaSalle Christian Brothers, Clerics of St. Viator, Redemptorists, Oblates of Mary Immaculate, Oblates of St. Francis de Sales, Benedictines, Missionaries of the Sacred Heart, Franciscans Third Order Regular, Legionnaires of Christ, Vincentians, Congregation of the Sacred Hearts of Jesus and Mary and Franciscan Brothers of Mount Bellow, Ireland.
9. In the course of this work, I have reviewed more than 2000 priest personnel files. I have appeared before the legislatures of the States of Pennsylvania, Illinois, Ohio, Colorado, California, Delaware, Maryland and the District of Columbia to testify relative to child protective legislation including matters related to child abuse, clergy reporting statutes and statutes of limitations. I have also appeared

before or consulted with several grand juries in the United States. I have served as a consultant and/or expert witness before the four government appointed commissions investigating clergy sexual abuse in Ireland. I was an expert witness for the Cornwall Public Inquiry, Cornwall, Ontario, Canada. In February 2011 I addressed a special commission of the Parliament of Belgium at their request. In January 2013 I was asked to submit expert testimony to the Australian Royal Commission of Inquiry and to the Commission of the State of Victoria, Australia. In April 2015 I was asked to serve as a consultant to the Vatican Commission on Sexual Abuse of Children in the Catholic Church.

10. The most important part of my involvement has been my direct contact with victims and their families. From 1984 on I have worked extensively with clergy sexual abuse victims of both sexes ranging in age from nine years old to 92 years of age. I have provided pastoral care to their families including parents, spouses and children. I have also worked as a canonical consultant with Dioceses and Religious Orders, giving presentations and lectures and developing policies and procedures in this area as well as assisting numerous dioceses in the United States and abroad in compiling similar policies and procedures. I have given workshops to various dioceses around the country on the issue of clerical sexual misconduct against minors. I have lectured extensively and published articles on issues related to sexual abuse by clerics and religious brothers. In addition to working with victims of sex abuse I have also worked since 1984 with accused clerics as a canonical advocate and advisor and as a pastoral support person.
11. I have been asked to review documentation pertaining to this case and to offer expert opinions concerning aspects of the case that fall within my area of expertise. My expertise includes extensive knowledge of the Church's legal system and governing structure. It also includes extensive knowledge of the Catholic Church's response to sexual abuse and molestation perpetrated by clerics and members of religious orders, both male and female. This knowledge encompasses the history of clergy sexual abuse as well as the manner with which the Church has responded to sexual abuse in the present era. I also have extensive knowledge based on study and experience of the spiritual effects of sexual abuse by clerics and the recovery from this damage by victims.

The Parties to the Case

12. The parties to the case are the State of Minnesota, Ramsey County and the Catholic Archdiocese of St. Paul and Minneapolis, a Minnesota corporation.

Material reviewed

13. In preparation for this report I have reviewed the following materials: The Gross Misdemeanor Criminal Complaint, Summons, The Statement of Probable Cause, the Motion for Order to Show Cause, the Stipulation to Stay Proceedings and the Defendant's Memorandum Supporting its Motion to Dismiss the Complaint. I

have also reviewed the Corporate Resolution of the Archdiocese of St. Paul and Minneapolis, dated November 3, 1970, restated on June 12, 2003 as well as a Template for By-Laws for for a parish corporation of the Archdiocese.

Brief Summary of the Case at Hand

13. The State of Minnesota, Ramsey County, has focused on five Roman Catholic priests who have been officially attached or incardinated to the Archdiocese of St. Paul and Minneapolis: Curtis Wehmeyer, Kenneth LaVan, Robert Clark, Michael Keating and Joseph Gallatin. These five priests have sexually abused minors in the Archdiocese. The documentation demonstrates that the officials of the archdiocese had been informed that these men had sexually violated children and had failed to respond in a responsible manner. Consequently, other children were put at risk. Most of the information provided for my study of this case concerns Curtis Carl Wehmeyer currently committed to the Minnesota Commissioner of Corrections.
14. The Statement of Probable Cause sets forth in detail the factual basis for the criminal complaint. The most detailed information pertains to Curtis Wehmeyer. The facts as laid out by the State present a consistent pattern of seriously irresponsible behavior by Church authorities pertaining to Wehmeyer beginning with the circumstances surrounding his admission to the seminary. This pattern of behavior led to the sexual abuse of at least the three victims mentioned in the criminal complaint.
15. The Defendant's Memorandum Supporting Its Motion to Dismiss the Complaint argues that the State of Minnesota is pursuing this case for purely religious reasons (P. 1). However the foundation of their argument is based on their contention that the Archdiocese of St. Paul and Minneapolis, a Minnesota Corporation, is radically distinct from the Archdiocese of St. Paul and Minneapolis, a Catholic Archdiocese. The memorandum states that there is no allegation that the Corporation had any prior knowledge that Wehmeyer had sexually abused minors. It claims that the State did not allege that the Corporation knew of the abuse and approved. It claims the State failed to allege the Corporation committed the criminal offenses that were charged and that the State failed to allege any "direct causal link" between the Corporation, Wehmeyer's crimes and the harm done the victims.

The Relationship between the Archdiocese and the Civil Corporation

16. The archdiocese of St. Paul and Minneapolis and the Archdiocese of St. Paul and Minneapolis, a Minnesota Corporation, are not two separate and distinct entities. The Archdiocese is a socio-political entity of the Roman Catholic Church. The Church is defined by its own highest authority, the Ecumenical Council together with the Pope, known as Vatican Council II, as the "People of God." As such the Church transcends political boundaries. According to its own law, it is

constituted and organized as a society in this world and is governed by the pope and the bishops in communion with him (Canon 204). Thus the Catholic Church is both a spiritual entity and a geo-political reality with a distinct governing structure. The "*society in this world*" is divided into separate entities known as *dioceses*. An *archdiocese* such as the Archdiocese of St. Paul and Minneapolis is essentially a diocese in all ways but is granted the title "archdiocese" because it is the oldest or most prominent diocese in a given geographic area.

17. Dioceses are generally created along geographic borders often following secular divisions such as counties or states. A diocese can only be created by the pope. The Archdiocese of St. Paul and Minneapolis was originally created on July 19, 1850 from territory that had formerly been part of the Diocese of Dubuque and the Diocese of Milwaukee. A diocese or archdiocese is headed by a bishop or archbishop, appointed solely by the pope.
18. The governmental structure of a diocese is hierarchical by definition and monarchical in practice. All ordinary power is vested in a person, the bishop, and not in any corporate or collegiate body such as the senate of priests. The bishop's power is defined by the Code of Canon Law. In the office of bishop are included the three main governmental powers: legislator, executive and judicial. There is no separation of powers in the government of the Catholic Church. The bishop of the diocese holds all power in the diocese subject only to any limitations contained in the general law of the Church and to the authority of the pope.
19. An archdiocese or diocese receives its identity upon creation of the pope. It is known in Canon Law as a *Juridic Person* which is defined as an aggregate of persons or things ordered to a purpose congruent to the mission of the church. Upon its creation a diocese is automatically given the identity of a juridic person.
20. A diocese or archdiocese does not automatically attain civil corporate identity upon creation. It may never attain civil corporate status but it remains nevertheless an archdiocese or diocese and its bishops has the broad scope of authority given with his appointment.
21. A diocese can exist without being incorporated in the civil law of the country in which it exists. The concept of civil incorporation is relatively new when viewed in the context of the Church's two-thousand-year history. Civil incorporation came into being as a way of distinguishing between the goods and property of the Church as a collective and the members as individuals. The earliest indications of property tenure in church legislation indicate that the Church's leaders realized that certain goods and property was set aside for the work of the Church but was not owned as such by individual bishops or other Church leaders but by the community. However the bishop had the absolute right and authority of administration.

22. The purpose of civilly incorporating Catholic Church entities such as dioceses, parishes, colleges, schools etc. is the protection of the entity's property. This is to reflect the canonical concept that all property acquired by the Church is for the accomplishment of its ends. Church property was originally incorporated by John Carroll, the first bishop in the U.S. He first did so by vesting title of church property in a board of trustees. Ownership of Church property in this manner quickly led to serious problems for the Church authorities. The controversy, commonly known as "Trusteeism" amounted to the trustees in various dioceses, all lay members of the Church, attempting to control the assignment of priests and even bishops. Since the governmental model of the church universal and in dioceses is hierarchical this would never work.
23. The Catholic bishops met in plenary council in Baltimore in 1829 and the issue of property tenure was the pressing issue. Therein began a protracted battle against trusteeism which saw the beginnings of the use of the civil concept of *Corporation Sole* as the means of property tenure which most closely responded to the Church's governmental structure. Thus the bishop was the sole member of the corporation of any entity that was to be incorporated according to the civil law of the area.
24. There were problems with the concept of Corporation Sole which resulted in a decree from the Holy See in 1911 concerning property tenure in the United States. The decree said that tenure by "fee simple" was to be abandoned. Corporation Sole was to be discouraged as the preferred method of tenure. The decree went on to state that the preferred method of incorporation was the model in use in the State of New York at that time. Cardinal Hayes, the Archbishop of New York, addressed this issue in 1909 in an Instruction to the archdiocese. In it he re-stated Church law that no property could be bought or sold for the Church without the consent of the archbishop. The membership of Church corporations was to consist of the archbishop, the vicar general, the pastor and two lay trustees. Consequently, the ownership remained in the hands of the institutional Church's canonical governing structure and was not radically separated from it.
25. Since that time all civil incorporation of any Church property is to follow the fundamental norm laid out by Cardinal Hayes and ratified by the Holy See in 1911: The authority over the property remained in the hands of official church authority figures. Moreover, the issues that necessitated the change from trusteeism were eliminated.
26. In each and every case of incorporation of a diocese or parish according to civil law, the corporate structure must be such that radical ownership and control remain with the duly appointed officials of the Catholic Church. The bishop or archbishop has been vested with complete authority and responsibility by the pope in his appointment. He cannot divest himself of any of this authority by turning over ownership of church goods or property to a lay board.

The Archbishop's Scope of Authority

27. The bishop of a diocese possesses all authority in the diocese. There are certain collegiate bodies required in each diocese and others that are optional. None of these bodies can have deliberative power and none of them have any authority over the bishop. In the diocese there are several positions in the government that are required by Church Law and others that can be created as determined by the bishop. The bishop alone is the legislator. Laws created for the diocese can be recommended and formulated by individuals or collegiate bodies but they are not laws unless they are promulgated by the bishop. The bishop is also the chief judge of the diocese. The judicial duties are fulfilled by the bishop's representative known as the judicial vicar. He is also the chief executive of the diocese but can and does delegate powers in various areas to others. Nevertheless the final authority in all matters except those reserved to the Holy See or to other offices by reason of Church law, is the archbishop.
28. The bishop's fundamental duty is the pastoral care of those entrusted to him. This means he is responsible for the moral and spiritual welfare of all those resident in the diocese, those staying in the diocese temporarily and those passing through. The bishop's fundamental obligation is not protecting the material goods and property of the diocese nor is it protecting the good image of the diocese. His most important obligation and responsibility is the spiritual and moral welfare of all those entrusted to him, and this includes clerics and members of religious communities as well as lay persons.
29. The bishop is assisted by the priests of the diocese as his primary collaborators. He alone has the authority to approve a man for ordination to the diaconate or the priesthood and he alone has the authority to assign, transfer, remove or retire priests of his diocese. Only the bishop can impose discipline such as suspension, removal of faculties or any other form of discipline. He cannot however, laicize a priest on his own.
30. The bishop has a particular obligation with regard to the priests of the diocese. Among other things he is to "*see that they [the priests] correctly fulfill the obligations proper to their state.*" (Canon 384.
31. One exercise of the bishop's responsibility for the spiritual and moral welfare of the people of the diocese is his proper discernment as to who will be ordained to the priesthood as well as proper discernment over the assignment of priests to pastoral duties, especially parochial duties. The bishop has the final say as to whom he will ordain. He is obligated to ascertain that the candidates possess the fundamental requirements for ministry:

...only those should be promoted to orders who have an integral faith, are motivated by a right intention, possess the required knowledge and enjoy a good reputation, good morals and proven virtues, and other

physical and psychological qualities which are appropriate to the order to be received. (canon 1029)

32. The fundamental structure of the diocese is the parish which is a community of the People of God whose pastoral care is entrusted to a pastor. The pastor must be a priest and can be appointed only by the bishop. In making the appointments of pastors and associate pastors, the bishop is guided and bound by the norms of the Church's law. To be appointed to a parochial position the candidate "*should also be distinguished for his sound doctrine and integrity of morals and endowed with a zeal for souls and other virtues; he should also possess those qualities which are required by the universal and particular law to care for the parish in question.*" (Canon 521). The canon goes on to say that before the bishop confers the office on a priest "*his suitability must be clearly evident by means of some method determined by the diocesan bishop even by means of an examination.*" (Canon 521, par. 2)
33. Sexual abuse of minors and of vulnerable adults is a specific crime in the Church's law (Canon 1395). This crime is considered to be so grave that the canon itself specifies that if the case warrants it, the cleric is to be dismissed from the clerical state (Canon 1395).

The Catholic Authority Structure and Sexual Abuse of Minors by Clerics

34. The sexual molestation of minor boys and girls by Catholic clerics is not a phenomenon that suddenly happened in the latter part of the 20th century. The Archdiocese of St. Paul was first named in a civil suit in 1983. In this case the victims had been sexually abused by former priest Thomas Adamson, a priest of the Diocese of Winona. His bishop responded to the many complaints of sexual molestation of minor boys by making an arrangement with the former archbishop of St. Paul, Archbishop John Roach, who agreed to allow Adamson to live and work in the archdiocese. While here he proceeded to sexually abuse other minor children. Even then the archbishop and the bishop involved as well as their close collaborators, could not credibly claim this was a unique situation involving behavior heretofore unknown by the Catholic bishops.
35. Sexual molestation of minors by Catholic clergy has been an acknowledged reality in the Catholic Church since the first century of the Church's existence. An early teaching document known as the *Didache* states quite directly that men are not to engage in sex with young boys (*The Didache*, Translated by Aaron Milavec, Liturgical Press, 2003, n. 2.2). The earliest known canons or laws forbidding sex with young boys were passed at the Synod of Elvira (AD 309), which took place in southern Spain. Since that time the official church has repeatedly faced the problem of inappropriate sexual activity by priests and monks. The sexual activity has taken place in spite of the tradition and rulings on mandatory celibacy, which date back to the early Middle Ages. Popes and bishops through the centuries have tried to curb sexual abuse of minors,

concubinage and clerical marriage through legislation and discipline of offenders. The reality of sexual abuse of minors and children has remained covered with a thick layer of secrecy until the mid 1980's when it began to receive widespread media attention. The fact of priests who sexually violate minors in the Archdiocese of St. Paul was not a new revelation to the archbishops in 1984 when the notorious case from the Diocese of Lafayette, Louisiana received worldwide publicity.

36. There is documentary evidence that U.S. bishops were dealing with priests who sexually molested minors in the 1920's and 1930's. The evidence consists of records from at least one psychiatric hospital, the Seton Psychiatric Institute in Baltimore, which opened in 1844 and closed in 1972. In 1947 Fr. Gerald Fitzgerald together with Archbishop Edwin Byrne, Archbishop of Santa Fe from 1943 to 1963, founded a small Catholic religious institute known as the Servants of the Paraclete. The sole purpose of the Paracletes was to help priests who had emotional problems, problems with addiction or psychosexual problems. Fr. Gerald opened up his first facility in the Archdiocese on a 2000-acre property near Jemez Springs.
37. From the very beginning bishops were sending priests to Fr. Gerald for help with their sexual problems. Most of these sexual problems involved sexual activity with children or minor boys.
38. From the beginning Fr. Gerald had very definite and strong opinions about priests who sexually abused minors. He made these opinions clearly known to the bishops, to the Vatican Curia and to the pope himself. He believed they were a danger to the Church, could not be cured and could be controlled only with great difficulty. Consequently, he believed that such priests should be permanently removed from pastoral ministry and even removed from the priesthood. He made this clear to any bishop who sent a priest to him because of a sexual abuse problem. A number of his letters to various bishops around the U.S. consistently set forth his belief. In 1962 Fr. Gerald had communication with Cardinal Ottaviani, the Prefect of the Congregation of the Holy Office in the Vatican. This congregation handled cases of sexual abuse of minors by priests. Fr. Gerald had a private meeting with the Cardinal in April and followed it up with a report in which he included his opinion that such priests be dismissed from the priesthood (April 11, 1962). The following year he had at least one private audience with Pope Paul VI to discuss problems with priests. At the pope's request he submitted a report of the audience and here too he clearly explained his beliefs about priests who sexually abuse minors (Aug. 27, 1963).
39. Fr. Gerald's letters and reports constitute a major source of evidence of the Catholic bishops' awareness of not only the existence of sexual abuse of minors by clergy but of its very serious nature. His letters to bishops, especially those who had sent him priests for treatment who had psychosexual problems with minors, all repeated the same theme: such men cannot be cured nor properly

controlled and should not be allowed to function as priests. They should be either encouraged to seek laicization or failing this, they should be laicized against their will. (See my addendum "Sexual Abuse by Roman Catholic Priests – The Contemporary Era.")

40. In 1962 Fr. Gerald had meetings with Cardinal Ottaviani, Prefect of the Holy Office which later became the Congregation for the Doctrine of the Faith. In his memo to the Cardinal after one of their meetings he stated his objections to priests who abused minors as well as his urging that they be dismissed from the priesthood. The following August (1963) Fr. Gerald had a private audience with Pope Paul VI. In his report which was requested by the pope, he repeated his opinions and beliefs.
41. The common practice of the Catholic bishops upon receiving reports of sexual abuse of minors by clerics (deacons or priests) had been to ignore the complaint but if this was not possible, the practice was to admonish the priest and secretly transfer him to another assignment. In some instances, bishops sent priests away for treatment but more often than not upon return they were reassigned and no one, especially the laity, was ever told of their background. The publicity that accompanied the exposure of the case of Fr. Gilbert Gauthe in Lafayette Louisiana in 1984 caused the bishops to acknowledge the existence of the problem. They met at their semi-annual gathering in June 1985 at St. John's Abbey in Collegeville MN. An entire day was devoted to an executive session during which the sexual abuse of minors was discussed. Present for the discussion was a psychologist from Chicago and the bishops' general counsel. Archbishop Roach was present as was Bishop John Kinney, formerly an auxiliary bishop of St. Paul and Minneapolis.
42. The main events that prompted this case took place between 1997 and 2012 and not in the 1950's. The archbishops who were directly involved with Curtis Wehmeyer and the other four priests, namely Archbishop Harry Flynn (1995 to 2008) and Archbishop John Neinstedt (2008 to 2015) both had extensive knowledge of the problem of sexual molestation by Catholic priests. The matter had been discussed numerous times at meetings of the bishops. Their entire meeting in Dallas in June 2002 was devoted to the problem and even before Dallas, the bishops' conference had sent numerous bulletins, letters and recommendations to bishops as to how to act responsibly when dealing with priests who had sexually abused minors or were suspected of having sexually abused minors.
43. Even before the widespread coverage of sexual abuse by clergy which actually began in 1984 and not in 2002 with the revelations of the Boston Globe, the bishops of the U.S. knew that sexual abuse was a canonical and civil crime. They knew that sexual violation by anyone but especially a priest caused profound damage to the victim as well as damage to the victim's family. In spite of this awareness many bishops continued to assign and reassign priests who

were and remained a danger to children and minors. All too often they excused their decisions by claiming they had relied upon the recommendations of medical personnel especially psychologists and psychiatrists. In fact in too many instances bishops ignored the recommendations of medical experts or even asked them to tailor their final reports so as to make a follow-on assignment appear to be acceptable. Apart from the medical issues and the reports and recommendations from the medical experts, the bishops knew full well that sexual violation of a minor by a cleric remained a grave crime. They knew that such men were a great risk to children and minors and they knew that no such cleric should ever be allowed in ministry.

44. Archbishop Flynn must be presumed to have been especially knowledgeable of all aspects and risks related to sexual abuse of priests. He was carefully selected to be the coadjutor bishop of Lafayette, Louisiana in 1986 precisely because the Holy See had confidence that he was the most capable bishop to lead this diocese through this period of terrible scandal and great harm as a result of the systemic and systematic cover up and mishandling of numerous cases of sexual abuse by several diocesan priests. He was appointed coadjutor archbishop of St. Paul in 1994. In 2002 he was appointed by his brother bishops to chair the newly created bishops' commission on sexual abuse by clerics.

The Response to Individual Reports of Sexual Violation of a Minor

45. The sexual abuse of a minor (under the age of 18) is a crime in the Church's legal system (canon 1395, 2 of the 1983 Code and canon 2359, 2 of the 1917 Code). The penalties assigned to the conviction of a priest guilty of this crime can include the dismissal from the clerical state. Since sexual abuse of a minor is a crime there is a process that is mandatory for the bishop to follow whenever he receives a report of abuse or the suspicion of abuse.
46. The bishop is obligated to initiate and supervise what is called the "Preliminary Investigation." The purpose is to determine the relative credibility of the accusation or report and to determine if there are viable proofs. Once this is completed the bishop reviews the results. If it appears that there is a possibility that the crime of sexual abuse has been committed the bishop must pursue a judicial process to prosecute the accused. The entire process is to be recorded in writing. The essential point is that the bishop must investigate the report. He is neglecting his duties in a number of ways if all he does is move the priest to another assignment while allowing him to continue to unsupervised ministry.
47. If the bishop is aware of a report and fails to investigate it but instead simply reassigns or moves the priest, he could be charged with culpable negligence of an ecclesiastical office or misuse of power (canon 1389) and collaboration in the commission of an offense (canon 1329).

48. There is no evidence that a proper canonical investigation was ever conducted into charges of sexual abuse of a minor by Curtis Wehmeyer or any of the other priests mentioned in the complaint. There is no valid or even remotely credible excuse that either of the archbishops or their collaborators, especially Fr. McDonough, could have put forth to explain this negligence.

Preliminary Expert Opinions

49. The excuse the defendants are offering, that the civil corporation of the archdiocese is completely separate and distinct from the Archdiocese of St. Paul and Minneapolis and therefore is not responsible since no one in the civil corporation knew anything about sexual abuse by Curtis Wehmeyer and no one in the civil corporation failed to act in such a way so as to have caused eventual harm to the victims is baseless. The Archdiocese and the civil corporation are one for all practical purposes. The Articles of Incorporation state that control of the civil corporation remains in the hands of the officials of the archdiocese (Article 3).
50. The archbishops of St. Paul and Minneapolis who were directly involved in this case had full power over all decisions concerning Curtis Wehmeyer and the other priests mentioned including power to exclude them from ordination to the priesthood, power to remove them from all appointments and assignments and authority to prevent them from exercising any ministries. They also were aware that sexual abuse of a minor is a civil law crime yet there is no evidence that either archbishop or a member of his immediate staff ever notified civil authorities. The only acceptable course of action with regard to Wehmeyer would have been to remove him from ministry and begin the process of dismissing him from the priesthood.
51. Curtis Wehmeyer was not properly and responsibly scrutinized as a candidate for the priesthood while he was in the seminary. In spite of these known concerns he was ordained by Archbishop Flynn in 2001.
52. The reports of sexual abuse and suspected sexual abuse by Curtis Wehmeyer date back to 2004. The records and files of the archdiocese clearly show that these reports were never properly and responsibly responded to by the archbishops and by the archdiocesan staff especially Fr. Kevin McDonough and Bishop Lee Piche. Following Wehmeyer's arrest in 2012 then-Archbishop Neinstedt admitted that he was unable to explain how or why the Archdiocese did not respond appropriately to the concerns of the first person to report Wehmeyer.

53. The archbishops and the other involved officials of the archdiocese cannot claim any degree of ignorance, misunderstanding or inadvertence concerning the events of this case. They knew that Wehmeyer was a danger to minors. He was enrolled in the archdiocesan monitoring program known by its acronym POMS yet this program has been the subject of criticism it was ineffective and inadequate. Furthermore, there is significant evidence that Wehmeyer did not comply with the monitoring criteria. In spite of this Fr. McDonough consistently reported that he was pleased with Wehmeyer's progress.
54. The pattern of wilful negligence and arrogant disdain for the victims of the sexual predation of the priests of the archdiocese did not begin with the intentional bungling of the case of Curtis Wehmeyer. The Archdiocese of St. Paul and Minneapolis has a long history of intentionally mishandling cases of sexual abuse by clerics.

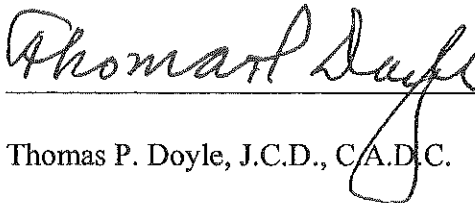
I wish to append two documents to this report:

- 1) Thomas Doyle, "The Vatican Directive on Property Tenure."
- 2) Thomas Doyle, "Sexual Abuse by Roman Catholic Clerics: The Contemporary Era."

This is a preliminary report. I reserve the right to amend this report in the event that additional evidence is presented to me.

Vienna, Virginia

March 20, 2016



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