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1962 document orders secrecy in sex cases Many bishops unaware obscure missive was in their archives

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A 1962 Vatican document ordering secrecy in cases of sexual misconduct by priests is not, according to canon lawyers, a "smoking gun" providing evidence of a cover-up of sex abuse orchestrated by Rome.

Civil attorneys handling lawsuits against the Catholic church have pointed to the document as evidence of obstruction of justice.

For one thing, canon lawyers say, the document was so obscure that few bishops had ever heard of it. For another, they say, secrecy in canonical procedures should not be confused with refusal to cooperate with civil authorities. The 1962 document would not have tied the hands of a bishop, or anyone else, who wanted to report a crime by a priest to the police.

The 39-page document, titled in Latin *Crimen Sollicitationis*, was issued in March 1962 by the Holy Office (today the Congregation for the Doctrine of the Faith). It established a procedure for canonical cases in which priests were accused of abusing the confessional to sexually proposition penitents. Four concluding paragraphs extend the procedure to the *crimen pessimum*, or "worst crime," meaning homosexual acts contrary to a priest's celibate commitment. The document was not designed to address sexual abuse of minors, but would include many such violations.

Paragraph 11 of the document stipulates that such cases are covered by the "secret of the Holy Office," today known as pontifical secrecy, the strictest form of secrecy in church law. Excommunication is prescribed for anyone who violates this secrecy.

The document was itself to be kept secret. Instructions on Page One direct that it be stored in the secret archives of each diocese, and that it not be published or commented upon. Msgr. Thomas Green, canon law expert at The Catholic University of America, told NCR Aug. 4 that unlike most church legislation, *Crimen Sollicitationis* was never published in the official Vatican bulletin *Acta Apostolicae Sedis*.

The document recently came to light because it was referenced in a footnote to a May 18, 2002, letter from Cardinal Joseph Ratzinger, head of the Vatican's doctrinal congregation, to the bishops of the world regarding new procedures for sex abuse cases.

Boston attorney Carmen L. Durso sent a copy of the document July 28 to U.S. Attorney Michael J. Sullivan, arguing that it may prove the Catholic church has been obstructing justice.

"This document may provide the link in the thinking of all of those who hid the truth for so many years," Durso said, as quoted by the July 29 Worcester Telegram and Gazette. "The constant admonitions that information regarding accusations against priests are to be deemed 'a secret of the Holy Office' may explain, but most certainly do not justify, their actions," Durso told the federal attorney.

Oblate Fr. Francis Morrissey of St. Paul University in Ottawa, Canada, told NCR Aug. 4 that he doubts the document had such an effect, because few bishops knew *Crimen Sollicitationis* even existed.

"The document was so secret that it couldn't even be mentioned," Morrissey said. "I'm inclined to believe that most bishops were unaware of its existence and contents until a situation arose, and so it never crossed their mind to take cover under this text."

Crimen Sollicitationis dealt with canonical cases against a priest that could lead to removal from ministry or expulsion from the priesthood. Its imposition of secrecy thus concerned the church's internal disciplinary process. It did not, according to canonical experts, prevent a bishop or anyone else from reporting a crime against a minor to the civil authorities.

"Of course, a bishop couldn't use this document to cover up denunciation of an act of sexual abuse," Morrissey said. "The document simply wasn't made for that purpose."

Green said the document was issued by the Holy Office because it had responsibility for dealing with "serious violations of the sacrament of penance."

Canon lawyers told NCR that secrecy in canonical cases serves three purposes. First, it is designed to allow witnesses and other parties to speak freely, knowing that their responses will be confidential. Second, it allows the accused party to protect his good name until guilt is established. Third, it allows victims to come forward without exposing themselves to publicity. The high degree of secrecy in *Crimen Sollicitationis* was also related to the fact that it dealt with the confessional.

Those motives for confidentiality, experts say, must be distinguished from a widespread "mentality" that sought to protect the church from scandal by not reporting sexual abuse by priests to the police. As a matter of canon law, the obligation of secrecy in canonical cases does not prohibit a bishop or other church officials from reporting crimes to the proper authorities.

Conflicts may arise, however, if civil authorities seek access to the secret acts of canonical procedures.

That *Crimen Sollicitationis* was not designed to "cover up" sex abuse, canonists say, is clear in paragraph 15, which obligates anyone with knowledge of a priest abusing the confessional for that purpose to come forward, under pain of excommunication for failing to do so. This penalty is stipulated, the document says, "lest [the offense] remain occult and unpunished and always with inestimable detriment to souls."

Canon lawyers also note that pontifical secrecy is hardly reserved to sexual abuse. Under a Feb. 4, 1974, instruction *Secreta Continere*, pontifical secrecy covers: 1) Documents for which pontifical secrecy is expressly indicated; 2) Affairs dealt with by the Secretariat of State under pontifical secrecy; 3) Doctrinal denunciations and publications of the Congregation for the Doctrine of the Faith, as well as its investigations; 4) Extrajudicial denunciations of crimes against the faith or against morals, and crimes against the sacrament of penance, as well as the procedures leading to these denunciations; 5) Acts by Vatican representatives relative to matters covered by the pontifical secret; 6) Creation of cardinals; 7) Nomination of bishops, apostolic administrators and other ordinaries with episcopal power, and the procedures related to these appointments; 8) Nomination of superiors and other major officials of the Roman curia; 9) Codes and coded correspondence; 10) Affairs and practices of the pope, of the chief cardinal or archbishop of a dicastery and of pontifical representatives.

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