

## **Q and A Resource: June Meeting 2019**

1. What have the Bishops accomplished at the June meeting?

The Bishops approved three documents related to reporting and investigating claims of abuse or the intentional mishandling of these cases by bishops. One deals with bishops who were removed from office or resigned their office for reasons of sexual abuse or intentional mishandling of cases (Protocols). One reaffirms the commitments bishops make to live according to the Gospel and to place themselves under the same high standards applied to their priests, deacons, and lay personnel (Commitments). And the last document deals specifically with the reporting and investigation of complaints against bishops (Directives).

The Bishops also approved the establishment of a national third-party reporting system to simplify the reporting of certain complaints against bishops.

2. Were the documents you approved the same proposals that you were going to consider in November?

One of them is, yes. But two of the proposals approved in June are more mature documents that reflect the recent action of the Holy Father. This is good news, because it means the documents are based on and consistent with new universal laws for the reporting and handling of complaints against bishops. Pope Francis did this in the form of what is called a *Motu Proprio*.

3. What is a *Motu Proprio*?

An Apostolic Letter *motu proprio* is a legislative text that modifies or adds to Church law (canon law). In this case, the Holy Father issued the Apostolic Letter “on his own initiative” (in Latin, “*motu proprio*”) underscoring his concern and attentiveness to the topics addressed within the new procedural norms. It applies universally – that is, to the Catholic Church around the world.

4. Did the USCCB provide input into the *Motu Proprio* as it was being considered and drafted?

The *Motu Proprio* reflects input from the Presidents of the Episcopal Conferences who were convened by Pope Francis in February of this year for the “Summit on the Protection of Minors in the Church.” At that Summit, Cardinal Daniel

DiNardo, USCCB President, offered insights from the experience of the Church in the United States, and shared the various proposals being developed for this country. The Holy Father took all of the input he received and created a powerful universal law.

5. Why doesn't the *Motu Proprio* law require calling the police?

Existing Church law in the United States already requires notifying public authorities and this is established practice in all U.S. dioceses. The *Motu Proprio* addresses the whole world and, in some countries, unfortunately, calling the police is not a safe thing to do.

The type of investigation outlined by the *Motu Proprio* is separate from any investigation by civil authorities. In no way does the Church investigation interfere with or replace a civil investigation.

6. What is the relationship between the *Motu Proprio*, or Church law in general, and U.S. civil law?

They are two independent systems of law. Canon law generally governs how the Church works internally. Civil laws governing abuse and sexual misconduct are to be followed, including reporting such cases to the civil authorities.

7. Is this the first thing the Church has done about abuse?

No, the *Motu Proprio* is the latest in a series of steps the Church has taken to respond to the sin and crime of sexual abuse. In the United States, the Church has implemented a strict zero tolerance policy, requiring priests and deacons who have committed child sexual abuse to be removed from ministry. This policy, which many dioceses already had locally, was enacted nationally in 2002 with the *Charter for the Protection of Children and Young People*, commonly referred to as the *Dallas Charter*, along with the *Essential Norms* making such policies canon law for the Church in the U.S. The new *Motu Proprio* does not replace these documents.

8. What are the *Charter* and *Essential Norms*?

The *Charter for the Protection of Children and Young People* is a comprehensive set of commitments originally established by the USCCB in June 2002 for addressing allegations of sexual abuse of minors by Catholic clergy. The *Essential Norms* are particular canon law (meaning they apply to the Church in the United States) that ensure that each diocese/eparchy in the United States of America will have procedures in place to respond promptly to all allegations of sexual abuse of minors by clergy, including the use of lay review boards.

9. What does the *Motu Proprio* add to the *Charter*?

The *Motu Proprio* does many things beyond the *Charter*. Perhaps the most important is to provide a *mandatory* (not voluntary) process for Church investigations of complaints *against bishops* (not just priests and deacons) for sexual abuse of a minor. The *Motu Proprio* also addresses complaints against bishops for sexual acts involving adults regarded as vulnerable, and for mishandling or intentionally mishandling of such abuse or harassment cases. It mandates internal reporting of such cases, offers whistleblower protection for those reporting, and prohibits any imposition of silence on those reporting.

10. The *Motu Proprio* appears to set a stronger baseline across the world, but one that is more or less already in place in the United States. How does this make children and vulnerable adults in the U.S. safer than they already are?

The Holy Father's *Motu Proprio* strengthens the protections already in place in the United States in at least three important ways: 1) It expands the definition of vulnerable adults to include seminarians and any person made to engage in sexual acts due to a power differential / abuse of power; 2) In establishing a process for investigating various forms of misconduct by bishops, it augments fraternal correction; 3) It requires internal up-the-line reporting and establishes whistleblower protections for anyone reporting a claim of abuse or its intentional mishandling of cases.

11. So, how did the *Motu Proprio* impact the proposals that were passed in June?

It is important to note that the *Motu Proprio*, as universal law, sets the parameters for the measures that we approved in June; the documents we approved all must be consistent with it.

In general, the *Motu Proprio* has strengthened current practice by

- establishing broad mandatory internal reporting,
- establishing whistleblower protection for those making those reports,
- expanding the definition of vulnerable adults to include anyone coerced into sexual acts through an abuse of power,
- and reiterating and clarifying that bishops are subject to the universal law of the Church that forbids sexual abuse and its intentional mishandling of cases.
- (NB: Participation in the Special Commission proposed last November would have been voluntary.)

In addition, our vote in June means that the bishops

- will establish a national reporting system for complaints against bishops; Currently, complaints against bishops can go to law enforcement, the chancery, or directly to the nuncio. The third-party

system will supplement these existing avenues and will facilitate and professionalize the process for gathering and reporting complaints.

- have placed themselves under the very same codes of conduct that hold their priests, deacons and employees accountable, which include prohibitions on sexual harassment and other sexual misconduct;
- have made more explicit the fraternal correction necessary when a brother bishop fails in his obligations to the people of God, such as restricting the privilege to participate in the USCCB.

12. I have heard the Pope's *Motu Proprio* described as the "Metropolitan Model"? Is that a fair description of it? What is a Metropolitan?

If by that you mean the method for reporting complaints against bishops and the investigation of those complaints goes through a Metropolitan archbishop, then yes. A "metropolitan see" is an archdiocese that is the chief diocese of an ecclesiastical province, consisting of one or more additional dioceses. The archbishop who heads that province is called the Metropolitan. So, the new law from the Holy Father has structured the handling and investigation of complaints through the Metropolitan – or if the complaint is against the Metropolitan himself, through a senior bishop in the province (called a senior suffragan).

By making the office of Metropolitan the heart of the process, the *Motu Proprio* confers the advantage of making the local level paramount in drawing upon the existing resources of each area, including the laity.

13. What happened to the *Special Commission* proposed in November?

To conform with the *Motu Proprio*, the new universal law issued by the Holy Father, the process must be channeled through the Metropolitan rather than a separate entity, such as the special commission proposed in November. Both models contemplate substantial lay involvement, but this model locates that involvement at the provincial, that is to say Metropolitan, level, rather than the national level.

14. There are general calls for greater lay involvement, but what will that look like exactly? Isn't relying upon the Metropolitan just more of the same -- bishops policing bishops?

No. The *Motu Proprio* explicitly permits the use of lay experts free from any conflict of interest; and in *Affirming our Episcopal Commitments* the bishops clearly state that they are "committed, when we receive or when we are authorized to investigate such cases to include the counsel of lay men and women whose professional backgrounds are indispensable."

Thus, the US bishops, based on almost two decades of experience relying on the wisdom and integrity of lay men and women in addressing abuse cases involving

priests and deacons, are committed to do so in those cases involving bishops as well.

Finally, the *Motu Proprio* also requires the Metropolitan himself to be free of any conflict of interest, which may mean the Holy See would assign a different bishop to lead an investigation.

15. Why doesn't the *Motu Proprio* **require** lay involvement in a Metropolitan's investigation of a complaint against a fellow bishop within his province?

In the United States, the professional expertise of the laity is regularly called upon. *The Motu Proprio* not only authorizes this but provides a process to structure the practice. It is important to recall that the *Motu Proprio* is written for the Church worldwide. Pope Francis is aware that the diverse regions of the world differ in terms of the resources that are available in them. At the same time, as we see in so many of Pope Francis' other initiatives, he is continually finding ways to uplift the gifts and expertise of the laity as a means of enhancing their "co-responsibility."

16. If the involvement of lay people in the investigation is not required by the *Motu Proprio*, how can there be any assurance that a Metropolitan will involve laity at all?

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Bishops recognize that they need the specialized experience and expertise of the laity to perform investigations, and those qualities also give bishops great confidence in the results.

We have already seen how this can work well. The Metropolitan Archbishop of New York instructed that the case of Theodore McCarrick be "thoroughly investigated by an independent forensic agency." The resulting investigation was sent to the Holy See, and McCarrick was soon found guilty and laicized.

17. What assurance is there that these canonical requirements will be followed? For example, what if a Metropolitan treats a very well-founded complaint as "manifestly unfounded," or if he simply does not act on a complaint?

Pope Francis has made it universal law that Metropolitans must report all claims, including those they have found “manifestly unfounded.” Moreover, interference with an investigation – such as not permitting a legitimate claim to go forward – is an actionable offense in canon law.

18. Will there be some kind of audit of compliance with the *Motu Proprio*, as there is with the *Charter*?

It is within the authority of the Holy See to oversee the implementation of the procedures. Since the new *Motu Proprio* was approved for a three-year period, we would expect that it will be reviewed in light of the experience with its implementation.

19. Under these proposals, wouldn't McCarrick, as a Metropolitan archbishop, have simply ignored suggestions of lay oversight, or stacked any lay committee with friends who would turn a blind eye to his actions?

The answer is, “No,” for several reasons. The new procedures are written precisely to prevent the scenario just described. When a complaint is made against a Metropolitan archbishop, it does not go to his archdiocese for the investigation, but instead to the senior suffragan bishop by promotion in the province, thus another diocese than the archbishop's. In addition, the Holy See could decide that the accusation should be investigated outside of that province. Furthermore, the norms uphold the need for impartiality on the part of the Metropolitan or senior suffragan bishop, as a matter of justice. Finally, every complaint is sent not only to the Metropolitan (or senior suffragan bishop) but also to the Holy See.

20. McCarrick was removed from the priesthood, but when will we see the results of the investigation into how he was able to climb the ranks of the Church?

In October of last year, the Holy See publicly announced they had launched a “thorough study of the entire documentation present in the Archives of the Dicastries and Offices of the Holy See regarding the former Cardinal McCarrick”. A careful and thorough study necessarily takes time.

21. Will the status or results of investigations be made public?

The Church will be careful not to compromise an investigation or put the victim's identity at risk. This may mean that public announcements would need to wait until the conclusion of the process, respecting the good name of the victim and the presumed innocence of the accused. The outcome must be fair and just. The person filing the complaint, however, is free to speak to anyone about the complaint.

22. Won't this new reporting system result in a big increase in complaints, and even false accusations?

Maybe. But whether the number of total reports is great or small, the process is designed to sort out true and false accusations fairly. That process can be painful in many ways, especially for the falsely accused. But, because allowing for reports broadly is necessary to root out the evil of abuse, bishops are willing to risk false accusations. We cannot be above the system. Being open to a fair investigation will build trust for those exonerated.

23. Does the new law cover sexual harassment of adults?

Yes, if such harassment involved any sexual acts. Other forms of sexual harassment are covered by codes of conduct that already exist in dioceses and eparchies. The *Motu Proprio* does not interfere with these local codes of conduct.

24. Is this the strongest reform possible?

It is a strong next step. It builds upon prior steps implemented by the Church universally and in the United States to confront sexual abuse. Until the number of abuse cases is zero, the Church must continually strengthen protections. The word “crisis” is derived from the Greek word for “turning point.” Today, we turn toward conversion — turning closer to Christ and what He expects of His bishops — that is an ongoing process. After the U.S. bishops pass and implement the proposals, they will be further studied to identify gaps and develop further necessary reforms. Because the *Motu Proprio* is in effect for three years, we expect that the Holy See will be following a similar process of evaluation and discernment.

25. Does what you voted on mean the bishops are included in the Charter now? Why not?

Beginning with the *Statement of Episcopal Commitment*, which followed shortly after the *Charter* (2002), the bishops have subjected themselves to the requirements of the Charter, within the limits of Church law regarding bishops.

26. Do we have to wait for the third-party reporting system (the hotline) to be set up to make a complaint against a bishop?

No. Complaints can be made right now to local law enforcement, the chancery, the Papal Nuncio, or to the Holy See directly. Those avenues of reporting will continue to be available. The third-party system will simply provide another means of reporting that will make the process simpler in the future.

27. Did the procedure you voted on only apply to future complaints about bishops?

No. All complaints about past actions fall under both the *Motu Proprio* and under the new measures we have taken.

28. Did you vote for zero tolerance for bishops? Will they be temporarily removed from service if they are accused?

We did not vote on this because we cannot. This will be determined on a case by case by the proper authorities in Rome, as only the Holy Father can discipline a bishop.

29. Is the person receiving a complaint as part of the third-party reporting system the same person who makes a judgment on the complaint?

No. The third-party hotline is merely a service for gathering information that is then passed on for evaluation to the appropriate Metropolitan/Suffragan.

30. Is the third-party reporting system to be used for any complaint against a bishop – say of financial abuse? Or is it just for issues of sexual abuse and the intentional mishandling of sexual abuse cases?

The third-party reporting system is for complaints of sexual abuse and the intentional mishandling up of sexual abuse because this is what the *Motu Proprio* calls for. Other serious complaints against bishops should be sent to law enforcement where applicable, the local chancery, the Papal Nuncio and/or the Holy See directly.



# MOVING FORWARD

## Concrete Steps to Hold Bishops Accountable

### 1. What happened in Baltimore?

The USCCB voted on several proposals to hold bishops accountable for instances of sexual abuse of children or vulnerable persons, sexual misconduct, or the intentional mishandling of such cases. We specifically committed to involving and utilizing lay professional experts. We also established a new, independent mechanism for the reporting of such cases.

### 2. Isn't the "Metropolitan Model" just bishops policing bishops?

While we have seen Metropolitan investigations achieve success in uncovering, publicizing and punishing bishop misconduct multiple times in the past year, the body of bishops agreed in Baltimore that independent lay oversight is crucial. The combination of lay involvement, Metropolitan leadership and the final judgment of the Holy See will ensure that complaints are evaluated thoroughly, and justice is achieved for victims and survivors.

### 3. How exactly will the laity be involved?

We're building upon the well-established practice of lay expertise in the Church, starting at the very beginning of this process. Laypeople will assist us in informing the public about how to utilize our new reporting mechanism. A lay person will be informed any time a complaint comes through that process. Lay investigators will be identified at the provincial level by Metropolitan Archbishops and will play an active role in investigating individual complaints against bishops.

### 4. Is this process transparent? What will the public know about credible complaints against individual bishops?

Pope Francis's *Motu Proprio* includes whistleblower protections that will allow anyone making a complaint to publicize it however they wish. The new *Directives* require those making a complaint to be given documents describing the process. As noted, the bishops are also committed to lay involvement in both the receiving of complaints against bishops and in any investigations. With these safeguards, the bishops are committed to making the process as transparent as they possibly can.

### 5. Level with me: Will the policies approved in Baltimore protect people from abuse at the hands of bishops?

We've achieved a goal stated by USCCB President Cardinal DiNardo throughout the process: We've filled the gaps in the *Charter for the Protection of Children and Young People* and now build upon its success. The Holy Father's *Motu Proprio*, the new *Directives*, the renewed *Episcopal Commitments*, the third-party reporting system, and the heavy emphasis and reliance on lay expertise in the United States will bring unprecedented accountability throughout the hierarchy of the American Church.



General Assembly | June 2019

# BISHOP ACCOUNTABILITY & LAITY

## AT A GLANCE

This week, the bishops of the United States of America approved *Protocol Regarding Available Non-Penal Restrictions on Bishops, Affirming Our Episcopal Commitments*, and *Directives for the Implementation of the Provisions of Vos estis lux mundi Concerning Bishops and their Equivalents*

### 1 Commit

To the involvement of lay professionals

To appoint a qualified lay person to receive reports of bishop misconduct and to publicize the means by which people can make such complaints

To appoint an investigator chosen from the list of lay experts previously prepared in consultation with bishops of his province

### Inform

# 2

The person asserting an allegation of their rights under the *Motu Proprio* and *Directives*

### 3 Establish

A notification process for conflicts of interest

### Ensure

# 4

Conflicts of interest claims won't result in prejudice, retaliation, or discrimination



# Committed to Accountability

## ONGOING STEPS

“Be diligent in these matters, be absorbed in them, so that your progress may be evident to everyone.”  
(1 Tim 4:15)



### Charter & Essential Norms

June 2002, Revised June 2011 and June 2018

- Zero Tolerance
- Required Reporting to Public Authorities
- Lay Review Boards
- Victim Assistance Coordinators
- Safe Environment Training
- Background Checks
- Two John Jay studies of abuse in the Church

### Motu Proprio

May 2019

- Reporting Systems
- Timely Investigations
- Survivor Support
- Whistleblower Protection
- Conflict of Interest Ban
- Lay Involvement
- Compliance with Civil Law
- Grounded in the Law and Life of the Local Church

### Implementation Directives

June 2019 General Assembly

- Outlines Use of Lay Experts to Investigate and Publicize Allegations
- National 3rd Party Reporting
- Strengthens Conflict of Interest Ban
- Pastoral Care for Those Harmed
- Affirms Duties of Metropolitan

### Protocol

June 2019 General Assembly

- Guidance on Bishops Who Were Removed or Who Resigned for Reasons Related to Sexual Abuse or Abuse of Power
- Guidance on Participation of Such Bishops Removed or Resigned in USCCB Meetings

### Episcopal Commitments

June 2019 General Assembly

- Bishops Included in Codes of Conduct that Must Include Prohibitions Against Sexual Misconduct and Harassment
- Bishops Renew Pledge to Be Subject to the Charter
- Commitment to Ongoing Formation for Bishops
- Commitment to Include Expertise of Lay Professionals

