

#### 4-7-08 - Duquesne U. dean's book tells how church dealt with pedophile priests

By Ann Rodgers, Pittsburgh Post-Gazette

To help ensure that the Catholic sexual abuse scandal never repeats itself, a local civil and canon lawyer has written a book on how the U.S. bishops handled cases of child molestation by clergy before they pledged themselves to zero tolerance at a 2002 meeting in Dallas.

In "Before Dallas," Nicholas P. Cafardi, dean emeritus of Duquesne University School of Law and a past chairman of the committee the bishops created to oversee their efforts to end the abuse, says that changes to church law under Pope John Paul II inadvertently tied the bishops' hands. The book, based on his recent doctoral thesis in canon law, was published last month by Paulist Press.

"It's important that we learn these lessons so this doesn't happen again," said Dr. Cafardi, who had worked since 1985 to change church law so offenders could be promptly and permanently banned from ministry.

No bishop should have been shocked that priests could commit such crimes. Cases had been documented for centuries, he said. One famous 11th-century cardinal, considered a father of canon law, wrote rules to deal with pedophile clerics.

"He said that they should be deprived of their tonsure, locked up for six months on bread and water and never left alone with a young person again," he said.

The 1917 code of canon law gave bishops authority to remove such priests without a church trial. But the 1983 code, in an effort to curb the arbitrary power of bishops, took away that power, he said. And because no such trials had been held within living memory, canon lawyers didn't know how to conduct them. They also believed they couldn't win, for reasons that included a short statute of limitations and a "catch-22" that forbade disciplining priests who offended due to mental illness.

The bishops were further stymied by a change that Pope John Paul II made in 1979, when he tried to stem a tide of priests who were leaving to marry. He made it impossible to laicize a priest against his will.

Nevertheless, Dr. Cafardi believes the bishops could have removed the abusive priests, in part due to a long-forgotten 1962 document. Issued only in Latin, it was mostly about priests who solicit sex in the confessional, but referred at the end to "the worst crime" of sexual abuse of children.

It said that these crimes were to be handled by the Vatican's powerful doctrinal office, which had the effect of removing the canonical statute of limitations, Dr. Cafardi said. While the document was sent to each bishop in 1962, they were told to keep it confidential and it was forgotten, he said.

"By the time the crisis first broke in 1984, the bishops who got it, even if they understood it when they got it, were dead and gone," he said.

But even when they knew they had the power, bishops rarely permanently removed offending priests, he said. Decades ago they treated sexual abuse as a spiritual problem, sent the offender on retreat and accepted promises not to sin again. Later, when sexual abuse was understood to be a psychological illness, they sent the priests for therapy and too readily accepted the treatment centers' claims of cure, he said.

But he cites bishops who were exceptions to that, including former Pittsburgh Bishop Donald Wuerl, now archbishop of Washington, D.C., to whom the book is dedicated. He recounts the bishop's 1993 battle with the Vatican's highest court, which he eventually persuaded to reverse a ruling that had ordered him to return to ministry an accused priest who the bishop was sure was guilty.

That case "both scared and paralyzed the other bishops. They felt that if Rome would not support them in the removal of abusive priests from ministry, what was the point of doing it?" Dr. Cafardi said.

Archbishop Wuerl "was, to the best of my knowledge, the only one who actually appealed a [Vatican] decision returning an allegedly abusive priest to ministry. He does stand out. He took on the Roman canonical system and said they had got it wrong. That took a lot of courage."

By the time the Boston scandal made national headlines in 2002, many Americans had forgotten the extensive news media coverage of the issue from 1985 to 1994. It had ended after CNN gave lurid publicity to an accusation against then-Cardinal Joseph Bernardin of Chicago, only to have the alleged victim recant and apologize. Afraid of getting scammed again, many media backed off, he said.

It was bad timing, because a committee the bishops had appointed to address the topic was producing good proposals that would have prevented many future problems, he said. With the pressure off, their ideas remained mere suggestions until the 2002 meeting in Dallas, he said.

The Vatican recently announced that, after 25 years, it would review the 1983 code of canon law for possible revision.

Dr. Cafardi would like to see the U.S. bishops' special "zero tolerance" policy made universal. He believes it would be strengthened if the code declared that sexual abuse of a minor was an "automatic impediment" to ministry, so that offenders could be refused ordination or removed permanently from ministry without a church trial. Such a policy is already in force for other serious offenses, including involvement in an abortion, he said.

His biggest concern is that something like the false Bernardin accusation will deflect attention from the problem again, or that the bishops will become complacent and stop the outside audits of their dioceses on abuse prevention and response.

"I remain concerned, because the only way this problem even began to be solved was that the bishops, as a group, had their feet held to the fire," he said.

He believes that some powerful figures in Rome still view clergy sexual abuse of minors as "an American problem" despite major scandals in many other countries.

"The American church has learned a lot from this, and if they maintain the audits, we will be fine here. But we would all be better off if we changed the code of canon law so that the universal church recognized that these guys cannot be priests in the U.S., they can't be priests in Italy, they can't be priests anywhere," he said.