

AN OPEN LETTER TO THE REVIEW BOARD OF THE DIOCESE OF OWENSBORO

April 22, 2019

I and the people I serve have questions concerning your operations, namely, concerning definitions of terms, rules of evidence, investigative procedures, and deliberative processes. It is my understanding that, as with all lay ecclesial boards, you are consultative and that you advise the Bishop who in fact makes all the decisions. As to the questions, I will attempt to articulate them as clearly as I can. I ask that you, please, provide a response which I will publish to the Parish.

It seems to be common in the Commonwealth of Kentucky for secular review boards to provide particular training for their members in the laws and procedures which govern them. They are familiarized, for instance, with the rules of the standards of evidence, of investigative procedure, of deliberation and of reaching proper conclusions based on established norms.

My first question, then, is by your definition what constitutes “sexual abuse”? The State has an extensively differentiated categorization for distinguishing felonies and misdemeanors when assessing improper and unlawful behaviors of adults with minors. There is a similar differentiation of consequences in statute. The Diocese of Owensboro, apparently has only one category of offense with which you are concerned—sexual abuse—and only one consequence if “substantiated”—removal from ministry. Is this an accurate perception? If not, what would be an accurate understanding? Thus, again the question is raised, what constitutes “sexual abuse” and what is the range of behaviors which constitute this offense? Are there offenses which do not arise to the gravity of “sexual abuse”? What, for example, are they? What consequences do they or might they merit? As for an allegation being found “substantiated,” how does *nolo contendere* substantiate? Please describe the investigative process which may lead to objective substantiation.

Furthermore, multiple times, by the Bishop and by members of the Review Board, we have been told that the Church uses stricter standards (a “higher or lower bar” depending) for determining adult behaviors with minors which constitute sexual abuse. Please describe those standards. Why, for instance, do you employ the standard of “probable cause” in the most recent report in comparison to standards of “preponderance of evidence,” “clear and convincing proof,” or “proof beyond a reasonable doubt” in reaching judgment? Compare and contrast your standards, please, with our statutory criminal codes. Many cannot figure out otherwise how some things can be judged to be moral crimes (*graviora delicta*) by the Church but not considered prosecutable or even criminal by the State.

If it comes to a difference of probative evidence as the basis for differing judgments by Church and State, please describe the difference. What are your standards or rules of evidence?

Do the accused and the accused’s legal counsel (canonical/civil) have access to all the testimony, evidence, and documentation of the proceedings? Does the complainant have this access?

What role, if any, does the intention of the complainant toward the accused or the intention of the accused toward the complainant with regard to the alleged assault or misbehavior play in the action to be taken by the Church compared to the action to be pursued by civil authorities? This is another area of confusion impeding the understanding of the Review Board's actions by Church members. If in the mind of a minor the behavior of an adult is considered sexually abusive toward him or her, is this alone sufficient for determining the accused to be guilty? In this case, what threshold of behaviors by an adult, should that adult demonstrably not have an intentionally sexual or coercive motive, nonetheless warrant a conclusion to guilt?

Since national and diocesan policies do profess the presumption of innocence unless the accused is proven guilty, should an allegation not be substantiated, would not the accused then once more be presumed innocent of the charges and thus exonerated? If not, why not?

Civil justice considers and deals with all of these elements and factors in adjudicating misdemeanors, crimes, and guilt. It is clearly and morally legitimate for the Church to have no less wisdom and clarity in its policies and operations in which such grave matters are concerned.

I appreciate your patient and principled consideration of these matters and I look forward to your response. And, as I stated above, I will publish your reply in this Parish.

Sincerely,

Rev. Richard Meredith, Pastor