

**Fr. A**

116. *Fr. A* was ordained in 1967.<sup>20</sup> As early as 1983, the Diocesan Corporation was on notice of a substantial likelihood that he had sexually abused minors. Yet, instead of applying the *Charter* and the *Essential Norms*, the Diocesan Corporation placed him on medical leave and then permitted him to retire. The Diocesan Corporation continued to receive complaints of sexual abuse about *Fr. A* for years after his “retirement,” but (a) took no steps to follow the procedures mandated by the *Charter* and the *Essential Norms* and (b) used its charitable resources to support *Fr. A* and conceal his alleged conduct from the public.

*Pre-2002 Notice of and Response to Sexual Abuse Allegations*

117. Prior to 2002, the Diocesan Corporation received at least five complaints against *Fr. A* for alleged inappropriate behavior or sexual abuse. During this period, *Fr. A* ministered at different parishes and was ultimately appointed pastor, which is the head priest of a parish.

118. In July 1983, Complainant 1’s mother wrote to the Diocesan Corporation and alleged that, in about 1974 or 1975, *Fr. A* had sodomized her son. The mother told the Diocesan Corporation that her son had developed a “severe sexual psychiatric problem” as a result of this abuse. In closing, the mother indicated that *Fr. A*’s abuse had been a contributing factor to her

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<sup>20</sup> Unless otherwise noted, the allegations against *Fr. A* are based exclusively on documents that were obtained from public sources or produced from diocesan files for Attorney General review. The allegations against *Fr. A* have not been independently investigated by the Attorney General and are recited only to establish the information provided to, and decisions taken by, the Diocesan Corporation in connection with its response to reports of alleged sexual abuse.

son's own sex crimes against others.<sup>21</sup>

119. In response to Complainant 1's mother, in a memo dated July 15, 1983, Vicar General Donald Trautman made several recommendations to the bishop, including that he, Trautman, contact the mother to indicate the Diocesan Corporation's willingness to share in the Complainant's medical costs. Trautman also suggested that he make this offer verbally because "[w]ritten correspondence [would] be incriminating for the priest." Trautman's memo indicates that he believed the mother's account:

I am not questioning the veracity of the complaint; I only believe it is proper that we hear [*Fr. A*] out on this matter. This matter coupled with other concrete situations that I have brought to his attention on 2 occasions warrant his assignment to Southdown [(a mental health facility, which treated priests alleged to have sexually abused minors)].

120. In a February 1989 letter, *Fr. A* informed Bishop Head that he had applied for a pastorate in the Diocese. Head confided to Auxiliary Bishop Trautman and Vicar General Robert Cunningham that he was not inclined to promote *Fr. A* and that he intended to refer *Fr. A* to Southdown. In May 1989, Head prepared a letter to Southdown, which described several incidents involving *Fr. A*, such as *Fr. A*'s "inappropriate touching" of a young man in 1981 and the mother's 1983 allegations. In his letter, Head reported that he and Trautman had "met with Father [*A*] and [*Fr. A* had] accepted [these incidents] as factual." Handwritten notes in *Fr. A*'s file, however, indicate that he may have denied portions of these incidents.

121. Southdown confirmed to *Fr. A* that he was scheduled to begin its program in October 1989. In February 1990, *Fr. A* wrote to Bishop Head to describe his experience at Southdown. In the letter, *Fr. A* notes his "[b]rokenness in the past" and fear that his "mistakes . .

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<sup>21</sup> Many of the twenty-five case studies concern priests who were the subject of multiple complaints. The complainants are not identified by name but are assigned a number, e.g., "Complainant 1." Numbering of the complainants re-starts for each separate case study.

. would cloud the future for as long as [he] lived.”

122. Roughly one year later, Bishop Head promoted *Fr. A* to pastor.

123. In September 1992, Msgr. Peter Popadick received allegations that *Fr. A* was “inappropriate[ly] behavi[ng]” with Complainant 2, a minor. Complainant 2’s mother alleged, among other things, that *Fr. A* had (a) invited minors to drive with him to various places; (b) discussed masturbation with Complainant 2; (c) given Complainant 2 a tour of the rectory, including *Fr. A*’s bedroom; and (d) drafted a letter excusing a minor from school so that the child could play golf with *Fr. A*. Popadick met with *Fr. A* shortly after receiving the complaint; *Fr. A* told Popadick that he did not agree with the mother’s “conclusions.”

124. In November 1992, Msgr. Popadick met with Complainant 2’s mother and documented the closing of this matter:

I informed [her] again that Father [A] had a rational, reasonable, and acceptable explanation for each and every one of the concerns which she brought to our attention. . . . She, again, is satisfied with the consideration given to her by the Bishop’s Office . . . [and] considers the matter closed.

125. In June 1994, Complainant 3’s father wrote to Bishop Head to request a meeting with the bishop “in regards to the sexual molestation of [his] son” between 1976 and 1977. Four months later, in October 1994, Vicar General Cunningham documented his inquiry into the father’s allegations:

I have investigated the matter and have spoken with Father [A] a number of times about the allegation. He indicated that during the 1970’s [sic] a large number of people came out to help him at his cottage. During that period of time, there was some serious alcohol abuse, and things may have happened that he has no recollection of at the present time.

While he specifically cannot remember showering with anybody or abusing anybody, if drink was involved, he feels he could have acted inappropriately. . . .

The bishop assured himself that any problems that we, the diocese, were aware of had been addressed prior to appointing Father [A] pastor. The bishop does not

appoint anybody if there are doubts or suspicions about behavior.

[Complainant 3's father] asked that vigilance would continue to be kept. He does not want other young people to be compromised . . . . He understands and suggested that we would have to accept the priest's word; that he does not want the priest to think that he could get away with something like this. . . .

At this time, [the father] is not requesting any further action, nor is there any other action to be taken.

*Defendants' Violations of Sexual Abuse Policies and Secular Fiduciary Duties*

126. In April 2002, just two months before the *Charter* was adopted, *Fr. A* quickly went into retirement with the consent of the Diocesan Corporation. On April 2, 2002, Vicar General Cunningham prepared a memo to the file regarding a meeting with *Fr. A*. The memo states that Cunningham and *Fr. A* discussed *Fr. A*'s "health situation," including "the possibility of the early stages of Parkinsons [sic]" and *Fr. A*'s possible "medical leave" or "sabbatical." Three days later, *Fr. A* submitted his resignation and requested that he be placed on medical leave. On April 8, 2002, Bishop Mansell accepted *Fr. A*'s resignation as pastor, granted his request for medical leave, and commended his service: "Allow me to take this opportunity to express my sentiments of gratitude and appreciation for you and for all that you have done . . . ."

127. On or about April 11, 2002, within days of accepting *Fr. A*'s resignation, Complainant 4 called Vicar General Cunningham to allege that *Fr. A* had abused him at *Fr. A*'s cottage when he was a minor. The Diocesan Corporation failed to sufficiently investigate Complainant 4's allegation.

128. Internal diocesan records maintained to record a priest's status reflect that, as of the following day, April 12, 2002, *Fr. A* "[r]esigned as Pastor (medical leave)." At about the same time, *Fr. A* publicly announced to parishioners that he would be taking a sabbatical for "health problems." Internal diocesan documents and *Fr. A*'s public statements did not mention

that the Diocese had removed him from ministry because of sexual abuse allegations.

129. On or about April 25, 2002, Complainant 5 notified the Diocesan Corporation that *Fr. A* had molested him and other minors in the late 1970s. On May 29, 2002, Vicar General Cunningham prepared a five-sentence memo to the file regarding a meeting with Complainant 5:

I met with [Complainant 5] and his mother on May 23. We discussed the situation which took place in the late 1970's [sic] . . . .

[Complainant 5] . . . is concerned about sending his son to [school]. He asked what steps were being taken in light of the current climate to make sure that children are safe.

[Complainant 5] has only been in the Church 5 or 6 times since the late 1970's [sic] and does not choose to go.

130. In June 2002, the USCCB formally adopted the *Charter*. The Diocesan Corporation failed to conduct an appropriate, independent investigation into Complainant 4's and 5's recent claims. Nor did it amend or modify its public statement that *Fr. A* had voluntarily stepped down from ministry for health reasons. Indeed, more than a year after the *Charter's* adoption, internal diocesan records, maintained to document a priest's status, reflect that *Fr. A* "[r]etired" on September 1, 2003; *Fr. A* was about sixty-one years old at that time.

131. Complaints continued after *Fr. A's* retirement. On November 11, 2003, according to a memo of the same date, Vicar General Cunningham met with Complainant 6, who told Cunningham about an "incident," which had occurred when he was thirteen-years old. *Fr. A's* file indicates that he was the unnamed, accused priest referenced in Cunningham's memo. *Fr. A's* file does not contain any decrees opening or closing an investigation by the Diocesan Corporation into Complainant 6's claims. Nor is there any evidence that the Diocesan Corporation sufficiently investigated Complainant 6's allegations pursuant to the *Charter* and the *Essential Norms*. Instead, Cunningham's memo reflects that the Diocesan Corporation's inquiry

focused on Complainant 6, specifically noting the complainant's employment history, rehab visits, "failed" marriages, failure to obtain an annulment, and mental health disability.

132. In February 2004, Complainant 1, whose mother had written to the Diocesan Corporation in 1983, filed a complaint with the Diocesan Corporation, alleging that, between 1976 and 1979, *Fr. A* had sexually abused him when he was a minor. *Fr. A's* file does not contain any decrees opening or closing an investigation by the Diocesan Corporation into Complainant 1's claims. The Diocesan Corporation did not properly investigate these allegations pursuant to the *Charter* and the *Essential Norms*.

133. In September 2007, Complainant 7 filed a complaint with the Diocesan Corporation, alleging that in 1974, when he was about fourteen-years old, *Fr. A* had provided him alcohol when he stayed overnight at *Fr. A's* cabin and that he had awoken to find *Fr. A* performing oral sex on him. *Fr. A's* file does not contain any decrees opening or closing an investigation by the Diocesan Corporation into Complainant 7's claims. The Diocesan Corporation failed to independently investigate Complainant 7's allegations pursuant to the *Charter* and the *Essential Norms*.

134. In September 2008, in response to an inquiry about *Fr. A's* status from a diocesan attorney, Vice Chancellor David LiPuma reviewed *Fr. A's* file and called former Vicar General Cunningham, who was then serving as the bishop of the Ogdensburg Diocese. Cunningham told LiPuma that in April 2002, verbal restrictions were placed on *Fr. A's* ministry. In particular, *Fr. A's* faculties had been revoked and he had been barred from publicly performing Mass or dressing in clerical attire.

135. After *Fr. A's* retirement, from time to time Auxiliary Bishop Grosz called *Fr. A* to discuss, among other things, *Fr. A's* physical health. Other than the record of these calls, there is

an absence of documentation in *Fr. A's* file showing that the Diocesan Corporation regularly and reasonably monitored or supervised him.

136. In about 2015, twelve years after the *Charter* and three years after Bishop Malone's installation at the Diocese, Fr. Zilliox—Malone's advisor on compliance with the *Charter* and the *Essential Norms*—prepared a summary of *Fr. A's* file that highlights the Diocesan Corporation's failure to comply with procedures mandated by these policies. Zilliox documented the following concerns: (a) "Where is the decree of suspension . . . ?"; (b) "What about the [internal] Investigation?"; and (c) "Where was the Promoter of Justice in this case?" Still, the Diocesan Corporation failed to take any steps to conduct an independent investigation into the allegations.

137. In March 2018, *The Buffalo News* interviewed *Fr. A* about sexual abuse allegations made against him. In the interview, *Fr. A* maintained that "[he is] still a priest." According to *The Buffalo News*, the Diocesan Corporation "confirmed that he was removed from ministry because of abuse allegations." A few days later, the Diocesan Corporation identified *Fr. A* on its public list of "diocesan priests who were removed from ministry, were retired, or left ministry after allegations of sexual abuse of a minor."

138. After the Diocesan Corporation's publication of its March 2018 list, the Diocesan Corporation received at least five new complaints, alleging that *Fr. A* had sexually abused minors in the 1970s.

139. In about September 2019, the Diocesan Corporation, in a disclosure on its website, indicated that it had referred *Fr. A* to the CDF. *Fr. A's* file, however, contains no referral documents to or from the CDF. *Fr. A's* file does contain an unsigned letter dated June 2018 from Bishop Malone to the CDF that recommends that the Church take no action against

*Fr. A* because (a) no evidence showed that he had either continued to abuse after 1989 or that he had violated his ministry restrictions and (b) he was seventy-six years old and ill.

140. The Diocesan Corporation repeatedly violated the *Charter* and the *Essential Norms* by failing to conduct independent internal investigations of the allegations against *Fr. A* and failing to seek a DRB assessment and refer or timely refer *Fr. A* to the CDF. Instead, it made misrepresentations to the public; created false or misleading internal documents; and failed to adequately monitor *Fr. A*'s activities. The Diocesan Corporation's actions concealed *Fr. A*'s conduct from the public and placed its beneficiaries at risk.