

Fr. C

169. *Fr. C* was ordained in 1966.²³ As early as 1994, the Diocesan Corporation was on

²³ Unless otherwise noted, the allegations against *Fr. C* are based exclusively on documents that were obtained from public sources or produced from diocesan files for Attorney General review. The allegations against *Fr. C* 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.

notice of a substantial likelihood that *Fr. C* had sexually abused a minor. Years later, instead of applying the *Charter* and the *Essential Norms*, the Diocesan Corporation allowed him to retire. The Diocesan Corporation also failed to sufficiently conduct a timely internal investigation into allegations that *Fr. C* had sexually abused a minor; failed to seek the DRB's assessment or, alternatively, reasonably document the DRB's assessment of sexual abuse allegations against *Fr. C*; and failed to refer *Fr. C* to the CDF. Further, the Diocesan Corporation engaged in other improper conduct by (a) allowing *Fr. C* to publicly and misleadingly suggest in 2002 that he was resigning because of the deaths of his mother and brother; (b) creating false or misleading business records to establish a purported, legitimate basis for his retirement and eligibility for associated benefits; (c) providing these benefits and other compensation to *Fr. C* even though his laicization would have relieved the Diocesan Corporation of its duty to financially support him; and (d) failing to reasonably monitor *Fr. C*, exposing itself and minors to unnecessary risks.

Pre-2002 Notice of and Response to Sexual Abuse Allegations

170. After his ordination, *Fr. C* served in various schools and parishes and was appointed pastor in 1989.

171. In July 1990, Complainant 1 sent a letter to *Fr. C* alleging that, in the fall of 1977, *Fr. C* had sexually abused him at age sixteen, when *Fr. C* taught at a Catholic school. Diocesan records, prepared years after the alleged abuse, indicate that, in about July 1990, *Fr. C* had purportedly admitted the abuse to Bishop Head.

172. In 1990 the Diocesan Corporation placed *Fr. C* on sick leave while he underwent mental health treatment. In 1991 he was re-appointed pastor until he resigned in 2002.

173. In January 1993, Complainant 1 wrote to Vicar General Cunningham: "I am writing to express my outrage and anger at your failure to respond to me in any meaningful way

in the two and one-half years since I told you that I had been sexually abused by Rev [sic] [C].”

In his response, Cunningham did not acknowledge that *Fr. C* had admitted the abuse and claimed that he had not known that Complainant 1 expected a response from the Diocesan Corporation:

If a priest of this diocese has in any way not lived up to his commitment, or abused you, then I am truly sorry. . . .

. . . I am also sorry for any pain that you may have that could have been caused by inappropriate behavior on the part of a priest.

174. Handwritten notes in *Fr. C*'s file dated March 3, 1993, state:

[*Fr. C*] has not been involved in the 12 step program because he finds it “difficult” to publicly state that he is a “person” who has “abused a minor”—[e]ven though he accepts the fact he finds it difficult to “state it publicly” also [illegible] by his lawyer[.] We discussed this and he agrees that he needs to follow up on this since it is at the heart of the problem—I told him about the new [program] at Sisters Hospital + [local psychologist] . . . He plans to call her soon + set up an appointment . . . He plans to see her regularly as she requests.

175. In May 1994, Bishop Head and Vicar General Cunningham met with *Fr. C* to discuss the status of Complainant 1's allegations. *Fr. C* stated that if the matter became public, he would resign. A memo summarizing the May 1994 meeting indicates that mental health professionals recommended that the Diocesan Corporation prohibit *Fr. C* from having unsupervised contact with minors.

176. *Fr. C* continued to serve as pastor until 2002.

Defendants' Violations of Sexual Abuse Policies and Secular Fiduciary Duties

177. In April 2002, in the wake of widespread scrutiny about clergy sexual abuse in the United States, and just two months before the *Charter* was adopted, *Fr. C* quickly resigned. On April 4, 2002, *Fr. C* submitted his resignation to Bishop Mansell, citing “multi emotional [sic] reasons, including the death of [his] brother and mother in so short a time.” Mansell accepted the resignation, “tak[ing] th[e] opportunity to express [his] sentiments of gratitude and

appreciation for [*Fr. C*] and for all that [*Fr. C* had] done as Pastor.”

178. On or about April 7, 2002, *Fr. C* publicly announced his resignation to parishioners, citing the deaths of his brother and mother:

Most of you know, by your own experience, that the death of a loved one changes perceptions, goals and the daily routine. You know that within the last 5 months my brother and mother have died and I see things in a different way.

. . .

Holy Week was a very difficult emotional week, and many of you witnessed my Easter Message—the emotional stress was there!

I need a break or else I will break.

I spoke to Bishop Mansell on Wednesday of this week and have resigned my pastorate . . . effective today. During the next several months, I will take time to be renewed in body and spirit.

This public announcement was false or misleading. As internal diocesan documents would later show, *Fr. C* resigned because of sexual abuse allegations, not because of the death of his family members.

179. On or about April 11, 2002, Vicar General Cunningham prepared a short memo to the file, incorrectly stating that “Father [*C*] is currently on a medical leave of absence.”

180. In May 2003, nearly a year after the *Charter* was adopted, a letter from *Fr. C* to Bishop Mansell showed that *Fr. C* had recently participated in several activities in which he had publicly held himself out as a priest in Pennsylvania. He described visiting a religious order and “bec[oming] part of their community for 2 weeks.” He also recounted the following encounter after Mass on Easter Sunday: “I was out front of the Church with the pastor greeting the people. In tears [a woman] introduced herself as being from Buffalo and asked if I could possibly visit her husband who was having cancer surgery on Monday.”

181. On or about June 21, 2003, Bishop Mansell called *Fr. C* to revoke *Fr. C*’s

faculties. On the same date, *Fr. C* wrote to Mansell to request that Mansell clarify *Fr. C*'s status and to immediately investigate any allegations against him. In his letter, *Fr. C* wrote that he assumed his faculties were only temporarily revoked because the Diocese could not permanently revoke them.

182. The following month, Bishop Mansell responded to *Fr. C*'s letter, commenting at the outset that "we have attempted to deal with the situation in a discreet manner." Mansell then outlined the "facts" related to *Fr. C*'s case, which included:

. . . In July 1990, [Complainant 1] informed you that he was accusing you of inappropriate behavior and that he intended to inform the Bishop. You went to Bishop Head [and] admitted the behavior

In 1994, [Complainant 1] threatened a lawsuit A confidentiality provision was included in the papers resolving the claim. Of course, the Diocese was concerned for the individual who made the complaint; but the Diocese also was concerned for you and your name and did everything possible to preserve your reputation. No investigation was needed since an admission was made.

. . . In April 2002, with further national developments concerning the sexual abuse of minors by priests, you were asked to resign your pastorate, which you did freely. . . . I accepted your resignation and placed you on a medical leave of absence.

. . . The Essential Norms provide that "[w]hen even a single act of sexual abuse by a priest or deacon is admitted . . . the offending priest or deacon will be removed permanently from ecclesiastical ministry . . ." While I consider you to be a priest on medical leave at this time, your faculties to celebrate Mass publicly or to administer the sacraments have been revoked. You may not present yourself as a priest or dress as a cleric. I also urge you to think about retirement. To open an investigation at this time would not be beneficial.

183. Diocesan documents, maintained to record a priest's status, falsely describe *Fr. C* as "retired" as of September 1, 2003; he was about sixty-two years old at the time. In fact, as internal diocesan records reveal, the Diocese removed him from ministry because of evidence that he had sexually abused a minor.

184. Complaints continued after *Fr. C* resigned his position. In April 2005, an

anonymous complainant—whose identity was only revealed to the Diocesan Corporation’s Victim Assistance Coordinator—filed a complaint with the Diocesan Corporation to allege that, in 1977 or 1978, *Fr. C* had touched her breasts and fondled her genitals, when she was approximately sixteen-years old.

185. On or about May 23, 2006, the Diocesan Corporation learned that *Fr. C* intended to invite guests to a celebration and Mass at his home for his fortieth-year anniversary of ordination. The Diocesan Corporation also uncovered that *Fr. C* had offered to celebrate Mass for parishioners at his home for a small fee. Auxiliary Bishop Grosz contacted *Fr. C* to discuss these reports. According to a memo documenting the discussion, *Fr. C* admitted that he had invited fifty guests to a Mass at his home followed by a public reception. Grosz advised *Fr. C* that the Diocese had removed him from ministry and prohibited him from holding such a public function, wearing a Roman collar, or publicly performing the sacraments. Grosz documented *Fr. C*’s acquiescence: “After some discussion, including the fact that Bishop Grosz indicated that the diocese wanted to maintain respect for the privacy of [*Fr. C*] relative to why he left the priesthood, [*Fr. C*] finally agreed that he would be obedient to Bishop Kmiec in canceling the entire celebration.” Grosz’s memo also notes that he had been unable to contact *Fr. C* since October 2004, nearly two years before, showing that the Diocesan Corporation failed to reasonably monitor *Fr. C*.

186. In July 2014, *Fr. C* wrote to Bishop Malone. *Fr. C* explained that he “[was] one of the priests affected by the Bishops [sic] Charter,” and he thanked Malone for inviting him to the “Senior Priests cook-out” at the bishop’s residence. *Fr. C* noted that Malone’s invitation was the first he had received since “[he] was retired in 2002.” *Fr. C* also highlighted his treatment at the St. Luke Institute:

It's been an interesting, wild and event-filled journey since July 1990. The one event that changed my outlook was my experience at St. Luke's Through anger, despair, loneliness, sickness, I was able to use what I learned at St. Luke's . . . to survive this far.

Malone acknowledged this letter on August 1, 2014.

187. In February 2015, Complainant 3 filed a complaint with the Diocesan Corporation to allege that, in approximately 1983 or 1984, when he was about seven-years old, *Fr. C* had sexually abused him, including by fondling his penis through his clothing. The Diocesan Corporation failed to conduct a sufficient investigation of Complainant 3's allegations pursuant to the *Charter* and the *Essential Norms*.

188. In about February 2015, Fr. Zilliox prepared a summary of *Fr. C*'s file, which recorded the following concerns:

(v.) Where is the decree of suspension . . . ?

(vi.) What about the [internal] Investigation?

(vii.) Where was the Promoter of Justice in this case?

Asked during his testimony whether Zilliox could be mistaken about his assessment that the Diocesan Corporation had not conducted the internal investigation required under the *Charter*, Auxiliary Bishop Grosz responded: "I cannot answer that."

189. On March 12, 2015, Auxiliary Bishop Grosz prepared a memo regarding a call with *Fr. C*. At the outset, the memo notes that "Grosz eventually tracked down Father [C] who [was] presently staying with a friend in Florida." The memo records *Fr. C*'s denial of Complainant 3's allegations.

190. On or before July 23, 2015, Auxiliary Bishop Grosz asked diocesan attorneys for an update regarding the status of Complainant 3's allegations. In a July 23 response, counsel reported that the matter had been presented to the DRB and that "[t]his is one of those matters

that Fr. Zilliox wanted to consider to determine whether any report must be made to the [CDF].”
Fr. C’s file does not contain any presentation to the DRB.

191. In an undated letter to Bishop Malone, *Fr. C* reported that he had physical health issues and spent portions of the year in Florida. The letter apologizes “for the problems [*Fr. C*] caused the diocese” and thanked Malone “for [his] continued support, the continued pension check, the auto insurance, and health insurance.”

192. Among other things, the absence of documents indicating the Diocesan Corporation’s regular supervision of *Fr. C* and the belated discovery of *Fr. C*’s travels to Florida show that the Diocesan Corporation failed to reasonably monitor him.

193. On October 28, 2015, Bishop Malone issued a written decree, opening an internal investigation into *Fr. C*’s conduct. The same day, Malone issued a written decree appointing an investigator to review Complainant 3’s allegations, which had been originally received in February 2015. Malone’s decree, which appointed the investigator, notes that further investigation was warranted because the DRB had found that Complainant 3’s allegation seemed to be true; *Fr. C*’s file does not contain any written recommendations from the DRB. The decree also required the investigator to present a verbal and written report to the DRB within ninety days and specified that both the report and the DRB’s advice would be forwarded to Malone. *Fr. C*’s file does not contain any subsequent reports from the investigator.

194. On March 19, 2016, well after the deadline for delivery of the investigative report, a diocesan attorney prepared a one-sentence memo to his law firm’s file to record that the “[DRB had] discussed [Complainant 3’s] matter at the March meeting and noted that we are waiting to hear from the investigator.” Auxiliary Bishop Grosz testified to the Attorney General that he did not know why diocesan attorneys would write to their own file about the DRB.

195. In April 2017, diocesan counsel called Auxiliary Bishop Grosz to report that Complainant 3 could not be located. In his summary of that call, Grosz noted that counsel and Fr. Zilliox continued to prepare *Fr. C*'s referral to the CDF: "[Counsel] noted that he is working with Fr. Zilliox on this case and other cases to go to Rome."

196. In May 2017, diocesan counsel wrote to Fr. Zilliox regarding Complainant 3. The letter reports that the Diocesan Corporation's investigator could not obtain a response from Complainant 3. The letter also references supposed continuing efforts to refer *Fr. C* to the CDF: "At the last [DRB] meeting, we discussed that you would try to assemble a votum based on the material we have in the file." No *votum* was found in *Fr. C*'s file produced to the Attorney General.

197. In March 2018, the Diocesan Corporation publicly identified *Fr. C* on a list of "diocesan priests who were removed from ministry, were retired, or left ministry after allegations of sexual abuse of a minor."

198. *Fr. C*'s file contains an undated document entitled *Case Summary in accord with Canon 489 § 2 of the Code of Canon Law*, which states in part:

Summary of accusation: Inappropriate sexual behavior after serving [Complainant 1] alcoholic beverages

. . .

Response of accused: After hearing from [Complainant 1], Fr. [C] obtained an attorney who responded to [Complainant 1] and made an appointment to see the Bishop. He accepted the fact that he had abused a minor but found it difficult to admit it publicly. . . .

. . .

Final Settlement of the Case: . . . Fr. [C] continued to serve as . . . Pastor . . . until April 2002 when he was asked to resign his parish. This was a result of national developments concerning the abuse of minors by priests, and the adoption by the USCCB of the Charter for the Protection of Children and Young People. The

Charter necessitated that he be removed permanently from ecclesiastical ministry. His faculties were revoked and he could not present himself as a priest nor dress as a cleric. He was urged to retire.

199. As of November 2019, a disclosure on the Diocesan Corporation's website indicated that Bishop Malone would refer *Fr. C* to the CDF, confirming that Malone had not done so as of that time.

200. The Diocesan Corporation repeatedly violated the *Charter* and the *Essential Norms* by failing to sufficiently conduct a timely internal investigation into allegations that *Fr. C* had sexually abused a minor; failing to seek the DRB's assessment or, alternatively, reasonably document the DRB's assessment of sexual abuse allegations against *Fr. C*; and failing to refer *Fr. C* to the CDF. Instead, it made false or misleading statements to its beneficiaries; prepared false or misleading business records; and failed to reasonably monitor *Fr. C*. The Diocesan Corporation's actions concealed *Fr. C*'s conduct from the public and placed its beneficiaries at risk.