

IV. Recommendations of the Grand Jury

Until the day we got our summons, none of us even really knew what a grand jury does. We wound up having to interrupt our lives for a period of two full years. We were told to appear for court several times a month, which meant traveling considerable distances to hear long days of testimony. We did it because we understood it was our duty. In performing that duty, we have been exposed to, buried in, unspeakable crimes committed against countless children. Now we want something to show for it. Courtesy of the long years of coverup, we can't charge most of the culprits. What we can do is tell our fellow citizens what happened, and try to get something done about it. That is why we make these recommendations for legal changes that respond to what we have learned in our investigation.

A. *Eliminate the criminal statute of limitations for sexually abusing children.*

This grand jury exists because Pennsylvania dioceses routinely hid reports of child sex crimes while the statutes of limitations for those crimes expired. We just do not understand why that should be allowed to happen. If child abusers knew they could never become immune for their crimes by outrunning the statute of limitations, maybe there would be less child abuse.

We know our statute of limitations has been extended recently, so that now abusers can potentially be prosecuted until the victim reaches age 50. And that's good. It just doesn't help a lot of the victims we saw. No piece of legislation can predict the point at which a victim of child sex abuse will find the strength to come forward. And no victim can know whether anyone will believe her, or how long she will have to wait for justice.

If that seems hard to understand, think about Julianne. She was taught without question that priests are superior to other adults, even superior to her own parents – because “they are God

in the flesh.” So when one of these flesh gods put his fingers in her vagina, who was she going to tell? Julianne was 14 when she was assaulted; now she’s almost 70.

Or Joe from Scranton. At the time he couldn’t find anyone who was willing to hear about the naked, masturbating priest who told him to take off his pants and get into bed. It took 55 years before he found us.

Or Bob, from Reading. He told us “there is not a day that goes by” that he doesn’t think about what happened to him. He can’t bear to be touched by a man, not even to shake hands, or to hug his own sons. He never reported it, because he thought “I was the only one.” But if he could still put that priest on trial, even now, he would. “Somebody has to be accountable,” he told us. “This has to stop.” Bob is 83.

So yes, we say no statute of limitations at all. Not for this kind of crime. And it’s not like we are asking for anything that unusual. It turns out that this is the rule in well over half the states across the country: no free pass for serious sexual violation of children, no matter how long it takes. That includes almost every state in our region, except us. If we lived in New Jersey, or Delaware, or New York or Maryland, we would today be issuing a presentment charging dozens of priests. But because we happen to live here instead, the number is two. Not something for Pennsylvania to be proud of.

B. Create a two-year “civil window” for child sex abuse victims who couldn’t file lawsuits before.

Victims don’t just need sex criminals prosecuted; they need care and compensation for harm done by the abusers and the institutions that empowered them. The way you get that is by suing. We understand that civil cases are different than criminal prosecutions, and that it’s appropriate to have a statute of limitation that prohibits lawsuits after a certain amount of time.

We're OK with a time limit for lawsuits, as long as it's a long time limit, and Pennsylvania's is pretty good – until the victim reaches age 30, which is longer than in most other states.

The problem is that this law doesn't apply to most of our victims. It's only been in effect for about 15 years, and most of the victims from before then were under a much tighter time limit for suing – only *two years*. But even that two-year limit was something of a sham. Until not too long ago, the church was actively and systematically concealing clergy sex abuse. Victims didn't know if their attackers had a history of abuse, and they didn't know the diocese had been enabling that abuse. You can't very well exercise your right to sue when the people responsible are doing their best to cover up.

We think those older victims should get their two years back, now that the church is finally being forced to come clean. Several other states, at least six of them, have paved the way by creating a “window” of time that gives child sex abuse victims a second chance to bring lawsuits that would otherwise be too late.

We've heard this has been tried before in Pennsylvania, several times. And every time it is opposed by representatives of the church and its insurance companies. They say it would cost too much to let these child sex abuse victims get back their right to sue.

We wonder how they decide how much is “too much.” Maybe they should meet with Al, as we did. Al was abused in sixth grade by a priest who put him in a locked room, made him take off the pants of his Catholic school uniform, and rubbed his penis. He managed to slip away and tried hiding under a desk, but the priest found him and told him he would go to hell if he ever told anyone. Afterward, Al flunked the sixth grade and had to repeat it. He began drinking, working up to as much as a bottle of whiskey a day. He started scratching his genitals so hard they would bleed. He thought he must be gay, which made him a mortal sinner. He tried joining the Navy,

but was diagnosed with PTSD and eventually discharged. He tried to kill himself on multiple occasions, most recently by hanging himself with a coaxial cable. He was institutionalized in the locked ward of a psychiatric hospital. He wanted to keep going to church, but he would become nauseous and have to throw up when he entered the building.

Maybe, if he'd had money for good medical and psychological resources, Al's life wouldn't have been quite so hard after that priest knocked it off track. Maybe, if he could file a lawsuit now, he could make up for some of the pain and suffering. We wonder what people would think is "too much" money if it had been one of their kids. Al should get his two years back.

We also hear they have an argument that there is a legal problem with the civil window. We are laypeople; we'll leave that to the lawyers. One thing we believe, though, is that if the legislature and the lobbyists really want to get it done – if they really want to get real compensation to the victims of child sex abuse – they will find a way. They've found a way to stop things from happening all these years. Maybe now they can put their expertise into actually getting something passed.

We remember a letter we found in the church files from a victim named Joey. He was forcibly raped as a boy, became addicted to drugs, and died of an overdose as an adult. Before his death he wrote this to the bishop:

Pennsylvania law does not, for one moment, bar the Diocese of Allentown from making financial settlements with persons who were abused as minors, even though they might not report the abuse until they become adults. Pennsylvania's so-called statute of limitations is merely a defense, a legalistic prescription which the Diocese of Allentown may choose to invoke in civil litigation when it wishes.

If Joey could figure that out, we think the leaders of the church can figure it out too. They don't *have* to hind behind the statute of limitations.

C. Clarify the penalties for a continuing failure to report child abuse.

Reporting child abusers isn't just a moral obligation; it's the law. We can't pass laws telling the church how to administer its internal operations – but we can demand that it inform authorities about rapists and molesters. Unfortunately, document after document told us the same story: church officials repeatedly received word of crimes against kids, yet repeatedly refused to alert law enforcement.

Thanks to prior grand juries, the legislature has addressed that by eliminating some loopholes in reporting requirements for institutions like the church. Now there is a new, higher penalty for an ongoing failure to report continuing sexual abuse.

After looking at that law, though, we're concerned that the new language might not be clear enough to cover all the covering up we have seen. Right now the statute punishes a reporting failure that continues "while the person knows or has reasonable cause to believe the child is actively being subjected to child abuse." We think that in the more common case, the abuser may not be "active" at any particular moment, and the next instance of abuse may not be against the same child. But if the pattern is clear, the responsibility to report should continue, and the penalty for not doing so should increase. We recommend changing the language to impose a continuing obligation to report "while the person knows or has reasonable cause to believe the abuser is likely to commit additional acts of child abuse."

We're also concerned about the statute of limitations for starting a prosecution against someone who commits this new crime of ongoing failure to report. Under the law now, if you fail to report a one-time act of abuse, you can be arrested and subject to prosecution for the same period of time as the abuser himself: the statute of limitations is the same as the statute of limitations for the crime you didn't report. That's good. But, if you continually fail to report ongoing acts of

abuse, which is obviously a more serious crime than not reporting a single act of abuse, the statute of limitations is only two years. That's got to be a mistake. We think it can be pretty easily fixed, and we call on the legislature to take care of it.

D. Prohibit “non-disclosure” agreements regarding cooperation with law enforcement.

We also think it's time to tackle an issue that hasn't be mentioned in prior grand jury investigations of clergy sex abuse. We've heard the reports over the last year about the use of confidentiality agreements to make sexual harassments suits go away. We can tell you that it doesn't just happen to women in the workplace; we've seen the same tactic used by the dioceses to hush up child sex abuse in the church. In the rare case where a child was able to report abuse within the statute of limitations for filing a lawsuit, the bishops would avoid “scandal” by paying off the family to keep quiet.

We know there have been bills proposed in some of the states, including Pennsylvania, that would restrict the use of confidentiality agreements, or even outlaw them entirely. And we've heard arguments on both sides. If an abuser or employer can purchase silence, then other targets will never learn of the danger, and the abuser will be free to go after new victims. On the other hand, some victims don't want to be whistleblowers; they just want to move on with their lives. If a confidentiality agreement lets them preserve their anonymity and settle a lawsuit on good terms, maybe we shouldn't stop them from doing that.

Wherever that debate winds up, we want to focus on one particular problem with confidentiality agreements: their impact on the ability of law enforcement officials to chase down child abusers and put them away. Confidentiality agreements are usually written to keep the victim afraid of talking to anyone at all. We're sure a lot of victims assume this means they can't even

talk to the police. We saw it in this investigation – people who were scared to speak, because they thought they would get sued for violating a non-disclosure agreement.

That’s understandable, but it’s a misunderstanding and we need to clear it up. If an abuser – or an institution shielding abusers – tried to use a non-disclosure agreement to keep victims from reporting crimes to law enforcement, they would likely be committing obstruction of justice. Courts are not entitled to enforce confidentiality agreements if they’re used for that purpose.

The problem is, most people don’t know that. That’s why legislation is needed: to protect abuse victims who have signed a non-disclosure agreement, but who approach or are approached by the police. We recommend a new statute declaring that no past or present non-disclosure agreement prevents an abuse victim from going to the police, or from talking to the police if they come to her. The statute should also require that every future settlement agreement, if it contains any form of confidentiality provision, must state plainly on its face that contact with law enforcement is permitted, and that any attempt to use the agreement to prevent or discourage such contact is illegal.

If we learn nothing else from this and prior investigations, let it be this: that sexual abuse, in particular child sexual abuse, is not just a private wrong, to be handled “in house.” It is a crime against society. We’re issuing this report to make that clear, and to push for action.