

CANONS 223, 1311, 1371 §6

MANDATORY REPORTING

A person tells a priest about historical sexual abuse in the external forum but does not want the priest to tell the bishop or have the alleged abuser dismissed from the clerical state. In these circumstances, must a priest or religious report the abuse to the local ordinary where the alleged events took place, or can he respect the wishes of the alleged victim?

OPINION

Tribunal and other Church websites should inform people about the obligation of clergy, religious, and other Church employees to report information such as information about sexual abuse. The priest learning about the sexual abuse needs to come to an understanding of the effects of trauma on victims/witnesses and how the abuse has impacted on their sense of trust. It may help if the process is reframed to more of a helping process.

It is essential to acknowledge the person has a reason(s) for not wanting to report and to come to an understanding why the person does not want to report to Church authorities. It could be the person fears he or she won't be believed; his/her trust in the church could be shattered; he/she may have experienced coverup by the Church already; there might be someone in church leadership the person currently does not trust; the abuser may have been in a highly placed position; the person may be afraid for his/her family (in some Asian countries it could impact on whether a brother gets ordained); or the person may not have told his/her family yet.

There needs to be an open conversation to come to a proper understanding of the person's position. Understanding the reason may allow for a different discussion and move it into a conversation about the tribunal/church reporting process. It is often helpful when someone explains how the reporting process works and what and who is involved. It is important that the person has ongoing help and contact with someone from the tribunal/church. If the person does not want to report or have further contact, it is important to document what was said and pass that on to Church authorities.

While an individual with knowledge of sexual abuse may for personal reasons not want the information passed on to Church or civil authorities, the common good of the Church is at stake with this information about sexual abuse.

Canon 223 §1. In exercising their rights, the Christian faithful, both as individuals and gathered together in associations, must take into account the common good of the Church, the rights of others, and their own duties toward others.

§2. In view of the common good, ecclesiastical authority can direct the exercise of rights which are proper to the Christian faithful.¹

Canon 223 specifies that individuals must consider "their own duties toward others." The person with knowledge of the abuse and the priest or religious to whom it has been revealed do not know if there has been another complaint against the accused priest or religious. Often there are other victims of abusers. The accused priest or religious may have denied the first complaint. Now, when another report is submitted, this information may enable the first alleged victim's complaint to be upheld, so that this victim now receives justice. Everyone in the Church has an obligation to help victims. Besides crimes against minors or persons habitually lacking the use of reason, sexual abuse crimes include abuse of authority and position, taking advantage of vulnerable persons, as well as the failure to act as required by the law.²

The Church has suffered enormous damage because of the sexual abuse crisis, and it will take a long time for the credibility of the Church to be restored. Every effort must be made to prevent further scandal in the Church. The Catechism of the Catholic Church explains:

Scandal is an attitude or behavior which leads another to do evil. The person who gives scandal becomes his neighbour's tempter. He damages virtue and integrity; he may even draw his brother into spiritual death. Scandal is a grave offense if by deed or omission another is deliberately led into a grave offense.³

The word "mandatory" comes from Latin *mandatum* meaning "something commanded." Mandatory reporting demonstrates that the Church is serious about eliminating the evil of sexual abuse. Pope Francis, conscious that actions speak louder than words, added a second paragraph to canon 1311, including the

1 *Codex Iuris Canonici auctoritate Ioannis Pauli PP. II promulgatus* (Vatican City: Libreria Editrice Vaticana, 1983); Eng. trans. in *Code of Canon Law, Latin-English Edition, New English Translation* (Washington, DC: Canon Law Society of America, 2023) c. 233.

2 See cc. 1398, 1395, and 1378; Francis, mp *Vos Estis Lux Mundi*, May 7, 2019, https://www.vatican.va/content/francesco/en/motu_proprio/documents/papa-francesco-motu-proprio-20190507_vos-estis-lux-mundi.html (*VELM 2019*) (accessed on August 27, 2024); John Paul II, mp *Sacramentorum sanctitatis tutela*, April 30, 2001: *AAS* 93 (2001) 737-739 (*SST*).

3 *CCC 2284*.

necessity for penal law and its three aims of “the restoration of justice, the reform of the offender, and the repair of scandal.”

Canon 223 also speaks of the obligation of individual members of the faithful to consider the “rights of others.” This includes preventing others becoming victims. Sexual abuse does enormous damage to victims. Sometimes abuse causes broken marriages and relationships. Victims may self-harm, lose jobs, or become addicted to alcohol. An abusive priest or religious needs help, treatment, and possibly monitoring to ensure every reasonable action is taken to prevent further abuse in future.

Civil investigations in many countries today often reveal coverups by Church leaders fifty years ago. The local Church must learn the lesson of what has been happening in other countries and not be foolish enough to think that scandals of coverups of sexual abuse by Church officials and leaders will not be exposed in their country. In thirty-years-time there may be an external examination of actions taken today.

Pope Francis began his “Letter to the People of God” in 2018 with the words:

If one member suffers, all suffer together with it” (*I Cor 12:26*). These words of Saint Paul forcefully echo in my heart as I acknowledge once more the suffering endured by many minors due to sexual abuse, the abuse of power, and the abuse of conscience perpetrated by a significant number of clerics and consecrated persons. Crimes that inflict deep wounds of pain and powerlessness, primarily among the victims, but also in their family members and in the larger community of believers and nonbelievers alike. Looking back to the past, no effort to beg pardon and to seek to repair the harm done will ever be sufficient. Looking ahead to the future, no effort must be spared to create a culture able to prevent such situations from happening, but also to prevent the possibility of their being covered up and perpetuated. The pain of the victims and their families is also our pain, and so it is urgent that we once more reaffirm our commitment to ensure the protection of minors and of vulnerable adults.⁴

Pope Francis first established the duty of clerics and consecrated persons to report information about delicts against the sixth commandment to the competent ecclesiastical authority in *Vos Estis Lux Mundi*, on 7 May 2019. Mandatory reporting is facilitated by an instruction on the confidentiality of legal proceedings

4 Francis, *Letter to the People of God*, August 20, 2018: https://www.vatican.va/content/francesco/en/letters/2018/documents/papa-francesco_20180820_lettera-popolo-didio.html (accessed on August 27, 2024).

issued December 6, 2019.⁵ This means that when, for example, evidence of sexual abuse is disclosed in a declaration of nullity marriage case, it is to be reported to Church authorities, and mandatory reporting laws by civil authorities are to be observed. The instruction stated, “Office confidentiality shall not prevent the fulfilment of the obligations laid down in all places by civil laws, including any reporting obligations, and the execution of enforceable requests of civil judicial authorities.”⁶ While number 4 in the instruction only speaks about civil reporting requirements, it has the same implications for reporting obligations within the Church (see c. 19).

The *Vademecum* (2.0) from the Dicastery for the Doctrine of the Faith in 2022⁷ addressed the issue of what must be done when information (*notitia*)⁸ is received about a possible delict (canonical crime). The dicastery said, “[I]t need not be a formal complaint,” and:

This *notitia* can come from a variety of sources: it can be formally presented to the Ordinary or Hierarch, orally or in writing, by the alleged victim, his or her guardians or other persons claiming to have knowledge about the matter; it can become known to the Ordinary or Hierarch through the exercise of his duty for vigilance; it can be reported to the Ordinary or Hierarch by the civil authorities through channels provided for by local legislation; it can be made known through the communications media (including social media); it can come to his knowledge through hearsay, or in any other adequate way.⁹

Even anonymous complaints are to be taken seriously.¹⁰ This illustrates the importance of dealing adequately with complaints after the mistakes of the past. The *Vademecum* reiterates that the seal of confession is an exception to the obligation of reporting sexual abuse:

It must be pointed out that a report of a *delictum gravius* received in confession is placed under the strictest bond of the sacramental seal.... A confessor who learns of a *delictum gravius* during the celebration of

5 See Secretariat of State, *ReaS* and instruction “On the Confidentiality of Legal Proceedings,” December 6, 2019: https://www.vatican.va/roman_curia/secretariat_state/2019/documents/rc-seg-st-20191206_rescriptum_en.html (accessed on August 27, 2024).

6 “Confidentiality of Legal Proceedings,” 4.

7 Dicastery for the Doctrine of the Faith, “*Vademecum* on certain points of procedure in treating cases of sexual abuse of minors committed by clerics” 2.0, June 6, 2022; *AAS* 114 (2022) 918-954 (*Vademecum*); English translation at https://www.vatican.va/roman_curia/congregations/cfaith/ddf/rc_ddf_doc_20220605_vademecum-casi-abuso-2.0_en.html (accessed on August 27, 2024).

8 See *CIC* c. 1717 §1; *CCEO* c. 1468 §1; *SST* art. 10; *VELM* 2019, art. 3.

9 *Vademecum*, 10.

10 See *Vademecum*, 11.

the sacrament should seek to convince the penitent to make that information known by other means, in order to enable the appropriate authorities to take action.¹¹

After the scandals caused by failures to act and report around the world, the *Vademecum* advises: “Even in cases where there is no explicit legal obligation to do so, the ecclesiastical authorities should make a report to the competent civil authorities if this is considered necessary to protect the person involved or other minors from the danger of further criminal acts.”¹²

Pope Francis legislated mandatory reporting in *Vos Estis Lux Mundi* in 2023.¹³

Art. 3 – Reporting

§1. Except for when a cleric learns of information during the exercise of ministry in the internal forum, whenever a cleric or a member of an Institute of Consecrated Life or of a Society of Apostolic Life learns, or has well-founded motives to believe, that one of the acts referred to in art. 1 has been committed, that person is obliged to report it promptly to the local Ordinary where the events are said to have occurred or to another Ordinary among those referred to in canons 134 *CIC* and 984 *CCEO*, except for what is established by §3 of the present article.¹⁴

Mandatory reporting includes religious leaders failing to act.

§3. When the report concerns one of the persons indicated in art. 6, it is to be addressed to the Authority identified on the basis of articles 8 and 9. The report can always be sent to the competent Dicastery directly or through the Pontifical Representative. If the first option is chosen, the Dicastery will inform the Pontifical Representative about the matter.¹⁵

...

§5. Information can also be acquired *ex officio*.¹⁶

11 *Vademecum*, 15 (internal citations omitted).

12 *Vademecum*, 17.

13 Francis, mp *Vos Estis Lux Mundi*, March 25, 2023: AAS 115 (2023) 394-404; English translation at https://www.vatican.va/content/francesco/en/motu_proprio/documents/20230325-motu-proprio-vos-estis-lux-mundi-aggiornato.html (*VELM 2023*) (accessed on August 27, 2024).

14 *VELM 2023*, art. 3 §1.

15 *VELM 2023*, art. 3 §3.

16 *VELM 2023*, art. 3 §5.

VELM 2023 slightly broadens the exception to mandatory reporting of *VELM 2019*, when the former describes the exception as “ministry in the internal forum.”¹⁷ This means that, as well as information disclosed under the seal of confession, information revealed in spiritual direction is included in the exception. Note, there is special legislation concerning spiritual direction in seminaries.¹⁸

If exceptions to the law could be made for other lesser reasons, the exceptions would ultimately defeat the purpose of the mandatory reporting law. Mandatory reporting would not exist, and the law would be pointless.

When Pope Francis revised Book VI of the Code of Canon Law in 2021, he legislated the crime of failing to report crimes:

One who neglects to communicate knowledge of a delict, when obliged to do so by a canonical law, is to be punished according to the norm of can. 1336 §§ 2-4, with other penalties also added according to the gravity of the delict.¹⁹

Pope Francis has legislated in *VELM* for the common good of the Church so that it is a crime for a priest or a religious not to report sexual abuse. This crime emphasises the serious legal obligation each priest and religious holds to report sexual abuse they learn about. Priests and religious must report knowledge of sexual abuse to the local ordinary where the alleged events took place.

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17 *VELM 2023*, art. 3 §1.

18 See Congregation for Catholic Education, “Guidelines for the Use of Psychology in the Admission and Formation of Candidates for the Priesthood,” *Origins*, vol. 38, no. 23 (Nov. 13, 2008) 360; *CIC* cc. 240, 984.

19 *CIC* c. 1371 §6.

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