

**RESPONSE OF THE ARCHDIOCESE OF PHILADELPHIA
TO THE REPORT OF THE INVESTIGATING GRAND JURY
PURSUANT TO 42 PA. C.S. § 4552(e)**

STRADLEY RONON STEVENS & YOUNG, LLP
2600 One Commerce Square
Philadelphia, PA 19103-7098
(215) 564-8000

Attorneys for The Archdiocese of Philadelphia

TABLE OF CONTENTS

I. Preface.....1

II. Summary of the Investigating Grand Jury Report3

III. The Archdiocese’s Commitment to Protect Children and Young People9

 A. The Archdiocese of Philadelphia.....9

 B. The Procedure for Dealing With Clergy Sexual Abuse During Cardinal Bevilacqua’s Tenure As Archbishop10

 C. Policies and Structures Adopted Since 200212

 1. The Commission on the Protection of Children and Clerical Conduct.....13

 2. The Charter for the Protection of Children and Young People14

 3. The Safe Environment Program.....15

 4. Victims’ Assistance Coordinators.....16

 5. Current policy regarding reporting allegations.....18

 6. Removal of a cleric from ministry18

 7. Archdiocesan Review Board.....18

IV. The Grand Jury’s Unprecedented Investigation of The Archdiocese of Philadelphia.....20

 A. The Pre-Grand Jury Phase20

 B. The District Attorney Publicly Announces The Convening Of An Investigating Grand Jury.....21

 C. A Significant Portion of The Grand Jury’s Work Involved an Intrusive Investigation of The Catholic Church.....22

 D. The Archdiocese Cooperated Fully With The Grand Jury Investigation.23

| | | |
|----|--|----|
| V. | The District Attorney’s Report Does Not Present A Fair And Accurate Report On The Manner In Which The Archdiocese Responded To Allegations Of Child Abuse By Members Of The Clergy | 27 |
| A. | The Report Unfairly Judges Policies and Practices in Place Decades Ago Through the Lenses of Today’s Advanced Knowledge..... | 27 |
| B. | Cardinal Krol’s Treatment in the Report is Based on Irresponsible Speculation and Serves No Legitimate Prosecutorial Goal. | 29 |
| C. | The Cruel and Undeserved Portrayal of Cardinal Bevilacqua Cannot be Supported by the Record..... | 30 |
| 1. | The report ignores the Cardinal’s direct testimony..... | 34 |
| 2. | The report falsely attributes knowledge of material facts to the Cardinal..... | 34 |
| 3. | The report unfairly accuses Cardinal Bevilacqua of lying..... | 35 |
| 4. | The report wrongly attributes lack of recollection to lack of concern..... | 36 |
| 5. | The Cardinal’s delegation of responsibility to a senior and experienced staff member is wrongly characterized as improper behavior..... | 36 |
| 6. | The welfare of children, not legal liability, was the Cardinal’s chief concern..... | 37 |
| 7. | The report makes unfounded assumptions about Cardinal Bevilacqua’s intentions..... | 38 |
| D. | Specific Response To The Report By Secretary For Clergy Monsignor William J. Lynn | 39 |
| E. | The Archdiocese Did Not Engage In A “Cover-Up.”..... | 43 |
| 1. | An isolated mistake is not evidence of malice..... | 44 |
| 2. | Non-Archdiocesan testimony was presumptively correct; Archdiocesan testimony was presumptively disregarded..... | 45 |
| 3. | The report falsely accuses the Archdiocese of engaging in “concerted efforts” to prevent reports of abuse from coming to the attention of law enforcement. | 47 |
| 4. | Church officials did not “interfere” with psychiatric evaluations. | 50 |

| | | |
|------|--|----|
| 5. | The main purpose of obtaining psychological evaluations of accused priests was not to make false assurances to the public..... | 51 |
| 6. | Archdiocese policy was not dictated by civil lawsuits. | 53 |
| F. | Although It Formally Indicts No One, The Report Irresponsibly Charges Many Of Criminal Conduct Apart From The Underlying Sexual Abuse. | 54 |
| G. | The Public Deserved a Straight-Forward Account of Events; It Got a Biased Advocacy Piece..... | 57 |
| 1. | A careful selection of witnesses..... | 57 |
| 2. | The report re-orders chronologies so that it appears that the Archdiocese knew about the priest’s misconduct when it occurred (for example, 1960), when in fact its knowledge of his misbehavior is much more recent (for example, 2002). | 59 |
| 3. | The report’s use of sound bites, bold and italic print, sensationalism, are suitable for a tabloid but have no place in a government document..... | 62 |
| 4. | The report is excessively repetitious, magnifying the dimensions of the problem. | 64 |
| 5. | The report criticizes the Archdiocese for its responses to certain priests, where prior claims of inappropriate behavior had been deemed “unfounded” by law enforcement authorities..... | 66 |
| VI. | The Appendix, Like The Report, is Biased, One-Sided and Repetitive. | 67 |
| VII. | Conclusion | 68 |

I. Preface

The Archdiocese of Philadelphia acknowledges the abhorrent behavior of certain of its priests who have committed unspeakable acts of sexual abuse against some of the most vulnerable members of our society. The sexual abuse of a minor by any person is a grave sin, a crime, and an atrocious violation of a child or young person. It causes devastating and enduring damage. That such abuse would be committed by a priest or religious is even more horrifying, and is not tolerated by the Church. That a priest would use his holy office to prey upon vulnerable children entrusted to him affronts the sanctity of the priesthood and the Church.

The Archdiocese condemns even one act of abuse against a minor – whether by a priest or any other person – as a heinous offense. The Archdiocese expresses to the victims of sexual abuse by priests, locally and elsewhere, its deepest apologies and prayerful sorrow. It has dedicated enormous resources to ensure that such abuse does not happen again, and will continue to apply the best practices available to these efforts. It also takes this opportunity to remind all whose lives have been touched by the ministry of the thousands of faithful priests of this Archdiocese that the priests responsible for this dreadful conduct represent only a tiny fraction of the thousands of priests, religious and laypersons who have dedicated their lives to the faithful of the Archdiocese of Philadelphia over the past 200 years.

The grand jury report purports to portray the attitude and behavior of the Archdiocese toward sexual abuse of minors. In fact, however, its content is nothing more than an attempt to convict in the court of public opinion those whom it does not indict in a court of law. This is reckless rhetoric, dispensed from any burden of proof, and is not responsible law enforcement.

Taking unfair advantage of the secrecy and one-sidedness inherent in grand jury proceedings, and focusing upon lurid details of events, the District Attorney's Office has chosen not to make this report a tool for offering constructive recommendations to prevent sexual abuse of minors in the future. Rather, it focuses on long-ago episodes, and fails to recognize the limited scientific knowledge available in the past about preventing or healing childhood sexual abuse. It also fails to acknowledge any Archdiocesan effort to update its policies consistent with contemporary medical thought.

What follows is the Archdiocese's response to the report of the District Attorney's Office, which tries to provide factual balance to what should have been a responsible tool of corrective action, rather than a political piece of short lived utility. Because the process allows only the most limited amount of time for a response to the 671 page report, the Archdiocese cannot respond to each and every misstatement, misunderstanding and mischaracterization it contains, even in the 69 pages of this document. This response does, however, address some of the more serious errors and omissions. The Archdiocese respectfully requests that interested persons read and consider this response before forming any final conclusions about the accusations that have been leveled at the Archdiocese including its leadership.

This response will proceed in the following manner. It will describe the grand jury process and summarize the report prepared by the District Attorney's Office. It will next discuss the Archdiocese's many policies and structures to protect against the sexual abuse of children and young people. (These policies and structures are not even mentioned in the report.) The response will then describe how the District Attorney's Office conducted its investigation of the Catholic Church. Following this, it will describe how the report, in style and content, is

designed to convict the Catholic Church and its leadership in the court of public opinion, if not in a court of law, based upon an unfair and inaccurate portrayal of facts.

II. Summary of the Investigating Grand Jury Report

Investigating grand juries are convened in order to determine whether criminal activity within a particular county has occurred. At the conclusion of the process, the grand jury may: (1) issue a formal recommendation that specific persons be charged (or “indicted”) with specific crimes, or (2) submit a report for the purpose of making recommendations in the public interest to the government. See 42 Pa. C.S.A. §§ 4551, 4552. Here, the District Attorney and grand jury have determined that no indictable offenses exist. Accordingly, the report of the District Attorney’s Office can have only one purpose – to make recommendations for future changes. Unfortunately, there is nothing forward looking about this report.

The making of recommendations for improvement in the way clergy sexual abuse matters are handled would have been beneficial both to the Church and to the community at large. Such a report might well have contributed to the public understanding of a complex problem and might have suggested ways and means to improve detection, reporting and prevention of this behavior from the community through the medium of the grand jury.¹ Yet, in this report, the District Attorney’s Office fails to even comment on the comprehensive programs and policies that the Archdiocese has been implementing since 2002 to address the problems of sexual abuse of minors by members of the clergy.²

¹ The first and only time the District Attorney mentioned the word “beneficial” was at the press conference announcing the decision to empanel a grand jury on April 22, 2002. The investigation took a decidedly negative turn once grand jury secrecy was in play.

² This is a very conspicuous omission if one realizes that during the time period which is nearly congruent with the length of the investigation, the Archdiocese: (1) appointed a commission (*The Commission on the Protection of Children and Clerical Conduct*), and received its 47 page report

Since the magnitude of the problem of clergy sexual abuse has come to light, the Archdiocese has made enormous strides in addressing past wrongs. The Archdiocese has implemented policies and procedures to ensure that the past – while never forgotten – is never repeated. These efforts have included the establishment of a commission of leading medical, scientific and legal experts to review Archdiocesan policies on responding to allegations of sexual abuse, the implementation of *The Charter for the Protection of Children and Young People* established by the United States Conference of Catholic Bishops, the enactment of safe environment programs, and the creation of victims’ assistance coordinators to assist those coping with the memories of abuse.

The results have been very encouraging. The most recent reported incident of sexual abuse of a minor by a priest in the Archdiocese occurred more than five years ago. Despite this, through misleading timelines, the report seeks to create the impression that the Archdiocese’s alleged failures continue to this day.³

Over the past three and one-half years, while the Archdiocese has looked toward the future, the District Attorney’s Office and an investigating grand jury have concentrated on the distant past. Of its mammoth 671 pages (report and appendix) only seven pages are devoted to recommendations. There is nothing constructive about this report.

containing over 100 recommendations, the overwhelming majority of which have been implemented, and (2) instituted new policies, procedures, programs and devoted substantial personnel and resources to deal with these multi-faceted and difficult problems.

³ For example, fourteen priests are alleged to have abused a child since 1990. Of these 14 priests, three (one a member of a religious order not subject to the direct authority of the Archdiocese) were investigated and charged criminally, the allegations against three other priests were investigated by law enforcement or public officials but determined to be unfounded and allegations against two other priests were determined not to involve children.

The Archdiocese cooperated fully with the investigation into sexual abuse of minors by clergy – producing more than 40,000 documents and countless witnesses – with the hope that the District Attorney’s Office would provide recommendations for dealing with what is a societal problem, not merely a Catholic problem. But the District Attorney’s Office regrettably missed its opportunity. Its report suggests, rather, that this evil is found more often among Catholic clergy. Such a conclusion is unfounded and does a great disservice to us all – whether Catholic or not, whether clergy or laypeople. It is an unfortunate reality that those who sexually violate minors are located in virtually every profession, can be found in every state of life – married or single, male or female, in various religions, Catholic or non-Catholic – and can occur with friends and relatives. Rather than undertaking a constructive review of the manner in which religious, social and community organizations alike respond to allegations of child sexual abuse, the District Attorney has prepared a sensationalized, lurid, and tabloid-like presentation of events that transpired years ago, which is neither fair nor accurate.⁴

To properly understand the report and this response, a description of the grand jury process is necessary. Unlike traditional legal proceedings, which take place in an open forum and allow for both sides to present witnesses and evidence, the grand jury process is decidedly secret and one-sided. The grand jury meets in a small room on a high floor of a municipal building at 16th Street and the Benjamin Franklin Parkway. Nothing takes place in a courtroom. There is no judge, judicial officer or other individual present to referee the

⁴ By focusing only on salacious details and the Catholic Church, the District Attorney does a public disservice in creating the misperception that sexual abuse of minors is a “Catholic” problem, rather than a social problem. The sexual abuse of minors is not limited to any one group. Yet, the report does not even mention any other organizations – religious or otherwise – besides the Philadelphia Archdiocese. The report contains no acknowledgment that this is a broader social issue – not a Catholic issue. Nor is it a problem more prevalent in Catholic institutions as compared to other religious and non-religious institutions.

proceedings. Nothing is “proved” to the grand jury and there is no concept of “evidence” in the strict sense of the word. The word “finding,” which is often used in grand jury parlance, does not mean that certain facts were proved true or that there was an adjudication, but only that a statement was made to the grand jury.

An investigating grand jury bears no resemblance to a trial jury. A trial jury renders a verdict after both sides, assisted by counsel, present their evidence in open court, according to accepted rules of evidence and before a judge who strictly monitors the proceedings to ensure fairness. On the contrary, an investigating grand jury is a law enforcement tool, controlled by the prosecutor, unhindered by evidentiary restrictions, and unfettered by the presence of a judge whose duty it is to ensure a fair and balanced presentation. The grand jury hears and sees only that which the prosecutor, in its sole discretion, chooses to reveal. The District Attorney’s Office decides what witnesses and documents to subpoena; it decides how to question those witnesses and present those documents; it decides whether to grant immunity to witnesses; it decides the length of the investigation; and it decides the scope of the investigation. If any report of the investigation is prepared, the District Attorney’s Office writes it. All of this occurs in secret.

Conversely, the individual targets of the investigation are afforded few, if any, rights. They cannot subpoena witnesses or documents to defend themselves; they cannot offer testimony or documents not requested by the District Attorney; they have no access to testimony or documents used against them; they cannot publicly comment on the investigation itself, and, although counsel may be present during their testimony, their attorneys are not permitted to speak.

The District Attorney is entrusted by statute with tremendous power and with it comes tremendous responsibility. When a prosecutor uses its power responsibly, the process can be exceptionally beneficial. When no indictable criminal conduct is discovered, as was the case here, the report of an investigating grand jury can advance the public welfare by making forward-looking policy recommendations to solve social problems. Because of the one-sided nature of the process and lack of checks and balances, a prosecutor must take great care to utilize its power judiciously. To make a positive impact, such a report must be based upon a fair and accurate presentation of facts.

When a prosecutor wields its powers irresponsibly great harm is done. This is what occurred in the present case: the District Attorney's Office has abused its power, and squandered the resources of the grand jury. The report can have no positive impact because it is neither fair nor accurate.

The report is a lop-sided piece produced after a 40-month discriminatory investigation of the Archdiocese. It reflects what was a destructive process of colossal proportions aimed not at seeking answers, analyzing information or designing remedies. No – the direction from the very outset was one of exceptional hostility driven by fixed opinions, unbridled cage rattling and insidious pre-judgments about the Catholic Church. The proceedings culminated in a vile, mean-spirited diatribe against the Church and the Archdiocese.⁵ While the grand jury in concept was instituted historically as a shield against the monarchical abuse of power, it was used here as a sword to attack the Church and its leaders. No one will ever know

⁵ The insidious tone and negative assumptions made about the Catholic Church are reminiscent of the days of rampant Know-Nothingism in the 1840's in Philadelphia and elsewhere in the Northeast. That the Cathedral Basilica of Saints Peter and Paul at 18th and the Parkway was erected without windows is a grim reminder of those ugly times.

what exculpatory information was provided but not disclosed, what other information was available to the grand jury, or what other possibilities were left unexplored. The report just has no room for the voice of the accused Church.

Most disturbing is the manner in which the District Attorney's Office levels outlandish accusations of "cover-up" and "concerted efforts to conceal" sexual abuse by priests. Although the report does not formally indict a single person, it seeks to "convict" in the court of public opinion the Archdiocese, two Archbishops, various members of the Church hierarchy over the past fifty (50) years, and countless other priests, religious, and lay persons of participating in an evil conspiracy to hide the sexual abuse of minors. As discussed in greater detail in this response, these charges – based upon half-truths, false assumptions, and innuendo – are categorically false.

Let there be no mistake. There is no excuse for the sexual abuse of children and young people. This Response does not seek to excuse what is inexcusable. The report prepared by the District Attorney's Office, however, so offends traditional notions of fairness that the Archdiocese is compelled to publicly make this response.⁶ The report is rife with mistakes, unsupported inferences, and misguided conclusions.

The report of the District Attorney's Office is but one side of the story. Because the process allows only the most limited amount of time for a response, the Archdiocese cannot respond to each and every misstatement, misunderstanding and mischaracterization which

⁶ According to Pennsylvania law, if a grand jury report is critical of an individual who is not indicted for any criminal offense, the named individual may be allowed to submit a response to the allegations contained in the report and the Court may allow the response to be attached to the report as part of the public record. 42 Pa. C.S.A. § 4552(e).

abound in this lengthy report and appendix. This response does address the more serious errors and omissions.

III. The Archdiocese's Commitment to Protect Children and Young People

A. The Archdiocese of Philadelphia

The Archdiocese of Philadelphia was established over 200 years ago; it covers an area of 2,182 square miles and consists of Philadelphia and its adjoining four counties. Today, it serves the spiritual needs of nearly 1.5 million Catholics out of a total area population of 3.8 million. The mission of the Archdiocese, in part, is to “. . . Proclaim to everyone the Good News that Jesus Christ is the Light of the World who offers to all who follow him the Light of Life.”

Mission Statement-Archdiocese of Philadelphia.

The Archdiocese carries out its mission through the pastoral work of 274 parishes and 194 elementary schools. The Archdiocese also operates 21 high schools. Between the parish elementary and the high schools, it annually educates approximately 100,000 students. Additionally, its education mission includes special education schools for the deaf, visually impaired, and the mentally challenged.

The Archdiocese also sponsors a diverse variety of social service agencies and programs which offer a safety net for men, women and children across the Archdiocese. These include adoption services, residential programs for children (including the dependent, neglected and emotionally troubled), family service centers, housing and homeless services, juvenile justice, mental retardation services and nutritional development services. These programs serve Catholics and non-Catholics alike. The Archdiocese operates multiple health care facilities, including ten nursing homes. In addition, the Archdiocese operates its own college and theological seminary, St. Charles Borromeo, which enjoys a national reputation for the formation and training of priests for Philadelphia and other religious orders and dioceses across the

country. The Archdioceses supplies chaplains for Catholic students at most of the many educational institutions in the Philadelphia area; it sponsors and runs a dozen cemeteries in the Philadelphia area, and it publishes a weekly newspaper.

Since its founding, the Archdiocese has provided spiritual direction and care to millions of Catholics. The region and the population at large have substantially benefited from its many activities, particularly from its social service agencies and its educational initiatives.

The success of the Archdiocese in having made these contributions, not only to its faithful but to this community, is the direct result of the commitment and free will offerings of its people, and the tireless dedication of the thousands of priests who have served here over many years.

The grand jury report deals with the misconduct of 62 of these priests.

B. The Procedure for Dealing With Clergy Sexual Abuse During Cardinal Bevilacqua's Tenure As Archbishop

Anthony Cardinal Bevilacqua assumed responsibilities as the Archbishop of Philadelphia in 1988. His experience as a priest and Bishop, first in Brooklyn and later in Pittsburgh, made him well suited to lead the Archdiocese of Philadelphia with its large, diverse Catholic population, network of parish elementary and secondary high schools, Catholic Social Service agencies, nursing homes, and a number of other religious and faith-based activities.

As to clergy sexual abuse, Cardinal Bevilacqua's tenure was marked by his strong commitment to the protection of children and young people by his no-nonsense approach towards abusers. Early on, he established a number of principles to be followed by his staff in dealing with these difficult problems. He insisted that the priest be removed immediately from his assignment and sent for psychological evaluation after an allegation was made. If the allegations involved conduct that occurred years before and the priest admitted his guilt (which

he often did), the priest was removed from his assignment and sent for treatment. If the priest denied allegations, he was still expected to undergo an evaluation while the Secretary for Clergy tried to determine whether the allegations were true and could be corroborated. If, as a consequence of the evaluation, the priest was diagnosed as a pedophile or ephebophile, the priest was permanently removed from ministry. The use of these procedures was investigated and confirmed in the final report of *The Commission on the Protection of Children and Clerical Conduct*.

The medical evaluations took place either at Southdown in Toronto, St. Luke's Institute in Maryland, or at the St. John Vianney Center in Downingtown, Pennsylvania. A number of these priests were sent to St. John Vianney, a center for the testing and treatment of priests and members of religious orders who have sexual abuse issues, engage in addictive behavior or are experiencing depression or other psychological disorders. The Center enjoys an excellent reputation nationally for evaluating and treating priests and religious who suffer from these maladies. The Center is licensed, accredited, led by a strong administrative staff and is blessed by highly qualified medical staff which includes psychiatrists, psychologists and social workers.

The report questions the objectivity of St. John Vianney Center in dealing with priests in the Archdiocese of Philadelphia by virtue of the Archdiocese's ownership and operation of the facility. The criticisms and innuendo about the Center that appear throughout the report do a great disservice to its skilled practitioners and adversely impact the very fine reputation it has earned over its years of operation since 1946. No records were ever subpoenaed from St. John Vianney Center, no one on the staff of the Center was ever requested to testify or,

to the Archdiocese's knowledge, was even interviewed. This is but one example of the report's practice of expressing suspicions without providing supporting evidence.

In any event, if the medical evaluation suggested that the priest was suitable for ministry or limited ministry or ministry with conditions, these medical recommendations were strictly followed by Cardinal Bevilacqua or the Secretary for Clergy.⁷

During Cardinal Bevilacqua's tenure, insofar as the Archdiocese is aware, no priest reassigned in accordance with medical directives ever subsequently criminally or sexually abused a minor child. The report indiscriminately implies that the reassignment of priests following medical clearance was reckless. It was not; it was based on professional advice.

The grand jury process does not permit access to the testimony or interviews or even the names of victims or family members who may have contacted the District Attorney's office or who were subpoenaed in connection with this investigation. However, since 2002, the Archdiocese has encouraged all victims, including those who never approached it about clergy sexual abuse to come forward to meet with Victim's Assistance Coordinators so that they can do what is possible to ameliorate the victims' pain. This is an invitation open to all, especially those who never brought mistreatment or other concerns to the Archdiocese.

C. Policies and Structures Adopted Since 2002

It is important for the public to be aware of the policies and procedures that the Archdiocese now has in place to ensure the protection of children and young people. These policies and procedures are comprehensive, based upon the best practices recommended in the relevant expert literature, and govern every single Archdiocesan office involved with children

⁷ In at least two cases, Cardinal Bevilacqua ordered a more restrictive ministry and greater supervision than what had been recommended.

and young people, as well as every single parish school and social service provider in the Archdiocese. They are based upon the recommendations of a commission especially convened by the Archdiocese just to address the prevention of sexual abuse, and upon additional recommendations of experts regularly sought out by the Archdiocese. The Archdiocese provided the District Attorney's Office with detailed information regarding the policies and procedures that follow. The District Attorney's Office unfortunately passed on the opportunity to review and assess these changes in policy. In fact, they are completely ignored in the report.

1. The Commission on the Protection of Children and Clerical Conduct

On April 4, 2002, Cardinal Bevilacqua announced the creation of a commission to review matters related to clerical sexual misconduct, called *The Commission on the Protection of Children and Clerical Conduct*. In his announcement, Cardinal Bevilacqua said: "This Commission will work over the next six months reviewing current Archdiocesan policies and procedures regarding care for victims, Archdiocesan response to allegations of clergy sexual abuse, and programs for formation and continuing education of clergy. I invite all the faithful of the Archdiocese as well as all people of good will to join me in prayer for the successful completion of the work of this Commission."

The Commission was chaired by Ms. Helen Alvaré, a professor of law at Catholic University in Washington D.C., and nationally recognized scholar who also has been appointed by President George W. Bush to a commission to advise the Secretary of Health and Human Services regarding research on behalf of children's health and welfare. Other members of the Commission, which included Catholics and non-Catholics, were:

- Hon. Arlin Marvin Adams
Retired Judge, United States Court of Appeals for the Third District
- Ana Maria Catanzaro, R.N., Ph.D.
Research Fellow in Religion/Spirituality and Health, Duke University

- Michael J. Emmi
Retired CEO, Systems & Computer Technology Corporation
- Angelo P. Giardino, M.D., Ph.D.
Pediatrician, Saint Christopher's Hospital for Children and leading author of texts regarding detection and prevention of child abuse
- David Ingle, Psy.D., M.A.
Licensed clinical psychologist in Pennsylvania and Rhode Island
- Philip Jenkins, Ph.D.
Distinguished Professor of History and Religious Studies, The Pennsylvania State University
- Joan Reeves, M.S.W., M.P.A.
Field Consultation Manager, Child Welfare League of America
- Anne Leigh Shenberger, L.S.W., M.S.S.
Director, Southeast Region, Office of Children, Youth and Families (Pennsylvania Department of Public Welfare)
- John F. Timoney
Former Commissioner, Philadelphia Police Department

The Commission was charged with reviewing the then current policies and procedures utilized by the Archdiocese in responding to allegations of clerical misconduct and making recommendations for revisions for the consideration of the Cardinal. The Commission's work included the care for victims and the admission process for candidates for Holy Orders for the Archdiocese.

On January 15, 2003, the Commission issued its 47 page final report. The report contained over 100 recommendations, the overwhelming majority of which have been implemented by the Archdiocese.

2. The Charter for the Protection of Children and Young People

In June 2002, the United States Conference of Catholic Bishops ("USCCB") adopted *The Charter for the Protection of Children and Young People* (the "Charter") with the promise to protect and the pledge to heal. Cardinal Bevilacqua echoed the Bishops' pledge to

“work to his utmost for the protection of children and youth and to work toward healing and reconciliation for those sexually abused by clerics.” Upon his appointment as Archbishop of Philadelphia in 2003, Cardinal Rigali reaffirmed:

“I assure everyone of the Archdiocese’s commitment of steadfast perseverance to ensure compassionate concern to those who have suffered as well as a safe environment for all our children.”

In order to fulfill the promise of the *Charter* and the commitment of Cardinals Bevilacqua and Rigali, the Office for Child and Youth Protection was created by the Archdiocese to implement the mandates of the Bishops’ *Charter*. This office houses the Safe Environment Program and Victim Assistance team as well as provides staff support for the Archdiocesan Review Board.

3. The Safe Environment Program

The Archdiocese instituted the Safe Environment Program to coordinate both its training and education programs to ensure the safety of children. Since 2003, over 37,450 clergy, religious and lay adults involved in ministry and service to children in the Archdiocese of Philadelphia have attended training at 232 sites. This training seeks to increase their understanding of the three roles that they play in the lives of the children they serve: protector, model of appropriate behavior, and advocate. These training sessions, called “Protecting God’s Children,” provide information about child sexual abuse, the patterns of a child molester and what adults can do to protect children from harm.

During the 2004-05 academic year, 106,780 students in grades pre-K through 8th, who attend parish schools and programs of religious education, participated in the “Teaching, Touching, Safety” program designed by the Office for Catholic Education specifically to address issues concerning personal boundaries and healthy relationships. “Creating Safe and Sacred

Places” is a new program to be implemented this coming academic year in the Archdiocesan secondary schools and parish high school programs of religious education. Knowledge and awareness are key to the prevention of child sexual abuse. These programs are all-encompassing and provide the necessary knowledge and awareness to prevent child sexual abuse.

In order to further ensure the safety of children, the Archdiocese initiated the “Policy for the Implementation of Police and Child Abuse Background Checks.” This policy states clearly that all priests, deacons, religious, pastoral ministers, administrators, staff and volunteers in the Archdiocese who have or will have regular contact with minors in the course of their work be required to undergo police and child abuse background checks. “Regular contact” is defined to be contact with children at least one time per week on a routine and repeated basis. New background checks must be obtained every five years.

In addition, the Archdiocese has developed “Standards of Ministerial Behavior and Boundaries for Priests, Deacons, Religious, Pastoral Ministers, Administrators, Staff and Volunteers” (the “Standards”). These standards prescribe appropriate behavior and, in particular, offer a blueprint for boundaries in all interactions with children and young people. The standards promulgate a code of conduct for all employees of the Archdiocese who work with minors and define behavior that is legal, professional, and responsible. The standards are distributed and reviewed at Safe Environment Training sessions. Accordingly, to date, almost 37,500 clergy, religious and lay adults involved in ministry and service to children have been trained on the standards. Recipients of the standards must acknowledge them in writing and agree that they will abide by them all.

4. Victims’ Assistance Coordinators

To promote healing and reconciliation with victims and survivors of sexual abuse of minors, the Archdiocese offers outreach with provisions for counseling, spiritual assistance

and other services. The Victims' Assistance Program is staffed by three licensed social workers (the "Coordinators"). The purpose of this office is to provide comprehensive assistance to any one who as a minor was sexually abused by a priest, deacon, teacher, or employee of the Archdiocese. Parents, guardians, children, and survivors of sexual abuse are invited and encouraged to contact the Archdiocese through the Coordinators. Information regarding the services of the office and the Coordinators can be obtained through brochures, on the Internet, and through periodic public announcements, for example, in Parish bulletins and news articles.

The Coordinators work comprehensively and confidentially to:

- assist victims in obtaining outpatient counseling,
- facilitate spiritual and mental health support services,
- maintain contact with victims in order to ensure that the counseling provided is helpful, and
- assist the victim/family in making a report of sexual abuse to the Archdiocese and then to submit that report to public authorities.

During the past three years, assistance has been provided for over 50 victims of abuse.

Currently, 30 individuals are receiving ongoing support/counseling through the Victims' Assistance Program.

The Victims' Assistance Coordinators are the first point of contact for individuals making reports of sexual abuse of minors. To reach the Coordinators, any person can call (215) 587-3880 or write to: Victims Assistance Coordinator Program, c/o Archdiocese of Philadelphia, 222 North 17th Street, Philadelphia, PA 19103.

Victims are informed by the Coordinators that it is Archdiocesan policy to report all allegations of sexual abuse of a minor to the local law enforcement. If an adult victim does not want the authorities notified, then the victim must sign a prohibition. In every instance, the

Coordinators advise the victim of the victim's own right to report the allegation to the public authorities. The Archdiocese reports all allegations of sexual abuse made by minors.

5. Current policy regarding reporting allegations

The Archdiocesan reporting policy goes beyond the mandate of the *Charter*. The *Charter* requires the Archdiocese to report any allegation of sexual abuse of a person who is a minor. It obliges dioceses to cooperate with public authorities when an adult reports that he or she was abused as a minor. However, at the direction of Cardinal Bevilacqua, the Archdiocese has and will report all allegations of sexual abuse, made by either a minor or an adult, unless the adult specifically prohibits the disclosure.

6. Removal of a cleric from ministry

When a cleric has admitted to sexual abuse of a minor or it has been determined after the preliminary investigation that such sexual abuse occurred, the cleric is immediately removed from ministry. Whenever the allegation is proven – either admitted or established after the appropriate process – that a cleric has committed even one act of sexual abuse of a minor, the cleric will not be given any future ministerial assignment. Anyone who is determined to have abused a minor will be removed swiftly, decisively, and permanently from any parish or ministry in the Archdiocese.

7. Archdiocesan Review Board

In October 2002, the Archdiocese established a Review Board in accord with the *Charter*. The Review Board is comprised of six professionals, Catholic and non-Catholic, clergy and lay, who volunteer their time and varied expertise. Many are experts of not only regional but national significance in the field of child protection. The current members of the Review Board are:

- James Amato, L.S.W., Deputy Secretary of Catholic Social Services;

- Ana Maria Catanzaro, R. N., Assistant Professor at LaSalle University;
- David Ingle, Licensed Clinical Psychologist;
- Mary Louise Johnson, an attorney in private practice;
- Reverend Monsignor Thomas J. Owens, Pastor of Saint Alphonsus Parish;
and
- Anne Leigh Shenberger, L.S.W., Director of the Southeast Region Office of Children, Youth and Families of the Pennsylvania Department of Public Welfare.

The Review Board functions as a confidential consultative body to the Archbishop. Specifically, the responsibilities of the Review Board include assessing allegations of abuse, providing advice regarding the suitability of an accused cleric for ministry, and reviewing Archdiocesan policies and procedures for dealing with allegations of sexual abuse of minors.

The Review Board first reviews and evaluates the initial findings derived from interviews by the Victims Assistance Coordinators in order to make a recommendation as to the credibility of the allegation. The Review Board can request further investigation and/or additional interviews of the accused, the accuser or others either by an independent investigator, the Board itself or other appropriate persons.

Initially, the Review Board was charged with reviewing and evaluating new reports. In 2003, the Secretary for Clergy, Monsignor William J. Lynn, requested that the Review Board also examine older allegations against priests that the Archdiocese had previously determined were not substantiated or “credible.” The Clergy Office determined that such cases warranted further investigation and review in light of the purpose and intent of the *Charter*. The Review Board continues to meet on a regular basis in its role as consultative body to the Archbishop.

IV. The Grand Jury's Unprecedented Investigation of The Archdiocese of Philadelphia

A. The Pre-Grand Jury Phase

Before a grand jury was ever empanelled, the Archdiocese had agreed and was prepared to voluntarily turn over its files for the District Attorney's review. The need for an investigating grand jury, therefore, has never been clear given that the grand jury's role would be to elicit the type of information the Archdiocese was willing and able to provide otherwise.

On April 10, 2002, the District Attorney and high-level personnel from that office met with counsel for the Archdiocese to discuss concerns over developing news stories regarding the sexual misconduct of priests of the Archdiocese of Philadelphia. At that meeting, the District Attorney requested copies of Archdiocesan files to determine whether clergy sexual abuse of minors had occurred within the City and County of Philadelphia. The Archdiocese was given three weeks to consider the request. On April 19, 2002, representatives from the District Attorney's Office and the Archdiocese met a second time to discuss the protocol for voluntarily turning over priest/clergy misconduct files and certain other issues regarding confidentiality, privacy and the like.

On April 24, 2002, two weeks after the first meeting, negotiations for the voluntary submission of the documents ended suddenly. The District Attorney's Office publicly announced its intention to empanel a special investigating grand jury. No reason was ever given for the abrupt ending of the discussions, or its failure to adhere to the three week schedule originally promised, or what had occurred that necessitated, in the District Attorney's view, the need to get information through what she would later call "the hoopla" that goes with the grand jury. This sudden reversal came at a time when Cardinal Bevilacqua was out of the country and unable to publicly respond.

B. The District Attorney Publicly Announces The Convening Of An Investigating Grand Jury

Even though the District Attorney decided to seek a grand jury investigation notwithstanding the willingness of the Archdiocese to produce documents voluntarily, her initial comments to the press suggested that the District Attorney's Office was prepared to embark on a constructive and cooperative process.

"[Archdiocesan lawyers] lead me to believe that it won't be necessary to issue a subpoena, but they understand that a grand jury does have subpoena power."

District Attorney Press Conference, April 24, 2002.

It soon became apparent, however, that constructiveness and cooperation were not to be the hallmarks of this investigation. On May 22, 2002, less than a month after the press conference, the Archdiocese received the first of what would become 30 subpoenas for documents or testimony.

"Remember, I don't have any authority to ask about allegations in any other county."

"I want to satisfy myself, what's happening in my jurisdiction."

"Our inquiry will confine itself to my jurisdiction, which is the City and County of Philadelphia."

District Attorney Press Conference, April 24, 2002.

Notwithstanding the District Attorney's public statements regarding the scope of the investigation, in May 2002, the Archdiocese received grand jury subpoenas seeking records of any priest against whom allegations of sexual misconduct had been made regardless of location; these subpoenas were not limited in scope to the City and County of Philadelphia. They specifically requested documentation of Archdiocesan parishes and priest personnel files

even where the allegations related to misconduct which occurred in a County other than Philadelphia and clearly outside the scope of the prosecutorial jurisdiction of Philadelphia.

C. A Significant Portion of The Grand Jury’s Work Involved an Intrusive Investigation of The Catholic Church.

“I want to be clear I am not investigating the Catholic Church. Our investigation is into whether priests or others violated the laws of the Commonwealth of Pennsylvania. It is not an investigation of ‘The Roman Catholic Church’.”

District Attorney Press Conference, April 24, 2002.

The public face of this investigation was quite different from what occurred behind closed doors. The scope of the investigation was to be broader than the Catholic Church. The Notice of Submission of Investigation⁸ that began the investigation defined its scope as looking into illegal activities of employees of the Archdiocese. “. . . and other religious orders, organizations and denominations.” An affidavit sworn to by the District Attorney’s Office put it this way: this was an investigation into “allegations that individuals associated with religious organizations, including the Archdiocese of Philadelphia”⁹ What transpired was, in part, an investigation of the Catholic Church. In the lengthy report and appendix, not one word is devoted to the sexual misconduct of clergy, ministers or officials of other religions although a number of news stories involving sexual misconduct by members of other religious denominations had been published during the more than three year period of the investigation.¹⁰

⁸ Notice of Submission of Investigation, In Re County Investigating Grand Jury of September 26, 2001, C-10 (Amended).

⁹ Affidavit: In Re Subpoena No. 9393, July 8, 2002.

¹⁰ The Archdiocese has no desire to invite this type of destructive investigation of any other religious denomination. No religion should ever again be subjected to this sort of hostile, one-sided attack.

On a few occasions, when the Supervising Judge of the first grand jury met with counsel for the Archdiocese and the District Attorney's Office, the judge reminded the District Attorney's Office that this was not to be an investigation of the Catholic Church; that its scope was much broader. Specifically, the supervising judge expressed a concern for the "potential for a proverbial witch-hunt" and stated that the situation "may require this Court's added vigilance in terms of supervising specific subpoenas, specific requests for information."

Members of the hierarchy of the Archdiocese were pursued relentlessly on subjects that were both irrelevant to the sexual abuse of minors and impinged on religious liberties of the Catholic Church, as protected by the First Amendment. These included areas of doctrine, formation of priests, discussions which took place among meetings of Bishops of the United States, and relationships between Cardinals and the Pope. So wide ranging, irrelevant, intrusive and offensive were the questions that counsel for Cardinal Bevilacqua twice sought to terminate his interrogation.

D. The Archdiocese Cooperated Fully With The Grand Jury Investigation.

Notwithstanding the increasingly hostile tone of the investigation, the Archdiocese cooperated fully. For three and one-half years, and through two successive grand jury panels, the District Attorney's Office exercised its broad prosecutorial powers to subpoena the production of volumes of documents and the attendance of copious witnesses. Throughout it all, the Archdiocese fully cooperated:

1. The Archdiocese fully responded to 30 different subpoenas. Twelve were for the production of documents and testimony; the remainder sought testimony alone.
2. The Archdiocese supplemented its document production 30 times. That is, as it received new letters from victims, new allegations, or new information about pending allegations, the Archdiocese turned the information over to the grand jury. Throughout the 40-

month period of this investigation, the Secretary for Clergy's Office and other Archdiocesan offices shared their daily ongoing work in this area with the government.

3. The Court determined that certain portions of some subpoenas violated the First Amendment to the United States Constitution, which protects, among other things, the free exercise of religion without government interference. Nevertheless, in the spirit of transparency and the hope of a constructive process, the Archdiocese took the extraordinary step of voluntarily producing a large quantity of the documents protected by the Court's Order.

4. The Archdiocese produced approximately 45,690 documents in response to the subpoenas.

5. The Archdiocese also voluntarily produced over a thousand documents from offices such as the Office for Catholic Education, Catholic Social Services, and the Archdiocesan Review Board.

6. Subpoenas were issued for multiple members of the clergy and hierarchy requesting their testimony.¹¹ All of the Archdiocesan witnesses appeared at the appointed time. Occasionally, changes in dates or times were required because the grand jury was only in session for a couple of hours one or two days a week, but Archdiocesan personnel accommodated this difficult schedule.

7. Every witness testified for as long as was required. No witness refused to appear or declined to continue to appear.

¹¹ Excluded from this number are any of the priests against whom abuse allegations had been lodged; they were represented by their own counsel.

8. Special mention must be made of the extraordinary cooperation of Cardinal Bevilacqua who, after reaching the age of 80 and retiring as the Archbishop of Philadelphia, was required to testify on 10 separate occasions for a total of 27 hours.

9. After June 2002 and in accordance with the *Charter*, the Archdiocese of Philadelphia voluntarily reported recent allegations of abuse by its priests – dead, alive, retired, or out of ministry – which misconduct had occurred years and years ago – to prosecutors’ offices throughout the country. Thirty-eight such reports were sent to the District Attorney’s Office. While other prosecutors from other counties responded, the Archdiocese did not receive even an acknowledgment by the District Attorney’s Office.

10. In December 2003, the Archdiocese reported to the District Attorney’s Office a series of events that had apparently occurred approximately ten years before at one of its high schools involving alleged sexual abuse by a priest member of a religious order, of which the Archdiocese had recently become aware. It was months before any action was taken by the District Attorney’s Office on this report.

11. While there was occasional carping by the Assistant District Attorneys assigned to this investigation about their perception of Archdiocesan cooperation, when repeatedly questioned by Archdiocesan counsel what more they wanted, they gave no meaningful response.

And yet, notwithstanding the foregoing, the report suggests that the Archdiocese was uncooperative and attempted to hide or suppress evidence.¹² Plainly, that was not the case. The Archdiocese fully cooperated with District Attorney’s Office in the arduous process.

¹² At one point, the District Attorney’s Office chastised the Archdiocese for press releases which stated that it was cooperating with the investigation and insisted that the Archdiocese cease from making any further such statements.

How or why this investigation lasted well over three years may never be known.

In light of the Archdiocese's extraordinary cooperation, neither the length nor the hostility of the investigation was necessary. Within the first six months, the Archdiocese produced over 30,084 pages in response to multiple grand jury subpoenas. In doing so, the Archdiocese delivered a detailed account of Archdiocesan priest misconduct, including sexual abuse, over a period of five decades. Unlike the work of many investigating grand juries whose function it is to determine the basic facts, this grand jury was provided a roadmap consisting of contemporary, written recitations of the events as known to the Archdiocese.

By the fall of 2002, when the Archdiocese complied with the final subpoena for secret archive documentation, the grand jury had all of the information that it needed to determine that no prosecutable crime had been committed. Yet, the District Attorney's Office, under cover of the grand jury statute, relentlessly pursued the "investigation" apparently to confirm facts that it already possessed.¹³

What grand jury investigates "facts" of which it already has knowledge and where the time frame for the crime vastly exceeds any reasonable interpretation of the statute of

¹³ By way of comparison, after an investigation lasting 16 months, the Boston District Attorney's Office issued a 76 page report which concluded that 250 priests and church workers in the Archdiocese of Boston had sexually abused minors. Here, the Philadelphia District Attorney's Office spent an additional 24 months and an additional 595 pages on a report that levels accusations at 62 priests (nearly 200 fewer persons than the Boston report). A chart attached as Exhibit "A" demonstrates the unparalleled length of this grand jury investigation into sexual abuse of minors by members of the clergy.

limitations? As early as 2002, the prosecution must have known that there was no prosecutable offense.¹⁴

V. The District Attorney’s Report Does Not Present A Fair And Accurate Report On The Manner In Which The Archdiocese Responded To Allegations Of Child Abuse By Members Of The Clergy

A. The Report Unfairly Judges Policies and Practices in Place Decades Ago Through the Lenses of Today’s Advanced Knowledge.

When the Archdiocese and other social institutions dealt with child abuse decades ago, the consensus approach was to confront the issue in a manner that protected the child and his or her privacy, and to rehabilitate the offending person. Experiences of personal violation were not easily revealed to others. As a result, victims frequently did not come forward or reported abuse anonymously, making credibility determinations exceedingly difficult. Rarely did victims, family members, law enforcement officials, or other institutions seek to have such

¹⁴ Much of the report attributes the thrust of the investigation to the grand jury. In fact, the grand jurors seemed not to have goals of their own, but were used by the District Attorney’s Office to pursue the goals of that office. It comes with some ill grace to suggest throughout that the report was a reflection of juror views.

The observations of Monsignor Lynn, who appeared on thirteen (13) separate occasions before the grand jury, are worth noting at this point:

“About ten years ago, I testified in one of the suburban counties before a grand jury about a case of a priest and possible sexual abuse. Therefore, I thought I knew what to expect. My experience of the Philadelphia Grand Jury was very different.

“Questions were not asked in a manner to find out factual information of how cases were investigated. Instead, they were asked with a presumption that everything was done wrong, without care, and to cover up abuse. It was difficult to even explain the regular procedures that were used since there did not seem to be an interest in them but more how to prove the Archdiocese evil. There was a definite anti-Catholic bias throughout the proceedings. This appeared to me to be the investigation of a Church. Little effort was made to understand church structure or the reporting system within the Archdiocese. Little effort was displayed to see where true jurisdiction lay in situations where the priests were other than diocesan priests.

“For any priest to abuse a minor is a horrible crime, and the priest should suffer the consequences of his actions. One act of abuse is one too many and should never be tolerated. In trying to address these matters for the Archdiocese, I can state before God’s eyes I did my best to handle all the intricacies of these matters. I pray that no priest will ever abuse again.”

offenses treated publicly. The reported incidents were few in number and were generally perceived not be indicative of a pattern of conduct.

The consensus thinking in the professional psychological community regarding sexual misconduct against children and young people has changed dramatically over the lengthy period reviewed by the grand jury. While it was once believed that society could treat pedophilia, ephedophilia and related disorders through psychiatric treatment and spiritual counseling, more recent thinking has held that such treatment is not necessarily effective or reliable.

As society's understanding of these disorders progressed, so too did the Archdiocese's policies and procedures for dealing with those who abuse children. Changes in professional psychological thinking unfolded over many decades and empowered the Archdiocese and the Church as a whole to improve their policies and to take proactive steps to guard the welfare of the young and to remove offending clerics from ministry.

At all times, nevertheless, the Archdiocese attempted to be responsible and responsive to victims by offering the assistance of therapeutic counseling. The Archdiocese did not deter victims and their families from going to the authorities. In cases where an allegation of clerical sexual abuse of a minor was made, the Archdiocese took action. The priests were removed from their current assignments and required to undergo psychological treatment and evaluation before decisions were rendered regarding their further treatment or future ministry. The goal was always to ensure the protection of children by addressing the problems and disorders thoroughly.

This is not to say that no mistakes were made. The mistakes that were made over the past decades, however, were the result of human error (not criminal intent) and a society-

wide misunderstanding of the nature of these disorders. Yet, the District Attorney has chosen to scrutinize and judge conduct that took place twenty, thirty, and forty years ago only through the lens of today's knowledge.

B. Cardinal Krol's Treatment in the Report is Based on Irresponsible Speculation and Serves No Legitimate Prosecutorial Goal.

Cardinal Krol served as Archbishop of Philadelphia from 1961 through 1987, when he retired. He died in 1996. The report's portrayal of Cardinal Krol's practices and procedures raises a number of concerns.

First, the focus of the criticism is deceased. With Cardinal Krol unable to explain what his thought processes were, with whom he consulted, what factors went into his judgment about a particular case and, most importantly for a criminal investigation, what his intent was, the grand jury was left to guess about these central questions. Undeterred by the fact that Cardinal Krol is no longer alive to defend himself, the District Attorney's Office subpoenaed his documents, read into them what it wished, and uses them now to draw inferences that are baseless. The report reads between the lines of documents written by or to Cardinal Krol twenty to thirty years ago. In doing so, the report reaches unfair conclusions about the motives and reasons for Cardinal Krol's decisions.

For example, the report contends that Cardinal Krol's normal procedure was to do nothing more in the event a priest denied allegations of sexual abuse. This "finding" is based only on a memo sent to Cardinal Krol over twenty years ago which innocuously asked whether an accused priest should be confronted with a third-hand or indirect complaint of abuse. Similarly, the report takes an incident where Cardinal Krol suggested that a certain priest seek voluntary laicization and impugns a motive to "absolve the Archdiocese of liability." If Cardinal Krol had been available to testify, there are countless religious/pastoral motives that he likely

would have provided for his actions. Without this kind of testimony, the report unjustly constructs an evil motive out of a myriad of possible explanations for Cardinal Krol's suggestion. Since its allegations will not have to be proven, the District Attorney's Office is left free to adopt the interpretation that best suits its purposes.

There are many other examples of adverse inferences drawn about Cardinal Krol's handling of these problems. Relying on fragments of secondary evidence, sentences or phrases from historic documents, and, perhaps, bits of testimony from a few priests still in the service of the Church who advised him, the District Attorney's Office painted a picture of Cardinal Krol that serves its purposes but hardly serves the truth. This gratuitous attack, designed to dishonor the memory of a man acknowledged as a leader in the Catholic Church locally and worldwide, has no place in an officially sanctioned document that reports "findings" of criminal activity.

A second concern arises from the District Attorney's focus on events of the distant past. There is simply no law enforcement justification for an investigation of conduct that took place between 18 and 44 years ago. With the passage of time, there certainly could be no prosecutable crime and ongoing conduct that needed to be halted. That the grand jury's attention was focused on this time frame raises questions about the legitimate use of prosecutorial power and resources which are not answered in the report.

In any event, not one word of the adverse commentary about Cardinal Krol – taken alone or cumulatively – equates to wrongdoing, let alone criminal behavior.

C. The Cruel and Undeserved Portrayal of Cardinal Bevilacqua Cannot be Supported by the Record.

Perhaps the report's cruelest treatment of any Archdiocesan witness is reserved for Cardinal Bevilacqua. The report takes excessive liberties with the facts, places unwarranted

interpretations on the written documents, tortures Cardinal Bevilacqua's live testimony, and ignores much of what he said in order to cast him in the role of a leader insensitive to children and preoccupied with issues of legal liability. This treatment of Cardinal Bevilacqua illustrates the fixed determination of its authors to denigrate a witness when it could find no facts justifying criminal intention. The view of Cardinal Bevilacqua is so distorted and so unfair that those who knew him or were influenced by his ministry cannot help but be offended.

The treatment of the Cardinal in the report largely reflects the treatment given the Cardinal during the investigation itself. After the age of 80, Cardinal Bevilacqua testified on ten different days. His inquisitors sought to bully and intimidate him. These grueling examinations sought not to obtain relevant information he possessed but rather sought to trap His Eminence, and to humiliate, prosecute, and disrespect him.¹⁵ When Cardinal Bevilacqua appeared before the grand jury, he usually faced three inquisitors from the District Attorney's Office, was heavily questioned by two, sometimes in tandem with one another. The interrogation was often hostile and unnecessarily combative.

Aside from the tone of the questioning of the Cardinal, the very content of the questions – involving Church doctrine and internal affairs – was not remotely relevant to the sexual abuse of minors. In fact, rather than seeking evidence of alleged misconduct constituting a crime, a substantial number of questions left little doubt that the focus of the inquiry was the internal workings of the Catholic Church. One particularly intrusive line of questioning related to the ceremony during which Archbishop Bevilacqua was elevated to Cardinal. He was asked a series of questions about what he said to Pope John Paul II and what His Holiness said to him

¹⁵ The Foreman of the Grand Jury repeatedly referred to the Cardinal as "Mr. Bevilacqua" without correction by the District Attorney's office.

while he knelt and received the red biretta. His questioners then pursued him about his conversations with the Pope on the day after his elevation. The import of these inquiries was to determine if some promise had been made to keep secret any information harmful to the Church. The Cardinal answered even these questions. Apparently, someone had planted the absurd idea that whatever verbal exchange took place with Pope John Paul II would have some relevance to the work of this grand jury.

Other questions improperly designed to explore the Catholic Church generally or even to imply some conspiracy of silence between the Vatican and the Archdiocese, included the following:

1. Cardinal Bevilacqua's relationship with the Vatican.
2. The way in which Cardinal Bevilacqua discharged his responsibility to advise the Pope.
3. When the Cardinal advised the Pope, was it orally, in writing? How regularly did the Cardinal meet with the Pope to advise him?
4. The effect of the Cardinal's reaching 80 years of age on his right to vote in an election for the next Pope.
5. Cardinal Bevilacqua's attendance at a Synod called by the Pope in 1987.
6. The way Cardinal Bevilacqua organized his staff when he became the Bishop of Pittsburgh in 1983.
7. What is the Canon Law of the Church under which a priest can be disciplined?
8. What training in Canon Law do various priests in the Archdiocese have?

9. When the Cardinal held meetings with his staff, what was the subject matter?
10. How often did the Cardinal meet with the Regional Vicars?
11. What is the canonical relationship among the Catholic dioceses in Pennsylvania?
12. What were Cardinal Bevilacqua's priorities as he assumed responsibilities as the Archbishop of Philadelphia in 1988?
13. What are the requirements of the Canon Law of the Church on a variety of subjects?
14. Does Canon Law change from diocese to diocese?
15. Why doesn't the Archdiocese have a written policy on how it deals with sexual offenses committed by a priest with adults?
16. Did Cardinal Bevilacqua use the Internet? How often and what did he use it for?
17. What is the personal reading material of Cardinal Bevilacqua?
 - a. Does he read the New York Times or the Boston Globe?
 - b. Has he read books entitled The Slaying of the Soul, Priests and Pedophiles, Lead Us Not Into Temptation, The Analysis of a Crisis, a series of articles written by an author named A.W. Richard Sipe, or a series of articles appearing in America magazine.
 - c. How did Cardinal Bevilacqua keep abreast of public events in 1983 when he became the Bishop of Pittsburgh?
 - d. Whether Cardinal Bevilacqua had read certain portions of a July 1, 1985 Time Magazine article?

18. In the Cardinal's opinion, how did the current crisis in the Church compare with other crises in the Church throughout its 2,000 year history?

The report also makes a number of incorrect statements about Cardinal Bevilacqua's handling of these difficult issues during his tenure as the Archbishop. These statements were the product of the District Attorney's Office manipulating the testimony by employing the following tactics:

1. The report ignores the Cardinal's direct testimony.

On many occasions, Cardinal Bevilacqua testified that his prime concern was for the protection of children. The report never acknowledges the importance to Cardinal Bevilacqua that children be protected.¹⁶

2. The report falsely attributes knowledge of material facts to the Cardinal.

Any number of questions asked assumed that if a letter were addressed to Cardinal Bevilacqua that (a) he had seen it and (b) remembered its contents. Yet, when confronted with such letters, the Cardinal testified that he doubted that he had seen the letter at the time it was written. He explained that frequently letters addressed to him were opened by others and routed to those of his staff who had the knowledge and responsibility for the subject matter of the letter. Even so, many questions began with: "So Cardinal, from the date of that letter you knew such and such was the fact" to which he patiently explained that just because the communication was addressed to him did not mean he had knowledge of its contents. Some of the claims in the report that Cardinal Bevilacqua "lied" about what he knew and when he knew it are based on the regular use of this tactic.

¹⁶ For example, in a memorandum in the Appendix written by the Cardinal that discussed options for an accused priest, the Cardinal rejected the priest's request to return to his education ministry, emphasizing that the Cardinal was concerned first with the victims and then for the Church.

3. The report unfairly accuses Cardinal Bevilacqua of lying.

On February 22, 2002 – prior to the commencement of this grand jury – Cardinal Bevilacqua announced that the Archdiocese was aware of approximately 35 Archdiocesan priests who had sexually abused children over the last several decades. The report claims that 62 priests – not 35 – engaged in this conduct, and then accuses Cardinal Bevilacqua of intentionally misleading the public by understating by 27 the number of Archdiocesan priests credibly accused at that time.

The District Attorney’s number, however, is based on facts that came into the possession of the Archdiocese well after the Cardinal’s announcement and includes additional distortions in the tally. The Archdiocese stands by Cardinal Bevilacqua’s number. The District Attorney’s number includes:

- 11 priests whose allegations were first brought to the attention of the Archdiocese after February 2002
- four priests incardinated to other dioceses and two priests who are members of religious orders,¹⁷ whereas Cardinal Bevilacqua was speaking only of Archdiocesan priests
- a number of additional Archdiocesan priests who were found credibly accused by the Archdiocesan Review Board or other events which did not occur until well after February 2002 and
- priests who were deceased at the time of the allegation or where there was a substantial question as to whether sexual abuse had occurred.¹⁸

¹⁷ Canon 601 of *The Code of Canon Law* clearly states that a religious order priest obligates submission to his lawful Religious Superior. In other words, religious order priests, unlike Archdiocesan priests, report to the leaders of their respective order. Archdiocesan priests pledge obedience to the Archbishop. The District Attorney’s Office was repeatedly advised by witnesses and others that religious priests are the canonical responsibility of their religious orders and not the Archdiocese of Philadelphia. Nevertheless the District Attorney’s persists in including these religious order priests in this number.

¹⁸ There are also numerous allegations listed in the report’s appendix, where the victim apparently could not pinpoint the date of the alleged abuse, for instance, recalling only that the abuse occurred in the 1970s or 1980s. In those situations, the time in which the abuse took place is “Not specified.” There are

The report later accuses Cardinal Bevilacqua of lying when he stated that no priest “credibly accused” was still in ministry, at a time when an accused priest remained in his assignment. When Cardinal Bevilacqua made the statement, the Archdiocese was still investigating the recent complaint which was not found credible until much later. The report ignores these facts and leaps to the conclusion that the Cardinal knowingly misled the public. However, at the time, the complainant was the first person to allege abuse related to conduct that had occurred more than twenty years before.

4. The report wrongly attributes lack of recollection to lack of concern.

His interrogators sought information about events that happened long ago, some as long as 20 years ago, when he was the Bishop of Pittsburgh. His questioners became impatient with him when he could not recall a particular event. The tone of their questions suggested that his inability to recall was out of insensitivity to the victim and not due to any difficulty in recalling events of the distant past.

5. The Cardinal’s delegation of responsibility to a senior and experienced staff member is wrongly characterized as improper behavior.

Many of the case histories included in the Report involve priests and incidents of which the Cardinal had little or no first-hand knowledge. He accounted for his lack of knowledge by explaining that the responsibility for receiving victim complaints and making recommendations for accused priests had been delegated to his Secretary for Clergy. The Cardinal readily acknowledged that he was responsible for the disposition of the accused priest. He made clear that being ultimately responsible did not necessarily mean that he had any

additional allegations described as “inappropriate behavior”, but which do not detail any instances of sexual abuse.

specific recollection of details of a given case, although from the questions, his inquisitors clearly thought he should have.

A number of questions were posed to the Cardinal, which could only be interpreted as criticisms for having delegated the responsibility for dealing with clergy who sexually abused children to the Secretary for Clergy instead of handling them himself. Through the questions, the prosecutors quarreled with his delegation of this responsibility to his Secretary for Clergy, even though how it was delegated and to whom it was delegated is not remotely suggestive of criminal misconduct.

From a governance point-of-view, the Canon Law of the Catholic Church makes the Cardinal, as the Diocesan Bishop, the legislative, judicial and executive branch of the Church's government. With his diverse and weighty responsibilities, the Cardinal needed to rely heavily on his ability to delegate tasks to those in whom he had confidence. He appointed Monsignor William Lynn as Secretary for Clergy, who assumed his responsibilities in 1992 and remained in that role through June 2004. The Secretary for Clergy had numerous responsibilities that included St. Charles Borromeo Seminary, vocations, priest reassignment, deacons, recommending pastors and transfers and, at the time, dealing with both victims and clergy abusers. Cardinal Bevilacqua expressed his complete confidence in Monsignor Lynn and his work. Through questions posed to him, the District Attorney's Office found reason to quibble with Monsignor Lynn's discharge of his duties suggesting that he was not competent to fulfill these responsibilities.

6. The welfare of children, not legal liability, was the Cardinal's chief concern.

The report indicates that when Cardinal Bevilacqua assumed the responsibilities as Archbishop, he introduced a concern about "legal liability" arising out of clergy misconduct

with minors. Cardinal Bevilacqua repeatedly testified that his principal concern as Archbishop was for the protection of children and those other concerns were secondary. He was heavily questioned about why he had become a lawyer, as if this supported the District Attorney's theory regarding his priorities. He explained that he obtained his law degree after he had been ordained and while in the service of the Brooklyn diocese. His purpose in becoming a lawyer was to offer advice in an apostolate of the Brooklyn Diocese that dealt with immigrants and immigration issues. Yet, he was pursued over what courses he took, what special interests he had in the law and so forth. That he was concerned about legal liability is inferred from either a memo addressed to him or a memo in a file of a priest where the term is mentioned. Without being able to consult the transcript of his grand jury testimony, it is difficult to state unequivocally that he never mentioned the words "legal liability" but for certain, he never indicated it was a primary concern or something that he placed higher than the protection of children.¹⁹

7. The report makes unfounded assumptions about Cardinal Bevilacqua's intentions.

The report refers to an inquiry that took place at St. Charles Seminary in the early 1990's. The report suggests that a seminarian who contributed information about being sexually abused by a priest, instead of being rewarded, was "punished" by having been denied the right to be ordained in the Archdiocese of Philadelphia. In fact, Cardinal Bevilacqua did not ordain this candidate because he had significant doubts as to whether this individual was suitable for service as a priest in the Archdiocese, as was his prerogative as the Diocesan Bishop. It is far from the

¹⁹ Copies of transcripts of Cardinal Bevilacqua and other witness' testimony were requested of the District Attorney's Office by letter dated August 16th, during the time that this Response was prepared. The District Attorney's Office refused that request.

business of a prosecutor or grand jury to suggest or express opinions on why a particular priest was or was not ordained absent some indication of criminal activity.

The report goes on to speculate about the reasons why Cardinal Bevilacqua took certain actions as respects abusing priests. In one place, it states that a particular priest was honored by having dinner at the Cardinal's residence even though he was one of a number of priests who were attending an official function. Elsewhere, the report suggests that a priest was "promoted" when asked to assist in the preparation of homilies even though that assignment did not bring him into contact with children and was undertaken consistent with his medical evaluation.²⁰

Cardinal Bevilacqua's remarkable record of service belies the report's vicious treatment of him. During his tenure as Archbishop, he served not just the Archdiocese, but the entire Philadelphia area. This personal attack against a long standing leader in our community was neither accurate nor necessary.

D. Specific Response To The Report By Secretary For Clergy Monsignor William J. Lynn

From 1992 until 2003, Cardinal Bevilacqua delegated the responsibility for dealing with the complex problems of clergy sexual abuse to the Secretary for Clergy, who was for that period, Monsignor William J. Lynn. The report in particular attacks the character of Monsignor Lynn. Since he was never afforded an opportunity by the District Attorney's Office to provide the grand jury with a full and balanced accounting of events, Monsignor Lynn states as follows in response to the report's lopsided construction of events:

²⁰ This priest was placed under the personal supervision of Msgr. Palmieri. The report makes the completely unfounded and untruthful statement that the assignment and supervision were arranged to conceal the priest from the public.

“In response to the report issued by the grand jury, I wish to respond to the generalizations and wrongful assumptions made by the District Attorney’s Office and presented to the grand jurors with some general observations pertinent to all cases, and to provide my own experience during the investigation.

“The great majority of victims I met were adults when they came to present their allegations to the Archdiocese. My understanding from many of them was that they had already been to their lawyers who told them that the crimes committed against them were past the statute of limitations and nothing could be done legally. Many had also spoken to law enforcement people who had told them the same information. In fact, several of the victims themselves were police officers who told me nothing could be done. Therefore, I saw it as my role to aid the victims as best I could by offering counseling for their pain and facilitating their healing.

“I never discouraged anyone from going to the police. I always told them ‘to do what you feel you should do’ and ‘I will explain our procedures and what we do.’ While we offered counseling and spiritual healing, it was not Archdiocesan policy to make cash settlements to people demanding them. It was our belief that, for victims of sexual abuse, no sum of money would take away the pain. We would always offer costs associated with counseling for healing. I treated each victim with dignity and compassion. The only time at all that I was suspicious of a victim’s allegations were when all that was demanded was money, with no interest in counseling or healing.²¹

²¹ Expanding on this point, the report misconstrues what it describes as the investigations of victims by the Archdiocese. What the report fails to state is that, on the isolated occasion that the Archdiocese more closely scrutinized an individual who presented allegations of misconduct years ago, those allegations had been made against a priest with a previously spotless record.

“When allegations regarding present day activities of a priest were brought to the Archdiocese, the priest was removed immediately from his assignment and sent for psychological testing and evaluation. If the allegations went back many years and the priest admitted his guilt, he was removed from his assignment immediately and sent for psychological treatment. If he denied the allegations, he was still asked to undergo an evaluation. Further treatment or assignment depended upon the results of the evaluation and if admissions were made during the evaluation process. It is regrettable that the report never informs the public that priests were removed and their faculties limited while investigations were going on.

“Priests diagnosed as pedophiles or ephhebophiles were not returned to active ministry. Several were permitted a limited ministry, such as a chaplaincy to religious sisters. I testified that, before the start of the grand jury, we were in the process of preparing to remove those priests because it was becoming impossible to monitor their actions. I testified that we had been discussing this before any media attention came to the whole sexual abuse crisis. I am saddened that the grand jury ignored this truth.

“Throughout the grand jury report, there are assumptions made that I did not provide all the necessary background information to the psychological evaluators of the priests. That simply is not true. During an evaluation of a priest, there would be conversations between myself and at least the chief evaluator or a team of professionals. Not every single thing was written down, nor records made of every single conversation I had with psychologists. No human being could record every conversation in these cases. The highlights were recorded so that there was a record of final decisions and diagnosis. The lack of written record for every conversation should not lead one to think that the evaluators were not given the entire

background. During my testimony, I was never asked about my role in the evaluations or the recordkeeping that I did. Any inference to the contrary is absolutely false.

“Mine was a unique position in these matters. I was in the dual role of caring for the victims as well as disciplining, investigating, and caring for the abusers. In hindsight, perhaps no one person should have been placed in such a dual role. The current practice in the Archdiocese of having Victim Assistance Coordinators has greatly alleviated this tension in roles.

“In these matters I reported to the Office of the Vicar for Administration, who in turn reported to the Archbishop. My role was to make recommendations. The approval and direction of those recommendations were given by those to whom I reported. Throughout my time as Secretary for Clergy, I had relatively few individual conversations with the Archbishop directly about these matters. So, for the report to imply that there was some kind of conspiracy not to conduct meaningful investigations, has no basis in reality. I did testify as to the structure of the Archdiocese and reporting procedures, but this either escaped the understanding of the grand jury or was intentionally ignored in the report.

“It should also be noted that as Secretary for Clergy I was responsible for recommending the assignments and for the care of almost 900 priests and deacons. I did not do this alone, but with the assistance of several very good priests. We would agonize over cases when allegations of abuse were reported. The demands of our regular daily work of personnel and assignments did not cease during investigations of allegations. If, in an isolated case, one of our procedures was not followed, it was not due to a lack of caring or willful concealment as is stated in the report. This is not an excuse, but merely an explanation that we are human, subject to the same strains, pressures, and occasional mishaps as other well intentioned people.

“The report is critical of my office for not contacting victims whose names were given to us by other victims. It had been a practice not to do so because we had been told by mental health professionals that great psychological harm could be done to a victim of abuse if they were confronted about abuse before they were ready to deal with it personally. Psychologists called it ‘revictimizing the victim.’ Perhaps we can be criticized for this, but there was a legitimate rationale as to why it was not done. I was asked about this often in my grand jury examination, and yet it does not appear anywhere in the report.

“The report covers many cases and makes assumptions as to what my motives and thinking were in handling these cases. It should be noted that in testifying before the grand jury, I was only questioned about three priests. The rest of the report speaks emphatically about my thoughts and actions when I was never even asked about them.

“Could these matters have been handled by the Archdiocese in a better way? In hindsight, of course they could. But, the report is looking back on actions, in many cases, which happened many years ago. It judges by present day standards actions taken many years ago. I believe the Archdiocese has taken many good steps towards addressing this issue. I can only state that I tried my best to care for, and show respect and the compassion and healing of Christ for the victims who met with me and to discipline, provide treatment for and show compassion of Christ to the priests as well.”

E. The Archdiocese Did Not Engage In A “Cover-Up.”

Relying upon inaccurate facts and unsupported inferences, the report accuses the Archdiocese of intentionally concealing known abusers and of knowingly placing them in harm’s way. These allegations are simply wrong. The Archdiocese did not engage in a “cover-up” of the sexual abuse of minors by priests. These conclusions of the District Attorney’s Office are supported only by: (1) mere fragments of historic documents and pieces of unrelated testimony,

scissored and pasted out of their original context, (2) negative inferences drawn without the benefit of the entire story, and (3) false assumptions based in misguided preconceptions.

1. An isolated mistake is not evidence of malice.

The Archdiocese advised the grand jury that, on one occasion, a delay of three years occurred between a report of abuse and the priest's psychological evaluation. (The Archdiocese has received no reports that the priest in question abused any other victims during that three year period.) Monsignor Lynn candidly acknowledged that for many reasons it unintentionally "slipped through the cracks." The report takes this single, isolated mistake and transforms it into a calculated event. In standard cynical fashion, the report states: "Soon the jurors came to realize that sexual abuse cases in the Philadelphia Archdiocese did not fall 'through the cracks' by accident or mistake."

While quick to jump to conclusions regarding the conduct of the Archdiocese, the District Attorney's Office itself let one "slip through the cracks." Without excusing its own actions, the Archdiocese notes that a similar error was committed by the District Attorney's Office when it inadvertently "buried" for three years the paperwork on a victim's claim of abuse by an Archdiocesan priest. When the victim turned to the media for action on her claim, the Archdiocese took immediate action to suspend the accused priest from ministry as soon as it learned of the claim. In a newspaper article printed after the priest's prompt suspension by the Archdiocese, the District Attorney's Office admitted its mistake and stated in the article that it was "very, very sorry."²² The failure of the District Attorney's Office to report these allegations to the Archdiocese is particularly disturbing given that the Archdiocese had previously asked that

²² "'Very, very sorry' prosecutor acknowledges D.A.'s Office let sisters' case languish," *The Philadelphia Inquirer* (April 17, 2005).

Office whether any children were in danger by reason of allegations of sexual abuse of minors by a priest which had been reported to the District Attorney's Office but not to the Archdiocese.

The District Attorney's response was that there were no such priests in ministry.

Whereas the report transforms an honest oversight by the Archdiocese into a purposeful intent to conceal abuse, the Archdiocese recognizes that the mistake committed by the District Attorney's Office was just that – a mistake. Presumably, the District Attorney's Office does not view its own failings with the same cynical eye it uses to judge the Archdiocese.

2. Non-Archdiocesan testimony was presumptively correct; Archdiocesan testimony was presumptively disregarded.

The report shows how the District Attorney's Office treated the testimony of victims or non-Archdiocesan witnesses as facts. Constraints of time do not allow written treatment of every such example, and this response certainly cannot attempt to make a determination as to whether the purported facts stated in such testimony are accurate or not.

The Archdiocese does not question that many victims who appeared before the grand jury had been subject to horrific abuse and may still be suffering greatly from those experiences. By the same token, to accept such testimony uncritically while discounting the credibility of the Archdiocese witnesses is unfair. The testimony of those witnesses so heavily relied upon by the District Attorney's Office was not subject to questioning. The Archdiocese was not able to defend itself against such accusations; and it was not allowed to present its own explanations to clarify or correct apparent misstatements, miscalculations or mistakes in the record of the proceedings before the grand jury. One side of the story was afforded the presumption of absolute truth.

For example, in not just one but in four different places, the report accuses one priest of abusing more than 100 victims.²³ There is simply no basis for this preposterous statement based, as it is, on the pure guess of a single victim. It is irresponsible for the District Attorney to rely on the uncorroborated speculation of a witness traumatized by events that occurred twenty-five years before.

Similarly, the report states that Monsignor Lynn “left two teenage brothers living with [a priest] child molester in his rectory rather than taking action that might have alerted the boys’ mother to the danger.” The statement ignores Monsignor Lynn’s testimony, which was to the effect that when that situation was first brought to his attention, the boys - who were the children of the rectory cook and had briefly lived at the rectory at the request of the cook - had already been relocated. Monsignor Lynn advised the counselor who reported the situation that if she thought something inappropriate had occurred, she should report it to the police. Monsignor Lynn offered, through the counselor, to meet with the boys’ mother. The offer was declined.²⁴

Likewise, on occasion, Cardinal Bevilacqua testified either that he could not remember an incident or could not recall the misconduct of a particular priest. The report ignores the failure of his recollection and assumes that his answers were staged, cagey or inaccurate. That anyone, particularly a person of advanced age, would have an inconsistent memory of events that transpired years and years ago should not be considered surprising or suspicious.

²³ Before this priest’s removal 26 years ago, the Archdiocese had received a handful of complaints, and only a few complaints since his removal.

²⁴ As yet another example of its unfair treatment of Archdiocesan witnesses, the report makes the snide comment that Monsignor Lynn had lied to victims about whether other individuals had been abused by the priest. At the time that Monsignor Lynn met with the victim referenced, that victim was the first person ever to make a claim of abuse against the priest. So, Monsignor Lynn truthfully said that no one else had brought a claim.

An additional example of unfair and gratuitous commentary is the report's statement that "victims were treated badly by the Secretary for Clergy." The Secretary for Clergy spent a great deal of time meeting with victims, and made every effort to listen to the victims' accounts in a compassionate manner. It certainly is understandable that individuals would be in a state of distress during their meetings with Church officials – the act of recalling their victimizations by priests must have been traumatic in itself; having to describe atrocious acts of abuse in detail to another priest must be an incredibly difficult thing to do. That victims could have felt intimidated and uncomfortable during their meetings with the staff of the Secretary for Clergy's Office was not due to any action of Monsignor Lynn.

One last example is where the report claims that a victim was told by Monsignor Lynn that what had happened to her was "not that bad." This is plain wrong. Monsignor Lynn never said that, and would never have said such a thing to any victim.

3. The report falsely accuses the Archdiocese of engaging in "concerted efforts" to prevent reports of abuse from coming to the attention of law enforcement.

A fair discussion of this subject cannot begin without an understanding of Pennsylvania law. Pennsylvania's Child Protective Services Law²⁵ does require certain persons – which have included the clergy since 1995 – to report to Child Protective Services (a service of the Department of Public Welfare) any time a minor makes a report of abuse to the reporter.²⁶ Beyond the strict requirements of this law, Pennsylvania does not require the Archdiocese or anyone – victim, parent, or relative of a victim – to report sexually abusive conduct or indeed

²⁵ 23 Pa. C.S. § 6311.

²⁶ The report makes the ridiculous suggestion that to avoid its obligation under this statute the Archdiocese interposed an intermediary who received the minor's report of abuse so that it would not have to make the required report.

any other crime to law enforcement. Nevertheless, as stated elsewhere, since the adoption of the *Charter* the Archdiocese reports in writing to law enforcement all allegations (whether credible or not) involving allegations of any type of sexual misconduct of a minor against any clergy or religious (living or deceased), regardless of when the conduct occurred, whether or not the victim is now a minor and whether or not the victim or another person made the report.

Cardinal Bevilacqua correctly testified the Archdiocese at all times obeyed Pennsylvania law. Yet, the report criticizes the Cardinal and sneers that his interpretation of the law is “unacceptable” and is a product of a “strained and narrow interpretation of the law.” The District Attorney’s Office itself reached the very same conclusions on the interpretation as did Cardinal Bevilacqua. This is therefore simply another example of the report’s unjust accusations: criticizing Cardinal Bevilacqua in one portion of the report, but then elsewhere affirming his interpretation.

Prior to its adoption of the Charter, when the Archdiocese did not make a report (which was not legally required) it was often because the victim’s parents requested that the Archdiocese refrain. The situation when a minor is sexually abused is complex. The initial reporting decision is controlled by the parents. It has been the experience of the Archdiocese that many parents do not wish to subject their children to questioning by police, do not wish to have their children cross-examined at preliminary hearings or at the trial of the accused; they prefer instead to seek counseling to treat the damage to the child and put the events behind the child and its family. The parents who reported the abuse to the Archdiocese often requested that it make no report to law enforcement for these reasons.²⁷

²⁷ The vulnerability of minor victims of these crimes has recently been recognized in an amendment to the Constitution which allows a minor victim to participate in the proceedings by video.

The grand jury obviously called many victim witnesses and, in all probability, victims' family members. The report does not cite one single witness who testified that the Archdiocese in any way interfered with the victim or the family's desire to go to the police.²⁸ In a number of these instances, the Archdiocese cooperated in the prosecution of an abuser priest.

Among the documents produced to the grand jury was correspondence from prosecutors thanking the Archdiocese for its cooperation in a particular prosecution. It is mentioned nowhere in the report. After 40 months of intense scrutiny, however, the District Attorney could find only one memorandum written 23 years ago that it offered as "support" for its baseless charge that the Archdiocese acted to prevent reports to authorities. That was a memorandum written by Monsignor Statkus in 1982 – who has been retired since June 1996 and who did not testify before the grand jury – containing one sentence that the father of a victim who had contemporaneously reported the abuse to the Archdiocese, did not plan to press charges as he was convinced of the Archdiocese's sincere resolve to take necessary action regarding the accused priest. From this mere fragment, the report leaps to the conclusion that there was some sort of coerced agreement between the father (himself a Philadelphia Police Department detective) and the Archdiocese not to press charges, based on an assurance that the priest would be taken care of.

So strong is the desire to protect the vulnerable minor victim that the amendment requires the accused to give up his historic right of face-to-face confrontation with his accuser.

²⁸ The report contends that an investigator for the Archdiocese intimidated a victim by suggesting that the prior criminal history of the victim might come to light if the allegations of abuse were pursued. The investigator flatly denies that any such thing occurred. Although the investigator testified before the grand jury, the District Attorney's Office did not question him regarding this alleged event. The investigator only learned of the claim upon reviewing the report.

4. Church officials did not “interfere” with psychiatric evaluations.

Another attention getting accusation in the report reads: “Church officials interfered with evaluations.” This is nonsense. The report is critical of Cardinal Bevilacqua for allowing accused priests to seek a second opinion for the diagnosis. The seeking of second opinions is commonplace and considered prudent by patients who receive a menacing diagnosis. Instead of recognizing the reasonableness of this practice, the report accuses Cardinal Bevilacqua of “opinion shopping.”

The report makes an isolated reference to Monsignor Lynn’s having questioned the diagnosis of a particular priest by St. Luke Institute, a psychiatric facility which treats priests. Monsignor Lynn, who testified on multiple occasions before the grand jury, was never questioned about this incident. Had he been questioned, the grand jury would have learned that St. Luke Institute had given, or was proposing to give the priest, a penile plethysmography, which is a morally objectionable procedure.

The District Attorney’s Office also reports that it was a policy of the Archdiocese not to deem an allegation as credible unless the priest admitted the abuse. The report also claims that the Archdiocese conducted “non-investigations” into allegations against priests and failed to provide all relevant information to the medical professionals who treated the priests. Both these claims are false. If the priest did not admit to the abuse, there were additional psychological tests and evaluations that would be performed to aid in the determination of whether the priest was being untruthful and whether he would be an appropriate candidate for public ministry. Monsignor Lynn also had regular conversations with medical treatment teams to provide even more information on the priest’s background and past behavior, above and beyond what appears on patient intake forms.

The report implies that Cardinal Bevilacqua made decisions on ministry for a priest before receiving a psychological evaluation. In the only case that provides support for this inference, relating to Father DelliCarpini, Monsignor Lynn had received an oral report from the priest's evaluation team which was itself based upon a psychological evaluation, and that report was forwarded to the Cardinal's attention. The Cardinal's decision was therefore made in light of the therapist's recommendation and direction. The report's contrary conclusion is reached even though the testimony of a relevant witness who could have shed significant light on the issue – Monsignor Lynn – was not sought.

The report also claims that the Archdiocese should have rejected St. John Vianney Center's evaluation of Father Kostelnick in 2002, because of past allegations. What the report fails to mention anywhere is that those past allegations had been made by third parties and had been investigated by the Bucks County authorities. The authorities, like the Archdiocese, determined that the claims were unfounded and did not bring any charges.

Simply put, there was no "concerted effort" to prevent reports of abuse from coming to the attention of others. The report's conclusion in this regard is outrageous.

5. The main purpose of obtaining psychological evaluations of accused priests was not to make false assurances to the public.

A report headline claims: "Officials used therapy and evaluation to give false reassurances." Here is another completely unsupportable and untrue caption designed to slander the Church and certainly not to provide meaningful information about the topic of the investigation.

As has been stated elsewhere, once a priest was accused of sexual misconduct – whether he admitted or denied it – the procedure called for him to be clinically evaluated. The Archdiocese used three facilities which had specialized expertise with priests and religious who

experienced personal difficulties of this kind: St. John Vianney Center, an institution owned and operated by the Archdiocese of Philadelphia; St. Luke Institute, located in the Washington, D.C. area; and Southdown, in Toronto, Canada. Each of these facilities enjoys excellent reputations for this highly specialized work and has staff trained to deal with abusers. In general terms, priests were preliminarily evaluated, a treatment team appointed and, in a number of cases, a post-treatment plan put into place for assisting the priest to cope with his issues.

The professional staff at St. John Vianney Center included one or more psychiatrists and a number of trained psychologists. The report unjustly maligns St. John Vianney Center undoubtedly because it is owned by the Archdiocese. It enjoys an excellent relationship nationwide and treats priests and religious from all over the country. It is fully accredited by the Joint Commission of the Accreditation of Healthcare Organizations and is licensed by the Commonwealth of Pennsylvania. The grand jury did not subpoena a single record from St. John Vianney Center, did not request a single current employee from the institution to testify, and did not examine the credentials or the licensing of the Institution or its history. Instead, it was content to fill that vacuum with snide remarks and innuendo about the work of St. John Vianney Center.

Psychological evaluations from St. John Vianney Center and the other institutions played a critical role in the future of ministry, if any, of an accused priest. If the psychological evaluation concluded that the priest was a pedophile or ephebophile, his ministry was ended. If these evaluations suggested that there was a further need for inpatient or outpatient treatment before the priest could be returned to ministry, or that the priest could be returned to ministry only on certain conditions, that advice was heeded. Where an evaluation suggested that the Archdiocese could return the priest to ministry, with or without conditions, to its knowledge, no

priest, subsequent to the medical evaluation and reassignment, engaged in any additional act of criminal sexual abuse with a minor.

The idea that these evaluations were contrived, as some sort of “public relations gimmick” is just ridiculous. The report’s implication that the Archdiocese put priests through extremely intense and very costly regimen of testing and psychological evaluations as part of some charade is nonsensical and insulting.²⁹

6. Archdiocese policy was not dictated by civil lawsuits.

In several places in the report, the District Attorney’s Office presumes that the only reason the Archdiocese took action to remove a priest from ministry was in response to a victim taking legal action. This presumption ignores that the Archdiocese’s efforts to remove priests had been well underway without regard to the filing of a legal action. As Monsignor Lynn would have testified had he been asked, in the case of Father Cudemo the process to remove him from his pastorate had been underway well before the lawsuit referenced. Similarly, Father Dunne had been removed because of his disobedient actions and past behavior, not because of a lawsuit.

Conclusions of this nature – unsupported by hard evidence and drawn from nothing more than convenient supposition – form the backbone of this scathing report. In many cases, had a witness been called to testify, the grand jury would have been provided convincing

²⁹ The support for this is a single memo from the Cardinal Krol administration which indicates that a reassignment had occurred consistent with medical advice (which was the practice and protocol). A phrase suggesting that the faithful of the priest’s prior assignment would take comfort from the fact that a reassignment was being made after consultation with medical personnel, simply does not qualify as legitimate support for the stated conclusion. It is another case of an adverse inference being promoted as an immutable truth.

factual evidence to the contrary – thus, destroying the desired inference. The report’s repeated conclusion that the Archdiocese engaged in a “cover up” is intellectually dishonest.

F. Although It Formally Indicts No One, The Report Irresponsibly Charges Many Of Criminal Conduct Apart From The Underlying Sexual Abuse.

“In the brief filed on behalf of the grand jury, it is stated that the report does not charge the principals with a crime But it at least convicted them – without indictment, without published evidence, without trial, and without due process of law – of wrongdoing little short of a crime, inevitably blackening their reputations and destroying them in their profession. Such a conviction by a grand jury is not far removed from and is no less repugnant to traditions of fair play than lynch law.”

State ex rel. Brautigam v. Interim Report of Grand Jury, 93 So. 2d 99, 102 (Fla. 1957).

The report announces that the District Attorney was not able to find a single criminal offense with which to charge any one in the Archdiocese. The report is not shy, however, about publicly convicting the Archdiocese. The District Attorney’s Office, acting as both judge and jury, levels charges of the most serious nature as the result of a one-sided legal process that provided the Archdiocese with no opportunity to present a defense or to even know the specific evidence presented against it. On the very first page of the report, the District Attorney’s Office proclaims the existence of a “cover-up,” asserting that “the biggest crime of all” is that “by burying those reports [of abuse] that they did receive and covering up the conduct, [Archdiocese officials] managed to outlast any statutes of limitation.”

The report hurls accusations of criminal conduct against the Archdiocese, two Archbishops (one deceased, one retired), various bishops and members of the Church hierarchy over the last fifty (50) years, and countless other priests, religious and lay persons – including social workers, lawyers and teachers – against whom no allegations of sexual abuse have ever been made. These damning accusations range from tacit charges of obstruction of justice and

hindering of witnesses to general pronouncements of being incompetent, unprofessional, unsympathetic, insensitive, and calculating.

As mentioned above, The report particularly defames the character of the medical professionals, social workers, and therapists who treated priests referred by the Archdiocese. It insinuates and, at times, outright contends that these persons ignored their professional obligations in favor of some concerted effort to assist the Archdiocese in avoiding liability. That is untrue. The report relies upon the secret testimony of a purported expert to attack the professionals that have been relied upon by the Archdiocese for years. None were offered an opportunity to testify before the grand jury in defense of their professional integrity.

As mentioned above, the report relentlessly attacks the professional credibility and independence of institutions like St. John Vianney Center and St. Luke Institute – both of which are accredited by the Joint Commission on the Accreditation of Healthcare Organizations and licensed by their respective states. These facilities are staffed by highly competent and dedicated psychiatrists, psychologists, social workers and other health care professionals who are highly educated and trained in their fields. They are not controlled and dominated by the Archdiocese, nor do they cater to the will of the Archdiocese to reach predetermined diagnoses of priests sent to them for treatment in the manner insinuated in the report.

The District Attorney's Office confuses Sister Patricia Kelly, M.S.B.T., and Ms. Patricia Kelly. Sister Patricia Kelly is a member of the Missionary Servants of the Most Blessed Trinity (Trinitarian Sisters) who has worked as counselor for Catholic Social Services. Ms. Patricia Kelly is the Director of Kelly Counseling and Consulting Services, a firm that provides a wide range of consultation, assessment, and counseling services. The report treats these two different people as one and the same. It attacks Sister Patricia for possessing “an unprofessional

allegiance to the Archdiocese,” mistakenly assuming that she was also evaluating priests on behalf of Kelly Counseling. The report maligns the psychological testing performed by Kelly Counseling and Consulting Services simply due to this perceived conflict of interest, when in reality there is no connection between Sister Patricia and Kelly Counseling.³⁰ Nonetheless, in haste to pass judgment, the report confuses the two.

In the same vein, many (and perhaps most) of the Archdiocesan representatives who are named and tarnished in the report were never asked to testify by the District Attorney’s Office, but were simply mentioned in documents that were produced to the grand jury. There may have been no live testimony whatsoever presented to the grand jury about these individuals. We will never know.

While it understandably identifies victims through the use of pseudonyms, the District Attorney’s Office identifies by name and job title innumerable Archdiocese employees and representatives who had only passing contact with a priest’s file. The report makes negative judgments about these individuals’ professionalism, motives, job performance, and lack of concern for victims. These unjust characterizations have no place in an investigating grand jury report, particularly when that same report finds no indictable offense. The reputations and livelihoods of these individuals, who are for the most part engaged in public service and who reside and work in the Philadelphia area, will suffer as a result of the publication of this report. They have been given no opportunity to defend themselves. The result is grossly unjust and could have been avoided by the District Attorney’s use of pseudonyms – a practice commonly used by grand juries in other jurisdictions.

³⁰ In her role at Catholic Social Services, Sister Patricia provided counseling to one or more victims. Her counseling efforts were completely unrelated to psychological testing performed by Kelly Counseling and Consulting Services.

G. The Public Deserved a Straight-Forward Account of Events; It Got a Biased Advocacy Piece.

Rather than delivering a straightforward, objective report, the District Attorney's Office uses a variety of literary devices designed to bias. The report unfairly judges actions taken decades ago through the lens of today's knowledge, and is rife with sound bites, bold and italics, unsupported headlines, unnecessary repetition, and misleading timelines. The end result is a biased presentation of half-truths and innuendo.

1. A careful selection of witnesses

In April 2002, in connection with the public announcement of the District Attorney's convening a special investigating grand jury, the office indicated that its approach was to collect the facts and "let the facts take us to where we need to go." That appears not to have happened. Early in the report, it is apparent that the issues for the investigation were framed by witnesses known to have fixed opinions about the clergy sexual abuse scandal and ready to publicly convict the Archdiocese.

One such person was the Reverend Thomas P. Doyle who has served as an expert witness in clergy sexual abuse cases on behalf of victims and their families for a number of years. He is liberally quoted in the opening of the report, but nowhere is the qualification made that Father Doyle frequently acts as a paid expert in favor of cases against the Catholic Church. Many who have contact with him do not consider him "impartial." But, by identifying him as a priest and failing to disclose his known biases, the report leaves the reader, and undoubtedly the grand jury, with the idea that as a priest insider he has some special knowledge of conduct within the Archdiocese of Philadelphia. He does not. His expertise is in Canon Law. On more than one occasion he has overstepped his bounds and his testimony has been excluded. See, e.g.,

Smith v. Kelly, 343 N.J. Super. 480, 778 A.2d 1162 (2001), John Doe I v. Catholic Diocese of El Paso, El Paso County, Texas, No. 96-1670 (Order dated Dec. 20, 1999).

An article published in The New York Times stated that A.W. Richard Sipe, a former Benedictine Monk, said that: “Philadelphia prosecutors phoned him last week to invite him to offer expert testimony before the grand jury there.” (*“Role of Bishops Is Now a Focus of Grand Juries,”* The New York Times, Sam Dillon, July 12, 2002.) Mr. Sipe has written books and articles about sexual abuse of minors by priests and is known to have opinions hostile to the Catholic Church.³¹ According to Mr. Sipe’s curriculum vitae, he has served as a consultant and expert witness in hundreds of Catholic clergy abuse cases and in grand jury investigations. Whether he (or others like him and Father Doyle) was called as an expert witness is not disclosed in the report.

The report says that a Father Donald Walker appeared before the grand jury and testified that within the Archdiocese there is a rule against “ratting on fellow priests.” The report does not say that he is married, has no priestly ministry, and has relocated to the New Orleans area. The reader is left with the unaccidental impression that Walker is a working priest in clerical garb and in some fashion associated with the Archdiocese by virtue of his prior position during Cardinal Krol’s administration, which ended in the 1980s. The report promotes this statement as an inviolate truth even though not one of the many other priests and members of the hierarchy who testified before the grand jury would subscribe to such a statement. Moreover, the

³¹ Some of Mr. Sipe’s articles include “*Does the Church Really Care?*” (Corpus Reports, September/October 2003), and “*Abuse: From the Eye of The Storm?*” (Bread Raising, June 2003). Mr. Sipe has also given many lectures to the victims’ advocacy group and others; the lectures are titled, “*The Consequences of Guilt?*”; “*Confessions of an Expert Witness?*”; “*Sexual Abuse: The Crisis Beyond the Headlines?*”; and “*Does the Church Care?*”

Archdiocese produced ample evidence of instances where priests reported questionable conduct of other priests to Church hierarchy.

Collectively, these witnesses sketched out the probable conclusion of the investigation; there remains only the task of finding witnesses who would provide the facts to support that foreordained conclusion.

Finally, former FBI agent Kenneth Lanning is said to have provided “lengthy” testimony to the grand jury to communicate his experience with this problem. Described simply as an expert “in the field,” he undoubtedly assisted the grand jury in sketching out its conclusion before it had the benefit of the full investigation.

2. The report re-orders chronologies so that it appears that the Archdiocese knew about the priest’s misconduct when it occurred (for example, 1960), when in fact its knowledge of his misbehavior is much more recent (for example, 2002).

The report also tells the story in a manner to mislead the reader as to the actual chronology of events. The report portrays allegations as if they were reported to the Archdiocese at the time they occurred; whereas, in reality, the allegations were most often reported years and years after the actual instances of abuse, and often years and years beyond the victim’s reaching the age of majority.

For example, the report’s construction of the Monsignor Furmanski “case study” jumps back and forth decades at a time, totally confusing the reader as to what the Archdiocese knew and when. It begins in 2002, when a victim told Archdiocesan officials that he had been sexually abused by the priest 38 years earlier. This was the first time anyone ever approached the Archdiocese with allegations of sexual abuse against Monsignor Furmanski. The report fails to note that, upon receipt of this report, the Archdiocese sent the priest for an immediate

psychiatric evaluation but professionals found no evidence of sexual disorder. He remained in his assignment as chaplain of a hospital, where he did not have contact with minors.

The report then rewinds 25 years to recount the priest's alleged molestation of a young girl in 1977. This abuse was never reported to the Archdiocese. From there, the report fast forwards to 2003, when a therapist called the Archdiocese to inform that her client, now in his 30's, was abused by Monsignor Furmanski as a teenager. Although Monsignor Furmanski was sent immediately for in-patient psychiatric evaluation and was permanently removed from ministry shortly thereafter, the report discusses none of this until the very end of the case study.

Instead, the report then rewinds in time yet again. It describes a report made by a mother in 1999 that the priest had her son massage his leg. Following this report the Archdiocese sent Monsignor Furmanski for in-patient evaluation where it was determined that he showed no signs of sexual disorder. The Archdiocese reassigned Furmanski to a hospital chaplaincy. The report fails to mention that the incident was, in fact, reported to the authorities.

By first discussing the details of other abuse that remained unreported for years, the District Attorney's Office suggests that the Archdiocese recklessly failed to interpret a leg massage in 1999 as a sign of sexual disorder. Absent from the case study is the fact that the civil authorities, like the Archdiocese, determined that the conduct did not constitute sexual abuse and did not warrant further investigation. The report, through its shifting discussion of events, also intimates that the Archdiocese was aware of past acts of abuse in 1999. It was not.

As yet another example, the report falsely claims that Archdiocesan leaders initiated an investigation into a seminarian, branded him a homosexual, and expelled him from the seminary after he came forward with allegations of abuse against a certain priest and threatened to sue the Church. In reality, the Seminary administration was investigating the

seminarian in question because he was rumored to be engaging in homosexual activities. It was only at the end of this investigation that the seminarian first alleged that he was abused years earlier by a priest in the Archdiocese. By ignoring the true timing of these events, the report suggests that the investigation was the product of the seminarian's allegations of abuse. The investigation came first.

The report also draws hasty conclusions regarding the supposed shortcomings of Cardinal Bevilacqua's administration in handling sexual abuse allegation. Then, to support such conclusions, the District Attorney references events that occurred in the 1960s and 1970s – years before Cardinal Bevilacqua was installed as the Archbishop of Philadelphia. Where convenient, the report describes the events but makes no reference to the timing of those events. By strategically omitting timelines, the report creates the false impression that certain events that had transpired years ago actually took place during Cardinal Bevilacqua's administration.

Another example appears in the case history of a Fr. Kostelnick where the statement is made that had Cardinal Bevilacqua removed this priest from ministry in 1992, he could have “spared the priest's post-1992 victims their lasting damage and humiliation.” Archdiocesan records and the report indicate that the priest had no victims after 1992. Some victims came forward after 2001 but their abuse took place long before 1992.

A discussion of events in an honest, chronological order would dispel many of the inferences sought by the District Attorney's Office. Unfortunately, the District Attorney's Office chose not to undertake that type of constructive review – further evidencing an agenda of a different nature.

3. **The report's use of sound bites, bold and italic print, sensationalism, are suitable for a tabloid but have no place in a government document.**

The report makes excessive use of headline-grabbers, attention getters that vault lurid conclusions ahead of the truth. The obvious purpose is to shock, and not to inform. In the name of "Overview," the report opens with a cascade of shocking words and phrases ("ejaculated," "bondage," "suicide," "sodomasochism," "11 years old," and "pregnant") designed to suggest to the reader the beginning of a seamy novel, rather than an official report of a government investigation. **The use of bold print helps to rivet the attention on what is to come.** Priming the public for the sense of outrage and hyping headlines is the stuff of yellow journalism; it has no place here or in any other government authored document. And, so one experiences sound bytes paired with bold print designed to inflame, such as:

"A boy who told his father about the abuse his younger brother was suffering was **beaten** to the point of unconsciousness. **'Priests don't do that,'** said the father as he punished his son for what he thought was a vicious lie against the clergy."

(Emphasis in original). Any father beating his son is tragic, but has nothing to do with alleged misconduct by the Archdiocese. Its prominence at the beginning of a lengthy report speaks volumes about the goals of its authors.

The bolded headings employing clipped conclusions masquerade as reader aids to the organization of the report. They are no more than another writing device used by the District Attorney in the service of its darkest possible portrayal of the Archdiocese. Some products of this poison pen are:

- "Archdiocese leaders employed deliberate strategies to conceal known abuse."
- "Archdiocese leaders conducted non-investigations designed to avoid establishing priests' guilt."

- “Archdiocese leaders made concerted efforts to prevent reports of priest abuse to law enforcement.”
- “Church leaders manipulated abusive priests’ psychological evaluations to keep them in ministry.”
- “Cardinal Bevilacqua instituted a test that falsely purported to exclude pedophiles.
- “Archdiocese officials used investigation and intimidation to fend off lawsuits and silence witnesses/victims.”
- “Cardinals transferred known abusers to other parishes where their reputations were not known.
- “Church leaders carefully avoided actions that would incriminate themselves or the priests.”
- “Officials used therapy and evaluation to give false assurances.”
- “Dioceses throughout the United States employed same strategies to conceal their priests’ crimes and keep abusers in ministry.

The text that follows bears scant resemblance to the subject matter of the titles and consist of mere scintillae and scraps that, taken out of proper context, provide no justification for the headline.

The report is replete with sarcastic characterizations of the state of the mind of grand jurors about this fact or that. How the grand jury feels about a fact – that it was “shocked” or “found it hard to believe” – have no place in this report whose promise is to communicate facts or findings and not personal impressions of its authors. Examples of such commentary include:

- “At first, Grand Jurors wondered whether Archdiocese officials, including Cardinal Bevilacqua and his aides, were tragically incompetent at rooting out abusive priests and removing them from the ministry.”

- Soon the Jurors came to realize that sexual abuse cases in the Philadelphia Archdiocese did not “fall through the cracks” by accident or mistake.
- “We were initially incredulous when Cardinal Bevilacqua insisted that Monsignor Lynn was very intelligent and competent.
- “The reason for Monsignor Lynn’s apparent lack of judgment, curiosity or common sense in refusing to acknowledge the truth became evident when Cardinal Bevilacqua testified.”

These characterizations add no more than cynicism to an official report and degrade its integrity. The grand jury has no right to pass judgment on the competence of Monsignor Lynn or any other individual who appeared before it. Intelligence and competence are not in the calculus of crime; intention is.

Other examples of bitter sarcasm having no place in a report of this kind are evident in suggesting that when a particular abusing priest had dinner at a Cardinal’s residence he was being rewarded for his misbehavior, rather than having a serious conversation with his religious superior. Or, implying that an abusing priest who apparently was a talented writer was “promoted” to writing material for the Cardinal, when in fact the Archdiocese was making a non-threatening use of the priest’s services. In describing why the District Attorney thinks that a unincorporated association cannot be as readily indicted as a corporation, the report off-handedly says that the Archdiocese “chose” to remain unincorporated, as if adopting that format was part of a strategy to avoid prosecution.

4. The report is excessively repetitious, magnifying the dimensions of the problem.

The Archdiocese of Philadelphia does not object to the reporting of priests in this report who have had sexual abuse incidents, nor does it object to a fair recitation of the priest’s alleged or confirmed behavior. However, the report repeats in various formats the misconduct of

eight priests – Bryski, Cudemo, Chambers, Gana, Kostelnick, Leneweaver, Martins and Sicoli – no less than four times: three times in the report and once in the appendix. There is no good reason for this level of repetition much less any repetition. The report is long enough as it is, and these repetitions simply add to its bulk and do not improve the comprehension of the reader.

No other grand jury report either on sexual abuse or as the product of other Pennsylvania investigating grand juries has repeated the material events as frequently as has been done in this report. In fact, the repetition suggests that the District Attorney’s office wishes to emphasize the misconduct in an effort to bring further disrepute on the Catholic Church and the Archdiocese. The report should present information – not repeat it, emphasize it or portray more seriously a situation from a chapter that has been closed for decades.

Nineteen other priests or former priests had their sexual misconduct history recounted on three occasions in the report. These individuals’ misconduct is reported twice in Section V. Each individual’s account is preceded by a short version of the misconduct in italics and then by a lengthier version. The misconduct is repeated in the appendix as well.

The utilization of an italicized paragraph before each of the accounts of misconduct appearing in this section is designed to provide the reader and undoubtedly the press, with a compressed “sound bite” pregnant account of the misconduct which truncates the relevant conduct again, making it appear worse than it actually is. The Appendix reveals this misconduct for the third time, albeit in a different format, but it contains the same basic information.

Repeating the sexual conduct of these priests and former priests serves to imbed these accounts in the minds of the public, but hardly discharges the duty of the District Attorney to present information in the form of findings and not to incite its public constituency with senseless repetition.

At this point in time, the Archdiocese, by no means, seeks to obscure the identity of priests mentioned in the report against whom credible allegations of sexual abuse have been lodged. The point is, once again, the District Attorney is not content to report the facts in a fair, unbiased manner to the public.

5. The report criticizes the Archdiocese for its responses to certain priests, where prior claims of inappropriate behavior had been deemed “unfounded” by law enforcement authorities.

In the case of Monsignor Furmanski, the report suggests that the Archdiocese had been informed in 1999 of “abuse.” As previously referenced, however, an individual who had reported the allegation to the Archdiocese called the complaint into “Child Line,” which is run by the Pennsylvania Department of Public Welfare. The Child Line officials who took the information about the claim determined that it was not “abuse” and therefore could not be further investigated. The District Attorney’s Office nevertheless faults the Archdiocese for responding in the same fashion as did seasoned child care workers and investigators.

The report similarly criticizes the Archdiocese for not having determined that certain “boundary” violations reported about Father Smith constituted abuse necessitating his removal from ministry. However, the Delaware County District Attorney reviewed the allegations and reported that they found no sexual abuse. The report goes on to describe that Father Smith remained in ministry after a parent reported that Father had crossed a boundary in his interactions with a young child. It does not indicate that the parents brought that conduct to the attention of the District Attorney of Delaware County who subsequently advised the Archdiocese that no prosecutable crime had occurred.

Two other examples are in the cases of Father Bolesta, where Chester County detectives were involved in the investigation, and Father Brennan, where Montgomery County detectives investigated reports and determined them to be unfounded. The report makes no

mention that law enforcement had been involved in many of the cases, and had made decisions consistent with those reached at the time by the Archdiocese. This is yet another instance of the report's bias.

VI. The Appendix, Like The Report, is Biased, One-Sided and Repetitive.

The appendix to the report is as flawed as the report itself. Aside from identifying the 34 priests who are not specifically discussed in the report itself, it adds no new material regarding the specifics of the investigation. Instead, the appendix is used as a tool to rehash and repeat in table and chart format information already discussed in the report or information that is simply not relevant to the grand jury.³²

There is no good that is done by rehashing the assignments of priests no longer in ministry, particularly when most of their offenses were perpetrated decades ago. Likewise, the inclusion of the Priest Data Profiles serves no law enforcement purpose. They are in the appendix solely as another means to repeat priest assignment information already included in a variety of formats.

The appendix also includes documents carefully selected from the thousands produced by the Archdiocese as a means to prop up the conclusions drawn in the report. As with much of the report's content, they are taken out of context and are presented without any explanatory testimony to frame the issues. Worse, the documents are not even left to speak for themselves. At the bottom of each page on which a document is published, the District Attorney's Office has added editorial comments rife with the same adversarial tenor as is found

³² The appendix includes: (1) a lengthy table describing (again) the allegations against each of the priests at issue; (2) Priest Data Profiles listing (again) the various assignments during the tenure of the priests in question; (3) a table listing (again) every parish in the Archdiocese where any of the priests in question was stationed and the names of the priest(s); (4) selected documents produced during the course of the investigation; and (5) newspaper articles relating to other dioceses across the nation.

in the report itself. The editorial commentary is snide, cynical, and sarcastic; it over-generalizes and continues the parade of misleading and unwarranted inferences and conclusions that characterize the report.

Finally, the appendix includes a series of newspaper articles regarding clergy sexual abuse issues in other dioceses across the country. These newspaper articles have nothing to do with the District Attorney's Office investigation into the Archdiocese of Philadelphia. Their inclusion is further evidence of the desire of the District Attorney's Office to tell a sensationalized story against the Catholic Church, as opposed to reporting on the facts of an investigation.

VII. Conclusion

In this response, the Archdiocese has attempted to show, in the limited time available to it, that the report of the District Attorney's Office fails its purpose by every measure. Rather than presenting facts to support its recommendations "in the public interest" as contemplated by applicable law, the report offers only a sensationalized, unfair, and inaccurate portrayal of the Archdiocese's response to child sexual abuse claims that, for the most part, date back many years. Despite acknowledging the absence of any indictable offense, the District Attorney nevertheless attempts to charge, try, and convict the Archdiocese of a "cover-up" and "concealment" in the court of public opinion, without disclosing that its "findings" were the product of a one-sided investigation where the District Attorney's Office controlled the witnesses and information presented to the grand jurors and then prepared a report documenting the preordained conclusions of its inquiry. The report also regrettably condemns the Archdiocese for the way it responded to claims of sexual abuse of minors by priests without providing any context to this larger societal problem, including how the public and medical community's understanding of identification and treatments of both the victims and perpetrators of child

sexual abuse has advanced – and how the Archdiocese own policies and procedures changed with that developing body of knowledge.

Despite these and other failings of the District Attorney’s report and its missed opportunity to undertake a constructive review of a complex problem, the Archdiocese recognizes this as a chance to learn from, what in the clarity of today’s knowledge, were mistakes in responding to some abuse claims. Through its policies, the Archdiocese has and will continue to create a safe environment for the protection of children and young people. It will continue to engage its resources to ensure that compassionate care and assistance are offered to any victim of sexual abuse by a priest, deacon, teacher or employee of the Archdiocese, no matter how old the abuse, and the best practices available to ensure that such abuse does not happen again.

This response concludes as it began – with an expression of the Archdiocese’s deepest apology for the harm caused by the behavior of a limited number of the thousands of dedicated priests who have faithfully served this Archdiocese for over 200 years. The Archdiocese prays that those victimized by sexual abuse seek out and obtain assistance to heal the wounds of this inexcusable offense against another person.