

# MOVING TOWARD RESTORING JUSTICE FOR PRIESTS



A Discussion of Priests Rights and Due Process  
and  
A Proposed Step Toward Restoring Justice

Submitted to the United States Conference of Bishops

Association of United States Catholic Priests

Prepared by the Mutual Support Working Group

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## I. Helping Priests Understand Their Rights and Due Process: Ensuring Justice for All

### The Rights of Priests as contained in Canon Law approved by St. John Paul II.

While acknowledging the responsibility of priests to assist their bishop in determining the truth of an accusation, there are some things an accused priest needs to do as an investigation begins. If you receive an unexpected call from the chancery, ask what the reason is for you to come into the office. If it is because of some sort of allegation or they won't tell you, ALWAYS take a trusted priest friend with you.

1. You have the right to remain silent. Let your friend ask and answer questions. Not you!
  2. If accused of some canonical error, request the diocese to pay for a canon lawyer AND a civil lawyer of your choice to protect your rights in both venues.
  3. Do NOT resign your pastorate or your office. Sign nothing that day.
  4. Pause, listen, clarify, and ask others for advice. Reflect before agreeing to anything.
  5. Ask the person who accompanies you to take notes, to sign and date them in ink. It would be good if the diocese would do the same.
- All of the rights of the Christian Faithful also belong to clerics. (C208-223)
  - In addition, clerics have rights and obligations (C273-289)
  - These rights and most of these obligations remain even if you are suspended.
  - If you are required to move, contact your priest friends and ask for support and frequent communications.
  - Your friends want to stand beside you. They believe in you.

Over the past three years, the **Association of United States Catholic Priests (AUSCP)** has dedicated significant effort to informing clergy about their canonical and civil rights, particularly in the context of allegations of misconduct. A central initiative of this effort involved the mass distribution of informational cards (pictured above) to priests across the United States, emphasizing their canonical rights when confronted with an accusation—whether credible or not. While this initiative was well-intentioned, there was some misunderstanding about the nature and purpose of these efforts.

In this article, we seek to provide a clearer context for our actions and reaffirm the importance of these rights for both priests and victims of misconduct. We will explore three key themes: **due process**, the **undermining of due process**, and the **remedies available when due process is denied**. In conclusion, we propose one approach to **move toward a more just process**.

### 1. Understanding Due Process

Due process is a fundamental legal principle, ensuring that laws are applied fairly and consistently to all individuals. It does not concern itself with determining guilt or innocence, but rather with ensuring that every individual is treated equitably throughout legal proceedings.

This concept is central to both civil and canon law, and it is essential that all members of the Church—victims and those accused alike—are aware of their due process rights.

In the context of sexual abuse, the Church is called to not only address the needs of victims and support their access to justice but also to protect the rights of the accused. Reports indicate that over 16,000 children have been victims of sexual abuse within the Church—victims whose complaints were often dismissed or ignored, and whose rights to due process were not fully honored. These failures eroded trust in the institution and led to decades of suffering.

Equally, the rights of accused priests must be safeguarded. It is vital to acknowledge that, as with victims, priests too are entitled to a fair hearing and the protection of their reputations. Innocent clergy should not be subjected to unjust penalties or public disgrace without due process. Only after a proper investigation, which confirms the credibility of an accusation, that any penalties—whether civil or canonical—should be imposed.

## **2. The Undermining of Due Process**

Unfortunately, given the complexity and volatility of the issue, there have been numerous instances in which due process has been undermined. This is particularly evident when accusations are made against priests. In many cases, bishops and religious superiors, perhaps to avoid scandal, have acted precipitously, accepting accusations at face value without a full investigation. This knee-jerk response has resulted in many priests being wrongly penalized or removed from ministry based on unfounded accusations, often due to delays or other procedural failures.

Such actions, though often well-intentioned, ignore the fundamental principle of presumption of innocence. Too many cases handled by bishops and superiors lack *due process* in violation of Canon Law. These infractions have gravely harmed the reputation of priests, caused deep emotional and psychological harm, and eroded the faithful's trust in the Church's commitment to justice and the management of a complex and volatile issue. The infractions cited include:

- The imposition of premature penalties before a priest has had the opportunity to defend himself.
- Publishing the names of priests as accused before substantial and verifiable evidence has been gathered and the investigation completed, including the naming of deceased priests who are unable to defend themselves.
- Continued freezing of priests from their ministry for long periods of time even when there is lack of credible evidence.

The **Charter for the Protection of Children and Young People** adopted by the U.S. bishops in 2002, outlines the need for an equitable process in dealing with allegations.<sup>1</sup> It asserts that accused priests must be treated with the presumption of innocence during the investigation and that steps should be taken to protect their reputations, should the allegations prove unfounded. Unfortunately, the application of this standard is inconsistent across dioceses and religious orders, and too often the procedural protections outlined in the Charter are not rigorously followed.

Recent reports from the **United States Conference of Catholic Bishops (USCCB)** show that a large percentage of allegations—often between 80 and 90 percent—are either unfounded, unsubstantiated, or unresolved.<sup>2</sup> Yet, many priests still face the consequences of these false or unresolved claims. Is it any wonder then, why the **2022 National Study of Catholic Priests**, reported that 82% of priests regularly fear a false allegation, and only 51% of diocesan respondents felt their bishop would support them if falsely accused?<sup>3</sup>

### **3. Seeking Remedies When Due Process is Denied**

In the past, bishops often relied on canon law and treated criminal sexual activity as a pastoral problem, which was inadequate for addressing abuse. This approach strengthened the perception that bishops were more concerned about the Church than the victims. The consequences of undermining due process are far-reaching for both the accused and the broader Church.

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At the beginning of the sexual abuse scandal, faithful and caring parents sought due process from the bishops for their children's claims, which were often dismissed or ignored. These parents knew this was wrong and unacceptable. They helped raise nationwide awareness of the abuse scandal and the Church's role, leading to media investigations that forced bishops to act justly. Their efforts won justice for their children and the Church.

Priests lack the leverage parents had over bishops. They cannot bring their cases to civil court due to jurisdictional limitations, and cases filed with the Roman Rota can take years to adjudicate, with bishops' decisions rarely overruled. This arduous process requires skilled canon lawyers and knowledge of priests' rights. This situation underscores the importance of priests knowing their rights and the need for bishops to follow canon law.

Without a fair process, accusations may not be properly investigated, depriving accusers of justice. Priests may face unjust penalties, removal from ministry, and prolonged uncertainty,

jeopardizing their reputations and livelihoods. The Church must address these injustices, ensuring all accusers and accused priests receive a fair hearing. If a case is judged non-credible or unsubstantiated, accused priests should have the opportunity to clear their names.

One of the by-products of parents' efforts for greater attention to investigating and sanctioning offenses led to revisions in the Code of Canon Law by Pope Francis in 2021. These reforms address accountability among church leaders and provide clearer guidelines and stronger protections for both the abused and the accused.

Most significantly, **Canon 1395 and 1398** address shortcomings in the church's handling of sexual abuse. They make it a crime not to report abuse, considers sexual abuse a crime, and explicitly punishes those who are guilty, including priests, lay Catholics and religious brothers and sisters.

In addition, several other new canons also address the due process rights of accused priests.

- **Canon 1321** reaffirms the **presumption of innocence** for accused priests and ensures that no one can be punished without a thorough investigation and clear evidence of guilt.
- **Canon 1341** mandates that bishops and superiors initiate appropriate judicial or administrative procedures when allegations are made, ensuring that cases are not left unresolved due to delays or lack of action.
- **Canon 1362** introduces a statute of limitations for criminal actions, stating that cases must be concluded within three years of the initiation of proceedings, ensuring that justice is not indefinitely delayed.

These reforms are essential in protecting the rights of accused priests and ensuring that justice is served for all parties. Their implementation requires consistent and diligent application by bishops and religious superiors, for both new cases and those previously affected by the lack of due process.

Many priests were wrongly penalized or removed from ministry based on unfounded accusations due to procedural failures. The reforms to Canon Law aim to prevent these injustices. Under **Canon 1313**, changes that benefit the accused must be applied retroactively,<sup>1</sup> providing an opportunity for previously mistreated priests to have their cases revisited and their reputations restored.

#### 4. Moving Toward a More Just Process

These issues are deeply felt by priests ministering in today's Church. It is burdensome and frustrating to witness the injustices faced by priests due to unfounded or poorly handled allegations. These situations take an emotional and spiritual toll, leaving many priests in a state of limbo, deprived of their vocation and livelihood. This is a profound challenge we must address as a Church.

The **Association of United States Catholic Priests (AUSCP)** initiative to raise awareness about due process rights aims to ensure that all priests, especially those accused of misconduct, are fully informed of their canonical and civil rights. These rights are crucial for protecting individual dignity and must be respected throughout the Church's procedures for addressing abuse allegations. Every accused cleric must receive the due process they are entitled to under Canon Law to establish confidence among the laity and clergy.

We acknowledge that bishops deeply value their brother priests and are tasked with balancing their pastoral responsibility to protect their flock while safeguarding the integrity of the priesthood. This responsibility brings immense pressure, especially when dealing with both victims and the accused. It is burdensome and challenging for bishops to find a path that is both just and compassionate for all involved.

This issue affects not only abuse victims but also accused bishops and priests, their peers, parishioners, and the Church's reputation. To embody the role of a good shepherd, the Church must consider the needs and perspectives of all individuals when addressing abuse allegations.

As a result of our recent discussions, we are respectfully approaching His Holiness Pope Leo XVI, the US Catholic Bishops, priests, superiors of religious orders and secular institutes, and laity with a spirit open to a continuing conversation of enhancing protections against sexual abuse, while ensuring that every victim and named priest cleric receive the *due process* they are entitled.

While the matter is complex, establishing guidelines that emphasize the right to a good reputation is a crucial direction. In the next section, "A Step Toward Restoring Justice," we outline an initial step necessary for this important work. We appreciate your attention to these sensitive matters and look forward to your feedback. Together, we can make significant strides towards a just and compassionate resolution.

## II. A Step Toward Restoring Justice for Victims and the Accused

### *The Right to a Good Reputation*

#### **INTRODUCTION:**

Canon Law provides specific guidelines regarding the rights of all members of the Roman Catholic Church, as outlined in Canons 208 through 223. These rights are accompanied by corresponding obligations, all for the benefit of the Church community. Among these rights is the right to a good reputation (canon 220).

#### **PROCESS:**

In addressing allegations of offenses allegedly committed by clerics, we propose that Church leaders faithfully follow the precepts of Canon Law. This is best summarized by Pope Francis:

“The right to defense: the principle of natural and canon law of presumption of innocence must also be safeguarded until the guilt of the accused is proven. Therefore, it is necessary to prevent the lists of the accused being published, even by the dioceses, before the preliminary investigation and the definitive condemnation.”<sup>8</sup>

To achieve these ends, we suggest the use of professional resources to investigate any claims. Victims should initially file a police report and let the police investigate, as they are generally the experts in conducting investigations. Obtaining services of a trained private investigator for cases when law enforcement is not willing or able to investigate could also be considered. In any case, an investigation by competent investigators should be completed without delay so as not to delay justice for the accuser or accused, in conformity with canon 1362. Only when substantial, verifiable evidence is gathered, should the accused cleric be removed from active ministry to prevent further potential harm.

Pope Francis’ assertion, cited above, that “the lists of the accused should not be published, even by the Dioceses, before the preliminary investigation and the final conviction,” provides an irrefutable legal basis to abandon the practice of some dioceses which publicly name an accused cleric based on a “credible” accusation—before the police and/or diocese have even begun their investigation. Such practice puts the “right to a good reputation” at risk, as is the morale of hard-working priests.

A recent letter from the Dicastrium de Legum Textibus, also addresses this issue. “The determination of whether an accusation is “founded” often rests on a non-canonical basis and requires a relatively low standard of proof, resulting in the publication of the name of a person

merely accused, but of an unproven accusation, without the benefit of any exercise of the right to defense.”<sup>9</sup>

The embracement of due process, presumption of innocence and the right to a good reputation is foundational to the achievement of justice. Equally true, is an investigation completed swiftly and competently, thus appreciating the legal maxim, justice delayed is justice denied. That is true for both the accuser and the accused.

We do acknowledge that bishops could face a dilemma between adhering to directives from Rome and ensuring the safety of children. Could this not be addressed by discretely placing a priest on leave from his pastoral assignment, without a public statement about a “credible” accusation before the outcome of an investigation is completed.

Upon its completion, should the police obtain clear definitive evidence of a crime and arrest the priest, the diocese must remove the priest from active ministry and the public be notified. According to Canon Law 1321 disciplinary measures should only be imposed after a credible accusation has been substantiated. This process safeguards both the alleged victims and the reputation of the accused, who may ultimately be proven innocent.

Bankruptcy cases involving U.S. dioceses reveal many allegations are unfounded, unsubstantiated, or unresolved. Some accusations, including dates, locations, or even the names of priests, have been proven false. In some instances, individuals make false allegations for financial gain. Civil cases have also shown that clergy members being wrongfully accused.

For these reasons, we urge the Conference of Bishops to faithfully follow the law. Canon law provides explicitly how bishops and superiors should treat allegations of any misconduct, not just child sexual abuse. Adhering to the law and implementing it in a consistent manner helps preserve the integrity of the investigative process and trust of the bishops’ leadership.

## **CONCLUSION:**

The proposal presented here represents a step toward restoring justice and fairness. By ensuring that a competent and honest investigation is conducted and completed before a priest is publicly accused or punished, we protect the reputations of all involved. Disciplinary actions should only be taken after a credible accusation is substantiated and a report is submitted to the DDF. This approach will be seen by both laity and clergy as a reasonable and simple step toward justice for all God’s people.

By upholding the rule of law and due process, as outlined in Canon Law (canons 1321, 1341, and 1362), the Church can foster an environment in which victims feel their safety is prioritized, while clergy can trust that they are supported and valued by their bishops. Bishops

will be empowered to make informed, well-founded decisions. Ultimately, this approach seeks to build trust within the Church community, ensuring that the Church seeks justice for all people while maintaining its ecclesial integrity.

## **ENDNOTES**

<sup>1</sup>**United States Conference of Catholic Bishops (USCCB)**, *Charter for the Protection of Children and Young People* (Washington, D.C.: USCCB, 2002).

<sup>2</sup>**United States Conference of Catholic Bishops (USCCB)**, *2024 Annual Report on the Implementation of the Charter for the Protection of Children and Young People* (Washington, D.C.: USCCB, 2023), 18. Available online: [https://www.usccb.org/resources/2024%20CYP%20Annual%20Report%20\(Digital\).pdf](https://www.usccb.org/resources/2024%20CYP%20Annual%20Report%20(Digital).pdf)

<sup>3</sup>**The Catholic Project**, *2022 National Study of Catholic Priests* (Washington, D.C.: The Catholic Project, 2022), 17-18. Available online: <https://catholicproject.nd.edu/>.

<sup>4</sup>**Canon 1321 § 1.** “Any person is considered innocent until the contrary is proved. No one can be punished (emphasis ours) unless the commission by him or her of an external violation of a law or precept is gravely imputable by reason of malice or of culpability.”

<sup>5</sup>**Canon 1341 §1.** “The Ordinary must start a judicial or an administrative procedure for the imposition or the declaration of penalties when he perceives that neither by the methods of pastoral care, especially fraternal correction, nor by a warning or correction, can justice be sufficiently restored, the offender reformed, and the scandal repaired

<sup>6</sup>**Canon 1362 §1.** “A criminal action is extinguished by prescription after three years. Although exceptions to this rule are allowed, the major thrust of this new canon allows a window of only three years from the beginning of a formal canonical process for the prosecution to conclude its case, before the clock on the statute of limitations starts running again.”

<sup>7</sup>**Canon 1313 §1.** “If a law is changed after an offence has been committed, the law more favorable to the offender is to be applied. If the later law removes a law, or at least a penalty, the penalty immediately lapses.”

<sup>8</sup>“Protection of Minors: Reflection Points,” Vatican News, February 21, 2019, <https://www.vaticannews.va/en/pope/news/2019-02/protection-minors-points-of-reflection-vatiab.html>.

<sup>9</sup>“Prot.183416,” Dicasterium de Legum Textibus, September 5, 2024, [https://www.delegumtextibus.va/content/dam/testilegislativi/CHIARIMENTI%20NORMATIVI/Ch%20Normativi%20Risp%20Particolari/Chiar%20normativi%20CIC/Prot.18316\\_2024\\_Circa%20dovere%20opera%20bona%20fama%20defuncti%20can.%20220.pdf](https://www.delegumtextibus.va/content/dam/testilegislativi/CHIARIMENTI%20NORMATIVI/Ch%20Normativi%20Risp%20Particolari/Chiar%20normativi%20CIC/Prot.18316_2024_Circa%20dovere%20opera%20bona%20fama%20defuncti%20can.%20220.pdf)