

Responding to Christopher Hitchens

Sean Murphy

“The Great Catholic Coverup”

Christopher Hitchens’ venomous attack on Pope Benedict XVI¹ is a revelation that deserves wider attention. Were it not for its appearance in the *National Post*, it would be difficult to believe that a reputable newspaper would publish such absurdity.

Mr. Hitchens states that in May, 2001, Joseph Cardinal Ratzinger sent a “confidential” letter to Catholic bishops to remind them that anyone who disclosed “rape and torture” of children by priests would be excommunicated. He claims that Cardinal Ratzinger imposed a ten year “statute of limitations” on actions against clerical sex offenders, and was thus guilty of “obstruction of justice.”

These assertions are false.

Mr. Hitchens also states that then Archbishop Joseph Ratzinger was responsible for the transfer of a clerical sexual predator to Munich. He virtually accuses Archbishop Ratzinger of approving the predator’s return to clerical duties and, in consequence, of moral responsibility for the priest’s resumption of sexual aggression against children.

There is no evidence to support these claims.

Addressing the shortcomings in Mr. Hitchens’ handiwork provides the opportunity to answer an important question. What should the Catholic Church do with bishops and priests who have facilitated vile sexual crimes by clergy by deliberate concealment or gross negligence?

The “confidential” letter

The 2001 instruction to which Mr. Hitchens referred² was issued to clear up confusion about how reports of clerical sexual misconduct were to be handled.

. . .the CDF letter had as one important aim to settle certain procedural questions among canonists as to which canonical crimes are “reserved” to CDF per 1983 CIC 1362, that is, which ecclesiastical offenses are considered serious enough that Rome itself could adjudicate the case instead of allowing the normal canons on penal jurisdiction to operate (e.g., 1983 CIC 1408, 1412). These canons were on the books long before the clergy sexual abuse crisis erupted, but their interpretation had been disputed. CDF’s letter cleared up much of the confusion.³

With respect to limitations of action, they are not unique to Canon Law. They exist in secular legal jurisdictions⁴ and can prevent prosecution of serious sex crimes.⁵ Even where there is no legal limitation of action, the probability of prosecution diminishes with time to mere theoretical possibility, since it becomes increasingly difficult to find reliable evidence sufficient to prove a charge beyond reasonable doubt.

Ratzinger’s directive actually facilitated Church proceedings against clerical sex offenders by *extending* time limits that had previously hampered prosecutions.

. . .in extending jurisdiction over these cases to 10 years past the alleged victim’s 18th birthday, CDF actually *increased* the amount of time that Church

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officials (whether diocesan or Roman) had to prosecute these offenses. Before CDF's letter, canonical prosecutions were complicated by unduly short statutes of limitations—the very same problem, by the way, that *state* prosecutions encountered in many pedophilia cases. CDF was hardly obstructing justice; it was trying to make justice more available.⁶

The so-called “confidential” instruction was published by the Vatican,⁷ appeared in English in 2001,⁸ and has been on the Vatican website (in Latin) since at least the middle of 2005.⁹ It has been ‘discovered,’ ‘revealed’ or ‘exposed’ by so many reporters since then that it might give pause to those who doubt the possibility of the resurrection of the dead.

Catholic media disclosed and discussed the document in January, 2001.¹⁰ In July, 2003, newspapers in Massachusetts published stories about the document Mr. Hitchens quotes.¹¹ CBS News tried to take credit for the news the following month.¹² *The Observer*, cited by Mr. Hitchens, purported to break the story in 2005,¹³ while the BBC ‘exposed’ the instruction in 2006.¹⁴ A CBS feature ‘discovered’ it in late 2009.¹⁵

Certainly, Mr. Hitchens’ wild fabrication that Cardinal Ratzinger threatened to excommunicate anyone who revealed “child rape and torture” has trumped the rhetoric of his predecessors. However, lurid prose is hardly a substitute for sound research.

The passage quoted by Mr. Hitchens as ‘proof’ of his extravagant claims is not (as his readers might believe) from Cardinal Ratzinger’s instruction. It is from *Crimen Sollicitationis*, a 1962 instruction personally approved by Blessed Pope John XXIII.¹⁶ And, contrary to Mr. Hitchens’ assertion, bishops were not “reminded” by Cardinal Ratzinger of secrecy or excommunication. A passage in the instruction simply noted that *Crimen Sollicitationis* had been under review, and the reference to it was understood to mean that it was no longer in effect.¹⁷

Secrecy and excommunication

Crimen Sollicitationis is a 54 page directive. It has not been properly translated and published by the Holy See despite the fact that it has been public for some time and is repeatedly being ‘discovered’ or ‘exposed’ by journalists like Mr. Hitchens. The document warrants careful reading, but it does not support Hitchens’ claims. In fact, it contradicts them.

Virtually all of the document is concerned with the investigation and prosecution of complaints of sexual solicitation of penitents by priests in confession.¹⁸ Such procedures are difficult and sensitive because the seal of confession cannot be violated.

“The bulk of the document instructs bishops on how to investigate such cases, placing great emphasis on secrecy to preserve the seal of confession,” said the Rev. Ladislav Orsy, professor of canon law at Georgetown University. “You’re dealing with an extremely delicate situation, because the priest cannot reveal anything that was said, even to defend himself,” he said.¹⁹

However, the last four paragraphs of *Crimen Sollicitationis* state that the same procedures should be adapted and applied to deal with “the worst crimes:” homosexual acts and bestiality among clergy and sexual aggression against minors.²⁰ Catholic officials and apologists have sometimes failed to acknowledge this and have incorrectly characterized the document as

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pertaining only to sacramental confession.²¹ Omissions of this kind, however innocent, only contribute to already significant distrust of the Catholic Church.

Crimen Sollicitationis was silent about secular law and reports to secular authorities for at least two reasons. First, it was concerned only with the internal investigation and prosecution of violations of Canon Law. In this respect, it was similar to the internal disciplinary policies of professional organizations that address only professional misconduct, even though the misconduct in question might also be a criminal offence.²² Second, the focus of its attention (solicitation of penitents in confession) involved misconduct that was not necessarily an offence against secular law.²³

In any case, *Crimen Sollicitationis* did not threaten excommunication of people who revealed “rape and torture” of children by priests. On the contrary: it imposed not only a duty to denounce such crimes (and the lesser offence of solicitation) to the bishop, but the automatic excommunication of anyone who knowingly *failed* to do so.²⁴ The goal was to ensure that clerical misconduct which, by its nature, was likely to occur in private, did not remain secret and unpunished.²⁵

Officials investigating or involved in proceedings pertaining to these “unspeakable crimes” were required to take an oath of perpetual secrecy, on pain of excommunication.²⁶ This was the passage perverted by Mr. Hitchens’ selective quotation and extraordinary accusation. An oath of secrecy was also to be given to witnesses in the proceedings, but was not, it seems, to be backed by a threat of excommunication.²⁷

It is relevant to note that analogous oaths of secrecy and confidentiality are taken by secular professionals and officials,²⁸ that confidentiality is usually maintained during secular investigations,²⁹ and that secular proceedings - Family Court hearings for example - sometimes proceed in secret.³⁰ Secular professionals are not always obliged to report sex crimes or crimes of violence to the police, even when minors are victims,³¹ and are sometimes prohibited from doing so by professional codes of ethics.³²

The reasons for confidentiality and secrecy in the secular sphere are the same kinds of reasons for the secrecy required by *Crimen Sollicitationis*. Media reports about the document over the last several years have mentioned some of them: protecting the seal of confession, ensuring the integrity of an investigation, shielding victims from publicity and encouraging them to come forward, and protecting reputations before guilt has been established.³³

Of course, such reasons are not always justified and not always persuasive. What is significant, however, is that canon law specialists consulted about *Crimen Sollicitationis*, while properly critical of wrongful conduct by bishops and priests, have dismissed the theory that the document was meant to cover up clerical wrongdoing, or that it was used for that purpose.

- Fr. Francis Morrissey, St. Paul’s University: “Of course, a bishop couldn’t use this document to cover up denunciation of an act of sexual abuse. . . The document simply wasn’t made for that purpose.”³⁴
- Rev. Ladislav Orsy, Georgetown University: “This document reflects a mentality and a policy. I do not think [the document] initiated it. And I do not think as a practical

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matter [the document] contributed much to it, because for the most part this document was just sitting in the archives," he said. "But it is a manifestation of it."³⁵

- Edward N. Peters, J.D, J.C.D.: “. . . nothing whatsoever in CDF’s letter prevents or discourages victims (or their parents) from going to the police, private attorneys, or even the press with their stories. . . Of course, a few ecclesiastical crimes are also crimes under civil law. Where two great powers overlap in a very serious matter, as happens when Church and state are confronted with evidence of child sexual abuse by priests, genuine legal and procedural questions can arise. Again, there is nothing new here. Working out the best manner of accommodating the rights and duties of *both* systems might require some discussion, but there are no insurmountable obstacles to doing just that. . . .”³⁶
- Rev. Thomas Doyle: “According to the document, accusers and witnesses are bound by the secrecy obligation during and after the process but certainly not prior to the initiation of the process. There is no basis to assume that the Holy See envisioned this process to be a substitute for any secular legal process, criminal or civil. It is also incorrect to assume, as some have unfortunately done, that these two Vatican documents are proof of a conspiracy to hide sexually abusive priests or to prevent the disclosure of sexual crimes committed by clerics to secular authorities.”³⁷

Doyle’s comment is of particular interest because he has an international reputation as a vociferous critic of the Catholic Church’s response to clerical sexual misconduct, though he has been inconsistent in his explanations of *Crimen Sollicitationis*.³⁸

It would be unfair to conclude that Mr. Hitchens deliberately distorted and withheld all of this information. One hesitates to attribute his failings to malicious anti-catholic bigotry, but he has at least been remarkably careless in his reading and incompetent in his research.

This must be kept in mind when we turn to Mr. Hitchens’ indictment of Archbishop Ratzinger for the management of the clerical sexual predator in Munich thirty years ago.

The Case of Peter Hullerman

German priest Peter Hullermann was from the Diocese of Essen, not Munich.³⁹ The first complaints against him were brought to the Church from three families 1979. The complaints were not denied.⁴⁰ In the interest of protecting their children, the parents did not go to the police about Hullerman, apparently with the understanding that he would receive therapy and no longer be permitted to work with children.⁴¹

Hullerman was sent for therapy to Munich in 1980. An early report states that Archbishop Ratzinger “approved a decision to accommodate the priest in a rectory while the therapy took place.”⁴² Other reports, some citing a statement by the Archdiocese of Munich, state that Archbishop Ratzinger approved Hullerman’s transfer to Munich for therapy.⁴³ *Zenit*, a Catholic news agency, discussed the contents of the Archdiocese statement in more detail. According to *Zenit*, the priest was “received into the Archdiocese . . . to undergo therapy in January, 1980,” and that “a decision was made to permit the priest to stay in a rectory at the end of his treatment.”⁴⁴

It is not clear from these reports whether or not Hullerman was immediately incardinated

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(formally accepted) into the Archdiocese of Munich, which would immediately have made him a subject of Archbishop Ratzinger, or if he remained under the jurisdiction of the Bishop of Essen for some time after his arrival in Munich. However, it is certain that Archbishop Ratzinger knew that Hullerman had sexually assaulted children in Essen and that he was living in Church premises while undergoing therapy in Munich. This would not have been out of order, since, at the time, it was believed that therapy could be effective in curing sex offenders. This was, as it turned out, not entirely wrong, but it was overly simplistic.

Early studies, conducted in the 70's and 80's, were unable to detect differences in recidivism rates between sex offenders who had undergone treatment and those who had not (Furby, Weinrott, & Blackshaw, 1989). This finding was widely publicized, leading to skepticism about the benefits of treatment, and opening the door to punitive public policies. Actually, although the research is not unequivocal, treatment has been found to decrease sex offense recidivism. . . . However, treatment does not work equally well for all offenders (like any psychological or mental health treatment -- or medical interventions, for that matter).⁴⁵

This kind of information, the product of thirty years of further research, was not available in 1980.⁴⁶

Archdiocese of Munich, 1980

Father Joseph Ratzinger had been consecrated Archbishop of Munich in May, 1977. By his own admission his health was "fragile" and he had little pastoral experience, having been only an assistant pastor for about one year in 1951-52. From 1952 to 1977 he had been a teacher, researcher and professor of theology.⁴⁷

In 1980 the Archdiocese of Munich had 400 paid staff members and employees,⁴⁸ over 1,700 religious and diocesan priests in over 750 parishes, and over 6,000 male and female religious.⁴⁹ Father Gerhard Gruber, who was Vicar General in 1980, said that Archbishop Ratzinger "left many decisions to lower-level officials."⁵⁰ "The cardinal could not deal with everything," he said.⁵¹

There were three auxiliary bishops. One of them, Bishop Heinrich von Soden-Fraunhofen (deceased), was the main Church contact for Hullerman's therapist, psychiatrist Dr. Werner Huth. Dr. Huth was never in contact with Archbishop Ratzinger.⁵²

Dr. Huth states that Hullerman was "neither invested nor motivated" in therapy and even resistant to it, cooperating only to avoid losing his position. Hullerman rejected Huth's recommendation for one-on-one sessions, preferring 'group therapy.' Huth repeatedly and urgently advised Church officials, orally and in writing, that Hullerman "desperately ha[d] to be kept away from working with children." He stated that his advice was that Hullerman could return to pastoral work only if he were kept away from children, abstained from alcohol, and was under the constant supervision of another priest.⁵³

However, the council of priests in the Archdiocese was not informed of Hullerman's offences. Erwin Wild, who was then a spokesman for the council, now states that the council should have been advised.⁵⁴ Perhaps so, but, consistent with the therapeutic approach in vogue at the time, Hullerman was being dealt with as someone in need of treatment or cure,

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not as a potentially dangerous offender. Had Dr. Huth's advice had been followed it would probably have been safe to confine the information to those directly involved in supervising Hullerman, extending it to others as the need arose.

Offender returns to pastoral work and reoffends

But Dr. Huth's recommendations were not followed. They were ignored by Vicar General Gruber, who authorized Hullerman's return to ministry "almost immediately after his therapy began, interacting with children as well as adults."⁵⁵ Gruber now admits that this was "a serious mistake," and states that Archbishop Ratzinger was not aware of it.⁵⁶

Archbishop Ratzinger resigned in February, 1982, to become Prefect of the Congregation for the Doctrine of the Faith in Rome. It is impossible to associate him with what happened after he left Munich. Seven months later, Hullerman was assigned to a parish in Grafing. He was convicted in 1986 for sex crimes against minors in the parish.⁵⁷

None of this affords evidence that Cardinal Ratzinger attempted to cover up what Hullerman had done, or that he was responsible for Hullerman's return to pastoral duties and his subsequent offences against children. It appears that, in the absence of such evidence, Mr. Hitchens let his sense of outrage get the better of him. Lacking evidence, he fell back on innuendo, the last refuge of journalists in need of a story. For that he quoted Rev. Thomas Doyle, who offered the following comment on the explanation offered by the former vicar general.

Nonsense. . . Pope Benedict is a micromanager. He's the old style. Anything like that would necessarily have been brought to his attention. Tell the vicar general to find a better line. What he's trying to do, obviously, is protect the Pope.⁵⁸

Thomas Doyle, O.P.

Thomas Doyle is a well-known American priest and canon lawyer.⁵⁹ Some of his doctrinal views are in conflict with key teachings of the Catholic Church,⁶⁰ and his canonical status is uncertain.⁶¹ Nonetheless, he has considerable expertise with respect to the problem of sex crimes by Catholic clergy⁶² and a reputation as a public advocate for their victims.⁶³ He is also a well-known critic of the Catholic hierarchy.⁶⁴ For all of these reasons he is likely among the list of 'usual suspects' who would be interviewed by journalists interested in clerical sexual abuse.

However, Mr. Hitchens does not explain why Doyle should be accepted as an expert on Archbishop Joseph Ratzinger's management style in the Archdiocese of Munich in 1980. It does not appear that Doyle has ever lived in Germany or that he speaks or reads German. There is nothing in his comment that suggests that he made enquiries in Munich about the administration of the diocese under Archbishop Ratzinger, or that he actually knew anything in particular about the subject. His comment is consistent with the outlook of a crusader, not a knowledgeable expert, and the testimony of crusaders warrants caution.

Mr. Hitchens failed to demonstrate that caution. Thus, in assessing the credibility of Doyle's comment and the weight to be given it, one should ask if Doyle has been known to make inaccurate, inconsistent or ill-considered statements about the subject of his crusade.

With respect to *Crimen Sollicitationis*, this is what Doyle said on "Sex Crimes and the

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Vatican,” a BBC production that aired in 2006:

. . . what you really have here is an explicit written policy to cover up cases of child sexual abuse by the clergy, to punish those who would call attention to these crimes by churchmen. . . .⁶⁵

Soon after the BBC aired “Sex Crimes and the Vatican,” Doyle backed away from his televised statement:

Although I was a consultant to the producers of the documentary I am afraid that some of the distinctions I have made about the 1962 document have been lost. I do not believe now nor have I ever believed it to be proof of an explicit conspiracy, in the conventional sense, engineered by top Vatican officials, to cover up cases of clergy sexual abuse.⁶⁶

Readers can compare Doyle’s explanation about the loss of “some of this distinctions” he made with the video of his BBC assertion on You Tube.⁶⁷ What Doyle told the BBC in 2006 was also contradicted what he had said about the document three years earlier.

Though allied with victims and critical of the church, he said in an e-mail that he does not consider the 1962 document a “smoking gun.” . . . although accusers and witnesses are bound by secrecy during and after the church’s internal investigation, nothing prevents them from going to police or prosecutors before that process begins.

“It seems to be stretching a bit too far to conclude that this process is a substitute for civil law action or is an attempt to coddle or hide clergy who perpetrate sex crimes,” Doyle said.

. . . “it is dangerous to isolate the document and strain to make it more than what it was intended to be.”⁶⁸

Doyle repeated the substance of this in papers written in 2008⁶⁹ and 2010.⁷⁰ However, his accusation of a coverup remains on the BBC website and on You Tube without qualification.

When confronted in cross-examination at a Canadian inquiry by statements he made in e-mails that were posted on a website with his permission, Doyle admitted that he had used inflammatory language⁷¹ and regretted having done so.⁷² More significantly, he agreed that, on reflection, the innuendo of impropriety in one of his e-mails concerning a priest was, in hindsight, incorrect.⁷³ Asked whether or not his e-mails had been intended “to develop the credibility of positions [the website operator] was taking against people who had not been charged,” he replied, “If it was it was a passive intention. It was not a direct intention on my part that I recall, and I don’t recall exactly.” He conceded that he had made a mistake.⁷⁴

Shooting from the hip

There is no dispute that Doyle’s use of inflammatory language, mistaken innuendo and mistaken support for the website in question flowed from passionate conviction and righteous indignation. This also accounts for his inflammatory and inaccurate explanation of *Crimen Sollicitationis* on the BBC documentary. Doyle’s passion and sincerity are not in question.

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What is in question is whether or not Mr. Hitchens was justified in relying upon Doyle's shoot-from-the-hip indictment of Archbishop Ratzinger as support for his accusations - especially in the absence of any other evidence.

There is a further question. Is there anything to suggest that Doyle could be wrong? That Archbishop Ratzinger was *not* a "micromanager" who 'must have known' that Hullerman had returned to pastoral work?

The size and complexity of the Archdiocese of Munich and Archbishop Ratzinger's lack of pastoral and episcopal experience have already been outlined. The *National Catholic Reporter's* John Allen took note of this and offered the following observation:

Serving as archbishop was Ratzinger's first real taste of nuts-and-bolts administrative work, and the record seems to show that it wasn't his top priority. . . there's every reason to believe that administrative matters of all sorts weren't on his radar screen. In 1984, when the controversial book *The Ratzinger Report* appeared, a group of Munich priests issued a letter of protest, among other things claiming that while Ratzinger had been their shepherd, they had virtually no contact or dialogue with him.⁷⁵

At first glance, this seems to suggest the opposite of micromanagement: negligence. But when discussion during an interview in 1997 turned to the role of bishops and his experience with controversy in Munich, Cardinal Ratzinger's response was inconsistent with that explanation. He said that he recalled the words of Scripture and the Church Fathers about "shepherds who are like mute dogs:"

Peace is not the first civic duty, and a bishop whose only concern is not to have any problems and to gloss over as many conflicts as possible is an image I find repulsive. . . Even today I am glad that in Munich I didn't dodge conflicts, because letting things drift is. . . the worst kind of administration I can imagine.⁷⁶

When asked in 1984 if he would have preferred the Church to be centred in Germany rather than Rome, he laughed.

What a disaster! . . . We would have an overly organized Church. Just think, in the Munich archdiocese we had 400 staff members and employees, all regularly paid. Now, it is known that because of its nature every office must justify its existence by producing documents, organizing meetings, planning new structures. To be sure, all had the best intentions. But it has often enough happened that the parish priests have felt more burdened than sustained by the quantity of 'auxiliaries.'⁷⁷

What emerges from even these vignettes is a situation too complex to be captured in the kind of simplistic terms used by Doyle.⁷⁸

The value of Hitchens' column

For present purposes there is no need to pursue the point further. One is tempted to conclude that the principal value of Mr. Hitchens column lies in its illustration of an old saying: a lie can get half way 'round the world before the truth can get its boots on.

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However, in another respect, Mr. Hitchens' column is a true-to-life reflection of something very real and very significant. The ferocious animosity that seizes his writing with such force that it bends and twists and distorts what it touches is like the inarticulate rage that can boil up in the hearts of victims of a grave injustice - when it does not break their spirit. It is not a good thing, but it is understandable, and it demands recognition and a response.

What is to be done?

With respect to the case of Peter Hullerman and others like it, what is required is a thorough investigation and full public accounting of what took place in the Archdiocese of Munich in 1980. One can hope that the legendary German penchant for organization and documentation will facilitate this.

Beyond that, however, there is a critical question that can no longer be avoided.

What will the Catholic Church do with bishops who have failed in their duty to protect the faithful from sexual predators?

The question demands answers, but answers require necessary distinctions. Four come to mind, and the answers depend upon them.

Errors in good faith: Bishops who are vigilant, diligent and prudent may, nonetheless, make mistakes. Such mistakes do not warrant censure. For example, a bishop may, in good faith, follow the advice of acknowledged experts or specialists. That advice may prove to be erroneous, with disastrous results for the innocent. The error must be corrected and the victims assisted, but the bishop does not deserve punishment.

Incompetence: Bishops who are well-intentioned may make mistakes because they are careless or lack administrative ability or sound judgement. When people (especially the young or vulnerable), are endangered or harmed by their mistakes, or are likely to be harmed, the bishops should be removed from office.

Gross negligence: Bishops who fail to act when a reasonable man would act, who fail to make enquiries that a reasonable man would make, or who otherwise demonstrate reckless disregard for the safety of others should be removed from office. If people or the common good are harmed as a result of their negligence, additional penalties, not excluding laicization, should be imposed.

Deliberate concealment: Except in cases involving the seal of confession, bishops who, to protect a wrongdoer from just punishment, to prevent scandal, or for any other reason, deliberately conceal wrongdoing or attempted wrongdoing, or fail to disclose wrongdoing when a just and reasonable man would do so, should be removed from office and laicized. If people or the common good are harmed as a result of their deliberate concealment, additional penalties should be imposed.

The distinctions might be further qualified or refined, and, in practice, overlapping probably cannot be avoided. When there is doubt about the classification of a case, it should be assigned to the less serious category. For the sake of brevity, only bishops are identified here, but the policy should be applied to all lay Church officials, religious and clergy: deacons, priests, bishops, archbishops, cardinals - and the Pope.

With respect to “additional penalties,” it is instructive to recall that, *Crimen Sollicitationis*, consistent with the teaching of the Church, while it offered forgiveness to the repentant, required penalties as a matter of justice,⁷⁹ and also the imposition of penance.⁸⁰

What penalty or penance might be appropriate for a bishop who, through gross negligence or deliberate concealment, has been morally responsible for sexual assaults or other grave crimes, especially against children?

Having been deprived of his office and income and pension, and his possessions sold to help satisfy claims for damages, he should spend the rest of his life, while his health lasts, serving the poorest of the poor in mission territories, or begging from door to door for food and shelter in the diocese where he betrayed his trust.

If this seems harsh, there is an alternative. It is described in Mat 18:6, Mark 9:42 and Luke 17:2.

The author:

Sean Murphy is a Catholic layman. He retired from the Royal Canadian Mounted Police in 2009 after almost 35 years' police service. While not a specialist in sexual assault, during the course of his service he was responsible for the investigation of current and historical sex crimes against children and adults (including false allegations), leading, in one case, to the conviction of a Catholic priest. Over the years he was described by superiors as "tenacious," "conscientious" and "meticulously thorough." This article should not be understood to represent the views of the RCMP or its members.

Mr. Murphy has made a special study of the documents of the Second Vatican Council and Catholic teaching on sexuality and marriage. His paper on the nuptial meaning of the Eucharist was among three chosen for presentation at the 1993 conference of the Canadian Fellowship of Catholic Scholars, and later published in the conference proceedings. His articles have appeared in Catholic periodicals, including the BC Catholic, Catholic Insight magazine and the Journal of the Fellowship of Catholic Scholars (Canada). Others are posted on the Internet at the Catholic Educators' Resource Centre (<http://www.catholiceducation.org>), Catholic Exchange (<http://www.evangelization.com>) and the Catholic Civil Rights League website (<http://ccrl.ca>). His comments and responses to attacks on religious freedom and Catholic teaching have appeared in the media, including some BC community papers, the *Vancouver Sun*, *The Province*, *Xtra West*, the *Ottawa Citizen*, *Halifax Daily News*, the *BC Catholic*, and *Christian Week*.

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Notes

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15. *Showtime*. Penn and Teller: Bullshit! Season 7, Episode 10: “Penn and Teller take on the secretive inner world of The Vatican, the holy city of Catholicism and home of the Pope.”

(http://www.ovguide.com/tv_episode/penn-teller-bullshit-season-7-episode-10-the-vatican-701911) Accessed 2010-03-22.

16. Supremae Sacrae Congregationis Sancti Officii, *Instructio de modo procedendi in causis de crimine sollicitationis*. 16 March, 1962.

(<http://www.cbsnews.com/htdocs/pdf/crimenlatinfull.pdf>) Accessed 2010-03-19. Hereinafter *Crimen Sollicitationis (Latin)*

The Supreme and Holy Congregation of the Holy Office, *On the manner of proceeding in cases of the crime of solicitation*. 16 March, 1962

(<http://www.cbsnews.com/htdocs/pdf/Criminales.pdf>) Accessed 2010-03-19. Hereinafter *Crimen Sollicitationis (English)*

17. “. . .the Congregation for the Doctrine of the Faith . . . devoted itself to a diligent study of the canons on delicts both of the Code of Canon Law and the Code of Canons of the Eastern Churches. . . because the instruction *Crimen Sollicitationis* . . . in force until now, was to be reviewed when the new canonical codes were promulgated. . .” Congregation for the

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Doctrine of the Faith, Letter to Bishops of the entire Catholic Church and other Ordinaries and Hierarchs having an interest regarding the more serious offenses reserved to the Congregation for the Doctrine of the Faith (English translation from *Origins* 31:32, January 24, 2001.

(<http://www.bishop-accountability.org/resources/resource-files/churchdocs/EpistulaEnglish.htm>) Accessed 2010-03-19.

There was some question as to whether or not the document had been superseded with the proclamation of the revised *Code of Canon Law* in 1983. (Wooden, Cindy, "Vatican Official says 1962 norms on solicitation no longer apply." *Catholic News Service*, 7 August, 2003 [<http://www.multiline.com.au/~johnm/ethics/nolonger.htm>: Accessed 2010-03-19.]; Compare Doyle, Thomas, *The 1962 Vatican Instruction Crimen Sollicitationis, promulgated March 16, 1962*, 1 April, 2008, paragraphs 2, 4-6. [http://www.richardsipe.com/Doyle/Commentary_on_Crimen_Sollicitationis_04-1-08.pdf: Accessed 2010-03-19.]). However, the phrase, "in force until now" clearly established that *Crimen Sollicitationis* ceased to be in effect with the publication of the new instruction.

18. 70 of 74 paragraphs concern solicitation.

19. Cooperman, Alan, "Vatican Memo Cited in Sex Abuse Cases: Significance of 1962 Secrecy Order Disputed." *Washington Post*, 25 August, 2003. (http://www.bishop-accountability.org/news2003_07_12/2003_08_25_Cooperman_VaticanMemo.htm) Accessed 2010-03-19.

20. *Crimen Sollicitationis*, paragraphs 71-74.

21. *Catholic World News*, "CBS News story distorts 1962 Vatican document (Analysis)" (<http://www.catholicculture.org/news/features/index.cfm?recnum=24023>) Accessed 2010-03-19; Statement of Archbishop Vincent Nichols Re: BBC "Sex Crimes and the Vatican." 1 October, 2006. (http://news.bbc.co.uk/2/hi/uk_news/5397762.stm) Accessed 2010-03-22

22. See, for example, the College of Physicians of British Columbia on a physician's ethical duty to report a colleague who has engaged in improper conduct with a patient. College of Physicians and Surgeons of British Columbia, *Ethical Duty to Report*. (<https://www.cpsbc.ca/files/u1/Ethical-Duty-to-Report.pdf>) Accessed 2010-03-22

23. The canonical offence included tempting a penitent "toward impure and obscene matters." *Crimen Sollicitationis*, paragraph 1.

24. *Crimen Sollicitationis*, paragraphs 15-19

25. ". . . ne fere semper inaestimabili cum animarum detrimento occultum impunitumque maneret. . ." (" . . . lest it remain occult and unpunished and always with inestimable detriment to souls.") *Crimen Sollicitationis*, paragraph 15

26. *Crimen Sollicitationis*, paragraph 11-12

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27. *Crimen Sollicitationis*, paragraph 13. See also Doyle, Thomas, *The 1962 Vatican Instruction Crimen Sollicitationis, promulgated March 16, 1962*, 1 April, 2008, paragraph 15. (http://www.richardsipe.com/Doyle/Commentary_on_Crimen_Sollicitationis_04-1-08.pdf) Accessed 2010-03-19.

28. And they may be disciplined or fired for violating such oaths, even for ostensibly good reasons. See *CP24: Toronto's Breaking News*, "SCC won't hear appeal from RCMP whistleblower." (http://cp24.com/servlet/an/local/CTVNews/20070510/SCC_RCMP_070510?hub=CP24Sports) Accessed 2010-03-22

29. Leaks to the media about police investigations can be especially damaging. See Hughs, Gary, "Court of public opinion gets it wrong." *The Australian*, 18 August, 2006. (http://blogs.theaustralian.news.com.au/garyhughes/index.php/theaustralian/comments/court_of_public_opinion_gets_it_wrong/P0/) Accessed 2010-03-22.

30. Bennett, Rosemary, "Times wins ruling over secrecy of family court." *The Times*, 22 July, 2008

31. "Child protection and police notification laws vary from State to State with some States mandating a report to police and child protection only if the assault occurred as a result of parental neglect." Ledray, Linda E., *Sexual Assault Nurse Examiner (SANE) Development and Operation Guide*. US Department of Justice, Office of Justice Programs, Office for Victims of Crime, p.93 (<http://www.ojp.usdoj.gov/ovc/publications/infores/sane/saneguide.pdf>) Accessed 2010-03-22

In Victoria, British Columbia, the Sexual Assault Response Team does not notify police of sexual assaults that are reported by women and girls 14 and older without the permission of the victims. "Sexual Assault Nurse Examiner (SANE) Program, Victoria," *Newsletter of the BCASVACP*, Summer, 2000, p. 14. (<http://www.endingviolence.org/files/uploads/BCASVACP20072.pdf>)

British Columbia's *Child, Family and Community Service Act* does not require notification of police or child welfare authorities of physical harm, sexual abuse or exploitation of children if their parents are willing and able to protect them. (http://www.bclaws.ca/Recon/document/freeside/--%20C%20--/Child%20%20Family%20and%20Community%20Service%20Act%20%20RSBC%201996%20%20c.%2046/00_96046_01.xml) Accessed 2010-03-24

32. Absent a statutory requirement, respect for patient confidentiality and autonomy would prevent a physician from reporting that a competent adult woman had been assaulted by her boyfriend unless she consented to the report. Consistent with this, the College of Family Physicians of Canada acknowledged in 2000 that "physicians are not obliged to report past or current episodes of woman abuse." Lent, Barbara; Morris, Patricia; Rechner, Shelley: Editorial - "Understanding the effect of violence on pregnancy, labour and delivery."

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Canadian Family Physician, Vol. 46, March, 2000, p. 506.

(<http://www.cfp.ca/cgi/reprint/46/3/505.pdf>) Accessed 2010-03-23

33. Allen, John L., “1962 document orders secrecy in sex cases: many bishops unaware obscure missive was in their archives.” *National Catholic Reporter*, 7 August, 2003 (<http://www.nationalcatholicreporter.org/update/bn080703.htm>); Peters, Edward N., “Much Ado About Not Much.” *In the Light of the Law: A Canon Lawyer’s Blog on Current Issues*, 27 April, 2005. (<http://www.canonlaw.info/blogarch05.htm>) Accessed 2010-03-19.

34. Allen, John L., “1962 document orders secrecy in sex cases: many bishops unaware obscure missive was in their archives.” *National Catholic Reporter*, 7 August, 2003 (<http://www.nationalcatholicreporter.org/update/bn080703.htm>) Accessed 2010-03-19.

35. Cooperman, Alan, “Vatican Memo Cited in Sex Abuse Cases: Significance of 1962 Secrecy Order Disputed.” *Washington Post*, 25 August, 2003. (http://www.bishop-accountability.org/news2003_07_12/2003_08_25_Cooperman_VaticanMemo.htm) Accessed 2010-03-19.

36. Peters, Edward N., “Much Ado About Not Much.” *In the Light of the Law: A Canon Lawyer’s Blog on Current Issues*, 27 April, 2005. (<http://www.canonlaw.info/blogarch05.htm>) Accessed 2010-03-19.

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38. Compare “Thomas Doyle on *Crimen Sollicitationis*.” 1 October, 2006 (<http://www.youtube.com/watch?gl=AU&hl=en-GB&v=ikleJkicAOU>) (Accessed 2010-03-19) and Cooperman, Alan, Vatican Memo Cited in Sex Abuse Cases: Significance of 1962 Secrecy Order Disputed. *Washington Post*, 25 August, 2003. (http://www.bishop-accountability.org/news2003_07_12/2003_08_25_Cooperman_VaticanMemo.htm) Accessed 2010-03-19.

39. Kulish, Nicholas, “German Priest in Church Abuse Case is Suspended.” *New York Times*, 15 March, 2010 (<http://www.nytimes.com/2010/03/16/world/europe/16church.html>) Accessed 2010-03-19

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Accessed 2010-03-19; Donadio, Rachel and Kulish, Nicholas, "Vatican sees campaign against Pope." *New York Times*, 13 March, 2010

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(http://archstl.org/files/archstl/images/stories/pdfs/04-09-08-decree_doyle.pdf) Accessed 2010-03-23. The “definitive truths” are not disclosed in the decree.

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(http://www.richardsipe.com/Doyle/Commentary_on_Crimen_Sollicitationis_04-1-08.pdf) Accessed 2010-03-19.

70. “There is no basis to assume that the Holy See officially envisioned this process to be a substitute for any secular legal process, criminal or civil. It is also incorrect to assume, as some have unfortunately done, that these two Vatican documents are proof of a conspiracy to hide sexually abusive priests or to prevent the disclosure of sexual crimes committed by clerics to secular authorities. The documents were written in a style and within an ecclesiastical context common for that pre-Vatican II era. Both are legal-canonical documents written in highly technical language. The English translation of *Crimen Sollicitationis*, though basically accurate, is also strained and awkward which can lend itself to misunderstanding.”

Doyle, Thomas, *The 1922 Instruction and the 1962 Instruction Crimen Sollicitationis Promulgated by the Vatican*, 4 March, 2010, paragraph 23

(http://www.richardsipe.com/Docs_and_Controversy/2010-03-04-solicitation.html) Accessed 2010-03-23

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78. Readers interested in further information about Pope Benedict's present and past approach to administration may consult Ratzinger, Joseph Cardinal, *Salt of the Earth: The Church at the End of the Millennium. An interview with Peter Seewald*. San Francisco: Ignatius Press, 1996, p. 81-82, 86, 90-91, 109-110; Ratzinger, Joseph and Messori, Vittoria, *The Ratzinger Report: An Exclusive Interview on the State of the Church*. San Francisco: Ignatius Press, p. 68-69; *Intentional Disciples*, "Consultation and Governance." 12 February, 2007 (<http://blog.siena.org/2007/02/consultation-and-governance.html>) Accessed 2010-03-23

79. *Crimen Sollicitationis (Latin)*; *Crimen Sollicitationis (English)*, paragraphs 61-63

80. *Crimen Sollicitationis (Latin)*; *Crimen Sollicitationis (English)*, paragraph 64