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MEDIA CRISES

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INTRODUCTION

As members of the Roman Catholic Church, we are under more scrutiny by the press and public than most other religions or institutions.¹ Because we are Catholic, much more is expected of us in terms of honesty, decency, integrity, and sincerity. The purpose of this discussion is to illustrate how we, as the Church, should respond to press inquiries when the Church or, specifically, a diocese is caught in a wave of controversy. Today, controversy is anything that is Catholic.

In this day and age, it would be very naive to expect that the press would provide the Church and its bishops with image-building and favorable coverage. That picture changed in 1985 when a former priest from Louisiana admitted to sexually abusing over thirty youngsters.²

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¹ See Adrian Peracchio, *Media's Skepticism is Nondenominational; The Press Tends to View the Catholic Church as it Does the Federal Reserve: As Power Broker, Social Arbiter and Molder of Opinion*, *NEWSDAY*, Mar. 8, 1992, at 30 (acknowledging media bias against Church, but justifying such treatment by journalists who judge Church as they would any powerful institution or governmental body); see also *ANTI-CATHOLICISM IN THE MEDIA* 18-22 (Patrick Riley & Russell Shaw eds., 1993) (discussing evolution of anti-Catholic sentiment in American media).

² See Russell Chandler, *Sex Abuse Cases Rock the American Clergy; Disclosures of Misconduct—A Problem Hidden for Years—Are on the Rise and Some Denominations are Developing Guidelines for Handling Offenses*, *L.A. TIMES*, Aug. 3, 1990, at 1 (noting that Louisiana

Stories of that incident made headlines from coast to coast. While this discussion is not a criticism of how that particular diocese handled the press, we need to learn from their experience, and from each other, because each case is different; each situation is different; each diocese is different. That scandal, however, changed many attitudes about the Church held by the public, the press, and its own members.³ Additionally, this controversy precipitated the search for scandalous behavior by other priests throughout the United States, and focused on how bishops and the Church were responding or not responding to these issues.

I. THE CHURCH'S RELATIONSHIP WITH THE PRESS

In light of this increased scrutiny, it would also be very naive to think that, by not answering press inquiries, the press is merely going to go away. That is simply not going to happen. We must always be vigilant and cognizant of our role with the press and the important part we all play in forming the Church's image in both the secular press and the Catholic press. To have an effective relationship with the press, it is important to understand how the press works.

A. *The Role of the Press*

First, it is important to realize that the press' role is to uphold its mission regarding the public's "right to know." The press exists to defend the defenseless and the downtrodden, and to bring justice where they feel there is an injustice.⁴ Members of the press will not stop until they feel they have the truth, and until they feel they have the entire story.

The media, in effect, forms public opinion, both positively and negatively.⁵ People often say, "Our decisions are not going to be driven by the press." Well, our decisions *are* driven by the press. Although most re-

sex abuse case was first incident to set Church "reeling"). In this much-publicized incident, Reverend Gilbert Gauthé admitted to having sexually abused 37 children while he was serving as the Boy Scout Chaplain for the Diocese of Lafayette. Jon Nordheimer, *Sex Charges Against Priest Embroil Louisiana Parents*, N.Y. TIMES, June 20, 1985, at A24. Parents of the victims were especially outraged after discovering that Gauthé's superiors were aware of Gauthé's activities when they assigned him to supervise the youths. *Id.*

³ Cf. Peter Steinfelds, *Bishops Struggle Over Sex Abuse by Parish Priests*, N.Y. TIMES, June 18, 1993, at A1 (stating that sexual abuse of minors by priests greatly undermines trust and credibility of Catholic Church).

⁴ See generally LYLE W. DENNISTON, *THE REPORTER AND THE LAW* xvii-xxii (1980) (describing press' role in society and obligations toward public); Robert E. Drechsel, *Media Ethics and Media Law: The Transformation of Moral Obligation into Legal Principle*, 6 NOTRE DAME J.L. ETHICS & PUB. POL'Y 5, 20-22 (1992) (discussing ethical obligations of press toward public).

⁵ See ANTI-CATHOLICISM IN THE MEDIA, *supra* note 1, at 9 (addressing media control of public opinion, especially in establishing anti-Catholic sentiment).

porters try to be unbiased and fair, not all are. If you encounter a situation where a reporter is unfair, call the editor or publisher of the news and voice your concerns. Reporters, editors, and publishers must not get away with inaccurate reporting.

B. Handling Inquiries by the Press

If a diocese seeks good rapport with the local press, the diocese's spokesperson—hopefully the communications director—should never “stonewall” a reporter.⁶ The spokesperson should be available to answer questions and provide information and background for any story the press is working on. Even though a reporter might be an adversary on a particular story, he or she might be working on other stories in the future for which you will need that reporter's help. In other words, don't burn any bridges with reporters. Also, when a controversial issue confronts a diocese, it is advisable to have one media spokesperson through whom all information is funneled—the chancellor, the director of communications, or the diocesan attorney. Understandably, though, that is not always possible.

The spokesperson has a right to know the subject matter of a press inquiry. If it concerns a controversial issue, it is not necessarily in the best interest of the Church to use those two infamous words, “no comment.”⁷ Today, a “no comment” implies guilt. The spokesperson is much better off replying, for instance, that they wish they could answer the question at that time, but it would be inappropriate because the matter is either in the hands of civil authorities or in litigation.

Be honest and be truthful. If not, the press will know, and the credibility of the spokesperson, the bishop, and the Church can be terribly damaged. Reporters are interested in accuracy. Anything the spokesperson can do to make their jobs easier will benefit both the spokesperson and the Church in the long run.

Additionally, a diocesan representative should not talk to reporters in “legalese.” It is best to communicate with them in plain English because the true object of the communication is the general public. Therefore, communicate to the public in the language they understand.

It is best to consider that there are no “off-the-record” interviews. Always assume that everything said or done will be seen in print or on

⁶ Cf. Ellen G. Blattel, *Prevention Helps Ward Off Bad Press for Firms*, NAT'L L.J., Jan. 27, 1992, at 26. It is important for large institutions to develop a positive relationship with the press so that, in the event of a crisis, coverage is not as severe. *Id.*

⁷ See Michael J. McManus, *Abuse After Bernardin; Joseph Cardinal Bernardin*, CHRISTIANITY TODAY, Apr. 25, 1994, at 14 (editorial) (discussing effective response by Cardinal Bernardin to false accusation that he had abused a former student). Rather than lashing out at his accuser or refusing to comment, Cardinal Bernardin denied the accusation and stated he would pray for his accuser. *Id.*

the air. If a reporter suggests such a conversation, ask the reporter to define off-the-record. Each journalist has his or her own definition for the phrase.⁸ Most interviewees believe that an off-the-record comment will not be printed, repeated, or used with the interviewee's name. To most journalists, however, off-the-record means that they can use the information, but not attribute it to its source. Similarly, if a journalist requests "deep background" information, ask them to identify what that term means to them.⁹ The terms deep background and "deep throat" originated from the Watergate scandal in the 1970s.¹⁰ Deep throat meant an unidentified source,¹¹ but that cannot be counted on today. Ask the reporter to define these phrases.

Where the spokesperson does respond to the press, he or she should be aware of broadcast or print deadlines. Reporters will appreciate promptness in responding to their questions. Moreover, the consequence of missing a deadline is, possibly, to create a two or three day story.

Press conferences should not be scheduled unless absolutely necessary. If a press conference is scheduled, however, the representative should be fully briefed and prepared for all potential questions and answers. For example, if my bishop calls a press conference, we help him prepare an opening statement that outlines the issues he wishes to address. In addition, we always prepare an exhaustive list of questions—tough questions that he may not like—that the press will likely ask him. This practice gives him an opportunity to prepare, and puts him more at ease during the actual press conference.

Also, make only informed responses to press inquiries. Especially where the question concerns a comment made by another individual. In order to respond appropriately, find out what that person said, and in what context the comment was made.

Remember that the spokesperson can also limit "face-to-face" or telephone interviews by informing reporters that the interview can last only ten minutes. They will understand. As another protective measure, the spokesperson should audio or video tape interviews wherever possible. The reporter should be informed of the recording and, if asked, told that

⁸ See generally Daniel A. Levin & Ellen Blumberg Rubert, *Promises of Confidentiality to News Sources After Cohen v. Cowles Media Company: A Survey of Newspaper Editors*, 24 GOLDEN GATE U. L. REV. 423, 450 (1994) (discussing various levels of confidentiality of news sources as determined by press and definitions of such levels); Terry Eastland, *Beltway Journalism; Press Coverage of the Federal Government*, NAT'L REV., June 21, 1993, at 39 (discussing journalistic practices in Washington, D.C. and various levels of confidentiality of sources).

⁹ See Levin & Rubert, *supra* note 8, at 450; Eastland, *supra* note 8, at 39.

¹⁰ See James Mann, *Deep Throat: An Institutional Analysis; Speculating on Identification*, ATLANTIC, May 1992, at 106 (discussing Watergate scandal and anonymity of "Deep Throat" as source).

¹¹ *Id.*

the spokesperson needs to ensure that he or she is being quoted accurately and in context, or to verify comments that could appear in print or in a courtroom.

II. HANDLING CONTROVERSIAL ISSUES WITH THE PRESS

Generally, there is a mystique about the Church that intrigues members of the press and the public.¹² Much of that intrigue stems from the public's perception of the Church's power. People believe that Catholics blindly follow the Pope and bishops. This belief is rooted in history, tradition, discipline, and the organization of the Church itself. Indeed, all of this is mysterious to most of the press and public, including members of the Church. The press wants to analyze, reanalyze, dissect, bisect, examine, investigate, criticize, and interpret every aspect of the Church's life—from the hierarchy to dogma; from our basic beliefs in the mystery of the Eucharist to celibacy; from the Church's position on the sanctity of all human life to critiquing every pastoral letter issued by the Holy Father or our bishops.¹³ The most troubling aspect, however, of the Church's life and image is scandal, specifically with accusations of sexual misconduct by priests.¹⁴ How does the Church respond to the press, and the entire situation in general? The diocese's internal response affects what will be written or said by the press in the days following.

The problem, therefore, is not simply having answers for the press, but having actions to take in response to a child molestation allegation. That is not only the root, it is what the press wants to know. What has been done? Presumably, if the diocese takes proper actions, its responses to the press should be less problematic. Nevertheless, these are "no win" situations. The children and families who are affected do not win; the priest does not win; the bishop does not win; the diocese does not win; the institutional Church does not win; and we as a Catholic people do not win. The best we can hope for is to minimize the damage to the Church's image by being as open and as honest as we can without defaming anyone's character, especially that of the children, families, and priest involved.

¹² See generally ANTI-CATHOLICISM IN THE MEDIA, *supra* note 1, at 18-22 (discussing media attention afforded Church and roots of interest).

¹³ See *id.* at 30-50 (providing excerpts of media reports concerning various aspects of doctrines and teachings of Church).

¹⁴ See, e.g., Brian McGrory, *In the Wake of Abuse Cases, Clergy Endure In Faith*, BOSTON GLOBE, July 5, 1992, at 15 (discussing extent of publicity stemming from press coverage of molestation of minors by Catholic priests); Vera Hughes, *Sexual Abuse of Children*, IRISH TIMES, Dec. 13, 1994, at 15 (editorial) (criticizing "witch hunt against priests" undertaken by media in reporting incidents of molestation of minors by Catholic priests).

A. *Actions Taken By the Diocese of Phoenix in Instances of Alleged Clergy Misconduct*

Imagine a simple scenario. The diocese's bishop has been contacted by a law enforcement agency and informed that a priest has been arrested for sexually molesting a child. What can be done internally when the bishop is informed of these allegations? How is the spokesperson prepared for press inquiries? While each diocese has its own procedures for handling such incidents, the Diocese of Phoenix takes five essential steps when information about sexual molestation allegations come to the bishop from a law enforcement agency.

First, the bishop gathers his senior staff advisors to inform them of the allegations. Second, the bishop implements the Diocesan Sexual Abuse of Minor's Policy and appoints a response team which will be responsible for coordinating the diocesan response to the victim, families, parish community, and priest. Every diocese should have a sexual abuse policy.¹⁵ The diocesan attorney is always part of the team. In addition, the bishop appoints the diocesan attorney to conduct an internal investigation. Even though an allegation has been reported to the proper civil authority, there is still a canonical duty to investigate a complaint of impropriety by a priest.¹⁶

Third, the priest is placed on administrative leave with pay and removed from his place of assignment. Fourth, arrangements are made for either the bishop or his delegate to call the family of the alleged victims and offer pastoral care and counseling. It is important to note that actions taken by the diocese when it receives allegations of abuse by a priest are not an expression of any judgment concerning the veracity of the allegations. Rather, these actions are intended to indicate the serious nature of these cases and to respect the rights of everyone concerned.

Fifth, the strategies discussed in Part I, *supra*, for press inquiries should be implemented with both the secular and Catholic press. Specifically, the communications director should be included in this loop of the bishop's advisors, and only one spokesperson should be used. By all means, contact the parish or location where the priest is assigned, and ask them to refer all press inquiries to the spokesperson.

¹⁵ Cf. Michael Abramowitz, *In Chicago, Confronting Pedophilia in the Priesthood*; *Archdiocese Backs Commission's Recommendation for Independent Investigative Board*, WASH. POST, July 15, 1992, at A3 (reporting that "virtually every U.S. diocese" has adopted policy for dealing with priests' sexual abuse of children).

¹⁶ 1983 CODE c.1717.

B. The Six Waves of Press Coverage During Incidents of Clergy Misconduct

Based on this scenario, there might be six stages or waves of coverage by the press. Remember, the press is going to follow this case to its conclusion.

1. The First Wave

The first wave, which could last several days, will cover the allegations, police investigation, and arrest. The press will want confirmation of: the priest's name and affiliated diocese; his age; the number of years he has been a priest; his present assignment; his past assignments; whether he has family members in the diocese; and his educational background.

In response to these inquiries, the Diocese of Phoenix prepares a press release with quotes from the bishop. Most reporters will accept a press release, even though they would rather personally speak with the bishop. Also, the Diocese does not mail the press release to everyone on its media list. It is distributed only to those reporters who request such information.

Moreover, the press will want to know if the diocese had prior knowledge of the priest's behavior. If the priest has a history of misconduct, the press will want information regarding past incidents and the diocese's response to such incidents. Although these are difficult questions, the diocese must be prepared to respond to them. The press will also ask whether the priest is on administrative leave with pay, and, if so, the amount of salary received. While it can be very controversial to put a priest on administrative leave with pay, the bishop has a canonical obligation to provide some kind of sustenance for a priest in the diocese. The press will also be interested in the priest's current and future whereabouts.

They will also want to know if the diocese has contacted the families of the alleged victim or victims, and whether counselling has been offered. The press may ask if the incident was announced to the parish where the priest was assigned and, if so, how the parishioners are reacting to the news. Most likely, the media will go to the place of assignment to get reactions from parishioners, which will be varied. Moreover, they will be interested in whether the diocese is paying for the priest's attorney, bail, or temporary housing.

Essentially, during the first wave of media, the press will focus on whether the Church plans to cover-up the incident, and the diocese's future plans for the accused. Again, a "no comment" response to a reporter's questions will leave the diocese wide open to the press and public for criticism. Failure to respond to the press' inquiries creates a one-

sided view of the situation in which it is assumed that the Church is covering-up the situation and is insensitive to the alleged victim. Additionally, the alleged victims and their families will want two things from the Church: They will want the priest out of the priesthood, and they will want pastoral, counselling, and financial assistance through this horrible trauma.

Replying to press inquiries at this stage gives the diocese the opportunity to relate certain information to the public: that it is taking the allegations seriously and is deeply concerned over the alleged molestation, regardless of the perpetrator's identity; that the priest has been placed on administrative leave and removed from the parish; and that these actions are not a presumption of the priest's guilt or innocence, but merely precautionary responses to protect all involved. With respect to inquiries regarding the diocese's future plans for the priest, the diocese can indicate that it cannot answer those questions until the civil authorities have concluded their investigations.

2. The Second Wave

The second wave of publicity occurs when the priest makes his first court appearance. In most cases, the attorney representing the accused will have him plead not guilty. During this second wave, the press will issue straight news stories taken from the information they received during the first wave of information. They might ask for some comments from the bishop. Again, it would be advisable to prepare a press release for those who request information.

3. The Third Wave

The third wave will commence if the priest appears before the court to change his plea to guilty. At this point, the press will want a more definitive response regarding what the bishop plans to do with the priest. In Phoenix, we basically inform the media that, with the conclusion of the civil judicial process, the law of the Church will apply and the bishop will call for an internal canonical investigation led by the diocesan attorney.

Give the press information on the diocese's internal policy and the bishop's options. For example, according to the Phoenix diocesan policy, in cases where the allegation is groundless, the priest can be returned to full or unrestricted ministry. Depending on the seriousness of the offense, a priest can be returned to priestly ministry with restrictions and under supervision. The bishop can also ask the priest to voluntarily return to the lay state, or involuntarily dismiss him from the clerical state through an ecclesiastical process.

We also tell the press that there are certain elements which shape the bishop's decision—the outcome of the civil proceedings, advice and judgment of professional counselors who have treated the priest, the well being of those ministered to by the Church, such as the victims and their families, and, of course, the best interest of the Church as a whole. Though much information is being given at this stage, we are not necessarily being specific in terms of what the bishop will say or do with the priest.

4. The Fourth Wave

The fourth wave is triggered when the priest is sentenced. The diocese may, at this point, want to issue a press release that expresses the bishop's sadness for everyone concerned and informs the press and public that the diocese is doing everything it can to help the victims and their families.

5. The Fifth Wave

The fifth wave occurs if and when the bishop begins the canonical ecclesiastical process to laicize the priest, or if the priest wants to voluntarily be laicized. The diocese can handle this phase in two ways. It can prepare an extensive press release explaining the process in detail to the press, or hold a press conference if the issue is important enough in the diocese and with its press.

6. The Sixth Wave

In the sixth wave, the diocese may be sued by the victims and their families.¹⁷ Although most reporters know that a spokesperson will not give much information if the diocese is being sued, the spokesperson should clarify that he or she is unable to give detailed information because of the litigation. However, it is important to reiterate information regarding the bishop's concern for the victims and their families. Remember, to "stonewall" the press is to only delay the press' resolution of each wave of the full story.

C. *Communicating with the Victims and Their Families*

From the beginning of the situation, it is very important to continue a communication between the diocese and the victims and their fami-

¹⁷ See Stephanie D. Young, Note, *Sexual Molestation Within America's Parishes and Congregations: Should the Church Be "Thy Priest's Keeper"?*, 91 W. VA. L. REV. 1097 (1989) (analyzing various theories and policies under which churches are held liable for sexual misconduct of priests).

lies.¹⁸ All too often, families feel abandoned by the Church, hurt, and victimized a second time. Although this can be touchy because the diocese could be accused of trying to tamper or interfere with the legal process, it must find a way to make such communication without legal implications. Try to be as pro-active as possible.

D. Handling Incidents of Misconduct Reported Directly to the Diocese

In the event that the allegation of misconduct is brought directly to the diocese or parish, and not to the police authorities or child protective agency, the diocese should immediately conduct an internal investigation. If it determines that the allegations are based on "reasonable grounds," as mandated by Arizona law, the diocese must report the incident to the authorities.¹⁹ If such notification is made, the diocese should emphasize that fact in every communication with the media.

E. Remediating Inaccurate Reporting

Today, local newspapers and television newscasts have become very sensationalistic.²⁰ Often, front page headlines deal with every sensational issue imaginable. The press examines every angle of an incident to perpetuate its sensational aspects and keep the event on the front pages, especially when the incident involves priests and sexual misconduct.²¹ This quest for sensationalism and volume is, obviously, to increase their readership and viewership, which, in turn, increases their advertising revenue.²² This kind of sensationalism causes competition among these media outlets²³ and results in "press hysteria" or "press

¹⁸ See Abromowitz, *supra* note 15, at A3 (reporting lack of sympathy and poor response from Catholic Church and recent strategies to remedy this image).

¹⁹ See ARIZ. REV. STAT. ANN. § 13-3620(A) (1994). Arizona law requires that any "clergyman or priest . . . having responsibility for the care or treatment of children whose observation or examination . . . discloses reasonable grounds to believe that a minor is or has been the victim of . . . sexual abuse . . . shall immediately report . . . such information to a peace officer or to the child protective services." *Id.* However, the law does not compel disclosure of information gained through confession. *Id.*

²⁰ See Robert K. Dornan, *Media are Addicted to Sensationalism*, USA TODAY, Dec. 28, 1992, at 11A (noting "increasing impulse to blur the lines between information and entertainment"); Albert Scardino, *A Debate Heats Up: Is it News or Entertainment?*, N.Y. TIMES, Jan. 15, 1989, at B29.

²¹ See *The Pope on Scandal: Excerpts*, N.Y. TIMES, June 22, 1993, at A14 (warning against "treating moral evil as an occasion for sensationalism"); *Priests & Sex*, COMMONWEALTH, Nov. 20, 1992 (noting sensationalism in media response to misconduct charges).

²² See Dornan, *supra* note 20, at 11A (suggesting that growth of cable television and specialty publications forces broadcasters and newspapers to use "innovative ways to attract advertising dollars").

²³ See *id.* "Intense competition is the driving factor behind the tendency to sensationalize news into a form of entertainment." *Id.*

frenzy." Press hysteria often causes inaccurate reporting and incomplete source verification, and reliance on one unidentified source, instead of the usual two or three. This type of shoddy reporting greatly damages all parties involved.²⁴ In such a situation, the diocese must try to set the record straight by immediately calling the reporter, his or her editor or publisher, or whomever is at the top.

III. CHURCH'S RESPONSE TO THE MEDIA SIEGE

A. *Choosing a Pro-Active Stance*

The Church is arguably among the institutions of society that are under a media siege.²⁵ News events do not drive media's coverage of the Church. Rather, there is continuous coverage of the Church by authors and filmmakers, in addition to daily television and newspaper coverage. As a result, there is a profound awareness of the negative aspects of the institution, but with a real lack of understanding of its benefits. Because the Church's "stock in trade" is its followers' faith, trust, and confidence in the institution, the implications of the media siege are far more harmful for an institution like the Church.²⁶

When does an institution take an affirmative, pro-active stance with the media? Sometimes the battle is wise to be fought, but, such battles need to be chosen wisely. Often, institutions determine that disputing allegations made in the media would serve only to call more attention to the negative publicity. There are, however, times when an affirmative position is most definitely necessary, particularly for the Church. Members of the Church will often be receptive to pro-active responses because they need and want to hear them.

B. *Propriety of Statements to the Media*

Diocesan attorneys making responses to the media must be aware of certain guidelines, especially the provisions of the American Bar Association's Model Code of Professional Responsibility²⁷ (the "Model Code") and Model Rules of Professional Conduct²⁸ (the "Model Rules") that reg-

²⁴ Cf. Drechsel, *supra* note 4, at 5 (arguing for ethical standards of professional conduct within media industry).

²⁵ See generally ANTI-CATHOLICISM IN THE MEDIA, *supra* note 1, at 18-22 (analyzing media's biased coverage of Catholic Church).

²⁶ See James L. Franklin, *Abuse Issue Most Erosive for Those Closest to Church*, BOSTON GLOBE, Aug. 26, 1992, at 18. But see James L. Franklin, *Mass. Catholics Fault Church on Handling of Sex Charges; Most Polled Say Issue Hasn't Affected Confidence in Institution; Catholics Fault Church on Abuse by Clergy*, BOSTON GLOBE, July 26, 1992, at 1.

²⁷ MODEL CODE OF PROFESSIONAL RESPONSIBILITY DR 7-107 (1981).

²⁸ MODEL RULES OF PROFESSIONAL CONDUCT Rule 3.6 (1993).

ulate trial publicity. Of course, within each jurisdiction, different rules have been adopted.

The Model Code addresses trial publicity in Disciplinary Rule 7-107.²⁹ The approach taken by the Model Code is to specify the type of information that can or cannot properly be stated. Rule 7-107(A) refers to the obligations of attorneys participating in or associating with the investigation of a criminal matter.³⁰ Rule 7-107(B) specifies the information that cannot be given by lawyers or law firms involved with the prosecution or defense of a criminal matter.³¹ Rule 7-107(C) indicates the information that can properly be revealed by such attorneys.³² Lawyers or law firms involved in civil actions are bound by similar standards specified in Rule 7-107(G).³³

In contrast to this approach, the Model Rules state a general rule applicable to all attorneys: "A lawyer shall not make an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication if the lawyer knows or reasonably should know that it will have a substantial likelihood of materially prejudicing an adjudicative proceeding."³⁴ This approach is the same for civil and criminal matters. The Model Rules further state specific matters as examples of statements that ordinarily would have the effect of materially prejudicing an adjudicative proceeding.³⁵

Notably, the Model Rules also require that the prosecutor in a criminal case shall "exercise reasonable care to prevent investigators, law enforcement personnel, employees or other persons assisting or associated with the prosecutor in a criminal case from making an extrajudicial statement that the prosecutor would be prohibited from making."³⁶ Thus, the prosecutor can be held responsible for his or her statements, and for those of the police investigators, arresting officers, and chain of law enforcement personnel who have dealt with the case.

These provisions provide a guide for an attorney's own extrajudicial statements, and a measure by which to gauge the propriety of comments

²⁹ MODEL CODE OF PROFESSIONAL RESPONSIBILITY DR 7-107 (1981).

³⁰ *Id.* at DR 7-107(A). Disciplinary Rule 7-107(A) states that lawyers involved in a criminal investigation shall not make extrajudicial statements through forms of public communication that go beyond a public record or disclose detailed information of the investigation. *Id.*

³¹ *Id.* at DR 7-107(B). Lawyers for the defense and prosecution are precluded from disseminating by means of public communication information relating to the character of the accused, pending pleas, possible confessions, examination results, or information regarding prospective witnesses. *Id.*

³² *Id.* at DR 7-107(C).

³³ *Id.* at DR 7-107(G).

³⁴ MODEL RULES OF PROFESSIONAL CONDUCT Rule 3.6(a) (1993).

³⁵ *Id.* at Rule 3.6(b).

³⁶ *Id.* at Rule 3.8(e).

by the prosecutor or plaintiff's attorney. Where a diocesan attorney responds to questions from the press, if those questions require responses which would be improper under the Model Code or Model Rules, it may well be because that the reporter has information that was provided by law enforcement personnel, the prosecutor's office, or the plaintiff's attorney. In the event that this is true, and the provision of such information may have been improper, that may help to bring the media coverage within proper bounds as the case progresses.

CONCLUSION

The issue of sexual misconduct by priests is not going away, nor should we hide from it, because child molestation and sexual misconduct by priests is something that the Church should not tolerate. We must restore the public confidence in the Church. This can only be done by addressing these issues openly and honestly. We have a responsibility as the Church and as advisors to our bishops to make sure we are acting compassionately and pastorally to everyone.

