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This paragraph is near the end of the article. Behaving with sexual immorality implies a sexual act with a person. By extension, immoral sexual behavior can be in speech, associations, affirmations, and teaching as well.

McCarrick, the bishops, and unanswered questions

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Follow By JD Flynn

Washington D.C., Jul 23, 2018 / 05:10 pm (CNA).- A new allegation of child sexual abuse was leveled against Cardinal Theodore McCarrick last Thursday, one month after the June announcement that he had been suspended from priestly ministry following an investigation into a different charge of sexual abuse on the part of the cardinal.

Along with emerging accounts from priests and former seminarians of sexual coercion and abuse by McCarrick, those allegations paint a picture of McCarrick's sexual malfeasance that may be among the most grave, tragic, and, for many Catholics, infuriating, as any in recent Catholic history.

From all corners of the Church, questions are being raised about those who might have known about McCarrick's misconduct, about how the Church will now handle the allegations against McCarrick, and about what it means for the Church that a prominent, powerful, and reportedly predatory cleric was permitted to continue in ministry for decades without censure or intervention.

Because McCarrick was a leading voice in the Church's 2002 response to the sexual abuse crisis in the United States, and an architect of the USCCB's Dallas Charter of the same year, the credibility of that response has also, for some, come into question.

For parents and others who placed trust in the Church to secure a safe environment for children, those questions are especially important.

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At the USCCB's 2002 Spring Assembly in Dallas, the bishops drafted their "Charter for the Protection of Young People" and the "Essential Norms for Diocesan/Eparchial Policies Dealing with

Allegations of Sexual Abuse of Minors by Priests or Deacons,” under intense media scrutiny.

There was a prescient moment at that meeting.

As the bishops discussed amendments to the document, Archbishop Elden Curtiss, then- Archbishop of Omaha, asked why a revision to the text replaced the term “clerics” with the phrase “priests and deacons.”

“Bishops are also clerics,” Curtiss pointed out.

William Lori, then Bishop of Bridgeport, Connecticut, said that the drafting committee “decided we would limit it to priests and deacons, as the disciplining of bishops is beyond the purview of this document. ‘Cleric’ would cover all three, so we decided not to use the word ‘cleric.’”

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The policies the USCCB drafted would eventually be approved by the Vatican, to serve as particular law governing the Church in the United States. There is no obvious reason to think that the Holy See would have forbidden the bishops’ conference to make child protection laws governing all clerics, including bishops, though the conference decided not to do so. And it should be mentioned that universal canon law does address sexual abuse committed by any cleric- deacon, priest, or bishop.

But the bishops in Dallas seemed mostly content to discuss sexual abuse as a problem pertaining to priests, and not a problem that might plague their own ranks.

Why?

It is possible that the bishops expected the Holy See would strike down proposed laws regarding bishops, preferring to reserve matters related to the discipline of bishops to itself.

It could be that the bishops trusted the Vatican to be responsible for overseeing and disciplining bishops, and felt new norms were not necessary.

It is also plausible that in 2002 few bishops might have conceived that their brother bishops would commit acts of very grave and craven sexual misconduct. Of course, if Cardinal McCarrick was in the room- and if he is guilty of abusing priests, seminarians, and children- he knew that such a thing was possible.

So too did Archbishop Harry Flynn, then of Minneapolis-St. Paul, who chaired the committee drafting the report, and led much of the discussion at the Dallas meeting.

Archbishop Flynn was appointed to Minneapolis-St. Paul in 1994. Three years earlier, a new auxiliary bishop was appointed by Pope John Paul II to that diocese: Lawrence Welsh, who from 1978-1990 was Bishop of Spokane. In 1986, Welsh was accused of attempting to strangle a male prostitute in Chicago. Welsh admitted to putting “his hands all over the victim’s body,” in a hotel room, according to a police report of the incident, but he was not charged with a crime.

In 1989, Welsh was arrested for drunk driving in a part of Spokane popular with male prostitutes, and he resigned from office a few months later. He was appointed to a new role in Minneapolis the next year.

Welsh died in 1999. At the time of his death, Flynn called him “an extraordinary man and a faith-filled servant of the Church.” Three years later, Flynn presided over the committee that decided, for

whatever reason, not to include bishops in the American Church's laws about sexual abuse.

Now, as the McCarrick scandal continues to take shape, the decision to omit bishops themselves from the Charter, and to focus exclusively on priests, seems to some Catholics to be gravely naive, or to be a symbol for the failure of bishops to hold one another accountable.

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Church-watchers have often recognized that many American bishops tend to strenuously avoid criticizing one another, or publicly calling attention to one another's faults, preferring the appearance of affable collegiality, even amid significant substantive disagreement.

The McCarrick allegations suggest to some that those tendencies have led to a situation in which, in practice, there is one set of rules regarding the behavior of priests and deacons in the Church, and another set of rules for bishops.

Since the Dallas Charter and Essential Norms were promulgated in 2002, a priest or deacon accused serially of sexual misconduct with seminarians, over whom he holds a position of authority, is unlikely to be permitted to continue in pastoral ministry, and especially not in leadership positions. Yet, in 2005 and 2007, the Diocese of Metuchen and Archdiocese of Newark paid settlements to priests who say they were abused by McCarrick during their time in seminary and as young priests, and, after those settlements, McCarrick was permitted to continue to function publicly as a cardinal.

Cardinal McCarrick participated in the conclave that elected Pope Benedict XVI in the same year a settlement over his misconduct was reached. While his resignation as Archbishop of Washington

was accepted in 2006 because of his age, he continued in ceremonial positions, acting as a quasi-official or official representative of the Church at some public functions, and celebrating large public liturgies.

But, for many Catholics, questions have not been answered sufficiently about whether bishops aware of McCarrick's apparent tendencies intervened to have him removed from ministry, and whether they should have alerted the public to his reported proclivities.

Not yet answered, for example, is whether Archbishop John Myers and Bishop Paul Bootkoski, who presided over the Newark and Metuchen dioceses when settlements were reached, raised any questions at the Vatican or with the apostolic nuncio in Washington about McCarrick's alleged behavior, or whether they considered if public disclosure of his behavior would serve the common good.

When a priest is credibly accused of sexual abuse or coercion, Catholics are ordinarily notified, and given the opportunity to come forward if they are aware of other instances of sexual malfeasance. That did not take place in Newark and Metuchen.

Before becoming Bishop of Metuchen, Bootkoski served as McCarrick's vicar general- a chief advisory role- in the Archdiocese of Newark.

Of course, questions have also been raised about other bishops who might have known about McCarrick's apparent proclivities. Cardinal Joseph Tobin succeeded Myers in Newark in 2017, and Bishop James Checchio succeeded Bootkoski in Metuchen the year before. Cardinal Donald Wuerl succeeded McCarrick directly in Washington in 2006. Did those men have awareness of McCarrick's alleged penchant for young seminarians?

Sources in Washington say that after news broke in June about McCarrick, Wuerl held separate meetings with seminarians and priests, listening to them and encouraging them to come forward if they had concerns or questions about the cardinal. Wuerl is known to be proactive on child-protection, and pushed insistently for the publication of the Charter in 2002.

Still, it seems virtually impossible to imagine that Wuerl was not informed about the settlements concerning his predecessor. Did he report them to the nuncio? To Pope Benedict, and then to Pope Francis? Was he obliged to accept a Vatican decision on the matter, or did he fail to raise the questions, out of misplaced sympathy for McCarrick or a sense that the cardinal's behavior was limited only to consenting adults?

Tobin, who was reported to have been McCarrick's choice for leadership in Newark, was known to be vigilant about child-protection during his time leading the Redemptorist religious order, and in the Vatican's office for religious life, but was beset by his own minor scandal in February, after tweeting "Nighty Night, baby. I love you," in a posting that raised eyebrows, despite the Archdiocese of Newark's insistence that it was was meant as a private message for his sister.

Still, none of the bishops surrounding McCarrick have been called to comment publicly on what they knew, when they knew it, and what they did about it.

The same questions go for the auxiliary bishops who served under McCarrick in Newark and Washington, the most prominent of whom is Cardinal Kevin Farrell, now prefect of the Dicastery for Laity, Family and Life at the Vatican. Farrell lived with McCarrick in a Washington apartment, and many have characterized McCarrick as a mentor to the cardinal.

Many Catholics have asked when those bishops will be called to account for their roles, if any, in McCarrick's situation. But one other American bishop might also face similar questions: Cardinal Sean O'Malley of Boston.

Father Boniface Ramsey, a priest of New York, says he contacted O'Malley, a close adviser to Pope Francis, in 2015, in order to report allegations of McCarrick's misconduct with seminarians but did not receive a response, according to the New York Times.

In the same year, O'Malley was also given a letter from Juan Carlos Cruz, a Chilean victim of sexual abuse, who says he was assured that the cardinal delivered the letter to Pope Francis. That letter detailed allegations against Bishop Juan Barros, who is alleged to have witnessed and participated in sexual abuse perpetrated by Father Fernando Karadima. The pope accused Barros' critics of calumny and detraction, directly, until the letter was leaked to the media in January 2018, and the pope dispatched an investigator to Chile. That sparked an unprecedented summoning of Chile's bishops to the Vatican, and a mass resignation from them this May. The pope accepted the resignation of Barros, and several other bishops, in June.

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Neither O'Malley nor the Vatican has confirmed whether the pope received the 2015 letter from Cruz, and now O'Malley is reported to have received allegations about McCarrick at the same time. What remains to be clarified is whether O'Malley communicated both sets of allegations to Pope Francis, and they were not acted upon by Francis and the Vatican, or whether the allegations were, for some reason, not communicated to the pope.

While many members of the media seemed to give O'Malley and Pope Francis the benefit of the doubt with regard to the Cruz

letter- and, indeed, questions about it went largely unasked once Francis began to act on Chile's abuse problem- it is unlikely that reporters will fail to ask about two apparent communiques on abuse from O'Malley to the pope in the same year. O'Malley enjoys a sterling reputation on child protection in the Archdiocese of Boston, but if answers are not forthcoming, that reputation may be tarnished by the frequency of quite similar reports.

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McCarrick is the most prominent American bishop who continued to enjoy a public life even after being accused of abuse-related misconduct or neglect, and the accusations against him are the most grave.

But he is not the only one.

Bishops Robert Finn, formerly of Kansas City, and John Nienstedt and Lee Piche, both formerly of Minneapolis-St. Paul, resigned from their positions when it became clear that none had handled allegations of sexual misconduct by priests in accord with Church or civil law.

Piche has largely disappeared from the public eye following his 2015 resignation.

Finn, who was in 2012 convicted of a misdemeanor for failing to report a priest's possession of child pornography, has mostly retired to serve as a chaplain of religious sisters in Nebraska after his 2015 resignation, though he occasionally appears at public events.

(full disclosure: In 2016, when Finn moved to Nebraska, I served as communications director for the Diocese of Lincoln. I do not presently have a relationship with Finn.)

Finn and Piche were accused, and Finn was convicted, of gravely mismanaging reports of abuse and misconduct, but were not themselves directly accused of sexual misconduct. Their situations are also evocative of Bishop Phillip Wilson of Adelaide, Australia, who has been convicted of failing to report a sexual abuse claim, but not been officially removed from his position. Those situations, though serious, are distinct from McCarrick's.

Nienstedt, however, was also accused of making unwanted sexual advances toward priests and seminarians, though he was not accused of the serial misdeeds leveled against McCarrick. In 2013, Nienstedt was also accused of touching a boy on the buttocks, though civil authorities declared in early 2014 that no evidence supports that charge.

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Nienstedt, who maintains his innocence of any charges of sexual misconduct, served initially at a Michigan parish after resigning in 2015, but left after drawing negative media attention. He has since appeared at California's Napa Institute and other public events.

While it is unlikely that any of those bishops will again be appointed to leadership positions in the Church, some have asked whether they will face formal Vatican charges. As McCarrick's long tenure in the Church raises questions about whether bishops have a propensity to protect one another, and whether the Vatican fails to appreciate the significance of sexual misconduct, those questions have taken on particular urgency.

Questions have also been raised about the tenure of Bishop Michael Hoeppner of Crookston, Minnesota. In May 2017, Hoeppner was sued by a diaconal candidate, Ronald Vasek, who says that in 2015 the bishop coerced him into withdrawing a report he had made in 2010 concerning a priest Vasek says abused him in 1971. The lawsuit was settled, Hoeppner maintains his

innocence, and the diocese says that a settlement is not an admission of wrongdoing. Nevertheless, the case may now be judged to warrant further scrutiny.

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It would be unfair to suggest that bishops fail to report these matters because they find sexual misconduct unobjectionable. While that might be true in some cases, there are a few factors that could also contribute to bishops failing to report the misdeeds of their colleagues.

The first is that bishops are trained to be forgiving and empathetic, and may have a hard time getting past that. Bishops mostly begin their careers as pastors, and that means they spend a great deal of time in confessionals. They learn to be empathetic to penitents, and to emphasize a conversion of life, a change of heart, a change of behavior, rather than to focus on the administrative or external aspects of justice.

A bishop who hears that a cardinal has had a series of adult sexual partners is likely to feel empathy for a sick and sinning brother, rather than to consider the external implications of those relationships. While bishops are largely now trained to understand the importance of reporting allegations of sexual misbehavior involving children, they may not immediately consider the same issue with regard to relationships involving adults.

Bishops may not immediately remember that a bishop, by virtue of his office, is always in an unbalanced power dynamic when he engages with other Catholics. And, because of the conditioning that comes from the confessional, they might be moved to prayer for the situation, and they might genuinely revile the behavior, without immediately realizing their own responsibility, and

ability, to see that the matter is addressed in the external fora of justice.

This is the reason why the bishops have elected to involve lay review boards in addressing matters of sexual misbehavior, and if there were failures to report the misdeeds of McCarrick, they demonstrate the need for those boards to be given sufficient information to advise the bishop objectively.

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Bishops might also be concerned that objections raised to the Vatican about sexual impropriety on the part of their brothers would go unanswered. That was apparently the case in Chile, where some bishops raised objections to the appointment of Bishop Juan Barros for years, before a media firestorm prompted Vatican action.

There are other bishops who may be reticent to report suspicions or allegations about a brother bishop because of an American ecclesial culture that has been sometimes characterized as having an allergy to conflict. In such a culture, one may feel simply it is "not his place" to raise concerns about a brother.

And there may still be bishops who believe that preventing a scandal is a worthwhile endeavor, without considering the costs of that decision to those who are harmed when a bishop acts immorally. The costs of that decision are borne, most gravely, by those who are directly harmed by acts of abuse on the part of any cleric. Their wounds cry out to God for justice.

But when a bishop behaves with sexual immorality, the effects ripple across his entire diocese. Priests and seminarians who object to that sexual immorality leave quickly, or find themselves marginalized. Those who rise to leadership positions are those who are left: those who are willing to accept the bishop's sexual

immorality, those who are complicit in it, or those who are too naive to notice it. Those in the first two categories, being willing to accept some rejections of Catholic teaching, are usually also likely to accept other rejections of Catholic teaching. That can be reflected in their pastoral leadership and catechesis, and consequently, an entire diocese can be formed with a theological perspective framed by relativism, tolerance of immorality, or compromise. The effects of a bishop's sexual immorality can lead to spiritual and catechetical decline across an entire diocese.

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It remains to be seen whether the Vatican will address the allegations leveled against Cardinal McCarrick, let alone consider whether others were complicit in his alleged abuse and misconduct. Sources close to the case have told CNA that the formal charges against McCarrick have not yet been made clear, even to those involved.

Some sources have told CNA to expect that McCarrick will die before facing a formal Vatican inquiry. In question is whether, if McCarrick does die before a trial, the related questions will die with him.

It also remains to be seen whether McCarrick will be stripped of his title as a cardinal, even without facing a formal trial. There is a precedent for that sanction, and, to many, his case seems to call for it.

But some hope that this moment, combined with sex abuse crises in Chile, Honduras, and India, will be a sea change for the Church. Many Catholics, regardless of theological perspective, are making clear that they expect transparency from ecclesial leaders.

One notable facet of the present call for accountability is that, for the moment, it seems mostly free from ideological division.

When Finn was being investigated for negligence, many conservatives assumed that he was being unfairly maligned by progressives, even before they learned the facts of the case. When Barros of Chile was under suspicion, even Francis blamed the “leftists.” McCarrick was regarded by most as an avowed progressive, but few have seen criticism of him as ideological. The shock, at least now, seems to break the partisan divide.

To be sure, some recent commentators have been quick to reject any correlation between homosexuality in the priesthood and allegations that a bishop engaged in predatory homosexual behavior with subordinates. But the Vatican in 2005 declared directly that those with “deep-seated homosexual tendencies” should not be admitted to seminary formation, which seems an authoritative recognition that homosexuality amongst priests can have negative effects. Those arguing otherwise are unlikely to gain much traction, at least at the moment.

It seems unlikely that the momentum of a push for more accountability and transparency will quell before at least some bishops begin to offer their responses. The issue of sexual immorality on the part of bishops is sure to dominate the USCCB’s fall meeting in November, if some dramatic step has not been taken before then. What remains to be seen is whether their responses will satisfy, and whether the Vatican, or the pope directly, will decide to get involved.

In Dallas, in 2002, it was Cardinal McCarrick who expressed the importance of transparency, fidelity, and accountability.

“We will be accountable to make sure we’re on the same page. And this will be monitored, not only by each other, but by this national

advisory office and board, and if it turns out that we are not faithful to what we have all agreed, it will be similar to if we're not faithful in teaching the faith. This will be a delict that we will be sanctioned for," he said.

"I hope that's the right answer, but I think that's the answer that our people expect. That we will take this seriously, and that we will be accountable to do what we promised to do."