

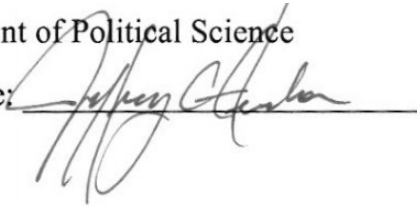
REVIEWING THE REVIEWERS: A CASE STUDY OF THE DIOCESAN REVIEW BOARD  
OF THE CATHOLIC DIOCESE OF DALLAS

An Undergraduate Thesis Proposal  
by  
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A handwritten signature in black ink, appearing to read "Jeffrey Herndon", is written over a horizontal line. The signature is cursive and somewhat stylized.

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## **Abstract**

Compared to other Catholic Dioceses in metropolitan areas in the United States, the Catholic Diocese of Dallas is taking a less-transparent approach to child sexual abuse allegations made internally. The main objective of the Diocesan Review Board of the Diocese of Dallas is to make recommendations to the Bishop of Dallas regarding child sexual abuse allegations. Therefore, this research will seek to address the following: What is the structure and function of the Diocesan Review Board of the Diocese of Dallas, and how can the procedures of the Diocesan Review Board reviewing allegations of child sexual abuse be made more transparent? Due to the autonomy of each Diocesan Review Board, there is a need for this research in the academic community because it identifies policies and practices of the Diocesan Review Board in Dallas, which can then be utilized to establish a baseline between other Catholic Dioceses and, perhaps, even lead to an analysis of best practices and implementations of Diocesan Review Boards. With a contextual section explaining Canon Law and government statutes, a literature review of scholarly sources discussing diocesan review boards, and methodology of the proposed research, this thesis proposal makes evident there is a need to further investigate the Diocesan Review Board of the Diocese of Dallas.

## **Introduction**

The Catholic Church has recently come under public scrutiny due to its practices regarding allegations of child sexual abuse perpetrated by priests and other members of the Catholic clergy. Baptist organizations and other denominations are being scrutinized, as well. However, the Catholic Church has a significantly higher quantity of abuse allegations than any other denomination. Hence, this research will focus on the Catholic Church. To narrow the scope further, this research will revolve around allegations of child sex abuse in the Catholic Diocese of Dallas, and the role of the Diocesan Review Board thereof.

In order to gain a holistic perspective of Catholic practices regarding allegations of sexual abuse against children by Catholic clergy, this research proposal will include a contextual section regarding Canonized Catholic Law and Texas State Law, a literature review of current scholarly thought of Diocesan Review Boards and their surroundings, the proposed methodology of this research (oral interviews of victims of child sexual abuse by clergy in the Catholic Diocese of Dallas, specifically the cases of survivors who have been heard by the Diocesan Review Board and/or the Bishop of the Archdiocese of Dallas, Edward Burns) and an explanation of the methodology and hypothesis of this research. The crux of this research proposal is: What is the structure and function of the Diocesan Review Board of the Diocese of Dallas, and how can the procedures of the Diocesan Review Board reviewing allegations of child sexual abuse be made more transparent?

### **Context: Catholic Canon Law and Texas State Law**

In June 2002, the United States Council of Catholic Bishops (USCCB) ratified the *Charter for the Protection of Children and Young People*, also known as the *Charter*. In June

2002, the Apostolic See adopted the *Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons*, also known as the *Essential Norms*. Together, these two documents mandate what is known as a Diocesan Review Board for each Catholic Diocese in the United States. Article 2 of the *Charter* states “Dioceses/eparchies are also to have a review board that functions as a confidential consultative body to the bishop/eparch” and members of the review board are to be majority lay people who “advise the diocesan/eparchial bishop in his assessment of allegations of sexual abuse of minors and in his determination of a cleric’s suitability for ministry” (USCCB, 2002). This mandate is further explained in Norm 5 of the *Essential Norms*:

"To assist diocesan/eparchial bishops, each diocese/eparchy will also have a review board which will function as a confidential consultative body to the bishop/eparch m discharging his responsibilities. The functions of this board may include: A. advising the diocesan bishop/eparch in his assessment of allegations of sexual abuse of minors and in his determination of suitability for ministry; B. reviewing diocesan/eparchial policies for dealing with sexual abuse of minors; and, C. offering advice on all aspects of these cases, whether retrospectively or prospectively” (Lagges 2004).

Consequently, state laws vary immensely in regards to attorneys general having the ability to open investigations into criminal matters. In Texas, state law gives primary jurisdiction to local police and district attorneys’ offices. Local police and district attorneys’ offices are allowed to request help from attorney general, but only in that scenario can an attorney general open an investigation. For example, hundreds of people have written Texas Attorney General

Ken Paxton asking him to investigate Catholic Dioceses in Texas. The catalyst of these letters was Pennsylvania Attorney General Josh Shapiro opening a statewide investigation into clergy sexual abuse in Catholic Dioceses across Pennsylvania (Cargile, 2019). Due to this legal impediment to a statewide investigation of the Catholic Church in Texas, the only tangible plan of action is reaching out to local law enforcement and district attorneys to encourage them to investigate their respective Catholic Dioceses and reach out to the Attorney General Ken Paxton for a sweeping, statewide investigation. It should be noted in May 2019, State District Judge Brandon Birmingham signed a search warrant authorizing the Dallas Police Department to raid Diocesan property to obtain records regarding allegations and cases of child sexual abuse in the Diocese of Dallas (Emily & Tarrant, 2019).

### **Literature Review**

This research proposal is specifically looking at the Diocesan Review Board of the Diocese of Dallas. Accordingly, after each literature review entry, there will be a brief section highlighting unanswered questions regarding the Diocesan Review Board of the Diocese of Dallas.

According to Dr. Nanette Fuentes, a behavioral psychologist in California, the USCCB made several concerted efforts to redeem public trust in the midst of torrents of allegations of child sexual abuse made in 2002 (Fuentes, 2004). The USCCB developed a “charter” overseeing new protocols to protect youth and children in the Catholic Church, including the following: “One of the bishops' methods for restoring trust is to require all of this nation's 195 dioceses and eparchies to respond to clergy sexual abuse allegations by creating oversight review boards composed primarily of lay people as out-lined in norms four and five” (Fuentes, 2004).

Indeed, this was the birth of what are now considered Diocesan Review Boards, one of which is present in the Catholic Diocese of Dallas. It should be noted that Fuentes identifies several key issues with Diocesan Review Boards. The directive, seeking to fulfill a vague intention to address the child sex abuse crises, Fuentes writes “dioceses, eparchies, and religious orders were left to interpret, develop, and implement this directive on their own by designing these important boards to match the unique needs and resources of each religious community and diocese” (Fuentes, 2004).

Nevertheless, this autonomous design for review boards is fascinating. In some churches, the names of the board members are made public, in other churches, such as Dallas, names are kept private. Fuentes also notes that review boards are supposed to be audited by “outside contracting agencies” with a background in law enforcement and a status report is supposed to be made by the National Review Board (Fuentes, 2004). Additionally, Fuentes states review boards are “primarily only advisory in nature, the final outcome of the accused cleric's ministry mainly depends upon the process of the canonical trial or tribunals run by fellow priests” (Fuentes, 2004).

Thus, review boards have no enforcement power regarding their recommendations, because the final decisions are made by a tribunal of priests. Fuentes notes “many wise and responsible bishops have vowed to faithfully follow their local review board's recommendations regarding restricting ministry or removing abusive clergy to protect minors and vulnerable adults, regardless of the pending tribunals” (Fuentes, 2004). However, this is not necessarily the case in Dallas. Overall, Fuentes has a positive view of Review boards and finds them to have great potential to protect youth and children in the Catholic Church. She closes by stating “An

impartial, well-functioning lay review board can provide valuable insights, resources, and perspectives to overworked and under-staffed Church officials as well as assure compliance with the norms and Charter” (Fuentes, 2004).

Questions regarding the Diocesan Review Board of the Catholic Diocese of Dallas: Can the identities of review board members be made public? Who is the auditing body for the review board? Has Bishop Burns accepted all recommendations made by the review board? Can a yearly report be published?

Similarly, in *Studia Canonica*, questions are raised regarding the use of terms such as “transparent,” “manifestly false,” and “frivolous” used in the *Code of Canon Law*, because these terms are not concretely-defined legally, which could lead to variations in interpretations (Lagges, 2004). Lagges describes the implementation of review boards as giving the Catholic Church some level of credibility in reviewing allegations of child sexual abuse, because even though the bishop still makes the ultimate decision regarding clergy and actions resulting from allegations, he, at least, has a recommendation from the review board (Lagges, 2004). Lagges states “it must be clear that the review board is not making decisions; it is merely advising the bishop as to whether an accusation at least appears to be true” (Lagges, 2004). Interestingly, Lagges mentions the first step for the review board is to find “any semblance of truth” in an allegation, thus, the “standard of proof is rather low” in the first stage of the review process (Lagges, 2004).

Importantly, this article also mentions a position found in the *Code of Canon Law* called the “promoter of justice” (Lagges, 2004). According to the *Vatican’s Glossary of Terms*, the promoter of justice is “the person appointed in each diocese and in the higher tribunals of the

Catholic Church whose responsibility it is to provide for the public good. In penal proceedings, he brings the accusation on behalf of the Church, and prosecutes it before the tribunal” (Vatican). Lagges mentions the “Essential Norms” suggests the promoter of justice be involved in review board meetings (Lagges, 2004). Overall, the Lagges article is by far the most in-depth regarding the canonical responsibilities and structures of review boards. Lagges emphasizes the role of review boards as a consultative body for the bishop - they are not a decision-making body.

Questions regarding the Diocesan Review Board of the Catholic Diocese of Dallas: Who is the promoter of justice for the Diocese of Dallas? What role do they play in assisting the review board? Has the review board developed their own definitions for those undefined in the *Code of Canon Law*?

According to the Roman Catholic periodical *America: The Jesuit Review*, instructions for early of diocesan review boards were vague, but review boards have matured via a “trial-and-error” process (Trial-and-Error, 2004). Interestingly, this article studies the review board of the Diocese of Rockford, Illinois, where the chairman of the board is a retired state appellate court judge. This retired judge, John Rapp, noted two distinctions between the methods of review boards, stating “Some diocesan boards operate almost as a trial court, calling witnesses” however, the review board of the Diocese of Rockford uses “a trained investigator do all the interviewing, with the information going to the review board” (Trial-and-Error, 2004). Also of importance, John Talbot, the chairman of the review board in Detroit, Michigan, said their review board offers both the accused and accuser the opportunity to speak before the board, but speaking before the board is not mandatory (Trial-and-Error, 2004).



Subsequently, one issue that has surfaced with review boards is accusations against clergy who are either deceased or no longer active clergy. Rapp notes these cases are still important because the review board can recommend resources and services to the accused (Trial-and-Error, 2004). The article also mentions some review boards publish yearly reports regarding the cases they have reviewed every year, which fulfills the “charter provisions asking dioceses to provide public information about how the sexual abuse situation is being handled” (Trial-and-Error, 2004). In order to provide transparency, the Detroit review board issues public reports in letter-form to their Cardinal (Trial-and-Error, 2004). Overall, this article offers a positive tone of review boards and highlights review boards with seemingly productive modifications.

Questions regarding the Diocesan Review Board of the Catholic Diocese of Dallas: Why is the identity of the chair of the review board not public? Why are the identities of the other members of the review board not public? Why does the review board not publish an annual report regarding cases they have reviewed? Does the review board use the trial-style approach or do they have a private investigator?

Next is an article discussing the case of Reverend Joseph Weitensteiner in Spokane, Washington, which highlights different implementations of review boards. The article states Weitensteiner was “removed from the ministry in 2006 amid a growing number of reports from people who said they were abused sexually or physically by Rev. Weitensteiner or his staff” (Spokane, 2015). However, this decision did not stand for long. The Diocese of Spokane hired retired federal judge Michael Hogan to review the allegations against Weitensteiner, and then the final evaluations of Hogan were reviewed by the Diocesan Review Board of Spokane as well as the College of Consulters. According to the article, the College of Consulters is “a panel

of priests” (Spokane, 2015). After these three entities reviewed the allegations against Weitensteiner, he was reinstated as a Catholic priest (Spokane, 2015). According to David Clohessy, director of the Survivors Network of those Abused by Priests, “No details were given about the unusual and untested process,” and “SNAP wants diocesan officials to be more forthcoming about the procedure he used in this case and others.” (Spokane, 2015). Question regarding the Diocesan Review Board of the Catholic Diocese of Dallas: Does a College of Consulters ever assist in reviewing allegations in the Catholic Diocese of Dallas?

### **Hypothesis**

Using standard canonical procedure, the Diocesan Review Board of the Catholic Diocese of Dallas is failing to maintain necessary levels of transparency, handle each allegation with thoroughness, and treat every allegation and survivor equally - with dignity and respect.

### **Research Design**

Using a mixed-method approach, this research will include oral interviews of survivors of child sexual abuse inflicted by clergy of the Catholic Diocese of Dallas. In order to gain valuable insight from these interviews, a minimum of 10 survivors will be interviewed, but if that number proves inoperable, I will gratefully work with any smaller number of survivors willing to be interviewed. The goal is to find common factors between survivors; for example, current location of the offender, current church status of the offender, quantity of allegations made against the offender, Bishops presiding over the offender, etc. Oral interviews of former priest Dr. Robert Hoatson, Dallas Police Detective David Clarke, and attorney Tahira Khan Merritt will also be included, in part to discuss whether or not they perceive the list of “Clergy with Credible

Accusations” to be comprehensive (Burns, 2019). Peer-reviewed, academic sources will be used to further analyze the results of the interviews.

### **Setting**

Interviews will take place either in-person in the Dallas-Fort Worth area, via phone call, or via FaceTime.

### **Data Sources**

Survivors/Interviewees will primarily be found in the Survivors Network for those Abused by Priests (SNAP), Dallas Chapter. Subject matter experts will be found with the guidance of Lisa Kendzior, and currently include Detective David Clarke, Dr. Robert Hoatson, and Attorney Tahira Khan Merritt.

Upon the consent of survivors, I will conduct semi-structured interviews to gather qualitative data regarding their experience reporting their abuse through the Catholic Diocese of Dallas. The interview questions will closely resemble the following:

1. How did you report your clergy-related childhood abuse?
2. Did the Catholic Diocese ask you to testify about your allegation in front of a review board?
3. What type of questions did the review board ask you?
4. How were you treated by the members of the review board?
5. Do you feel the review board adequately handled the allegation you made?
6. Were you asked to sign a non-disclosure agreement?

Upon their consent, subject matter experts, such as Detective David Clarke, Dr. Robert Hoatson, and Attorney Tahira Khan Merritt, will be asked solution-oriented questions, similar to the following:

1. What is your opinion on the effectiveness of the Diocesan Review Board of the Catholic Diocese of Dallas?
2. What actions/operational changes would improve the transparency surrounding child sex abuse reporting and allegation review procedures of the Catholic Diocese of Dallas?
3. What advice would you give to Bishop Edward Burns concerning child sex abuse in the Catholic Diocese of Dallas?
4. What legal/statutory changes are needed to improve the allegation review process in Dallas, Texas and the rest of the United States?

### **Data Handling**

The names of survivors/interviewees will not be included in the results, but pseudonyms will be assigned for the purposes of the final thesis. The names of subject matter experts will be included in the thesis results.

### **Data Analysis**

Because this is a qualitative research project, interview answers will be categorized, then I will examine the answers for themes demonstrating similarities amongst various survivors/interviewees. There is potential for follow-up interviews, especially if the first set of information lacks the specificity needed to form a conclusion.

**Trustworthiness**

Dr. Jeffrey Herndon and I will continually audit the data analysis utilizing answers from interview questions. Due to the sensitive nature of this study, the necessary statutes and procedures must be adhered to to protect participant data.

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