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August 28, 2018

By E-mail and U.S. Mail

Daniel J. Dye
Senior Deputy Attorney General
PA Office of Attorney General
1600 Strawberry Square
Harrisburg, PA 17120

Re: *Factual Errors in the Grand Jury Report Regarding Bishop John Barres*

Dear Senior Deputy Attorney General Dye:

As you may remember, I represent Bishop John Barres of the Diocese of Rockville Centre, New York, who was formerly the Bishop of Diocese of Allentown, Pennsylvania.

I have had a chance to review certain sections of the partially redacted grand jury report released on August 14, 2018 (the "Report") that was drafted by your office. It was my understanding that named persons whom the Report criticized were supposed to be informed of that criticism ahead of time so they would have the opportunity to make corrections. Therefore, I was surprised to find certain statements critical of Bishop Barres in the Report that were factually incorrect, given that we had no opportunity to see or to correct those statements prior to publication. No doubt these might have seemed to be minor criticisms when made. As you will see hereafter, however, others have seized upon them as proof of extreme malfeasance. Accordingly, as set forth below, I request that certain factual errors in the Report be corrected and done so consistent with and pursuant to any guidance and/or authority forthcoming from the resolution of pending related due process claims before the Pennsylvania Supreme Court to be heard next month following oral argument.

These errors relate to the cases of Fr. Michael Lawrence and Msgr. Thomas Benestad, and are outlined as follows:

1. **Fr. Lawrence:** Page 61 of the Report criticizes Bishop Barres' efforts in the Lawrence case once he renewed the process of removing Lawrence from the clerical state. The final sentence of the second paragraph of that page states that "there is no indication that Barres told the Vatican of Lawrence's earlier crime or his related confession when the matter was brought to the attention of the Holy See."

This assertion is wrong. Not only are there many such “indications,” but there was an entire binder sent to the Vatican (a copy of which was sent to your office in response to its subpoena) that spelled out the details of both of Lawrence’s crimes as well as his confession to the first.

Lawrence’s first-reported crime had been long known and, most significantly, they were reported up-the-chain of authority to the Vatican as well as to law enforcement authorities in the United States. His faculties were removed by Bishop Cullen in 2002, the details of the crime were reported to the District Attorney, Lawrence’s file was one of the files the Diocese of Allentown shared with all the local District Attorneys, and the incident was both reported on repeatedly in local newspapers and was the subject of a publicly reported lawsuit.

In 2004, Bishop Cullen applied to the Vatican Congregation for the Doctrine of the Faith (“CDF”) to have Lawrence removed from the clerical state. The materials Bishop Cullen submitted explained in detail the crime and Lawrence’s confession to it. In 2005 the CDF replied that Lawrence should be required to live a life of prayer and penance instead of being removed from the clerical state, and Lawrence resided in a number of facilities before being sent to a secure and supervised out-of-state facility in early 2009.

Bishop Barres was ordained as Diocese of Allentown’s Bishop in July of 2009. In October 2009, as noted by the Report, another victim reported that he too had been abused by Lawrence. Then-Monsignor, now-Bishop, Schlert, interviewed the second victim and found that both he and his allegation were highly credible. The allegation was promptly reported to law enforcement, and was presented to the Diocesan Review Board, which recommended that the Diocese again request that Lawrence be removed from the clerical state.

In September of 2011, Bishop Barres sent to the CDF a request renewing Bishop Cullen’s 2004 request that Lawrence be removed from the clerical state. Accompanying the cover letter was *a binder of documents supporting that request*. The grounds for the renewal were that the new allegation meant there were now two allegations against Lawrence, with the first being admitted and the second being at least highly credible.¹ Included in the binder sent to the CDF was a required table listing, among other things, both of Lawrence’s crimes as well as details of the new allegation. Also included was a copy of Bishop Cullen’s entire 2004 application that detailed the first crime.

¹ Lawrence denied the new charge, but he had made prior admissions that appeared to support it. As stated, the Diocese found the allegation to be highly credible regardless of Lawrence’s denial.

Thus, when the Report states that there is “no indication that Bishop Barres” brought the first crime to the Vatican’s attention, it overlooks the September 2011 submission, which discusses in depth both crimes.

I urge you to review that September 2011 submission, which was provided to your office in response to the subpoena, demonstrating that the Diocese of Allentown not only reiterated the details of Lawrence’s first crime but used the fact that there were now two reported victims as the reason why the CDF should re-consider its earlier decision.

In addition, a subsequent letter from Bishop Barres to the CDF on December 16, 2011, which the Report has reproduced at pages 62-63, supports the same factual conclusion.

For example, the first paragraph of that letter refers to “the *more recent* allegations made against” Lawrence (hence implying that there were *prior* allegations). The second paragraph then refers to the “*additional* accusations which were made against him and communicated to the [CDF] on 22 September 2011.” The third and fourth paragraphs refer to a 2008 psychological report on Lawrence and explicitly notes that the report was prepared “three years before the new [*i.e.*, the second] allegation was reported.” All of those statements show that there had been a prior report.

In sum, there was no attempt to hide the first allegation from the CDF and indeed it was a prominent part of the submission. The accusation that there is “no indication” that Bishop Barres (and by implication the other persons at the Diocese of Allentown who worked on this matter) brought the first accusation to the attention of the Vatican is thus factually incorrect on its face. It should be corrected.

The second incorrect statement related to the Lawrence case can be found in the first two sentences of the final paragraph on page 61 of the Report, which state that: “In December 2014, Barres notified the Vatican by letter that he would not seek the removal of Lawrence from the priesthood. He recommended that he remain in retired status.”

In context, that assertion appears to imply that Bishop Barres was attempting to protect/shield Lawrence, which is not the case. Instead, the Diocese had been using Lawrence’s retired status to require him to live at a secure rural treatment facility for offenders.

Although the Diocese thought that Lawrence’s actions made it appropriate for him to be removed from the clerical state, the Diocese also had a concern that if Lawrence were removed from the clerical state, he might exercise his right to leave the facility and re-enter society thereby posing a greater potential danger to children. Among other things, the clinical director of the facility wrote in a statement

provided to the CDF that *“living in this restrictive environment places boundaries on [Lawrence] and ensures the protection of the general public from further abuse . . . [leaving] could be detrimental to the general public by placing [Lawrence] in a stressful situation which could be a trigger for acting out.”* (Emphasis added).

Statements such as that, and a similar concern already felt by those who knew Lawrence, drove the Diocese’s decision. The December 16, 2014 letter to the CDF states that Lawrence was in a “permanent residence” where he “lives a life of prayer and penance.” It continues by stating that it was Bishop Barres’ opinion that *“it is best that the Reverend Michael Lawrence remain under this supervised way of life.”*

In short, Bishop Barres withdrew his request that Lawrence be removed from the clerical state because he (and the other Diocesan officials dealing with this question) believed that keeping Lawrence away from the general public was more important than having him dismissed as a priest. As the Report notes, Lawrence died a few months later.

I understand how difficult it is to ensure that all the statements in such a lengthy report are fully accurate. I have written many reports myself, and ensuring that every detail is correct can be a staggering task. This is why reports in the private sector are often circulated in draft form before being finalized in order to allow parties who are criticized to provide evidence showing that the criticism is incorrect or otherwise misleading.

Here, there is an additional concern. The Report was written for public consumption and its statements provoked immediate public reaction. The following is the text of an e-mail received by the Diocese of Rockville Centre within hours of the Report’s release:

Subject: John Barres allowed kids to be raped. Read this report from PA.

All employees should know that Bishop Barres worked hard to protect child rapists. The report below was just released by Pennsylvania. It was created with the help of the FBI.

For your ease just read pages 61 and 62 to see how your bishop covered up for a child rapist.

* * *

I enclose a screenshot of a letter written by John Barres in which there is no doubt he is covering up for a man who raped boys.

* * *

*From the bottom of my ice cold heart,
[Name of sender]*

(Emphasis in e-mail text added).

I do not mean to imply that the Report is responsible for hate mail such as this, or that the Report can be fairly read to claim that Bishop Barres “allowed kids to be raped” or that he “worked hard to protect rapists.” Clearly, the Report neither says nor implies any such thing.

The Report can, however, be read to imply that Bishop Barres sought to protect Lawrence from being removed from the clerical state by not passing along the details of Lawrence’s first crime to the CDF and by allowing Lawrence to stay retired instead of being removed from the clerical state. As discussed above, neither of those implications is consistent with the facts and neither is just. We would thus respectfully request that this section of the Report be amended to correct the record and that we be given a chance to see and comment upon the amendment before it is issued.

- 2. Msgr. Benestad:** Page 321-22 of the Report deal with Msgr. Thomas Benestad. The section concludes “*Additional complaints have been made against Benestad, who has denied all accusations. The Diocese elected to rely on Benestad's word rather than the word of the victims and the determinations of law enforcement. No attempt was made to remove Benestad from ministry. Benestad was granted retirement, resides in Boca Raton, Florida, and assists with a local parish.*”

Almost every statement about the Diocese’s actions in that passage is factually erroneous. It is correct that there were two allegations against Msgr. Benestad and that he (Benestad) vigorously disputed both of them. But it is incorrect to say that: “The Diocese elected to rely on Benestad’s word rather than the word of the victims and the determinations of law enforcement”; or that “No attempt was made to remove Benestad from ministry;” or that “he was granted retirement” at that time.

As the Report correctly states, in February 2011 a victim came forward and reported that he had been abused by Benestad in the early 1980’s. That information was promptly passed along to the District Attorney of Northampton County, whose office thereupon interviewed the victim and found his story to be credible. The information was also supplied to the State’s Attorney for Palm Beach County, Florida because—contrary to the implications of the Report—Benestad had medically retired and moved there in 2007. At the time Benestad was assisting part time at a parish in the Diocese of Palm Beach but he remained a retired priest of the Diocese of Allentown.

In addition—contrary to the assertion in the Report—after the victim came forward, Benestad was ordered not to engage in ministry and was forbidden to wear clerical garb by the Diocese of Allentown. Both the allegation and the restriction were

reported to the Diocese of Palm Beach, which assured the Diocese of Allentown that it would not allow Benestad to function as a priest in that diocese while the investigation was ongoing.

Unfortunately, the victim, on the advice of his lawyers, refused to speak to the Diocese's investigators, and in February of 2014 the matter was sent to the CDF. In April of 2014, the CDF informed Diocese of Allentown that Benestad must be put back into ministry unless the Diocese developed additional credible evidence against him, which was not possible without the cooperation of the victim.

The Report states that Diocese of Allentown "elected to rely on Benestad's word rather than the . . . determinations of law enforcement." As shown above, that is not the case. And, in this context, it is noteworthy what came next. As he was required to do under canon law, Bishop Barres sent the Bishop of Palm Beach a letter telling him of the CDF's instruction. That letter also specifically reminded the Diocese of Palm Beach that the District Attorney of Northampton County had found the allegations against Benestad to be credible. Because Benestad was not "incardinated" in the Diocese of Palm Beach, that diocese did not have to allow him to return to ministry and it is our understanding that it did not do so, apparently at least in part because of the DA's finding that the allegation *was* credible. Meanwhile, since Benestad was retired from the Diocese of Allentown and living in Palm Beach, he had no ministry in the Diocese of Allentown.

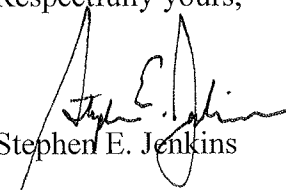
In sum, the Diocese of Allentown did not accept Benestad's word over the determination of law enforcement, it attempted to remove him from ministry and was able to do so on a temporary basis for over three years. In addition, Benestad's retirement took place almost four years before the accusations were made, and as of 2014, he had not been placed back in ministry by the Diocese of Palm Beach. Given these facts, it is only fair that the record be corrected.

* * *

Finally, let me add the following personal note. I have known Bishop Barres for over 20 years, and have been assisting him *pro bono* for the better part of 15 years in his efforts to cleanse the Church of abusers—in short, to be part of the solution rather than part of the problem. Bishop Barres is appalled by the abuse of children. He strongly sympathizes with the survivors of abuse, not the abusers, and has worked tirelessly to both remove the abusers from their positions and prevent new abusers from gaining positions of power. He has spent large amounts of time listening to abuse survivors and he understands how terribly the abuse has affected many of them. Factually inaccurate statements in the Report concerning Bishop Barres have, however, been used by others to smear him. That is neither fair nor just. I therefore, respectfully request that the Report be amended to correct the factual errors referred to above.

The Honorable Daniel J. Dye
August 28, 2018
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Respectfully yours,



Stephen E. Jenkins