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Vatican to claim bishops are not its employees

The Associated Press

VATICAN CITY — The Vatican on Monday will make its most detailed defense yet against claims that it is liable for U.S. bishops who allowed priests to molest children, saying bishops are not its employees and that a 1962 Vatican document did not require them to keep quiet, The Associated Press has learned.

The Vatican will make the arguments in a motion to dismiss a federal lawsuit on jurisdictional grounds filed in Louisville, Ky., but it could affect other efforts to sue the Holy See.

The Vatican's U.S. attorney, Jeffrey Lena, said it will include a response to claims that the 1962 document "Crimen Sollicitationis" — Latin

for "crimes of solicitation" — barred bishops from reporting abuse to police.

Lena said Sunday there is no evidence the document was even known to the archdiocese in question — much less used — and that regardless it didn't mandate that bishops not report abusive priests.

Lena said the confidentiality imposed by Crimen did not trump civil law and was applied only in formal canonical processes, which bishops had the discretion to suspend if there was a conflict with reporting laws.

"It is important that people — particularly people who have suffered abuse — know that, contrary to what some plaintiffs' lawyers have consistently told the media, the canon law did not bar reporting of these crimes

to the civil authorities," Lena told The AP.

The document describes how church authorities should deal procedurally with cases of abuse of children by priests, cases where sex is solicited in the confessional — a particularly heinous crime under canon law — and cases of homosexuality and bestiality.

The attorney behind the Kentucky case, William McMurry, said in a recent e-mail that the document is "a smoking gun."

"It's evidence of a 'written' policy that demands no mention be made by a bishop of priest sex abuse," he said. "Since our case, and no other, is about holding the Vatican accountable for the bishops' failure to report to civil authorities, any policy that

gags the bishop is relevant and material."

The Holy See is trying to fend off the first U.S. case to reach the stage of determining whether victims actually have a claim against the Vatican itself for negligence for the failure of bishops to alert police or the public about Roman Catholic priests who molested children.

The case was filed in 2004 by three men who claim they were abused by priests decades ago and claim negligence by the Vatican. McMurry is seeking class-action status for the case, saying there are thousands of victims across the country. McMurry also represented 243 sex abuse victims who settled with the Archdiocese of Louisville in 2003 for \$25.3 million.

The Vatican is seeking to dismiss the suit before Pope Benedict XVI can be questioned or documents subpoenaed.

Its motion is being closely watched as the clerical abuse scandal swirls around the Holy See, since the court's eventual decision could have implications for a lawsuit naming top Vatican officials that was recently filed in Wisconsin and another one in Oregon is pending before the Supreme Court.

The Vatican is expected to assert that bishops aren't its employees because they aren't paid by Rome, don't act on Rome's behalf and aren't controlled day-to-day by the pope — factors courts use to determine whether employers are liable for the actions of their employees, Lena told The AP.

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