

CANONS 979, 1378, AND 1389

REGARDING INTRUSIVE AND INAPPROPRIATE SEXUAL QUESTIONS IN THE CONFESSIONAL

Is it a crime for which an Ordinary can punish a confessor when the confessor asks intrusive and inappropriate questions of the penitent regarding sexual matters during the celebration of the sacrament of Penance?

OPINION

In the celebration of the sacrament of Penance, canon 979 instructs a priest when asking questions “to proceed with prudence and discretion, with attention to the condition and age of the penitent”. The Holy Office issued an instruction in 1943 that reminded confessors:

[T]he divine precept regarding the integrity of confession is not binding where it would involve a grave harm to the penitent or to the confessor, which is extrinsic to the confession; and therefore that questioning should be omitted whenever there is a prudent ground to fear that it may cause scandal to the penitent or ruin to the confessor. And in doubt, let him constantly bear in mind the common warning of moralists that in this matter it is better to err on the side of caution than to expose oneself or another to ruin by going too far.¹

When a priest is accused in the confessional, it is a difficult situation because the priest is bound by the seal of confession (cf. cc. 983, 1388). He cannot reveal what has been said during a confession. He can only admit or deny an offense. In a canonical trial or extrajudicial process, the accused priest cannot ask a penitent to release him so that he can discuss the sin or what was said during the confession.²

There seem to have been more complaints in recent years about priests asking many detailed questions about the sexual activity of the penitent. Detailed questions are unnecessary and reflect the perverted needs of the priest rather than the basic requirement to confess serious sins in number and kind. Sometimes after children have made their first confession, a father will come and might say he has not been to confession for twenty years and has broken every commandment in

the book multiple times during that period. We know he does not mean he has murdered anyone, but he is confessing breaking the sixth commandment, drinking too much alcohol and not going to mass etc most of the time. It is clear what he is confessing, and he is trying to make a “fresh start.” On the other hand, if a woman confesses something sexual, there are cases where she is asked about the use of contraceptives, her collaborator, her sexual experiences and history. When this happens, it is really saying a lot about the confessor. Canon 1389 states a priest “who, apart from the cases mentioned in cc. 1379-1388, unlawfully exercises the office of a priest or another sacred ministry, is to be punished with a just penalty, not excluding a censure.”

There is no doubt that intrusive sexual questioning of a person, usually a woman, causes scandal and grave harm to the penitent. The Dicastery for Legislative Texts explains actions that abuse one’s power and ministry: “The delict of power or office defined by can. 1378 §1 includes in a general form any arbitrariness or excess committed by the holder . . . of a ministry, either by actions or by equally voluntary omissions. The law considers the so-called “abuse of power” as an autonomous delict,”³ leaving it up to the judge or ordinary “to establish the penalty to be imposed according to the gravity of the delict.”⁴ The User Guide continues: “For this delict, it is also possible to impose penal deprivation of office (can. 196). Furthermore, it is always necessary to include in the sanction of the delict the obligation to repair any damage caused by the act of abuse of office.”⁵

Sometimes the ordinary may have moral certainty the delict was committed because there is supporting evidence that the accused priest has engaged in other inappropriate behavior. In a particular case, the penitent/accuser may have come out of the confessional room very upset; or the confession may have taken an unusually long time. This might be crucial supporting evidence enabling the ordinary to have moral certainty after a penal process, with only one accusation. Then the ordinary may decide to remove the faculties of the accused priest and impose other expiatory penalties.

When there are multiple complaints against a priest for intrusive, sexual questioning by different people, the ordinary may readily be morally certain that

1 Sacred Congregation of the Holy Office, “Norms for Confessors in Matters Pertaining to the Sixth Commandment,” May 16, 1943: *CLD* 3:381.

2 Concerning trials and who can be witnesses, c. 1550 §2 specifically states that priests are incapable of being witnesses even if they are released by the penitent: “2° priests regarding all matters which they have come to know from sacramental confession even if the penitent seeks their disclosure.”

3 Dicastery for Legislative Texts, *Penal Sanctions in the Church: User Guide for Book VI of the Code of Canon Law* (LEV, 2023) para. 114, at 128: <https://www.delegumtextibus.va/content/dam/testilegislativi/TESTI%20NORMATIVI/Testi%20Norm%20CIC/Libro%20VI/LibroVISussidio/Penal%20sanctions%20User%20guide.pdf> (accessed on 30 June 2025).

4 Ibid., at 129.

5 Ibid.

the priest is guilty. A priest who has been warned or given a penal precept must cease offending and show genuine repentance by changing his behavior.

However, if the priest persists in his behavior after a warning or a penal precept, an option for the diocesan bishop is to impose a censure on the priest. A censure is a medicinal penalty, focused on the reform of the offending person. The most appropriate censure to consider would be a suspension. However, as an imposed penalty or *ferendae sententiae* penalty, a suspension requires a formal warning from the local ordinary before it is imposed (cf. c. 1347 §1). Ordinaries must have observed canon 1339 and given the accused cleric a formal warning or a penal precept in writing. A suspension affects only clergy and prevents the cleric from performing some or all acts of the power of orders, including celebration of the sacraments, worship and preaching, except in cases of danger of death (cf. cc. 1335, 1352). A suspension could also apply to the power of governance, as well as to some of the rights or functions of an office (cf. cc. 1333, 1334). A priest could also be suspended from celebrating the sacrament of penance. He would still be able to celebrate the sacrament of penance if a penitent is in danger of death. He could also still celebrate the other sacraments and preach as before. However, a suspension cannot be imposed as a permanent penalty.

An option for the diocesan bishop would be to impose an expiatory penalty and remove the priest from his office as a parish priest, or as an assistant priest (cf. c. 1336). This is because the 1983 code (unlike *CCEO* c. 371) does not give a priest the right to an office (cf. c. 274).

Another option is the removal of the faculty of the priest to celebrate the sacrament of penance.

A faculty is by its nature a participation in the ecclesiastical power of governing, sanctifying or administering conceded for the good of the faithful to someone who is not competent to act without it. The principal motivating cause for the concession of habitual faculties is pastoral, i.e. it is for the spiritual good of the faithful and the Church. The granting of faculties assumes that without them the pastoral care of the faithful would either be jeopardized or be less effective (cf. principle in canon 1752).⁶

Without the faculty, the priest could not celebrate validly the sacrament of penance, either within the diocese or elsewhere. Faculties can be withdrawn for a serious reason (cf. c. 974) following a process. Whatever actions the diocesan

bishop takes concerning the accused priest should be recorded in writing and kept in the secret archives (cf. cc. 973, 1339 §3).

In conclusion, the serious spiritual abuse and the abuse of ministry and power, in cases of intrusive, inappropriate, sexual questioning must be dealt with appropriate measures. It is a serious crime damaging victims and the credibility of the Church. Pope Leo XIV instructed bishops they “must be firm and decisive in dealing with situations that can cause scandal and with every case of abuse, especially involving minors, and fully respect the legislation currently in force.”⁷ The perpetrator who asks such intrusive questions has serious personal problems that require specific psychological or psychiatric treatment.

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6 New Zealand Catholic Bishops Conference, New Zealand Faculty Sheet, 2019, unpublished.

7 Leo XIV, *Meditation Jubilee of Bishops*, June 25, 2025: <https://www.vatican.va/content/leo-xiv/en/speeches/2025/june/documents/20250625-giubileo-vescovi.html> (accessed on 23 August 2025).

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