

EXPERT OPINION OF
PATRICK WALL

SUBMITTED IN SUPPORT OF

Victims' Communication
Pursuant to Article 15 of the Rome Statute
Requesting Investigation and Prosecution of High-level Vatican Officials for Rape
and Other Forms of Sexual Violence as Crimes Against Humanity
and Torture as a Crime Against Humanity

File No. OTP-CR-159/11

EXPERT OPINION

1. I am a resident of the State of California in the United States of America. I make this Affidavit to Support the Complainants. I am personally familiar with the documents I cite and the Roman Catholic Church's history of clerical sexual abuse of minors and if called upon to testify, could and would competently testify thereto.

2. I was a Roman Catholic Priest and Benedictine monk from 1986 until 1998. During my time of service to the Church I dealt with the operations and law of the Roman Catholic Church herein referred to as ("Canon Law"). I received a Bachelor of Arts in Philosophy, a Masters Degree in Divinity from Saint John's University and an LLM in Canon Law from the University Of Cardiff School Of Law. I was ordained a priest December 12, 1992. In my capacity as a monk and priest from 1986 to 1998, I held various scholastic, tribunal and parish assignments in the Roman Catholic Archdiocese of Saint Paul and Minneapolis where I became intimately familiar with the day-to-day operations of a Roman Catholic Diocese. From 1994 through 1996, I served as a Judge/Advocate on the Tribunal for the Archdiocese of Saint Paul and Minneapolis where my duties included the interpretation and application of Canon Law

as it relates to Bishops, Priests, Religious and the Laity.

3. The Roman Catholic church has the oldest functioning legal system in the World and each Diocese has a Tribunal Court. On the Tribunal, I was trained in the customs and statutes of the Roman Catholic Church in investigating and adjudicating sexual abuse of minor claims against Bishops, Priests, Religious and Laity. During this same period I served as a member of the Archdiocesan Finance Council, where I had the occasion to become familiar with the rules and customs of financing and movement of assets within the organizations affiliated with the Roman Catholic Church in the United States.

4. In 1998, I voluntarily left active ministry, requested laicization, which Pope John Paul II granted on July 31, 1998. Since leaving official ministry, I have been a canonical advocate for several clerics accused of sexual abuse of minors. From 2002 to the present I have been employed by Manly and Stewart Lawyers doing research, publishing, and advocating on behalf of victims of clerical sexual abuse. I am the co-author of several articles and co-author of "Priests, Sex, and Secret Codes".

5. Some of the key documents I reviewed for this Affidavit include: Code of Canon Law 1917 and 1983, *Anuario Pontificio*, *De Modo Procendi in Causis Sollicitationis* 9 June 1922 (herein referred to as *Crimens I*), *De Modo Procendi in Causis Sollicitationis* 16 March 1962 (herein referred to as *Crimens II*), *Sacramentorum Sanctitatis Tutela* 30 April 2001 (herein referred to as *SST*) and several released secret Priest Personnel files of Fathers Andrew Ronan S.M. Fernando Lopez Lopez, Joseph P. Jeypaul and James E. Poole S.J. Based on my professional experience and the documents I reviewed, I state the following opinions which I

reserve the right to update.

6. The delict of the sexual abuse of minors by Bishops, Priests and Religious is an ancient crime dating to at least the council of Elvira in the fourth century. The Holy See throughout the centuries has continuously updated its investigative procedures as it learned the depth and veracity of child abuse. During the last century however, the Holy See has secretly committed millions of dollars for internal research and psychiatric treatment centers in an attempt to address clerical child abuse within the confines of the church with little success. The more recent Vatican policies of *Crimens* I, II and SST are part of a long uninterrupted tradition of knowledge and experience in dealing with clerics who sexually abuse minors.

7. The documents informing the Holy See's knowledge of child abuse are sitting in its own Ecclesiastical archives in Rome, Papal Embassies, Church Tribunals and Diocesan archives around the world. Ecclesiastical archives have been diligently compiled since the third century. (Louis pg.6) The current Vatican archives was erected in 1612 and was opened to scholars by Pope Leo XIII in 1883.

8. The Code of Canon Law requires every diocese have an archive. (c.489 CIC83) The archive is to preserve all instruments and writings which pertain to the spiritual and temporal affairs of the diocese. (canons. 486-488).

9. Furthermore there is to be a secret archive in every diocese where more sensitive materials are kept (canon 489-490 CIC 83) The secret archives are to include internal forum matrimonial dispensations (canon 1082), secret marriages (canon 1133), dispensations from impediments to orders (canon 1047-1048), decrees of dismissal from religious life (canon 700) and documents relating to the loss of the clerical state by dismissal and invalidity of orders or dispensation (canon 290-293). Lastly, records of canonical penal (criminal) trials are to be kept in the secret archive (canon 489.2)

10. Matters involving penal procedures are to be kept in the secret archive. All allegations made to an Ordinary (Bishop or head of a Religious Institute) are kept. The Ordinary is obliged to conduct a preliminary investigation either personally or through another priest (canon 1717). Canon 1719 refers to the acts of the investigation which are to be kept in the secret archives. This canon presumes that a written record of the investigation is made, reported to the Holy See and retained by both the petitioning diocese or religious institute and the proper congregation of the Holy See. Embassies of each country receive and maintain a copy of the acts of the investigations since all sensitive communication are conducted via the diplomatic pouch.

11. Original documents of the investigation are to remain in the archives. Removal requires permission from the Ordinary or from both the Moderator of the Curia and the Chancellor. (canon 488) With the recent insertion of civil lawyers in United States Chancery offices after child sex abuse litigation began in 1981 many titles and misnomers have been strewn around for archives: 489 files, C files, P files, Hell files, Bishops personal files and Vicar

for Clergy files. No matter the label, the contents of Diocesan Archives and Secret Archives are mandated by the Holy See through canon law and procedural norms such as Crimens I, II and S.S.T.

12. All documents in the archives are to be retained and not destroyed. Certain documents from the secret archives however are to be destroyed. Documents to be destroyed are those which pertain to a person accused of a crime who has died or documents pertaining to a criminal case, ten years after the case has been closed. Note well, when the documentation is destroyed, a summary of the case is to be retained along with the sentence (final decree) of the tribunal if the case was subjected to a complete canonical trial. (canon 489 CIC83)

13. The current particular law of the Vatican relating to the sexual abuse of minors for accusations after 2001 is SST. SST abrogated Crimens II. Since 1922 there has always been a clear written policy on how to proceed when bishops, priests and religious sexually abuse minors.

14. All three policies are consistent and clear on several points. First, the crime of the sexual abuse of minors by priests is an ancient crime that nearly every Pope and several synods of Bishops have needed to address. Second, the reporting, investigation and canonical adjudication of the abuse of minors by clerics is to be secret; and severe penalties apply to maintain secrecy infinitum. Third, attempts at detecting and preventing further abuse by clerics who sexually abuse minors have been ineffective. Fourth, even with canonical penalties as well as public awareness that could lead to criminal penalties in civil law, the sexual abuse of minors

by Bishops, Priests and Religious has not abated in the early 21st century.

15. The Holy See has been acutely aware of the international scale of the clerical sexual abuse of minors as evidenced by the direct actions of the Popes. Pope Benedict XV promulgated a statute in the first codified version of canon law in 1917, canon 2359. Pope Pius XI followed up with a clear procedure of investigating and prosecuting clerical abusers of minors secretly through its own canonical Tribunals in 1922, Crimens I. Pope Pius XII approved the first ever religious order (the servants of the paraclete) dedicated to priests and religious with psychological infirmities including pedophilia. Pope John XXIII corresponded with Father Gerald Fitzgerald s.P. (founder of the Servants of the Paraclete), met personally with Father Fitzgerald for his ad limina visit and updates the Crimens I procedure with Crimens II and again sent the procedure to every Bishop in the World. In this period of agornimento, no public announcement on the scandal of clerical abuse of minors was made. Pope Paul VI also met with Father Gerald Fitzgerald s.P. who reported to the Holy See that thousands of priests had fallen in their priestly commitment and that those that abused minors were vipers. Pope John Paul I served less than 30 days and he died suddenly the night before a Vatican Bank meeting. John Paul II followed John Paul I and the Holy Sec updated both the code of canon law, the now current procedure, S.S.T. on how to proceed when a cleric abuses a minor. The current procedure as of 2001 centers the jurisdiction of all accusations in one office, the Congregation of the Doctrine of the Faith, which Cardinal Joseph Ratzinger headed from 1981-2005 and S.S.T. continues as the primary directive of Pope Benedict XVI to the local Bishop: Secrecy in

continuity of Tradition.

16. Secrecy is the primary directive of all three procedures promulgated by the Holy See in the last century when it comes to clerical sexual abuse of minors. (see appendix A in *Crimens I, II and S.S.T.*) In fact, the first two documents were themselves issued under the papal secret and were unknown by those outside the Church until released during the course of civil litigation in the U.S. The third document, being issued largely in response to public outcry in the wake of scandal, was issued during the normal course of Papal or Vatican rule-making. In addition, all priests appointed to investigate allegations are bound to the Papal Secret and must never speak of what they have learned under the pains of excommunication. The penalty for the priest who violates the Papal Secret, Excommunication, is an ecclesiastical death sentence which ironically is often times greater than for the cleric who molests a minor. Additionally, each and every witness the priest investigator interviews is also bound by the Papal Secret.

One of the justifications that has been offered by Church officials for the secrecy is that with the secret safe, the Holy See can proceed to both detect and treat clerics who sexually abuse minors. However, several priest psychiatrists and psychologists in the 20th century attempted to develop tools to detect candidates for the priesthood who would go on to offend against children. Father Thomas Verner Moore M.D., William Devlin S.J. and William Bier S.J. made attempts. None of the attempts were successful. The Holy See has had direct knowledge of the nature of this 'problem' for the better part of a century.

17. In the treatment of clerical offenders, the Paraclete fathers experimented with several modalities. The Paracletes practiced isolation in the deserts of New Mexico, chemical castration using deport provera, and psychotherapy. Father Gerald Fitzgerald s.P. concluded that the psychic infirmity of the priest who sexually violated children was so abominable that the only effective treatment was removing the cleric from the proximity of children. He personally communicated his concerns to two different Popes as well as a number of bishops. According to the testimony of Father Joseph T. McNamara s.P., Father Gerald Fitzgerald s.P. also came to the conclusion that in order to protect the Religious Order he founded in 1946, the Paracletes would no longer accept clerics who sexually molested minors. This is a major turning point because it runs afoul of the Bishop's unwritten directive to grow the Church and avoid scandal.

18. From the mid 1940's to the mid 1960's, the Roman Catholic Church was multiplying exponentially. Father Fitzgerald was taking molester priests from around the world to lead a life of "prayer and penance". This did not create an administrative hardship to Bishops. The Church from 1962-1968 however experienced a complete rupture and thousands of priests and seminarians left the Church. Put simply, the concept of Father Fitzgerald not taking a priest who seduced little boys or girls and rehabilitating him for return to ministry because of a desire to protect the reputation of his own religious order was out of the question.

Father Gerald Fitzgerald s.P. held a firm position that any cleric who violated a child should be reported to Rome for involuntary laicization. His position was congruent with Canon Law and Crimens I & II but again ran afoul of the unwritten policy and not surprisingly, Father Fitzgerald was retired as Superior General at Via Coeli in 1969.

19. The new documents for the Court to consider are really part of an ancient fact

pattern. The Holy See has superior knowledge of the existence of widespread rape and sexual violence, or 'abuse' in the church, and extensive experience in dealing with clerics who sexually abuse minors. Yet the Holy See does not inform the local civil authorities about the clear and proximate danger to children in order to protect the Holy See's image and avoid scandal. Here I point to four examples that have recently become public: Fathers Andrew Ronan S.M., Fernando Lopez Lopez, Joseph P. Jeypaul and James E. Poole S.J.

20. Father Andrew Ronan S.M. was an Irish priest belonging to an Order called the Servants of Mary. According to recently released documents on the Vatican Radio Website, Father Andrew sexually molested minors in Ireland. In the furtherance of avoiding scandal and protecting the Church's public reputation, Father Ronan was then moved to Chicago and again moved to Portland, Oregon where he reoffended and sexually molested minors. This information was maintained by the Holy See, never reported to civil authorities either in Ireland or the United States and was maintained for decades after Ronan's death.

21. Another example of the international knowledge and movement of clerical abusers of minors is Father Fernando Lopez Lopez. Father Lopez Lopez is a Colombian national ordained for the Diocese of Tivoli (province of Lazio in Italy) in 2000, was arrested in 2000 for sexually molesting a 14 year old, was moved to Los Angeles in 2001, plead guilty to the Tivoli charge in 2002 while in Los Angeles, was arrested in 2004 in Los Angeles for molesting a 14 year old, was convicted for reoffending in 2005. Then the Holy See after two criminal convictions involuntarily removed Lopez Lopez from the Priesthood in 2005 but then did not inform the Diocese of Tivoli until December 2010. After serving an abbreviated sentence, Lopez Lopez was extradited back to the Archdiocese of Bogata where he currently resides.

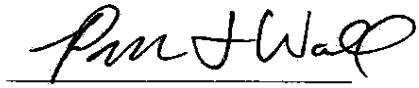
22. A third example is Father Joseph P. Jeypaul, a native of India brought to the

United States. Father Jeypaul was criminally charged in 2004 with raping a minor in the diocese of Crookston, Minnesota. Father Jeypaul fled to India where until recently he was working as a priest. The Diocese of Crookston investigated the matter, sent its findings to the Holy See. To date the Holy See has not disciplined him or ordered him to return to face the charges. Now Father Jeypaul is presently unaccounted for somewhere in India.

23. A fourth example is Father James Elwood Poole of the Society of Jesus. In 1948, Father Poole was sent to serve Native Peoples in the state of Alaska. Through a secret canonical Tribunal in 1960, Father Poole as the principal of Saint Mary's High School was secretly found guilty of soliciting minors for sex in the confessional. Clerics soliciting sex from minors in the sacrament of reconciliation is also an ancient crime. Father Poole however was one of the Jesuits' best fund raisers, he was quietly removed. Following Vatican protocols, civil authorities in either Alaska or Oregon were not informed and Father Poole was allowed to return to mission work in Alaska, this time Nome. While in Nome Father Poole returned to raping native Alaskan minor children and vulnerable adults. Father Poole is not only an example of clerical child molesters reoffending, he is an example of what happens when psychic infirmities and child molesters go unchecked. Father Poole went on to rape, impregnate and in at least one case assist a minor in procuring an abortion. Dozens of Native Alaskan children and vulnerable adults were raped by Father Poole after his secret 1960 canonical tribunal proceeding. Father Poole was allowed to retire as a respected Jesuit missionary.

24. Despite superior knowledge of the delict of clerical sexual abuse of minors and vulnerable adults, internal canonical procedures and policing priest offenders, the Holy See has not been able to deter sexual violence against minors by its Bishops, Priests and Religious. In my opinion, the Holy See, through its lax enforcement of its own rules and procedures combined

with the international movement of clerical sex offenders, is knowingly endangering children and vulnerable adults by exposing them to clerics with psychic infirmities who if placed in charge of minors and or in the proximity of minors have and will reoffend against innocent children.

A handwritten signature in black ink, appearing to read "Patrick J. Wall", written over a horizontal line.

Patrick J. Wall

September 11, 2011