REV. WALTER FERNANDO

DOCUMENTS PRODUCED BY THE ARCHDIOCESE OF LOS ANGELES 2013
PURSUANT TO JCCP 4286 SETTLEMENT AGREEMENT

Vicar for Clergy Database

Clergy Assignment Record (Detailed)



Rev Walter Fernando

[redacted]

Current Primary Assignment	Living Privately		
Birth Date	4/24/1944	*Age:*	68
Birth Place	Ragama, Sri Lanka	*Deanery:*	22
Diaconate Ordination			
Priesthood Ordination	1/25/1973		
Diocese Name	Archdiocese of Los Angeles		
Date of Incardination	2/24/1986		
Religious Community			
Ritual Ascription	Latin		
Ministry Status	Retired with No Faculties		
Canon State	Diocesan Priest	*Incard Process*	☐
Begin Pension Date	1/25/1973		
Voice phone	[redacted]		
Seminary	National, Ampitiya, Kandy, Sri Lanka		
Ethnicity	Sri Lankan		

Fingerprint Verification and Safeguard Training

Date Background Check

Virtus Training Date

Assignment History

Assignment	*Beginning Date*	*Completion Date*
Living Privately, Retired with No Faculties	8/1/2009	
St. Basil Catholic Church, Los Angeles Resident, Administrative Leave	2/19/2004	7/31/2009
Assumption of the Blessed Virgin Mary Catholic Church, Pasadena Associate Pastor (Parochial Vicar), Active Service	7/1/1992	2/19/2004
St. Gregory the Great Catholic Church, Whittier Associate Pro Tem, Active Service	5/3/1992	6/30/1992
Cathedral Chapel, Los Angeles Associate Pastor (Parochial Vicar), Active Service	7/2/1990	5/2/1992
St. Rose of Lima Catholic Church, Simi Valley Associate Pastor (Parochial Vicar), Active Service	8/1/1986	7/1/1990
St. John Baptist de la Salle Catholic Church, Granada Hills Associate Pastor (Parochial Vicar), Active Service	11/30/1981	7/31/1986

St. Hilary Catholic Church, Pico Rivera Associate Pastor (Parochial Vicar), Active Service	3/1/1981	11/29/1981

TO: File

FROM: Monsignor Craig A. Cox

RE: Father Walter Fernando

DATE: 13 June 2002

I spoke with Father Fernando at St. John's during the continuing education week. He informed me that he had learned from the parish secretary that two police detectives stopped by the rectory wanting to speak to him. The secretary informed the dectives he was away for the week of continuing education. They left a card and asked Father Fernando to be in touch with them. The detectives did not indicate the reason for their desire to speak with Father Fernando.

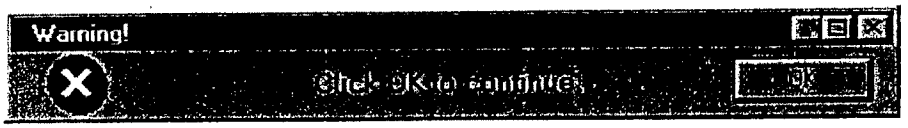
In speaking with me, Father Fernando expressed a fear that perhaps he was under investigation for some form of misconduct. He stated that approximately twenty years previously, he had crossed boundaries with a woman who was interested in entering the convent. According to him, this never amounted to more than placing his arm around her while they saw a movie together. She did enter the convent for a time and later left. A couple of years ago, this woman phoned him and they spoke by telephone.

I indicated that the detectives might be seeking to speak to him about totally different matters. I suggested that he attend the workshop being given by REDACTED and chat with him afterwards to seek advice.

18684

YAHOO! Mail

Yahoo! - My Yahoo! - Help



Mail | Addresses | Calendar | Notepad

REDACTED

Sign Out]

Check Mail | Compose

Mail Upgrades - Search Mail - **Mail Options**

Check Other Mail [Edit]

hotmail.com

Folders [Add]

- Inbox
- Draft
- Sent
- Bulk (9) [Empty]
- Trash [Empty]

Free Credit Report in Seconds

Home Project? Get Contractors

Free faxes in your Yahoo! Mail

Previous | Next | Back to Messages

Printable View - Full Hea

Delete | Reply | Reply All | Forward | as attachment | Move to folder...

This message is not flagged. [Flag Message - Mark as Unread]

Date: Fri, 30 Aug 2002 05:54:55 -0700

From: REDACTED | **This is Spam** | **Add to Address Book**

To: REDACTED

Subject: Re: Fernando, Walter

** Reply Requested When Convenient **

REDACTEDREDACTED

We do have an open investigation on Walter Fernando.

REDACTED

>>>REDACTED 8/29/02 1:42:19 PM >>>

Detective,

I reviewed a parish announcement that is planned this weekend at Assumption of the Blessed Virgin Church correcting the misinformation in the LA Times article which said that Fr. Fernando was on inactive leave.

Fr. Fernando is back at the parish. This statement will say that he is in active ministry in the parish and the Archdiocese has not receive any complaints about sexual misconduct. Will we have egg on our face.

REDACTED

Do You Yahoo!?

Yahoo! Finance - Get real-time stock quotes

Attachment

55197

REDACTED

.. 8/30/02

RCALA 002480

CONFIDENTIAL

Clergy Misconduct Case: REDACTED - Fernando

REDACTED Interview

Rev. Walter Fernando
Assumption of the BVM Church
2640 E. Orange Grove Blvd.
Pasadena, CA 91107-2632
(626) 792-1343

Wednesday, 12 February 2003
Vicar for Clergy Offices

At c. 1:00 p.m., in the company of Monsignor Craig Cox, I met with and interviewed Father Walter Fernando in regard to the allegation of misconduct conveyed to the Archdiocese by the attorney(s) representing REDACTED

Before I started the formal interview, Msgr. Cox reminded Fr. Fernando of his civil and canonical rights to retain counsel and not to incriminate oneself. Fr. Fernando indicated that he had conferred with REDACTED and, acting upon his advice, was present only to listen and to take notes and not to respond to any allegations at this time.

I began by verifying some factual information – namely, that Fr. Fernando's first assignment in the Archdiocese of Los Angeles was at St. Hilary's in Pico Rivera, from 3/81 through 11/81, and that he was ordained in Sri Lanka in 1973. Father indicated that he served at three parishes in Sri Lanka, as associate pastor in two and as parish priest (pastor) in the third.

I asked him what led to his coming to the United States. He answered somewhat at length, stating first that he had always wanted to come. Another Sri Lankan priest friend of his, REDACTED was already here, and also REDACTED REDACTED . There was a change of leadership in his home archdiocese. He was in a kind of rural parish and did not think his talents were suitably employed. He asked for and was granted permission to come on trial to Los Angeles for two years. At the end of that period his archbishop asked him to return. Fr. Fernando was in Granada Hills at the time (St. John Baptist de la Salle) and was happy there, so he wrote home asking for an extension. When his bishop refused, he spoke with Msgr. Rawden, who advised him to write again. Msgr. Rawden added his own request to this second letter, and this time the archbishop agreed.

Father indicated that he was incardinated in the Los Angeles Archdiocese after about 5 or 6 years. His home bishop told him that he needed to stop asking for extensions, that if he was happy here, he should stay, or otherwise come back to Sri Lanka. So he filed the formal request.

He became a citizen of the U.S. roughly six years ago. His family is still in Sri Lanka.

As his arrival at St. Hilary was at an unusual time of year (March) and his stay there was rather short, he was asked why he was assigned there and why then. He replied that with his last name of Fernando, the archdiocesan authorities thought he knew Spanish, but he did not. Rather than

being assigned for a trial period, he believes it was a miscalculation on the authorities' part, which was then corrected. He had stayed at Immaculate Conception for a month before he was given his first assignment.

He indicated that including himself a total of four priests lived at St. Hilary's rectory, the pastor REDACTED REDACTED and a student priest whose name he could not recall. There were three priests including himself at Granada Hills, the pastor REDACTED and REDACTED REDACTED as associate.

Having filled in this background information, I then presented to Fr. Fernando the details, such as we knew them, of the allegation against him (see attached printout). I indicated that we do not know if the complainant's last name REDACTED is her married name or maiden name. He gave no sign of recognition when I stated the name; this includes the first name REDACTED, which to me is an unusual name and so I was looking for his reaction. I also indicated that we do not know her age, only that she alleges that she was a minor when the abuse occurred. I read through the complete list of items constituting the "nature of abuse."

After presenting all the details, I asked him if he wished to make any statement or response. He repeated his opening statement, that on the advice of his attorney, he did not want to say anything at this point of the process. He did take written notes of the allegation details.

Msgr. Cox indicated that while we fully understand his decision not to say anything at this time, it is our hope that he will eventually make some response, either coming back in person or by letter. As an example, it would be helpful if he could indicate whether he even knows or knew the claimant, and how old she was.

At this point I ended the formal interview and left.

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Fr. Fernando's demeanor was cordial and cooperative. He was quite aware of the seriousness of the allegation, but did not exhibit overt anxiety. I was not aware of significant body language reactions to any of the information I conveyed. He seemed subdued, yet he also expressed appreciation at finally being able to learn the nature of the accusation against him. I did not detect any emotional defensiveness, rather just an appropriate level of concern.

REDACTED

REDACTED REDACTED, REDACTED

55199

IX 000005

55200

19.	Fernando, Father Walter	[redacted]	Archdiocese of Los Angeles	Theater; car; park	Initially St. Hil Parish; and pc St. John Bapti la Salle Parish

RCALA 002484

Church/Parish	Estimated Dates/Abuse	Frequency of Abuse	Nature of Abuse
Blessed Sacrament	1966 through 1968	Approx. once every 3 months; during holidays, more frequently; after mid-night mass on Christmas eve	Rubbing and massaging of minor's shoulders and back over clothes Fondling of minor's buttocks (skin to skin) Rubbing and massaging of minor's body from buttocks and then to lower back (skin to skin) Give minor candy bars while fondling
Initially St. Hilary Parish; and possibly St. John Baptiste de la Salle Parish	1980 through 1981	Several times	Kissing (on the mouth, French kissing) Hugging in sexual manner Fondling of minor's buttocks over clothes Rubbing or massaging of minor's body over clothes Rubbing and massaging of minor's breasts (skin to skin) Rubbing or massaging of minor's body (skin to skin) Kissing of minor's neck, face, and breasts (skin to skin) Perpetrator put finger in minor's vagina (skin to skin) Masturbation of perpetrator (skin to skin) Perpetrator tried to force minor to oral copulation him Pre-sexual grooming (giving special attention, movies, inviting to play music)
Initially St. Pius X Church; then Santa Clara Church	1976 through 1977	Approx. 3 times	Kissing on the cheek Long hugs Fondling of minor's genitals (skin to skin) Perpetrator masturbated himself in presence of minor Pre-sexual grooming (trips, movies, dinners, money)
Santa Clara Church	1979	On daily basis for 6 to 7 days; before that, always hugging	Always hugging Fondling of minor's genitals over clothes Rubbing or massaging of minor's body over clothes Fondling of minor's genitals (skin to skin) Masturbation of minor (skin to skin) Rubbing or massaging of minor's body (skin to skin) Pre-sexual grooming (trip to Hawaii)

CONFIDENTIAL

55201

IX 000006

CONFIDENTIAL COPY

REDACTED

MEMORANDUM

Los Angeles
California
90010-2241

3424
Wilshire
Boulevard

TO: Cardinal Mahony
FROM: REDACTED
SUBJECT: Preliminary Investigations – W. Fernando, REDACTED
DATE: 13 February 2003

TCa

Yesterday I conducted the formal interviews of Fathers Walter Fernando and REDACTED in connection with allegations of sexual abuse of a minor. The records of those interviews are enclosed.

In both cases they declined to make any response to the allegations. REDACTREDACTED declined even to answer factual questions about who his fellow residents were at his first assignment at Holy Family in Orange. They were acting, appropriately in my opinion, on the advice of their civil legal counsel. Since they made no claims one way or the other about the allegations, there was no basis for me to formulate an opinion about their credibility.

There will be no opportunity to pursue further investigation in either case until (1) access to the complainant becomes possible and/or (2) the accused priest chooses to make further statements. Accordingly, I recommend that each preliminary investigation be suspended until either eventuality occurs.

Copy: Msgr. Craig Cox, Vicar for Clergy

55196

March 7, 2003

Msgr. Craig Cox
Vicar for Clergy
3424 Wilshire Boulevard
Los Angeles, CA 90010-2241

Dear Msgr. Cox:

I am writing to you in regard to the charges made against me by REDACTED You indicated to me that she has claimed that I put my finger in her vagina, masturbated her, and attempted to force her into oral sex. I categorically deny any and all of those claims.

Thank you for the opportunity to be heard regarding those matters.

Yours in Christ,

Walter Fernando

55195

MEMORANDUM

TO: Cardinal Roger Mahony

FROM: REDACTED Chair REDACTED
Clergy Misconduct Oversight Board

RE: ***Recommendation of the Clergy Misconduct Oversight Board***
Reverend Walter Fernando REDACTED

DATE: April 25, 2003

The case of Father Walter Fernando was first considered at the CMOB meeting on January 22, 2003. At that time Monsignor Cox reported that in June of 2002 Father Fernando informed him that two detectives from the Los Angeles Police Department had stopped by the rectory looking for him while he was on vacation. They left a business card, but no information. LAPD would only state that there was an open investigation. Father Fernando told Monsignor Cox that he didn't know what they were concerned about but that it could be an incident which occurred some 20 years ago when he placed an arm around a woman while they were watching a movie together. There had never been any complaints. The CMOB discussed the case and recommended at that time that no action be taken until further information was obtained. For some reason, this recommendation was not reported to you at that time.

We returned to Father Fernando's case on March 26, 2003. Msgr. Cox reported that Father Fernando's name recently appeared on the list of alleged perpetrators and purported victims in the class action suit currently in mediation. The information stated that Father Fernando had abused a young girl from 1980-81 by pre-sexual grooming, French kissing, hugging in a sexual manner, fondling her buttocks and rubbing/massaging of her breasts both over clothes and skin to skin, kissing her neck, face and breasts, putting a finger in her vagina, her masturbation of him skin to skin, and his trying to force oral copulation. The abuse was alleged to have occurred several times at the theater, in the car and at a park.

Father Fernando met with REDACTED and Monsignor Cox on February 12, 2003. Upon advice of counsel, he did not respond except to verify dates concerning his service as a priest. On March 7, 2003, he responded to the charges in writing and denied any and all claims that he put his finger in her vagina, masturbated her and attempted to force her into oral sex. His letter did not mention the other charges listed in the print out.

The Board took a vote on the following two options: 1) that Father Fernando be put on administrative leave immediately, or 2) that the Vicar for Clergy's office seek further information from Father Fernando and the alleged victim, including, but not necessarily limited to, the victim's birth date, and report back as soon as possible, but in no event later than the June 11, 2003 CMOB meeting (60 days). Of the nine Board members present at the time of the vote, eight voted for Option 2 and one abstained.

72016

I concur with the Board on Option 2 – provided that this process proceed forward at once – + Rev. Card. Mahony 29 April 2003

May 8, 2003

Msgr. Craig Cox
Vicar for Clergy
3424 Wilshire Boulevard
Los Angeles, CA 90010-2241

Dear Msgr. Cox:

I am writing at your request to clarify my position regarding specific charges of sexual misconduct.

I deny each of the specific behaviors alleged. I deny having had any sexual activity with REDACTED. Although I do not know what allegations she might allege in the future, I absolutely affirm that I have obeyed my vow of celibacy.

Thank you for the opportunity to be heard regarding those matters.

Yours in Christ,

Walter Fernando

72014

REDACTED

REDACTED

REDACTED

September 25, 2003

Dear Craig,

I am enclosing the billing statement for Walter Fernando. The evaluation was mailed tc REDACTED on September 23rd.

Let me know if I can be of any further assistance regarding Fr. Fernando.

The other evaluations are almost complete and will follow shortly.

I keep you in my prayers daily. I hope your vacation recharged your batteries (or at least put some life back into them).

Thank you for the referrals. They are very much welcomed.

Sincerely,

REDACTED

92533

REDACTED

January 12, 2004

Via Facsimile and U.S. Mail
REDACTED

Re: REDACTED

Dear REDACTED

I received your message from Friday, January 9, 2004, regarding REDACTED It is my understanding that you are requesting that REDACTED submit herself to a short interview so that the church can determine whether Father Walter Fernando should be removed from active ministry. Quite frankly, I have no idea why Father Fernando has not been removed from ministry pending an investigation.

We will agree to an interview. However, the interview will have to be conducted in the evening, sometime around 6:00 p.m. Please provide several available dates to me, and I will check with REDACTED on her availability.

I would like to also request that Father Fernando's file be produced to us.

Sincerely, REDACTED
REDACTED

REDACTED
cc: REDACTED
REDACTED

REDACTED

From: REDACTED
Sent: Monday, January 12, 2004 2:43 PM
To: REDACTED REDACTED
Subject: ADDITION

REDACTED Second sentence, third graf should read:

All INFORMATION ABOUT allegations made against him have come from second- and third-hand sources.

REDACTED
RREDACTED
Roman Catholic Archdiocese of Los Angeles
3424 Wilshire Blvd.
Los Angeles, CA 90010-2248

REDACTED

-----Original Message-----
From: REDACTED
Sent: Monday, January 12, 2004 2:41 PM
To: REDACTED REDACTED
Subject: follow up

Hi REDACTED

I left you messages on each of your phone extensions. Here are some comments for your story.

The Clergy Misconduct Oversight Board has reviewed Father Fernando's case. Their initial recommendation was that there was insufficient information that required them to recommend the drastic step of placing Father Fernando on administrative leave. Father Fernando's case remains open, however, and will be reviewed when CMOB meets this week.

Father Fernando continues to deny the allegations of sexual misconduct that have been made against him. All allegations made against him have come from second- and third-hand sources. We continue to ask from REDACTED REDACTED that she forward to us the court-ordered sworn statement of the alleged victim. So far, she has not produced this document. We have also asked REDACTED to allow us to interview her client so as to better determine the case's essential facts. Again, we have heard nothing from REDACTED

We would also like to review any information the police have that may support their statement to the Los Angeles Times, and later to us, concerning Father Fernando. We want to find ways to work together with law enforcement so that we can better achieve the goal we both share - the protection of our children.

What we have so far then, is a 23-year-old allegation with no first-hand sworn testimony to support it and no further allegations of abuse of any kind from anyone who has been associated with Father Fernando, past or present. The parish community has been aware of Father Fernando's situation, but not even this level of open discussion has produced other allegations of any type.

Zero tolerance is the standard that applies to priests who have been found to have abused a minor. We abide by that standard as it appears in the Charter and in our own policies. There is no one in ministry that we know of in the Archdiocese of Los Angeles who has been found to have abused a minor.

We are abiding by the policies and procedures as set forth in the Charter. The Clergy Misconduct Oversight Board, comprised mostly of laypeople - two of whom are parents of boys abused by a priest, and one who is a victim of sexual abuse - will continue to evaluate Father Fernando's case. Careful consideration of the rights of all parties as this review goes forward should not obscure the resolve of the Archdiocese and the Clergy Misconduct Oversight

Board to protect our children.

REDACTED call me when you get the chance.

Off the Record: According to the lawsuit, the alleged victim's dob REDACTED The alleged abuse took place in 1981. I believe you told me you thought the victim was 14 or 15 at the time of abuse. You might want to check that out.

REDACTED

Roman Catholic Archdiocese of Los Angeles
3424 Wilshire Blvd.
Los Angeles, CA 90010-2248

REDACTED

MEMORANDUM

TO: Cardinal Roger Mahony

FROM: REDACTED REDACTED REDACTED
REDACTED

RE: *Recommendation of the Clergy Misconduct Oversight Board*
Reverend Walter Fernando REDACTED

DATE: 14 January 2004

The CMOB met today and continued our discussion of Father Fernando, especially in light of the lawsuit filed against him on December 9, 2003 and the article in today's *Los Angeles Times*.

Father Fernando's case was discussed by the Board on January 22, 2002 and March 26, 2003. I submitted a report summarizing the case and our discussions and conclusions on April 25, 2003. At that time we felt that we needed additional information before we could come to a conclusion and recommended that the Vicar for Clergy's office seek further information from Father Fernando and REDACTED the alleged victim. You concurred with our recommendation provided that this process proceed forward at once.

Since that memorandum, Father Fernando wrote a letter more specifically denying each of the claims made by REDACTED as stated in very summary fashion on the spreadsheet supplied by her attorneys. Those are the same behaviors alleged in the lawsuit. Father Fernando also underwent a psychological evaluation as recommended by the Board, the results of which are in his file. REDACTED the psychologist who conducted the evaluation, concluded that while it is impossible for him to determine if the acts complained of occurred as Father Fernando described them, his profile was not consistent with an individual who would lie to an evaluator or of an individual who is capable of deceit.

Today, we had a lengthy and thoughtful discussion. The members of the Board are very concerned about protecting children and young people and will not hesitate to recommend that a priest be removed from ministry and put on administrative leave if credible information is presented to support such action. We concluded, however, that the filing of an unverified lawsuit or the publication of a newspaper article are not, in themselves, sufficient to automatically trigger removing a priest from ministry and putting him on administrative leave.

The allegations made by REDACTED in her lawsuit, if true, are very serious and describe behaviors which are abusive and which would justify permanently removing Father Fernando from all ministry. Unfortunately, up to this point, these are only allegations that have come to us indirectly and without the kind of specificity that allows an appropriate investigation to proceed.

Therefore, because of the paucity of information, the members of the Clergy Misconduct Oversight Board recommend the following:

1. That Father REDACTED not be placed on administrative leave at this time pending further and intense efforts to obtain additional information to verify the truth of REDACTED allegations. He may yet need to be placed on leave depending on the results of the next two recommendations.

2. That REDACTED be interviewed without delay. We were advised at our meeting that her attorney has agreed to a limited interview. We recommend that this interview be scheduled as quickly as reasonably possible and urge that REDACTED or another professional investigator conduct this interview.

3. That you authorize me, in my capacity as Chair of the Clergy Misconduct Oversight Board, to write to Deputy District Attorney REDACTED to obtain whatever materials have been developed by the police and the District Attorney in the course of their investigation. We understand that the Archdiocese has already made a similar request but without success. However, if the Board is to act responsibly we need all the information we can get and it's unreasonable for the District Attorney or the police to withhold information that will assist us in our work.

4. That you authorize me, in my capacity as Chair of the Board, to write directly to REDACTED REDACTED's attorney to request an interview with REDACTED and/or to enlist her cooperation and consent to the release of the information developed by the District Attorney and the police if the interview and the request for information in Recommendation Nos. 2 and 3 are not forthcoming.

Monsignor Cox informed us that he will make an announcement to the parishioners at Father REDACTED current parish this weekend. This accords with our current policy.

The Board intends to review this matter again at our next meeting. Further recommendations may be forthcoming after that review.

Thank you.

cc: Msgr. Craig A. Cox

Statement for Weekend Masses at Assumption of the Blessed Virgin Mary Parish, Pasadena
Wednesday, January 17-18, 2004
Regarding Reverend Walter Fernando

As you know, in August of 2002, the *Los Angeles Times* published an article on sexual misconduct by Catholic priests and, among many others, named your Associate Pastor, Father Walter Fernando, as someone who allegedly engaged in the sexual abuse of a minor. On that occasion, Monsignor Moretti made an announcement in the parish indicating that while officials of the Archdiocese were aware that an investigation was being conducted, we had not received any complaint of misconduct by Father Fernando at that time.

Earlier this week, on Wednesday, January 14, 2004, *The Times* published another article focusing specifically on Father Fernando. Additionally, a lawsuit was filed in December charging Father Fernando with abusive behavior.

Prior to this, there had never been any complaint about Father Fernando. He has denied any sexually abusive conduct with the person who filed the lawsuit or, for that matter, with anyone else. There is only one person who has made any claim against Father Fernando. Only on this past Wednesday has she consented to being interviewed by an investigator of the Archdiocese. Up to this point, she has not submitted written responses to a questionnaire as part of the court-ordered mediation process. We have asked to see the results of the police investigation so that we can know and assess any evidence the police may have obtained. We still hope that the police and District Attorney will release this information to us.

Our Clergy Misconduct Oversight Board has considered the case of Father Fernando on several occasions. Up to the present, the information available to us has been hearsay in nature and without the kind of detail that would enable the Archdiocese to investigate more fully, or enable Father Fernando to present a reasonable defense. As a result, the Board has not recommended that Father Fernando be placed on administrative leave. It has recommended a number of steps that either have been or are being pursued.

Cardinal Mahony is committed to assuring that children and young people are safe. He has pledged that when it is determined that a priest has engaged in sexual misconduct with a minor, that he will be permanently removed from ministry. That pledge has been implemented. The fact that a lawsuit has been filed or a complaint made to the police does not mean that Father Fernando has acted in an abusive fashion. All people, priests included, must be presumed innocent until there is proof to the contrary. At the same time, the Church takes allegations of this sort seriously -- precisely because we want to uncover the full truth and then act in accord with the truth. Therefore, we will continue to seek all available information.

We will continue to keep you informed of developments. We ask that you please pray for everyone involved -- people who have been harmed by sexual abuse, priests, and those conducting the investigations. Thank you.

Monsignor Craig A. Cox

92489

Declaración para las Misas del fin de semana
en la Parroquia de St. Hilary, Pico Rivera
17-18 de enero, 2004
Respecto al asunto del Reverendo Walter Fernando

Quizás recuerden que en el mes de agosto de 2002, el periódico *Los Angeles Times* publicó un artículo sobre la mala conducta sexual por parte de sacerdotes Católicos y, entre otros, nombró al Padre Walter Fernando como uno que, según las alegaciones, había participado en el abuso de una persona menor de edad. El Padre Fernando entonces servía como asociado pastor en la parroquia de St. Hilary desde marzo hasta noviembre del 1981. Cuando se publicó el artículo en el mes de agosto del 2002, los oficiales de la Arquidiócesis sabían solamente que se había iniciado una investigación pero no habían recibido de ninguna persona una queja de mala conducta por parte del Padre Fernando en aquel tiempo.

El día miércoles de esta semana, 14 de enero, 2004 el *Los Angeles Times* publicó otro artículo sobre la persona del Padre Fernando. Además, una demanda se entabló el mes de diciembre acusando al Padre Fernando de comportamiento abusivo. La mala conducta, según tal, ocurrió durante el periodo de servicio del Padre en la parroquia de St. Hilary. Fue una sola queja que fue presentada contra el Padre Fernando.

De acuerdo con nuestro compromiso de proteger a niños y jóvenes, el Cardenal Mahony ha pedido una investigación de fondo de esta acusación por un ex-agente del FBI. Los resultados de esa investigación serán presentados al Cardenal Mahony y a los miembros del Comité Arquidiocesano de Supervisión de Casos de Mala Conducta, cuyo presidente es un juez jubilado de la Corte Superior. Además, el Comité se compone de catorce personas de los cuales doce son laicos.

Si alguien tiene información que puede facilitar esta investigación, le suplicamos que la presente. Pueden comunicarse al respecto con el Monseñor Craig Cox, el Vicario para el Clero, o con el investigador, el señor REDACTED Si se les olvida este número, pueden conseguirlo en las oficinas de su parroquia.

Se ha comprometido el Cardenal que la Arquidiócesis haga todo lo posible para que ustedes sientan la plena confianza que sus hijos están seguros. Hacia este fin, él está totalmente comprometido a remover del ministerio cualquier sacerdote que ha abusado sexualmente a un menor de edad. Estamos comprometidos a tomar y recibir estas acusaciones muy en serio – precisamente porque queremos descubrir la plena verdad y, por consecuencia responder de acuerdo con la verdad. De nuevo, invito a cualquier parroquiano quien tenga alguna información que la presente para ayudarnos.

Por fin, les pido que recen por todas las personas involucradas – personas dañadas por el abuso, por las sacerdotes, y por las personas dirigiendo las investigaciones.
Gracias.

Statement for Weekend Masses at St. Hilary Parish, Pico Rivera
January 17-18, 2004
Regarding Reverend Walter Fernando

As you may recall, in August of 2002, the *Los Angeles Times* published an article on sexual misconduct by Catholic priests and, among many others, named Father Walter Fernando, as someone who allegedly engaged in the sexual abuse of a minor. Father Fernando was an Associate Pastor at St. Hilary in March through November of 1981. When the article was published in August of 2002, officials of the Archdiocese knew only that an investigation was being conducted and had not received any complaint of misconduct by Father Fernando at that time.

Earlier this week, on Wednesday, January 14, 2004, *The Times* published another article focusing on Father Fernando. Additionally, a lawsuit was filed in December charging Father Fernando with abusive behavior. The alleged misconduct is said to have taken place during the time of his service here at St. Hilary. Only one complaint has been lodged against Father Fernando.

In keeping with our commitment to protect children and young people, Cardinal Mahony has arranged for this complaint to be investigated very thoroughly by a former FBI agent. The results of that investigation will be provided to the Cardinal and to the Clergy Misconduct Oversight Board, headed by a retired Superior Court judge and consisting of fourteen members, twelve of whom are lay persons.

If any parishioners have information to report that might assist in the investigation of this matter, we urge you to come forward. You may contact either Monsignor Craig Cox, Vicar for Clergy, or the investigator, REDACTED If you forget this number, you may request it at the rectory office at any time.

The Cardinal has dedicated himself and the Archdiocese to do all that is possible to assure our children and young people are safe. Towards this end, he has pledged to remove from ministry any priest who is determined to have sexually abused a minor. We are committed to take allegations of this sort seriously -- precisely because we want to uncover the full truth and then act in accord with the truth. Again, I invite any parishioner who may have information to come forward to assist us.

Finally, I ask that you please pray for everyone involved -- people who have been harmed by sexual abuse, priests, and those conducting the investigations. Thank you.

ADD TO
WALTER
FERNANDO
C-FILE

Cox, Msgr. Craig A.

From: Cox, Msgr. Craig A.
Sent: Wednesday, January 21, 2004 1:44 PM
To: REDACTED
Subject: Message for REDACTED

I found this email address in the Annuario Pontificio. I ask whoever receives this to forward it to REDACTED
REDACTED

Dear REDACTED

I am the Vicar for Clergy of the Archdiocese of Los Angeles in California. I need to be able to either communicate with you via a private email address or arrrange to speak with you on the phone. Would you please be so kind as to contact me at your earliest possible convenience? This is a matter of some delicacy and urgency.

My telephone is REDACTED

Thank you for your kind attention to this matter. May God bless you!

Msgr. Craig A. Cox

92486

Cox, Msgr. Craig A.

From: Cox, Msgr. Craig A.
Sent: Friday, January 23, 2004 10:28 AM
To: REDACTED
Subject: Your Assistance

Dear REDACTED

Thank you so much for your email. I regret to have to inform you that there has been an accusation of sexual misconduct with a minor lodged against Father Walter Fernando. This charge dates back to his first year in this country, 1981.

It is our understanding that you visited the United States in 1981 and traveled with Father Fernando on a vacation that included, among other destinations, a trip to the Grand Canyon.

It is critical for our investigation to determine whether or not this vacation trip occurred and to ascertain, as closely as reasonably possible, the exact dates of the trip. Any type of documentary verification, as well as your own recollections, would be most helpful to us. For example, if you have entries in your passport verifying your presence here at that time, receipts from the trip, entries in a diary or journal, dated photographs, etc., these could be most helpful It is our understanding that you stayed in a number of parishes and with familes during this trip. Any recollection about the places and persons with whom you stayed would be most helpful.

I hate to burden you, but there is an urgency that we move forward with our investigation as promptly as possible. Therefore, I would appreciate a return email as quickly as possible. If you have documentation, could you have notarized copies made and have them sent by a fast delivery service (e.g., DHL, FedEx) to me at the following address:

Msgr. Craig A. Cox

Archdiocese of Los Angeles

3424 Wilshire Boulavard

Los Angeles, CA 90010

U.S.A.

My office will be happy to reimburse you for any expenses you incure in preparing and shipping the documents to us.

We have retained the services of a professional investigator in this matter, aREDACTED He and I would also welcome an opportunity to talk with you on the phone if you believe that would be helpful in your communications with us.

I look forward to your response. May God bless you in your ministry.

Yours in Christ,

Msgr. Craig A. Cox

Vicar for Clergy

92485

CONFIDENTIAL & PRIVILEGED
INVESTIGATIVE REPORT
ATTORNEY CLIENT WORK PRODUCT

January 23, 2004

Canonical Investigation of Father Walter Fernando
CMOB-027

Report of REDACTED

REDACTED made an accusation of sexual abuse against Father Walter Fernando to the Los Angeles Police Department (LAPD) in April 2002. REDACTED has never personally lodged a complaint with the Los Angeles Archdiocese but the office of her attorney REDACTED communicated it to the Archdiocese. Based on her accusation the following individuals were interviewed and records were reviewed between January 14, 2004, and January 27, 2004:

1. Monsignor John A. (Archie) Rawden (Retired), former Chancellor Los Angeles Archdiocese

REDACTED

16. Monsignor Craig A. Cox, Vicar for Clergy

Fernando is a 59-year-old Sri Lankan-American who was ordained in Sri Lanka in 1973 and came from Sri Lanka to the Los Angeles Archdiocese in 1981. His initial assignment in the Archdiocese was at Saint Hilary's Church in Pico Rivera, reporting March 1, 1981. He served there until November 29, 1981, and was then transferred to Saint John Baptist de la Salle where he served until July 31, 1986. Since then he has served at four other parishes in the Archdiocese and has not had any complaints lodged against him other than the one that is the subject of this report. He has been an associate pastor at each of his assignments.

The allegations made by REDACTED against Fernando are contained in a Complaint filed in Los Angeles County Superior Court on December 3, 2003. Pertinent parts of the complaint state:

1. REDACTED was a minor during the alleged acts perpetrated upon her.
2. She alleges Fernando molested minor parishioners and that the Archdiocese was aware of it.
3. The specific acts involving Fernando and her included:
    a. French kissing
    b. Hugging
    c. Fondling buttocks over clothing
    d. Rubbing and massaging breasts and body
    e. Kissing neck, face and breasts
    f. Digital vaginal penetration
    g. Forced masturbation of Fernando
    h. Attempted forced oral copulation of Fernando
    i. Sexual grooming

A request has been made to REDACTED for an interview of REDACTED by a representative of the Archdiocese, preferably one of the investigators. This is one of the recommendations of the Clergy Misconduct Oversight Board, however, despite initially indicating she might allow this REDACTED has not at this time.

REDACTED Certificate of Baptism certifies that she was born on REDACTED

REDACTED was married to REDACTED
REDACTED

Fernando advised Monsignor Craig A. Cox that the LAPD wanted to talk to him (Fernando) while both were at Saint John's Seminary attending a continuing education week the first week of June 2002. He told Cox that about 20 years ago he crossed boundaries with a woman interested in entering the convent. They went to a movie together and he put his arm around her. She later entered the convent but left within a few years.

Sometime after this the archdiocese became aware that REDACTED was making an allegation against Fernando and based on this he was interviewed by Cox and REDACTE REDACTED REDACTED on February 12, 2003. Prior to this interview Fernando retained REDACTED as his attorney and although he answered all questions pertaining to him personally and historically he acted on REDACTED advice and refused to answer questions regarding the allegations made against him by REDACTED noted that Fernando's demeanor was cordial and cooperative and that he exhibited an appropriate level of concern. Later in letters dated March 7, 2003, and May 8, 2003, that Fernando addressed to Cox he denied "each of the specific behaviors alleged." He also wrote, "I absolutely affirm that I have obeyed my vow of celibacy".

92476

On January 21, 2004, Monsignor John A. (Archie) Rawden (retired) was telephonically contacted. He stated that in 1981 he was the Chancellor for the Archdiocese and responsible for the transfers of the priests. At that time he lived in the rectory of Immaculate Conception Church which was across the street from where the chancery. It was a large rectory and often priests coming into the Archdiocese stayed there prior to being assigned to a parish. He could not recall Fernando.

On January 16 and 17, 2004, REDACTED was telephonically interviewed. He is currently Associate Pastor at Our Lady of Lourdes Church and advised that he has known Father Walter Fernando for about 35 years, since their days in the seminary in Sri Lanka. He has always known him to be an honorable man both in Sri Lanka and in the United States. He REDACTED preceded Walter in coming to America and when Walter arrived they spent a good deal of time together. He and his brother REDACTED would spend each Wednesday with REDACTED as that was their day off then. REDACTED did not have a California driver's license for several months after he arrived and they drove him to various locations around Southern California. They often visited and had dinner at other Sri Lankan homes in the area. Walter was initially assigned to Saint Hilary's in Pico Rivera but as he recalls he did not stay there as long as it was originally intended. The reason for this might have been because of his surname he was believed to be a Spanish speaker and he was not. He was then transferred to Saint John Baptist de la Salle in Granada Hills. He does not recall any parishioners at Saint Hilary's that REDACTED was close to or spoke about and the name REDACTED means nothing to him. Nor does he recall REDACTED mentioning any Saint Hilary parishioner visiting him at Saint John's. He described REDACTED as a reserved soft-spoken person that in his opinion would not force himself on anybody or in any way violate his vows. He was very surprised to hear that REDACTED was accused of any impropriety. He believes that the first summer Walter was in America another Sri Lankan priest, REDACTED visited this country and they traveled together. REDACTED is now a bishop in Sri Lanka and he has a cousin that lives in the Torrance area named REDACTED whom they visited her on occasion back then. He advised his brother is now in ministry in New York.

On January 20, 2004, REDACTED (not related to Walter) was telephonically interviewed. He is currently the hospital chaplain at Long Beach Memorial Hospital, Long Beach, New York, and resides in the rectory at Saint Ignatius Church in Long Beach, New York. He stated that he was assigned to Saint Michael's Church in Los Angeles in 1981 when Father Walter Fernando arrived from Sri Lanka. He knew Walter in Sri Lanka and knows that he had a good reputation there. He knows this because there is only one seminary in the country and relatively few priests and if someone does something untoward it becomes known throughout the religious community. Also the REDACTED would not have written a letter of recommendation for him, which was required. He REDACTED came to the U.S.A. in 1976 for a change and a more challenging ministry. He explained that Sri Lanka is a small country with few opportunities and he came here to broaden his experiences within the Church. He believes Walter came for the same reasons but probably with a bit of apprehension since he was leaving all of his family and most of his friends. When Walter arrived in Los

Angeles he stayed at the Immaculate Conception rectory with Monsignor Archie Rawden. He was then sent to Saint Hilary's. He remembers that Walter did not drive at that time since he did not have a California driver's license and he and his brother, REDACTED REDACTED , would drive to Walter's church and pick him up each Wednesday their day off. They would visit other Sri Lankans that resided in the area and frequently have dinner in their homes. One of these was REDACTED whose cousin, REDACTED is now a Bishop in Sri Lanka. In 1981 he was a priest from the same diocese as them in Sri Lanka and he visited the United States. REDACTED and Walter traveled to the Grand Canyon that summer as well as other places but he could not recall exact times and places. He was very surprised when he heard of the allegations made against Walter as he has always been a quiet gentleman and has a reputation for that. He never did anything indiscreet while they were together and he reiterated they spent a good deal of time together in 1981. He cannot remember Walter ever mentioning REDACTED or any other parishioner from Saint Hilary's nor does he recall him ever mentioning a former parishioner visiting him after he was transferred to Saint John's.

On January 21, 2004, REDACTED was telephonically interviewed and advised she knows Father Walter Fernando and recalls that he and her cousin REDACTED REDACTED took a vacation together in 1981 when REDACTED visited the United States. She cannot remember the dates they traveled but believes they visited the Grand Canyon and Las Vegas. Back then she frequently saw the Sri Lankan priests that lived in the Los Angeles area, including Fernando, and they were all good men. She could offer no other information of value.

On January 17, 2004, REDACTED was telephonically interviewed and on January 20 was personally contacted at Saint Hilary's. She is currently teaching at Saint Benedict's Grammar School in Montebello but has been employed at Saint Hilary's in some capacity, part time or full time since 1985. In the mid-1980s she worked in the office and now does some secretarial work and maintains the archived records of the parish. Although she was not working in the parish when Walter Fernando was an Associate Pastor at Saint Hilary's she was a parishioner and remembers him. She also knew REDACTED as they both were in the parish youth choir. REDACTED played the flute in the choir. This was after REDACTED graduated from high school and before she went into the convent. After she REDACTED re-joined the group. Before REDACTED graduated from high school and joined the choir she worked in the rectory part-time answering the telephones and the door. This was on the weekends and in the early evenings. A search of pay records failed to locate any for REDACTED which makes REDACTED believe that since she was part-time she was paid in cash and no records were maintained. REDACTED described REDACTED as a needy person who had a troubled family life. She seemed lonely and REDACTED family was uninvolved with her activities. REDACTED also said that REDACTED has had financial problems for years. Less than two years after leaving the convent REDACTED was married and it might have been to the first person she dated. REDACTED did not believe the marriage lasted four years and REDACTED had three daughters as a result of it. REDACTED told REDACTED that her husband was having an affair and that after the divorce she felt like a failure again and questioned where to go from there. REDACTED never mentioned Fernando to her or anyone else as far as she knows. She remembered Fernando as a gentle, reserved, docile person

and felt if anything did occur between REDACTED and him she probably instigated it. If he made any advances on her REDACTED feels REDACTED would have told someone. She cannot recall any birthday or any other type party for REDACTED in the rectory. She has not seen REDACTED in over a year and does not know where she is living or if she is employed. She does know one of her daughters has a serious health problem. Her daughters went to Saint Hilary's school at one time. REDACTED was the parish secretary in 1981 but she is now very elderly and feeble. In 1985 REDACTED became the parish secretary and REDACTED later met her when both had children in school at Saint Hilary's. REDACTED is the current parish business manager and does not know REDACTED personally but requested REDACTED locate old pay roll records for her. She does not know who asked REDACTED to provide them. She also checked parish records dating back to 1981 for vehicles, expenses, retreats, training or anything else regarding Fernando with negative results. The only thing she could locate from that time period were Sunday parish bulletins. The full time rectory employee at that time was REDACTED who is now deceased. REDACTED REDACTED also worked as a junior, or part-time, secretary the same time that REDACTED did and she also played guitar in the youth choir. She might be able to provide some information. REDACTED was the housekeeper in 1981 and is now 84 years old and residing at Nazareth House. She might remember something, as she knew both REDACTED She frequently talked to REDACTED and was fond of her and never mentioned to REDACTED that REDACTED had a relationship with a priest. Her mother was the only person other than the priests that was allowed in their private quarters and she would not allow anyone else to violate their space.

On January 20, 2004, the Saint Hilary's Sunday Parish Bulletins for 1981 were reviewed. The March 8th one welcomed Fernando to the parish. On April 26 his name is listed on the cover as a parish priest. On November 29th it announces he is being transferred to Saint John's. On December 13th he is no longer named on the cover as a parish priest. The bulletins for that year indicate that REDACTED was the pastor and that associate pastors were REDACTED and Father REDACTED is deceased and REDACTED left the Archdiocese May 23, 1985, apparently to return to his Diocese in Enugu, Nigeria. Parish records reflect REDACTED married REDACTED on February 21, 1987, and the marriage was declared null and void on April 12, 1994.

On January 16, 2004, REDACTED REDACTED Pastor at Our Lady of the Rosary Church, was telephonically contacted. He advised that he was an associate pastor at Saint Hilary's in 1981 and remembers Father Walter Fernando there. He recalled Fernando as a hard working priest that was very gentle and quiet and definitely never saw him do anything of a suspicious nature. He could not remember anyone in the parish that Fernando was particularly close to. He had recently come from Sri Lanka and he socialized with other Sri Lankan priests on his day off. He recalls that they came to pick him up and that they would go to various places in the area. He cannot recall if Fernando was assigned a vehicle but believes that he probably was. He did not recall when Fernando's vacation was or if he took a parish car when he went. He did not remember REDACTED

92479

On January 21, 2004, REDACTED principal of Saint Hilary's School was telephonically contacted. She advised that REDACTED did not attend Saint Hilary's School but that her children did for a period of time. She knew her as a parent of a student and nothing more. Her children were withdrawn from the school she believes for financial reasons.

On January 21, 2004, REDACTED , business manager, Saint Hilary's Church, was telephonically contacted. She advised she does not know Father Walter Fernando or REDACTED . She learned of REDACTED name in this matter from her pastor and advised that a state agency had requested payroll records for REDACTED in July 2003 but there were no records.

On January 21, 2004, REDACTED was interviewed at Nazareth House. She advised that she was the housekeeper at the rectory of Saint Hilary's Church when Father Walter Fernando was assigned there. He was a very quiet nice man who she liked a lot. He related well to the parishioners and they liked him. REDACTED was a junior secretary in the rectory and answered the telephone and the front door. She was in high school and worked part-time. She was a hard worker and helped to support her family. Before she entered the convent she discussed it with REDACTED and he later told REDACTED that he did not think she would make it in religious life. REDACTED is now an interpreter in the court system in Los Angeles and she believes that REDACTED continues to help support her parents. She knew of no connection between Fernando and REDACTED Nobody was allowed in the priests' quarters but her, not even the parish secretary. She did not remember any type party for REDACTED in the rectory.

On January 21, 2004, REDACTED was interviewed at the Nazareth House. He remembered Father Walter Fernando as one of his associate pastors at Saint John's and that he was an excellent, obedient young man. He was given the hospital ministry and worked very hard at it. He has no recollection of anything that would reflect poorly upon Fernando. The only female he remembers visiting Fernando was another Sri Lankan. He characterized him as "one of my prized young men."

On January 21, 2004, REDACTED EDACTED . was telephonically interviewed. He is currently pastor of REDACTED and was an REDACTED at Saint John's in 1981 when Father Walter Fernando arrived. He was a very reserved gentleman and he was never suspicious of Fernando for any reason. He has called appropriate people for the activities of others over the years but not Fernando. He cannot recall any parishioners from Saint Hilary's visiting Fernando at Saint John's.

On January 21, 2004, Monsignor Timothy J. Dyer, REDACTED , was telephonically interviewed and advised he was the Vicar for Clergy in 1990 and 1992 when Father Walter Fernando was transferred from Cathedral Chapel and Saint Gregory the Great Churches after what appears to be abbreviated stays. He could not recall why these transfers were made but is certain that if there was a serious problem behind them it would be noted in Fernando's file.

92480

On January 22, 2004, a meeting was held with LAPD Lieutenant REDACTED Officer in Charge of the Juvenile Division and LAPD Officer REDACTED senior detective of the cleric abuse task force. They advised they were not at liberty to release any portions of their case relating to Father Walter Fernando including the transcript of the monitored telephone call between Fernando and REDACTED This would be against their policy and could be harmful to a future case if another victim comes forward since the REDACTED case can be used for corroboration. Due to the Stogner Decision Fernando will not be prosecuted in this matter but REDACTED opined that the telephone call corroborated REDACTED claims. REDACTED will contact Deputy District Attorney REDACTED to obtain his opinion on allowing the transcript of the call to be viewed by the Archdiocese and advise once this decision is made.

On January 15, 2004 REDACTED advised in a memo that REDACTED REDACTED REDACTED

On January 17 and 18, 2004, a statement was read at all week end Masses at Saint Hillary's that Father Walter Fernando was named in a law suit accusing him of sexual abuse while assigned to that parish. It requested any parishioner with information regarding this matter to contact the Archdiocese and left Monsignor Craig A. Cox's telephone number. No contact has been made.

On January 21, 2004, REDACTED parish secretary at Saint Hilary's from 1983 until 1998 advised that she had no information of value relating to this matter.

The REDACTED issue of the Los Angeles Lay Catholic Mission contains an article stating that the REDACTED named REDACTED as a sexual abuse victim handing out leaflets at the Sherman Oaks Galleria. The pamphlets informed victims of sexual abuse by priests that they could bring suit against perpetrators for the duration of 2003 and urged them to contact the Church.

On January 27, 2004, REDACTED e-mailed REDACTED the following information. He has known Fernando since 1964 and they attended the seminary together. Between roughly September 5th and 18th 1981 he and Fernando traveled by car to the Grand Canyon. They also spent time in Flagstaff, Arizona, and Las Vegas, Nevada, on the trip which took four or five days. Fernando was assigned to Saint John Baptist de la Salle at the time.

A public records database search was done on REDACTED and provided no information of value in this matter.

92481

Analysis and Observations

This allegation was made 21 years after the act supposedly took place.

There are no independent witnesses named by REDACTED as having ever observed any of the alleged activities. Therefore much of the investigation set forth above revolves around character evaluation of the parties by those that knew them at that time as well as now.

REDACTED had a difficult childhood and as a young woman left religious life and had a failed acrimonious marriage.

She is raising REDACTED daughters at least one of which has a REDACTED .

She has had financial difficulties throughout her life.

Fernando was assigned to Saint Hilary's on March 1, 1981, and remained there until November 30, 1981.

Fernando did not drive for a couple of months after arriving at Saint Hilary's due to a lack of a valid driver's license.

Although the LAPD advised that in their opinion Fernando corroborated REDACTED allegations in the recorded telephone call REDACTED on another occasion said the call "seemed to corroborate her account."

REDACTED 18th birthday was REDACTED .

No other complaints have been lodged against Fernando.

These issues have a bearing on this analysis but without more information it cannot be determined at this time, with any level of certainty, whether the alleged activities took place or not.

92482

Timeline Regarding Father Walter Fernando

April 24, 1944...Walter Fernando born in Ragama, Sri Lanka

January 1, 1973...Fernando ordained for Diocese of Colombo, Sri Lanka

March 1, 1981...Fernando assigned to Saint Hilary's Parish, Pico Rivera

REDACTED 1981...REDACTED 18th birthday

November 29, 1981...Fernando leaves Saint Hilary's

November 30, 1981...Fernando assigned to Saint John Baptist de la Salle, Granada Hills

January 1983..REDACTED enters convent

March 27, 1985...REDACTED leaves convent

February 24, 1986...Fernando incardinated in Los Angeles

July 31, 1986...Fernando leaves Saint John's

August 1, 1986...Fernando assigned to Saint Rose of Lima, Simi Valley

REDACTED 1987..REDACTED marries REDACTED at Saint Hilary's

July 1, 1990...Fernando leaves Saint Rose

July 2, 1990...Fernando assigned Cathedral Chapel, Los Angeles

June 12, 1991..REDACTED file for divorce

May 2, 1992...Fernando leaves Cathedral Chapel

May 3, 1992...Fernando assigned Saint Gregory the Great, Whittier

June 30, 1992...Fernando leaves Saint Gregory

July 1, 1992...Fernando assigned Assumption of the Blessed Virgin Mary, Pasadena

April 12, 1994..REDACTED marriage declared null and void by Catholic Church

April 2002...REDACTED reports molestation to LAPD

May 2002..REDACTED makes monitored telephone call to Fernando

92483

June 13, 2002...Fernando advises Monsignor Craig A. Cox LAPD wants to talk to him

August 18, 2002...Los Angeles Times article names Fernando as being under investigation

August 30, 2002...Officer REDACTED advises REDACTED LAPD has open case on Fernando

January 1, 2003.. REDACTED identified in Los Angeles Times as abuse victim per REDACTED REDACTED

January 1, 2003.. REDACTED appears on list of plaintiffs

January 22, 2003...CMOB discusses matter but has few facts and takes no action

February 12, 2003...Fernando interviewed by Cox and REDACTED

March 7, 2003...Fernando sends Cox letter denying most serious charges

March 26, 2003...CMOB discusses matter and requests more information be obtained

May 8, 2003...Fernando sends second letter to Cox denying all allegations

January 14, 2004...L.A. Times article details case against Fernando and that he is still in ministry

January 14, 2004...CMOB discusses matter and requests expedited investigation

REDACTED

(-FILE

Cox, Msgr. Craig A.

From: Cox, Msgr. Craig A.
Sent: Tuesday, January 27, 2004 8:26 AM
To: REDACTED
Subject: RE:

REDACTED

Thank you very much for your reply. I look forward to receiving the materials you are sending. This helps us verify timelines so that we can better assess the claim being made.

May God bless you in your ministry.

Msgr. Craig A. Cox

-----Original Message-----
From: REDACTED
Sent: Monday, January 26, 2004 8:52 PM
To: Cox, Msgr. Craig A.
Subject:

27.01.2004

Attn. Msgr. Craig A. Cox

Dear Msgr. Cox,

I am REDACTED

From 1978 - 1982 I was reading for a Post-Graduate Degree in London and was a resident priest at Our Lady of Lourdes, 373, Bowes Road, London N11 1AA.

On the 30th of August 1981, I travelled from Gatwick Airport to Los Angeles by Laker Sky Train an Air Plane (Refer photocopies of passport pgs 22 & 34). I was not staying in a parish nor with families during this tour. I only stayed with my 1st cousin, mother's brother's daughter REDACTED and her husband REDACTED . Present address: REDACTED California REDACTED Telephone: REDACTED . I stayed with them till the 25th of September, arrival at Gatwick Airport (Refer Pg.24).

I have known Fr. Walter Fernando from 1964. From 1965 - 1967 we were seminarians at the National Seminary, Ampitiya, Sri Lanka. In 1967, I was sent to Rome by the then Card. Archbishop of Colombo. When I was at Torrance, I contacted Fr. Walter Fernando, who was an Associate Pastor in a Church dedicated to St. John the Baptist De La Salle (hope I am correct).

In September 1981, roughly between the 5th and the 18th September, we went on trip, only the two of us to the Grand Canyon by car. We stayed the night in a place called Flagstaff; saw the Grand Canyon and went to Las Vegas and stayed with a friend - the REDACTED 's from Sri Lanka. We stayed only one day at Las Vegas. The whole trip took only 4 to 5 days maximum

92466

and I returned to London on 25th September 1981, arrival at Gatwick Airport (Pg. 24)

On the 5th of February 1982, I once again visited Los Angeles (Pg. 24) and stayed till 27th February 1982, embarkation and arrival from Heathrow Airport (Pgs 24 & 35). This time I paid a visit to Mexico on 14th February 1982 - 19th February 1982 (Pgs 16 & 34). During this period, I may have met Fr. Walter, but did not go on a tour with him.

I hope this information would be sufficient, I am sending the photocopies of the relevant passport pages by fax REDACTED to you and through registered express air mail. If you need to talk to me over the phone, you may contact me on one of these lines. REDACTED
REDACTED

May God bless you and your work,

Yours in the Lord,

REDACTED

REDACTED
REDACTED

CONFIDENTIAL & PRIVILEGED
INVESTIGATIVE REPORT
ATTORNEY CLIENT WORK PRODUCT

February 1, 2004

Canonical Investigation of Father Walter Fernando

Interviewee: REDACTED (Protect Identity Upon Request)

Interviewer: REDACTED

Date of Interview: January 29, 2004

REDACTED was telephonically interviewed and provided the following information:

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED was a priest at Saint Hilary's who both she and REDACTED knew. When it became public that he had abused REDACTED , who they both knew also, they discussed it. On one of these occasions REDACTED asked her if she remembered Father Walter Fernando and she told REDACTED that her memory of him was very faint. REDACTED then told her that he had abused their relationship. When she asked REDACTED what she meant by that REDACTED refused to detail what had happened and was clearly embarrassed by it. This was the only time it was mentioned and she could not say with any accuracy when it happened except that it was after the REDACTED incident became public and at least a year ago. They have a mutual friend, REDACTED , who now lives in Moreno Valley. About the same time REDACTED mentioned Fernando to her she was talking to REDACTED and REDACTED related that REDACTED had asked her also if she remembered REDACTED She cannot recall what REDACTED response was. It surprised her that REDACTED would say something like that about a priest.

The incident with Fernando took place while REDACTED was working in the rectory. She did not believe that REDACTED would make something like this up but at the time it did not occur to her that the abuse was sexual in nature. She assumed that REDACTED had told him

something in confidence and he repeated it to someone else or something like that. At the time she was a fairly close friend of REDACTED and she wondered why she had not told her sooner than she did.

She has not seen REDACTED in over a year and she lost track of her. She is not even certain as to where she is living or working. She described REDACTED as a very quiet and shy person.

Archdiocese of Los Angeles

Office of
Vicar for Clergy
(213) 637-7284

3424
Wilshire
Boulevard

Los Angeles
California
90010-2241

TO: Presbyterate of the Archdiocese

FROM: Monsignor Craig A. Cox, Vicar for Clergy

RE: Priests in Active Service Named in Lawsuits

DATE: 1 February 2004

My brothers,

As you know, many lawsuits were filed in the month of December alleging sexual abuse of minors on the part of priests, brothers, religious and others working for the Church. These filings are public records, available to the media and to any other person who wishes to obtain the information. Being named in a lawsuit, however, is not of itself proof of misconduct. Therefore, among those named are a number of priests who, for many different and weighty reasons, continue in their assignments and remain in good standing.

After intense consultations that involved these priests, the Council of Priests, as well as others, we concluded that the best course of action was for us to inform the parishioners of the parishes where these priests continue to serve that their priest had been named in a lawsuit. We concluded that being open and bringing accurate information directly to our parishioners was wise and necessary. This was a painful decision, especially for the priests involved.

Therefore, I wanted to inform you that over the last several weekends, announcements were made in the parishes where these priests continue to serve. At this difficult moment, and with the consent of those listed, I want to communicate to you the names of these brother priests. They are: REDACTED REDACTED . Father Walter Fernando, REDACTED Monsignor Richard Loomis, REDACTED REDACTED REDACTED

I ask that you please keep them in your prayers as they deal with the allegations made in these lawsuits. Clearly, supporting one another in our Presbyterate is not at odds with having a profound empathy for those who were harmed by the evil of sexual abuse, especially those who were abused by a priest. Thus, I ask that you keep all victims of sexual abuse in your daily prayer. Thank you.

92463

CONFIDENTIAL & PRIVILEGED
INVESTIGATIVE REPORT
ATTORNEY CLIENT WORK PRODUCT

February 4, 2004

Canonical Investigation of Father Walter Fernando

Interviewee: REDACTED

Interviewer: REDACTED

Date of Interview: February 2, 2004

REDACTED was contacted at Saint John's and conducted a tour of the rectory and surrounding area.

She pointed out that the area behind the rectory was made into a gathering area, or plaza, in 1991. Prior to that it was a parking lot and if a priest did not park in the garage he could have easily parked there and it would have been convenient to the priests' private entrance into the rectory.

Leaving this area is a walkway between the church and the rectory that leads to the private entrance on the west side of the rectory. Entering this door a hallway goes about ten feet and then there is left turn and an immediate left turn into a sitting room. This is a private sitting room and a door from it leads directly into a bedroom. Entering the bedroom looking at the wall to the left is a window. Currently the head of the bed is under the window but REDACTED advised the previous occupant had the head of the bed immediately to the left as one entered the room. If the bed was configured in that manner the chest of drawers and mirror on the far wall would be at the foot of the bed. REDACTED stated that particular piece of furniture had been positioned that way as long as she had been there, which was since the early 1990s.

She was not working at the parish when Father Walter Fernando was there but believes this room was more than likely his. The other associate pastor suite is across the hall.

REDACTED provided blue prints for the rectory.

CONFIDENTIAL & PRIVILEGED
INVESTIGATIVE REPORT
ATTORNEY CLIENT WORK PRODUCT

February 4, 2004

Canonical Investigation of Father Walter Fernando

Interviewee: REDACTED
REDACTED

Interviewer: REDACTED

Date of Interview: February 2, 2004

REDACTED was interviewed and provided the following information:

She contacted REDACTEREDACTED
REDACTED regarding REDACTED He advised that REDACTEDREDACTED
REDACTED

CONFIDENTIAL & PRIVILEGED
INVESTIGATIVE REPORT
ATTORNEY CLIENT WORK PRODUCT

February 6, 2004

Canonical Investigation of Father Walter Fernando

Interviewee: REDACTED

Interviewer: REDACTED

Date of Interview: February 5, 2004

REDACTED . was telephonically interviewed and provided the following information:

When Father Walter Fernando came to Saint John Baptist de la Salle Church in Granada Hills in 1981 as an associate pastor he was assigned a room in the rectory. On entering the rectory from the priests' entrance off of the walkway between the rectory and church there is a hallway. Straight ahead a few feet is another hallway to the left and then immediately to the left a door into the sitting room that is part of the suite in which Fernando lived. There is also a bedroom and bathroom in that suite.

There was parking in the rear of the rectory at that time and no door in the rear of the rectory opening to that parking area. At that time there was no exit door on that end of the rectory.

The name REDACTED : means nothing to him.

REDACTED

(3)

CONFIDENTIAL & PRIVILEGED
INVESTIGATIVE REPORT
ATTORNEY-CLIENT WORK PRODUCT

February 8, 2004

Canonical Investigation of Father Walter Fernando
REDACTED

Supplemental Report of REDACTED

Reference Report Dated January 23, 2004

The morning of January 29th REDACTED telephonically advised that he had spoken with REDACTED the counsel for REDACTED and that REDACTED would be available for an interview that evening. I telephonically contacted REDACTED who advised that REDACTED would meet with me at the REDACTED located at REDACTED at 6:00 p. m. that evening. She also said that an associate of hers REDACTED would be there to make REDACTED more comfortable. She put no restrictions on the interview and only asked it not drag on for several hours. She was assured it would not.

At 5:45 p. m. I identified myself to REDACTED and we exchanged business cards. He was sitting in a relatively private booth in the restaurant and REDACTED had gone to the rest room. Shortly thereafter she returned and REDACTED introduced me to her. At that point he requested no questions be asked regarding damages in the suit REDACTED had filed. He was assured that was not the intent of the interview. REDACTED then provided the following information:

She met Father Walter Fernando in either late 1980 or early 1981 at Saint Hilary's Catholic Church in Pico Rivera. She was 17, a senior at Saint Paul's High School and working at Saint Hilary's as a junior secretary in the rectory. She was very active in the parish at that time. She taught a Confraternity of Christian Doctrine (CCD) class in her junior and senior year in high school and was in the junior choir where she sang and played the flute. She characterized herself as an unattractive nerd while in high school who had few, if any, friends and was the subject of verbal abuse. She had a 4.0 grade point average and some of the students may have resented her for that. Her home life was also troubled and she enjoyed being at the parish, as it was a refuge for her. She began volunteer work in the rectory during her junior year and between her junior and senior year she was hired as a junior secretary and began to receive a salary.

The priests at Saint Hilary's at that time were the pastor REDACTED who is now deceased; REDACTED REDACTED and Fernando. She could not be certain if a REDACTED REDACTED was there at that time or came shortly after Fernando left. She thought he might have been there a short time while Fernando was there as she recalled REDACTED and REDACTED had rooms downstairs in the rectory and REDACTED

[REDACTED] and Fernando were upstairs. As a junior secretary she came to the rectory directly from school. The school bus had a stop at the church making it convenient for her and she reported to work wearing her school uniform. She would work as late as 9:30 p. m. at times on week nights and also on weekends. She was restricted to working not more than 25 hours a week. REDACTED who was attending California State University at Los Angeles, was also working there and trained [REDACTED] but other than the training they were not there together as one would normally relieve the other. There was another junior secretary for a short time but she was fired due to talking to her boyfriend on the telephone at work. [REDACTED] not only did not have a boyfriend but did not date until years later after leaving the convent. Her duties included doing parish clerical work and answering the telephone and door. She placed the priests' messages in boxes that were next to where she sat. She normally ate her dinner in the kitchen but on occasion was invited to eat in the dining room with the priests.

The rectory was quiet in the evening and normally only she and the priests were there. It was not uncommon for them to come by to check their mailboxes for messages. Fernando began to strike up conversations with her in the evening when they were alone. These talks became increasingly longer and friendlier. The first thing she recalls that was a bit unusual was one evening he began to shoot rubber bands at her. Late one Sunday afternoon in perhaps April 1981 Fernando suggested they go to the parish hall behind the church and he would play his violin and she her flute. They were there alone with a piano near the stage and she played her flute and sang. Then he played the violin and brought out music and sang a love song entitled, "Drink To Me Only With Thine Eyes". She felt this was a strange selection for him to pick since it was a love song. They were there about an hour.

Shortly after the parish hall incident she was alone at her desk one evening wearing her high school uniform. Fernando showed her a book and suggested that she read it. She turned the book over and read a synopsis of the story on the rear cover. It was about a priest who was having an affair and she gave it back to him. He inquired as to why she did not want to read it and she told him that she did not think that priests should do that sort of thing. He then explained to her there was a difference between celibacy and chastity. According to him celibacy meant simply that priests were precluded from marriage. Chastity was a vow that only priests that were in a religious order took along with poverty and obedience. Since he was a diocesan priest chastity did not pertain to him and he only had to remain celibate that is not marrying. Nobody had ever explained this to her and she was confused but since he was a priest she accepted what he said. Nevertheless she did not read the book and cannot remember the title.

Not long after the book incident, while still in high school, either on his day off or on the weekend he mentioned that he wanted to see a movie and asked her to accompany him. She rarely went to movies and since he was a priest and was showing her attention she readily accepted. He drove to her house, honked the horn and she came out. This is the procedure he used whenever he came to pick her up in the future. He never came into the house to talk to her parents or siblings. Her parents did not object to her going and she believes they felt good about it since they thought she was in the safe care of a priest.

They drove down Rosemead Boulevard to Downey the city that adjoins Pico Rivera to the south. They went to the Showcase Theatre located next to a Farrell's Ice Cream Parlor. Neither structure is any longer there as it is now a shopping center. He sat to her left during the movie and during the movie reached over and initially patted her hand. He then reached his arm around her shoulder and put his hand on her breast and began to rub it. She stared straight ahead and not knowing what to do she did not do or say anything. The movie was near its conclusion when this happened and when it finished she asked him to hand her a sweater she placed on the seat next to him. When she did this he abruptly leaned down and gave her a hard kiss on the lips. She had never been kissed on the lips before and she was shocked and emotional. She told him she had to go to the ladies' room and excused herself. When she returned to him she was still in shock and they proceeded back to the car. She cannot recall the name of the movie. The vehicle was a white parish car that Fernando used and she does not know if it was assigned to him or not. As he was leaving the parking lot he backed into another car and continued to drive away. She called his attention to it since it was very apparent but he told her not to worry about it and left. He was quiet after the movie and little if anything was said on the drive home. He did not come into her house when he brought her home either.

Not long after the movie incident, while she was still in high school, they returned to the same parking lot. She cannot recall the reason they were there but he parked in front of Farrell's and laid his head in her lap. While in this position he pulled her head down and kissed her. This was a longer kiss than the one in the movie and he put his tongue in her mouth. After the kiss he took her home.

On another occasion while she was still in high school, probably on a Saturday, he took her to the Los Angeles County Arboretum. She wore her hair in bangs and she recalled that she had braces on her teeth then. It was a warm day and she wore a white dress that she made and white sandals. As in the other described incidents he did not wear his clerical clothes. He brought a camera and took about five photographs during the day which he later showed to her. He did not give her any of them and she has no idea where they are now. He did not feel comfortable driving on freeways and so he drove home on Rosemead Boulevard. This route passed through the Whittier Narrows and a large park at Legg Lake. He pulled into the parking lot at Legg Lake and parked. He wanted to take a walk and so they did for a while and then they stopped at a picnic table and sat down. He began to kiss and fondle her. It was dark and they were there for about an hour. This time he put his hand inside her blouse and bra so he was rubbing the skin of her breast. They then returned to the car and drove home.

After the first Legg Lake incident they returned there and once again he was not in clerical garb. This time it was in the evening and the light was very dim. He was sitting in the driver's seat and she was in the front passenger seat when he unzipped his pants and exhibited his erect penis outside of his pants. She had never seen a penis before and did not want to look but did see it as she glanced over. He then told her to kiss his penis and when she said, "No Father", he tried to force her and instructed her to do it. When she did not he took her left hand in his, put in on his penis and began to masturbate. He was breathing hard and kept repeating, "Do it! Do it!" This continued until he ejaculated

and her hand was covered with fluid. He then gave her a napkin or something similar to clean up with.

It was sometime after the second Legg Lake incident she remembers being on the school bus approaching the Saint Hilary's rectory when some of the girls noticed Fernando walking on the street. He was dressed in black wearing white shoes and they thought he resembled a penguin and giggling commented to that effect. At that time she felt a great deal of shame and fear wondering if anyone could tell by looking at her what she had done with him. She did not know of anyone who had ever observed them, either from the parish or anywhere else, during one of these incidents but she had these thoughts nonetheless. She remembers being confused with her emotions because most of the time he was kind to her, paid attention to her and showed her affection. Nobody else did this.

Sometime after these incidents Fernando was transferred to Saint John Baptist de la Salle in Granada Hills. She had never been to Granada Hills and it sounded very affluent to her and she thought he had done very well. Once he was there he called her and said he was happy there and wanted her to visit. He drove to her house and took her back to the Saint John's rectory. This first trip she brought her flute. He parked in the rear of the rectory in an area that appeared to be for the priests. They then entered what she thought was a back door and immediately to the left was a sitting room. From this room was a door that entered into his room. The first trip there she played her flute in the sitting room.

The second time he brought her there they went into his room. As they entered his room there was a bed to the left of the door. At the foot of the bed was a dresser with a mirror above it. The room was carpeted and to the left of the dresser was a chair. There was a window on the left wall entering his room. He had her disrobe when they were in his room but she kept her slip on. He pulled down her slip and bra and kissed her breasts and sucked on her nipples. They laid on the bed on top of each other and side-by-side and she could feel his erection but she did not know if he ejaculated during their activity. She asked him why he did not undress and he responded that he did not want her to become pregnant.

During one of these episodes she asked him why he did not leave the priesthood and he said that was the only thing he knew and that he could do nothing else. He mentioned that in the seminary in Sri Lanka the seminarians were discouraged from touching themselves and were given some type of implement to tuck their shirts in so they would not touch themselves in that area of the body. He told her that his Sri Lankan first name is[REDACTED]and that the name Fernando came from the Portuguese that settled that area of Sri Lanka. He never mentioned his family or why he came to America. She met some of the other Sri Lankan priests who were his friends but never had a conversation with them.

She estimated that she traveled to Granada Hills on perhaps ten occasions and similar things happened that were previously described. Only one time, during her last visit, did he have her take all of her clothes off including her undergarments. They laid on the bed that time and he "spooned" her. She described that as lying closely side-by-side. He

would always do the touching and she neither wanted to nor did touch him. She was always in a passive state during these encounters and is unaware if he ejaculated since he was wearing his clothes.

After he instructed her to dress he always went to the kitchen and brought her back ice cream. He knew she liked ice cream and she would sit in the chair in his room and eat it and then he drove her home. One time as they both stood in front of his mirror he took a roman collar from a dresser drawer and put it on her. After they both looked at it for a few moments in the mirror he took it off and put it back. Neither one of them said anything. During these visits she met the housekeeper once, who she could only describe as an Anglo female. This woman knew that she and Fernando were in his room together behind closed doors. Another time she met a priest at the doorway of the sitting room and he had several lay people with him. She was simply introduced as a friend by Fernando.

He sent her two letters while he was at Saint John's. The first one mentioned that he went to an outdoor play and after that had a sore throat. He said that one kiss from her would cure it. The second letter was just before she entered the convent and he told her how brave she was to do that. She had not seen him in quite awhile and believes she probably told him about her plans for the convent during her last visit with him. She entered the convent on January 9, 1983. She does not have either letter or any other document from that era with the exception of an old address book with Fernando's telephone number in Granada Hills. She did not have that with her.

She was never in Fernando's room at Saint Hilary's while he was there. At times she would assist the housekeeper delivering laundry to the priests' room. She could not recall seeing any type of unusual marks or scars on Fernando's private parts but said he was very dark skinned and had hairy arms. Another recollection was that he frequently wore mismatched clothes.

Due to the confused state of mind she was in and lack of close friends she did not confide in anybody at the time these events happened and not until 2002 did she reveal it. It was while she was reading an article in one of the weekly news publications, perhaps Time or Newsweek, about a Catholic priest abuse victim that was a musician and had thought about entering the seminary that all of these memories came flooding back to her. She was at work and became very distraught. Driving home that is all that she thought of and when she arrived her brother immediately noticed there was something wrong. When he inquired as to what was bothering her she blurted out what occurred. He told her that she needed some help. They then searched Fernando's name on the internet and determined he was still an active priest. On learning this she was horrified and concerned that he might have preyed on others and was continuing to do so. Shortly after that she approached an attorney acquaintance and confided in her. She gave her the telephone number of the appropriate unit in the Los Angeles Police Department (LAPD) and about one week later she filed a complaint with them.

Regarding the consensually monitored telephone call she made to Fernando at the behest of the LAPD she does not have a copy or a transcript of it. She has never listened to the recording or seen a transcript. She not only has no problem with the Archdiocese listening to the conservation she desires that this be done. She and REDACTED advised that REDACTED would be told of this and it was requested they ask REDACTED to call Detective REDACTED or Lieutenant REDACTED to facilitate the Archdiocese obtaining a copy. In the call Fernando immediately acknowledged remembering her and did not seem surprised that she was calling him. She told him she was upset at the news coming out of Boston regarding the clerical sexual abuse cases. She asked him if he remembered what happened between them and mentioned specific acts and places they happened. He responded that he did although as she recalls there were a couple of things he claimed not to remember. He acknowledged thinking about it over the years and when she mentioned specific sexual activity between them he agreed that it occurred. The letters were also mentioned and he recalled them. He continually asked for her forgiveness, said he was sorry and told her that he went to confession and received absolution. He also said that he thought she was older and that it was in the heat of passion. She pointed out to him that she was in high school and he regularly saw her in her high school uniform and that since it happened on a number of times it could not have been a momentary passionate impulse. He mentioned that he was young but she pointed out he was 37 years old in 1981. He also said that she treated him nicely, was helpful to him and that he loved her. She asked if he loved her why he had hurt her so badly. He also told her he had not done anything like that to anyone else. She finally said that she forgave him and he felt relieved at that. He asked her if she had told anyone else about what he had done and she said that she had not. He asked her to pray for him and to call him again in the future. The call was then terminated.

On reflection she now feels his behavior was predatory and calculated and emphasized her fear that he might have done this to someone else and her desire that he be relieved of his ministry. It tormented her to know that he was in a position that allows him to this again.

REDACTED became emotional at times when recounting the details set forth above. She advised early in the interview that there was one incident she had a particular hard time with and that it might upset her enough when she described it that she would not be able to continue. It was suggested that she relate that at the end of the interview. This was acceptable to her and this is what she recounted. She could not give a time frame for when this happened, before or after his transfer to Saint John's, but remembered they parked in the parking lot at Rio Vista Elementary School on Coffman-Pico Road in Pico Rivera. REDACTED There were a line of skinny trees that blocked the view of the parking lot from the street and these trees have since been removed. After he parked there, without any foreplay, he put his finger into her vagina. This was very painful and she told him that and kept repeating, "Father, Father, ..." It was very traumatic to her and that is all she remembers.

She reiterated that she was always taught to be permissive, passive and respectful of adults especially priests and she never thought of saying no to his abusive activities.

Even now she finds it very difficult to talk about. She never saw him do anything like this to anyone else and she is not aware of him abusing anyone else.

REDACTED REDACTED of Saint John Baptist de la Salle Church, was contacted on February 2, 2004, and conducted a tour of the rectory and surrounding area.

She pointed out that the area behind the rectory was made into a gathering area, or plaza, in 1991. Prior to that it was a parking lot and if a priest did not park in the garage he could have easily parked there and it would have been convenient to the priests' private entrance into the rectory.

Leaving this area is a walkway between the church and the rectory that leads to the private entrance on the west side of the rectory. Entering this door a hallway goes about ten feet and then there is left turn and an immediate left turn into a sitting room. This is a private sitting room and a door from it leads directly into a bedroom. Entering the bedroom looking at the wall to the left is a window. Currently the head of the bed is under the window but REDACTED advised the previous occupant had the head of the bed immediately to the left as one entered the room. If the bed was configured in that manner the chest of drawers and mirror on the far wall would be at the foot of the bed. REDACTED stated that particular piece of furniture has been positioned that way as long as she has been at Saint John's, which is the early 1990s.

She was not working at the parish when Father Walter Fernando was there but believes this room was more than likely his. The other associate pastor suite is across the hall.

REDACTED provided blue prints for the rectory.

REDACTEREDACTED was telephonically interviewed on February 5, 2004, and provided the following information:

When Father Walter Fernando came to Saint John Baptist de la Salle Church in Granada Hills in 1981 as an associate pastor he was assigned a room in the rectory. REDACTED was the other associate at that time and described that on entering the rectory from the priests' entrance off of the walkway between the rectory and church there is a hallway. Straight ahead a few feet is another hallway to the left and then immediately to the left a door into the sitting room that is part of the suite in which Fernando lived. There is also a bedroom and bathroom in that suite.

There was parking in the rear of the rectory at that time and no door existed into the rear of the rectory from that parking area.

The name REDACTED means nothing to him.

REDACTED

Archdiocese of Los Angeles was interviewed on February 2, 2004, and provided the following information:

She contacted REDACTED REDACTED Vice-Principal at Saint Paul High School in Santa Fe Springs regarding REDACTED He advised that REDACTED was an outstanding student and very active in the music program when she attended Saint Paul's. She won several scholastic awards when she graduated.

REDACTED (protect identity upon request) was telephonically interviewed on January 29, 2004, and provided the following information:

She met REDACTED when they sang in the junior choir at Saint Hilary's in 1979-1980. She REDACTED was in the seventh grade and REDACTED was about four years older. In her sophomore year she began work at the parish as a junior secretary and REDACTED was leaving to enter the convent. REDACTED trained her and their tenure at the rectory overlapped briefly. While REDACTED was in the convent she only saw her once when REDACTED was home on vacation and she came by the rectory to say hello.

REDACTED left the convent in about 1985 and when she came home began to sing in the choir again and they became reacquainted. They became fairly close friends as her husband (boy friend at that time) was a friend of REDACTED who REDACTED was dating and later married. She thought REDACTED was a nice person and she does not know the reason for their divorce. She and her husband are the godparents of REDACTED; oldest daughter REDACTED

REDACTED was a priest at Saint Hilary's who they both knew. When it became public that he had abused REDACTED who they both knew also, they discussed it. On one of these occasions REDACTED asked her if she remembered Father Walter Fernando and she told REDACTED that her memory of him was very faint. REDACTED then told her that he had abused their relationship wher REDACTED worked in the rectory. She asked REDACTED what she meant by that but REDACTED refused to detail what had happened and was clearly embarrassed by it. This was the only time it was mentioned and she could not say with any accuracy when it happened except that it was after the REDACTED incident became public and at least a year ago. They have a mutual friend, REDACTED who lives in Moreno Valley. About the time REDACTED mentioned Fernando to her she was talking to REDACTED and REDACTED related that REDACTED had asked her also if she remembered Fernando. She cannot recall what REDACTED response was. It surprised her that REDACTED would say something like that about a priest.

She does not believe REDACTED would make something like this up but at the time it did not occur to her that the abuse was sexual in nature. She assumed that REDACTED had told him something in confidence and he repeated it to someone or something like that. At the time she was a fairly close friend of REDACTED and wondered why REDACTED had not told her sooner than she did.

She has not seen REDACTED in over a year and has lost track of her. She does not know where REDACTED is living or working. She described REDACTED as a very quiet and shy person.

REDACTED

From: REDACTED
To: REDACTED
Sent: Monday, February 09, 2004 8:37 AM
Subject: Report

Dear REDACTED
I am relying on your word that you will look into the Sri Lanka matter.

Please find attached your report with our changes in bold and underlined:

January 30, 2004

Canonical Investigation of Father Walter Fernando

Interviewee: REDACTED

Interviewer:

Date of interview: January 29, 2004

Place of interview: REDACTED

The morning of January 29th REDACTED telephonically advised me that he had spoken with REDACTED the counsel for REDACTED and that REDACTED would be available for an interview that evening. I telephonically contacted REDACTED who advised that REDACTED would meet with me at the Marie Callender's noted above at 6:00 p. m. that evening. She also advised that an associate of hers REDACTED REDACTED would be there to make REDACTED more comfortable. She put no restrictions on the interview and only asked it not drag on for several hours **because** REDACTED **was very emotional about this, and a long interview would be too stressful**. She was assured it would not.

At 5:45 p. m. I identified myself to REDACTED and we exchanged business cards. He was sitting in a relatively private booth in the restaurant and REDACTED had gone to the rest room. Shortly thereafter she returned and REDACTED introduced me to her. At that point he requested no questions be asked regarding damages in the suit REDACTED had filed. He was assured that was not the intent of the interview. REDACTED then provided the following information:

She met Father Walter Fernando in either late 1980 or early 1981 at Saint Hilary's Catholic Church in Pico Rivera. She was **16 or** 17, a senior at Saint Paul's High School and working at Saint Hilary's as a junior secretary in the rectory. She was very active in the parish at that time. She taught a Confraternity of Christian Doctrine (CCD) class in her junior and senior year in high school and was in the **youth** choir where she sang and played the flute. She characterized herself as an unattractive nerd in high school who had few, if any, friends and was the subject of verbal abuse. She had a 4.0 grade point average and some of the students may have resented her for that. Her home life was also troubled and she enjoyed being at the parish, as it was a refuge for her. She began volunteer work in the rectory during her junior year and between her junior and senior year she was hired as a junior secretary and began to receive a salary.

The priests at Saint Hilary's at that time were the pastor REDACTED who is now deceased; REDACTED REDACTED REDACTED, and Fernando. She could not be certain if a REDACTED named REDACTED was there at that time or came shortly after Fernando left. She thought he might have been there a short time while Fernando was there as she recalled REDACTED and REDACTED had rooms downstairs in the rectory and REDACTED REDACTED and Fernando were upstairs. As a junior secretary she came to the rectory directly from school. The school bus had a stop at the church making it convenient for her and she reported to work wearing her school uniform. She would work as late as 9:30 p. m. at times on week nights and also on weekends. She was restricted to working not more than 25 hours a week. REDACTED REDACTED who was attending **Whittier College initially and later** California State University at Los Angeles, was also working there **(strike:** and trained REDACTED but other than the training) **but** they were not there together as one would normally relieve the other. There was another junior secretary for a short time but she was fired due to talking to her boyfriend on the telephone at work. Price not only did not have a boyfriend but did not date until years later after leaving the convent. Her duties included doing parish clerical work and answering the telephone and door. She placed the priests' messages in boxes that were next to where she sat. She normally ate her dinner in the kitchen but on occasion was invited to eat in the dining room with the priests.

The rectory was quiet in the evening and normally only she and the priests were there. It was not uncommon for them to come by to check their mailboxes for messages. Fernando began to strike up conversations with her in the evening when they were alone. These talks became increasingly longer and friendlier as time went on. The first thing she recalls that was a bit unusual was one evening he began to shoot rubber bands at her. Late one Sunday afternoon in perhaps **March or** April 1981 Fernando suggested they go to the parish hall behind the church and he would play his violin and she her flute. They were there alone with a piano near the stage and she played her flute and sang. Then he played the violin and brought out music and sang a love song entitled, "Drink To Me Only With Thine Eyes". She felt this was a strange selection for him to pick since it was a love song. They were there about an hour.

Shortly after the parish hall incident she was alone at her desk one evening. **She is not completely sure but she may have been** wearing her high school uniform. Fernando showed her a book and suggested that she read it. She turned the book over and read a synopsis of the story on the rear cover. It was about a priest who was having an affair and she gave it back to him. He inquired as to why she did not want to read it and she told him that she did not think that priests should do that sort of thing. He then explained to her there was a difference between celibacy and chastity. According to him celibacy meant simply that priests were precluded from marriage. Chastity was a vow that only priests that were in a religious order took along with poverty and obedience. Since he was a diocesan priest chastity did not pertain to him and he only had to remain celibate, that is not marry. Nobody had ever explained this to her and she was confused but since he was a priest accepted what he said. Nevertheless she did not read the book and cannot remember the title.

Not long after the book incident, while still in high school, either on his day off or on the weekend he mentioned that he wanted to see a movie and asked her to accompany him. She rarely went to movies and since he was a priest and was showing her attention she readily accepted. He drove to her house, honked the horn and she came out. This is the procedure he used whenever he came to pick her up in the future. He never came into the house to talk to her parents or siblings. Her parents did not object to her going and she believes they felt good about it since they thought she was in the safe care of a priest. They drove down Rosemead Boulevard to Downey the city that adjoins Pico Rivera to the south. They went to the Showcase Theatre located next to a Farrell's Ice Cream Parlor **which were part of the Stonewood Shopping Center**. Neither of those structures is any longer there as **it has since been converted into an indoor** shopping center. He sat to her left during the movie and during the movie reached over and initially patted her hand. He then reached his arm around her shoulder and put his hand on her breast and began to rub it. She stared straight ahead and not knowing what to do she did not do or say anything. The movie was near its conclusion when this happened and when it finished she asked him to hand her a sweater she **had** placed on the seat next to him **to his left**. When she did this he abruptly leaned **forward** and gave her a hard kiss on the lips. She had never been kissed on the lips before and she was shocked and emotional. She told him she had to go to the ladies' room and excused herself. When she returned to him she was still in shock and they proceeded back to the car. She cannot recall the name of the movie. The vehicle was a white parish car that Fernando used and she does not know if it was assigned to him or not. As he was leaving the parking lot he backed into another **parked** car and continued to drive away. She called his attention to it since it was very apparent but he told her not to worry about it and left. He was quiet after the movie and little if anything was said on the drive home. He did not come into her house when he **dropped** her off either.

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After the first Legg Lake incident they returned there and once again he was not in clerical garb. This time it was in the evening and the light was very dim. He was sitting in the driver's seat and she was in the front passenger seat when he unzipped his pants and exhibited his erect penis outside of his pants. She had never seen a penis before and did not want to look but did see it as she glanced over. He then told her to kiss his penis and when she said, "No Father, **I don't want to do that.**", he tried to force her **by putting his right hand behind her neck and pulling her head downward toward his penis** and instructed her to do it. When she did not he took her left hand in his, put **it** on his penis **encircling it, and while he kept his hand clasped over hers** began to masturbate . He was breathing hard and kept repeating, "Do it! Do it!" This continued until he ejaculated and her hand was covered with fluid. He then gave her a napkin or something similar to clean up with.

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anyone could tell by looking at her what she had done with him. She did not know of anyone who had ever observed them, either from the parish or anywhere else, during one of these incidents but she had these thoughts nonetheless. She remembers being confused with her emotions because most of the time he was kind to her, paid attention to her and showed her affection. Nobody else did this.

Sometime after these incidents Fernando was transferred to Saint John Baptist de la Salle in Granada Hills. She had never been to Granada Hills and it sounded very affluent to her and she thought he had done very well. Once he was there he called her and said he was happy there and wanted her to visit. He drove to her house and took her back to the Saint John's rectory. This first trip she brought her flute. He parked in the rear of the rectory in an area that appeared to be for the priests. They then entered what she thought was a back door and immediately to the left was a sitting room. From this room was a door that entered into his room. The first trip there she played her flute in the sitting room.

Other times he brought her there, they went into his room. As they entered his room there was a bed to the left of the door. **Across from** the foot of the bed was a dresser with a mirror above it. The room was carpeted and to the left of the dresser was a chair. He had her disrobe when they were in his room but she kept her slip on. He pulled down her slip and bra and kissed her breasts and sucked on her nipples. They laid on the bed on top of each other and side-by-side and she could feel his erection but she did not know if he ejaculated during their activity. She asked him why he did not undress and he responded that he did not want her to become pregnant.

During one of these episodes she asked him **if he had ever considered leaving** the priesthood and he said **no because** that was the only thing he knew and that he could do nothing else. He mentioned that in the seminary in Sri Lanka the seminarians were discouraged from touching themselves and were given some type of implement to tuck their shirts in so they would not touch themselves in **the groin** area of the body. He told her that his Sri Lankan first name is REDACTED and that the surname Fernando came from the Portuguese that settled that area of Sri Lanka. He never mentioned his family or why he came to America. She met some of the other Sri Lankan priests who were his friends but never had a conversation with them.

She estimated that she traveled to Granada Hills on **more than twice but less than** ten occasions and similar things happened that were previously described. Only one time, during her last visit, did he have her take all of her clothes off including her undergarments. They lay on the bed that time and he "spooned" her. She described that as lying closely side-by-side, **both facing the same way.** He would always do the touching and she neither wanted to nor did touch him. She was always in a passive state during these encounters and is unaware if he ejaculated since he was wearing his clothes.

After he instructed her to dress he **on more than one occasion** went to the kitchen and brought her back **vanilla** ice cream. He knew she liked ice cream and she would sit in the chair in his room and eat it and then he drove her home. One time as they both stood in front of his mirror he took a roman collar from a dresser drawer and put it on her. After they both looked at it for a few moments in the mirror he took it off and put it back. **She does not recall** either one of them **saying** anything. During these visits she met the housekeeper once, who she could only describe as an **older** Anglo female. This woman knew that she and Fernando were in his room together behind closed doors. Another time she met a priest at the doorway of the sitting room and he had several lay people with him. She was simply introduced as a friend by Fernando.

He sent her two letters while he was at Saint John's. The first one mentioned that he went to an outdoor play and after that had a sore throat. He said that one kiss from her would cure it. The second letter was just before she entered the convent and he told her how brave she was to do that. She had not seen him **for** awhile and believes she probably told him about her plans for the convent during her last visit with him. She entered the convent on January 9, 1983. She does not have either letter or any other document from that era with the exception of an old address book with Fernando's telephone number in Granada Hills. She did not have that with her.

She was never in Fernando's room at Saint Hilary's while he was there. At times she would assist the housekeeper delivering laundry to the priests' room. She could not recall seeing any type of unusual marks or scars on Fernando's private parts but said he was very dark skinned and had hairy arms. Another recollection was that he frequently wore mismatched clothes.

Due to the confused state of mind she was in and lack of close friends she did not confide in anybody at the time these events happened and not until 2002 did she reveal it. **She does however recall having mentioned to her mother just immediately before entering the convent that something bad had happened between her and Fr. Fernando. Her mother did not inquire further, but rather deflected conversation away from the subject by telling her to put that behind her and begin a brand new life in the convent. Ms.** REDACTED **dropped the subject at that point. Ms.** REDACTED **also vaguely recalls a conversation she had with her sister, which occurred shortly after the incident in Fernando's rectory when she was fully disrobed. However, she does not recall the details of that conversation and her sister, being young at the time, did not ever bring the subject up again after that one conversation.** It **was not until April of 2002** while she was reading an article in one of the weekly news publications, perhaps Time or Newsweek, about a Catholic priest abuse victim that was a musician and had thought about entering the seminary that all of these memories came flooding back to her. She was at work and became very distraught. Driving home and when she arrived **home** her brother immediately noticed there was something wrong. When he inquired as to what was bothering her she blurted out what **had** occurred. He told her that she needed some help. They then searched Fernando's name on the internet and determined he was still an active priest. On learning this she

was horrified and concerned that he might have preyed on others and was continuing to do so. Shortly after that she approached an attorney acquaintance and confided in her. She gave her the telephone number of the appropriate unit in the Los Angeles Police Department (LAPD) and about one week later she filed a complaint with them.

Regarding the consensually monitored telephone call she made to Fernando at the behest of the LAPD she does not have a copy or a transcript of it. She has never listened to the recording or seen a transcript. She not only has no problem with the Archdiocese listening to the conservation she desires that this be done. She and REDACTED advised that REDACTED would be told of this and it was requested they ask REDACTED to call Detective REDACTED or Lieutenant REDACTED to facilitate the Archdiocese obtaining a copy. In the call Fernando immediately acknowledged remembering her and did not seem surprised that she was calling him. She told him she was upset at the news coming out of Boston regarding the clerical sexual abuse cases. She asked him if he remembered what happened between them and mentioned specific acts and places they happened. He responded that he did although as she recalls there were a couple of things he claimed not to remember. He acknowledged thinking about it over the years and when she mentioned specific sexual activity between them he agreed that it occurred. The letters were also mentioned and he recalled them. He continually asked for her forgiveness, said he was sorry and told her that he went to confession and received absolution. He also said that he thought she was older and that it was in **a moment of** passion. She pointed out to him that she was in high school and he regularly saw her in her high school uniform and that since it happened on a number of times it could not have been a momentary passionate impulse. He also mentioned that he was young but she pointed out he was 36 **or 37** years old in 1981. **When she asked him why he had done those things to her, he** said that **it was because he was new to the parish and that** she treated him **nicely and was** helpful to him. **She asked him whether he had loved her or had any feelings for her. He responded that yes** he loved her. She **then** asked if he loved her why he had **done this to her. When she asked him if he had done these things to anyone else he said that he had not.** . She finally said that she forgave him and he felt relieved at that. He asked her if she had told anyone else about what he had done and she said that she had not. **He said that it was good and that he was glad that she hadn't spoken about it to anyone else.** He asked her to pray for him and to call him again **from time to time** in the future **to check on him. She assured him that she would.** The call was then terminated.

On reflection she now feels his behavior was predatory and calculated and emphasized her fear that he might have done this to someone else and her desire that he be relieved of his ministry. It tormented her to know that he was in a position that allows him to this again.

REDACTED **was very** emotional at times when recounting the details set forth above. She advised early in the interview that there was one incident she had a particular hard time with and that it might upset her enough when she described it that she would not be able to continue. **She requested to be allowed to** relate that at the end of the interview. **Her request was granted and** this is what she recounted. She could not give a time frame for when this happened, before or after his transfer to Saint John's, but remembered they parked in the parking lot at Rio Vista Elementary School on Coffman-Pico Road in Pico Rivera. REDACTED REDACTED There were a line of skinny **tall** trees that blocked the view of the parking lot from the street and these trees have since been removed. After he parked there, he put his finger into her vagina. **She does not recall what happened either before or after this incident. She recalls that this was painful and that she** kept repeating, "Father, Father, ..." It was very traumatic to her and that is all she remembers.

She reiterated that she was always taught to be **submissive**, passive and respectful of adults especially priests and she never thought of saying no to his abusive activities. Even now she finds it very difficult to talk about. She never saw him do anything like this to anyone else and she is not aware of him abusing anyone else. **However, because of the manner in which he both groomed her for and went about abusing her, she feels strongly the possibility that she was neither the first nor the last of his victims.**

REDACTED

Archdiocese of Los Angeles

Office of
Vicar for Clergy
(213) 637-7284

3424
Wilshire
Boulevard

Los Angeles
California
90010-2202

February 13, 2004

CONFIDENTIAL

REDACTED

Archdiocese of Colombo
976 Gnanartha Pradeepaya
Mawatha, Colombo 8
SRI LANKA

Your Excellency:

May the grace and peace of Our Lord Jesus Christ be with you, and with the people you shepherd!

I serve as the Episcopal Vicar for Clergy if His Eminence, Cardinal Roger M. Mahony, Archbishop of Los Angeles.

As you may have heard, a lawsuit has been filed alleging that Father Walter Fernando, currently incardinated in this Archdiocese, sexually abused a woman when she was a minor. This case has received significant publicity here in southern California.

Father Fernando was originally ordained for the service of the Archdiocese of Colombo on January 25, 1973. We understand that he served at a number of parishes in your Archdiocese before coming to the United States in 1981.

For the purposes of responding appropriately to this lawsuit, it would be most helpful to have a copy of all of the materials that you may have in your clergy file for Father Fernando. Would you please be so kind as to arrange, as soon as reasonably possible, for copies to me made and sent to me here at the Archdiocese? If you wish, I would be happy to reimburse you for any expenses this may entail.

Thank you for your kind attention to this matter. May God continue to bless you in your leadership of the local church of Colombo!

Yours in Christ,

Monsignor Craig A. Cox, J.C.D.
Vicar for Clergy

92444

REDACTED

From: REDACTED
To: REDACTED
Sent: Saturday, February 14, 2004 2:51 PM
Subject: Re: Report

REDACTED

Thank you for your efforts. We will continue to try as well.
REDACTED

—— Original Message ——
From: REDACTED
To: REDACTED
Sent: Saturday, February 14, 2004 1:34 PM
Subject: Re: Report

REDACTED
Dear ....
Here is the status of the tape. We have been trying to get the tape for many months, and the records department finally told us that we will need a subpoena to get the tape. We have a stay in the cases, so I cannot issue any discovery, and a subpoena will not work for now.

I then talked to REDACTED , and he told me that he is working with the DA's office regarding the release of the tape. I am to call him back in several weeks to find out the status.

It looks like our hands are tied as of now. I will continue to work on getting the tape.
Sincerely,
REDACTED

—— Original Message ——
From: REDACTED
To: REDACTED
Sent: Monday, February 09, 2004 10:55 PM
Subject: Re: Report

REDACTED

Thank you for making the corrections. This is very helpful.
REDACTED

—— Original Message ——
From: REDACTED
To: REDACTED
Sent: Monday, February 09, 2004 8:37 AM
Subject: Report

REDACTED
Dear ....
I am relying on your word that you will look into the Sri Lanka matter.

Please find attached your report with our changes in bold and underlined:

January 30, 2004

Canonical Investigation of Father Walter Fernando

Interviewee: REDACTED

Interviewer REDACTED

Date of interview: January 29, 2004

Place of interview: REDACTED

The morning of January 29th REDACTED telephonically advised me that he had spoken with REDACTED , the counsel for REDACTED and that REDACTED would be available for an interview that evening. I telephonically contacted REDACTED who advised that REDACTED would meet with me at the Marie Callender's noted above at 6:00 p. m. that evening. She also advised that an associate of hers REDACTED would be there to make REDACTED more comfortable. She put no restrictions on the interview and only asked it not drag on for several hours **because** REDACTED **was very emotional about this, and a long interview would be too stressful**. She was assured it would not.

At 5:45 p. m. I identified myself to REDACTED and we exchanged business cards. He was sitting in a relatively private booth in the restaurant and REDACTED had gone to the rest room. Shortly thereafter she returned and REDACTED introduced me to her. At that point he requested no questions be asked regarding damages in the suit REDACTED had filed. He was assured that was not the intent of the interview. REDACTED then provided the following information:

She met Father Walter Fernando in either late 1980 or early 1981 at Saint Hilary's Catholic Church in Pico Rivera. She was **16 or** 17, a senior at Saint Paul's High School and working at Saint Hilary's as a junior secretary in the rectory. She was very active in the parish at that time. She taught a Confraternity of Christian Doctrine (CCD) class in her junior and senior year in high school and was in the **youth** choir where she sang and played the flute. She characterized herself as an unattractive nerd in high school who had few, if any, friends and was the subject of verbal abuse. She had a 4.0 grade point average and some of the students may have resented her for that. Her home life was also troubled and she enjoyed being at the parish, as it was a refuge for her. She began volunteer work in the rectory during her junior year and between her junior and senior year she was hired as a junior secretary and began to receive a salary.

The priests at Saint Hilary's at that time were the pastor REDACTED who is now deceased; REDACTED REDACTED and REDACTED. She could not be certain if REDACTED REDACTED was there at that time or came shortly after Fernando left. She thought he might have been there a short time while Fernando was there as she recalled REDACTED and REDACTED had rooms downstairs in the rectory and REDACTED were upstairs. As a junior secretary she came to the rectory directly from school. The school bus had a stop at the church making it convenient for her and she reported to work wearing her school uniform. She would work as late as 9:30 p. m. at times on week nights and also on weekends. She was restricted to working not more than 25 hours a week. REDACTED , who was attending **Whittier College initially and later** California State University at Los Angeles, was also working there **(strike:** and trained REDACTED but other than the training) **but** they were not there together as one would normally relieve the other. There was another junior secretary for a short time but she was fired due to talking to her boyfriend on the telephone at work. REDACTED not only did not have a boyfriend but did not date until years later after leaving the convent. Her duties included doing parish clerical work and answering the telephone and door. She placed the priests' messages in boxes that were next to where she sat. She normally ate her dinner in the kitchen but on occasion was invited to eat in the dining room with the priests.

The rectory was quiet in the evening and normally only she and the priests were there. It was not uncommon for them to come by to check their mailboxes for messages. Fernando began to strike up conversations with her in the evening when they were alone. These talks became increasingly longer and friendlier as time went on. The first thing she recalls that was a bit unusual was one evening he began to shoot rubber bands at her. Late one Sunday afternoon in perhaps **March or** April 1981 Fernando suggested they go to the parish hall behind the church and he would play his violin and she her flute. They were there alone with a piano near the stage and she played her flute and sang. Then he played the violin and brought out music and sang a love song entitled, "Drink To Me Only With Thine Eyes". She felt this was a strange selection for him to pick since it was a love song. They were there about an hour.

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she readily accepted. He drove to her house, honked the horn and she came out. This is the procedure he used whenever he came to pick her up in the future. He never came into the house to talk to her parents or siblings. Her parents did not object to her going and she believes they felt good about it since they thought she was in the safe care of a priest. They drove down Rosemead Boulevard to Downey the city that adjoins Pico Rivera to the south. They went to the Showcase Theatre located next to a Farrell's Ice Cream Parlor **which were part of the Stonewood Shopping Center**. Neither of those structures is any longer there as **it has since been converted into an indoor** shopping center. He sat to her left during the movie and during the movie reached over and initially patted her hand. He then reached his arm around her shoulder and put his hand on her breast and began to rub it. She stared straight ahead and not knowing what to do she did not do or say anything. The movie was near its conclusion when this happened and when it finished she asked him to hand her a sweater she **had** placed on the seat next to him **to his left**. When she did this he abruptly leaned **forward** and gave her a hard kiss on the lips. She had never been kissed on the lips before and she was shocked and emotional. She told him she had to go to the ladies' room and excused herself. When she returned to him she was still in shock and they proceeded back to the car. She cannot recall the name of the movie. The vehicle was a white parish car that Fernando used and she does not know if it was assigned to him or not. As he was leaving the parking lot he backed into another **parked** car and continued to drive away. She called his attention to it since it was very apparent but he told her not to worry about it and left. He was quiet after the movie and little if anything was said on the drive home. He did not come into her house when he **dropped** her off either.

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During one of these episodes she asked him **if he had ever considered leaving** the priesthood and he said **no because** that was the only thing he knew and that he could do nothing else. He mentioned that in the seminary in Sri Lanka the seminarians were discouraged from touching themselves and were given some type of implement to tuck their shirts in so they would not touch themselves in **the groin** area of the body. He told her that his Sri Lankan first name is REDACTED and that the **sur**name Fernando came from the Portuguese that settled that area of Sri Lanka. He never mentioned his family or why he came to America. She met some of the other Sri Lankan priests who were his friends but never had a conversation with them.

She estimated that she traveled to Granada Hills on **more than twice but less than** ten occasions and similar things happened that were previously described. Only one time, during her last visit, did he have her take all of her clothes off including her undergarments. They lay on the bed that time and he "spooned" her. She described that as lying closely side-by-side, **both facing the same way.** He would always do the touching and she neither wanted to nor did touch him. She was always in a passive state during these encounters and is unaware if he ejaculated since he was wearing his clothes.

After he instructed her to dress he **on more than one occasion** went to the kitchen and brought her back **vanilla** ice cream. He knew she liked ice cream and she would sit in the chair in his room and eat it and then he drove her home. One time as they both stood in front of his mirror he took a roman collar from a dresser drawer and put it on her. After they both looked at it for a few moments in the mirror he took it off and put it back. **She does not recall** either one of them **saying** anything. During these visits she met the housekeeper once, who she could only describe as an **older** Anglo female. This woman knew that she and Fernando were in his room together behind closed doors. Another time she met a priest at the doorway of the sitting room and he had several lay people with him. She was simply introduced as a friend by Fernando.

He sent her two letters while he was at Saint John's. The first one mentioned that he went to an outdoor play and after that had a sore throat. He said that one kiss from her would cure it. The second letter was just before she entered the convent and he told her how brave she was to do that. She had not seen him **for** awhile and believes she probably told him about her plans for the convent during her last visit with him. She entered the convent on January 9, 1983. She does not have either letter or any other document from that era with the exception of an old address book with Fernando's telephone number in Granada Hills. She did not have that with her.

She was never in Fernando's room at Saint Hilary's while he was there. At times she would assist the housekeeper delivering laundry to the priests' room. She could not recall seeing any type of unusual marks or scars on Fernando's private parts but said he was very dark skinned and had hairy arms. Another recollection was that he frequently wore mismatched clothes.

Due to the confused state of mind she was in and lack of close friends she did not confide in anybody at the time these events happened and not until 2002 did she reveal it. **She does however recall having mentioned to her mother just immediately before entering the convent that something bad had happened between her and Fr. Fernando. Her mother did not inquire further, but rather deflected conversation away from the subject by telling her to put that behind her and begin a brand new life in the convent.** REDACTED EDACTED **dropped the subject at that point.** REDACTED DACTED **also vaguely recalls a conversation she had with her sister, which occurred shortly after the incident in Fernando's rectory when she was fully disrobed. However, she does not recall the details of that conversation and her sister, being young at the time, did not ever bring the subject up again after that one conversation.** It was **not until April of 2002** while she was reading an article in one of the weekly news publications, perhaps Time or Newsweek, about a Catholic priest abuse victim that was a musician and had thought about entering the seminary that all of these memories came flooding back to her. She was at work and became very distraught. Driving home and when she arrived **home** her brother immediately noticed there was something wrong. When he inquired as to what was bothering her she blurted out what **had** occurred. He told her that she needed some help. They then searched Fernando's name on the internet and determined he was still an active priest. On learning this she was horrified and concerned that he might have preyed on others and was continuing to do so. Shortly after that she approached an attorney acquaintance and confided in her. She gave her the telephone number of the appropriate unit in the Los Angeles Police Department (LAPD) and about one week later she filed a complaint with them.

Regarding the consensually monitored telephone call she made to Fernando at the behest of the LAPD she does not have a copy or a transcript of it. She has never listened to the recording or seen a transcript. She not only has no problem with the Archdiocese listening to the conservation she desires that this be done. She and REDACTED advised that REDACTED would be told of this and it was requested they ask REDACTED to call REDACTEDREDACTED or REDACTEDREDACTED to facilitate the Archdiocese obtaining a copy. In the call Fernando immediately acknowledged remembering her and did not seem surprised that she was calling him. She told him she was upset at the news coming out of Boston regarding the clerical sexual abuse cases. She asked him if he remembered what happened between them and mentioned specific acts and places they happened. He responded that he did although as she recalls there were a couple of things he claimed not to remember. He acknowledged thinking about it over the years and when she mentioned specific sexual activity between them he agreed that it occurred. The letters were also mentioned and he recalled them. He continually asked for her forgiveness, said he was sorry and told her that he went to confession and received absolution. He also

said that he thought she was older and that it was in **a moment of** passion. She pointed out to him that she was in high school and he regularly saw her in her high school uniform and that since it happened on a number of times it could not have been a momentary passionate impulse. He also mentioned that he was young but she pointed out he was 36 **or 37** years old in 1981. **When she asked him why he had done those things to her, he** said that **it was because he was new to the parish and that** she treated him **nicely and was** helpful to him. **She asked him whether he had loved her or had any feelings for her. He responded that yes** he loved her. She **then** asked if he loved her why he had **done this to her. When she asked him if he had done these things to anyone else he said that he had not.** . She finally said that she forgave him and he felt relieved at that. He asked her if she had told anyone else about what he had done and she said that she had not. **He said that it was good and that he was glad that she hadn't spoken about it to anyone else.** He asked her to pray for him and to call him again **from time to time** in the future **to check on him. She assured him that she would.** The call was then terminated.

On reflection she now feels his behavior was predatory and calculated and emphasized her fear that he might have done this to someone else and her desire that he be relieved of his ministry. It tormented her to know that he was in a position that allows him to this again.

REDACTED **was very** emotional at times when recounting the details set forth above. She advised early in the interview that there was one incident she had a particular hard time with and that it might upset her enough when she described it that she would not be able to continue. **She requested to be allowed to** relate that at the end of the interview. **Her request was granted and** this is what she recounted. She could not give a time frame for when this happened, before or after his transfer to Saint John's, but remembered they parked in the parking lot at Rio Vista Elementary School on Coffman-Pico Road in Pico Rivera.REDACTED
REDACTED There were a line of skinny **tall** trees that blocked the view of the parking lot from the street and these trees have since been removed. After he parked there, he put his finger into her vagina. **She does not recall what happened either before or after this incident. She recalls that this was painful and that she** kept repeating, "Father, Father, ..." It was very traumatic to her and that is all she remembers.

She reiterated that she was always taught to be **submissive,** passive and respectful of adults especially priests and she never thought of saying no to his abusive activities. Even now she finds it very difficult to talk about. She never saw him do anything like this to anyone else and she is not aware of him abusing anyone else. **However, because of the manner in which he both groomed her for and went about abusing her, she feels strongly the possibility that she was neither the first nor the last of his victims.**

REDACTED

MEMORANDUM

TO: Cardinal Roger Mahony

FROM: REDACTED Chair REDACTED
Clergy Misconduct Oversight Board

RE: *Recommendation of the Clergy Misconduct Oversight Board*
Reverend Walter Fernando REDACTED

DATE: 17 February 2004

The Board discussed the case of Father Walter Fernando at our meeting on February 11, 2004.

On January 14, 2004, we recommended (1) that Father Fernando not be placed on administrative leave at this time pending further investigation, (2) that the complainant, REDACTED be interviewed without delay, (3) that I be authorized to write to Deputy District Attorney William Hodgeman to obtain whatever materials have been developed by the police and the district attorney in the course of their investigation, and (4) that I be authorized to write directly to REDACTED REDACTED attorney to request an interview with REDACTED and/or to enlist her cooperation and consent to the release of the information requested in #3. You concurred in these recommendations and directed me to proceed at once.

REDACTED was successful in arranging for REDACTED REDACTED who has been working on this case as canonical auditor, to meet with REDACTED on January 29, 2004. REDACTED interviewed her in person on that date and documented his interview in a lengthy written report which he shared with the Board. In substance, REDACTED told him that she met Father Fernando in either late 1980 or early 1981 when he was at St. Hilary's Catholic Church in Pico Rivera and she was a 17 year old student at St. Paul's High School and working as REDACTED REDACTED Their relationship was platonic at first but this changed when Father Fernando took her to a movie and put his arm around her and fondled her breast. She told REDACTED REDACTED that she was a nerd and did not have a boyfriend or had not even dated until years later. She was confused and somewhat attracted by his attention. The relationship developed and, on other occasions, similar and more serious sexual activity ensued, much of which is quite egregious as set out in REDACTED's report.

REDACTED turned eighteen in REDACTED 1981. Father Fernando was transferred to St. John Baptist de la Salle in Granada Hills sometime in the fall, after her birthday. Their relationship continued and she visited him in Granada Hills on as many as ten occasions and they engaged in similar sexual activity. She said she was never in Father Fernando's private living quarters at St. Hilary's but she was at St. John Baptist and she described them with specificity. REDACTED visited St. John Baptist on February 2, 2004 and verified that REDACTED's description of the premises was accurate.

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Father Fernando has consistently stated that his "indiscretion" was limited to putting his arm around REDACTED while attending a movie. REDACTED 's account indicates a series of sexual encounters extending over a considerable period of time and is at odds with Father Fernando's version.

REDACTED was impressed with REDACTED and believes she and her account of what transpired are credible. Her description of Father Fernando's private living quarters at St. John Baptist supplies corroboration.

Efforts are being made to listen to or obtain a copy or transcript of a tape recording that was made by the police of a telephone conversation between REDACTED and Father Fernando. REDACTED REDACTED does not have a copy and expressed a willingness to assist us in obtaining one. Monsignor Cox, REDACTED and REDACTED met with detectives from the Los Angeles Police Department on February 13, 2004 and, while they were not given the tape or a transcript or told what in contains, they believe they may have a way to either obtain a copy or find out what was said. I believe it would be best for me to defer writing to DDA Hodgeman until after they have explored this new approach.

The Board discussed Father Fernando's case and found that the statement made by REDACTED appears to be credible and is corroborated by her physical description of Father Fernando's private living quarters at St. John Baptist de la Salle, that REDACTED was seventeen years old when some of the serious allegations occurred, that the actions complained of are clearly child sexual abuse, and that the zero tolerance policy applies.

Father Fernando met with Monsignor Cox and REDACTED this afternoon and was advised by Monsignor Cox that he was being placed on administrative leave in view of what was learned by REDACTED in his interview with REDACTED; however, he was not confronted with what she said because his attorney, REDACTED, was not present and had asked that any discussion of the allegations with Father Fernando be deferred until he was in attendance. An interview with Father Fernando and REDACTED to confront Father Fernando with the allegations against him will be arranged shortly.

Accordingly, and with regret, the Board recommends that Father Fernando be immediately placed on administrative leave pending further investigation.

cc: Monsignor Craig A. Cox
REDACTED

I concur in the recommendation -
+ Roger Card. Mahony
20 Febry 2004

92438

FILE

Archdiocese of Los Angeles

Office of
Vicar for Clergy
(213) 637-7284

3424
Wilshire
Boulevard

Los Angeles
California
90010-2202

February 18, 2004

Personal and Confidential

Reverend Walter Fernando
Assumption of the Blessed Virgin Mary Church
2640 E. Orange Grove Boulevard
Pasadena, CA 91107-2632

Dear Father Fernando:

This is to provide written confirmation of the decision communicated to you in person that, effective February 19, 2004, you will begin an administrative leave of absence.

The parish should pay you for the month of February. I also ask that the parish make the contribution for your pension account for the January through March quarter. Beginning in March, my office will assume responsibility for your salary and benefits, and beginning with the April quarter we will be paying into your pension account.

At this point, please continue to use the parish car. The Vicar's office will pay for any maintenance that needs to be done on the car during this period of leave.

I am assigning you in residence at St. Basil's Parish. During this time of leave, you are to engage in no public ministry, though you are free to celebrate Mass in your own room or the rectory chapel. If you wish, please do take advantage of the opportunity to spend some time on retreat, and you continue to be welcome at the day of recollection scheduled for Manning House. Also, let me renew my invitation to avail yourself of the counseling you need at this very difficult time. Since you already met with Doctor REDACTED you may wish to see him. But I can make arrangements with other counselors if you wish.

You are in my prayers at this time of tremendous trial. As we soon will enter the season of Lent, I know you will experience the Passion in a totally new and profound way. I pray for you, and for the truth to emerge. Thank you for being so gracious and understanding in these last two years. May the peace of Christ be with you!

Your brother in Christ,

Monsignor Craig A. Cox, J.C.D.
Vicar for Clergy

cc: REDACTED REDACTED

92436

Archdiocese of Los Angeles
Office of Vicar for Clergy (213) 637-7284
3424 Wilshire Boulevard
Los Angeles California 90010-2241

TO: Presbyterate of the Archdiocese

FROM: Monsignor Craig A. Cox, Vicar for Clergy

RE: Keeping You Informed

DATE: 22 February 2004

My brothers,

In fulfillment of our efforts to keep you informed, I wanted to let you know that Father Walter Fernando has begun a leave of absence. Attached is a copy of the announcement that was made at Our Lady of the Assumption Parish this weekend.

Should any of you wish to write Father Fernando, you may do so either through the parish or my office. Keep him in your prayer.

In these trying times, let us continue to keep each other in regular prayer. And please, continue regular prayer for all victims of sexual abuse.

Thank you.

attachment

92434

Statement for Weekend Masses at Assumption of the Blessed Virgin Mary Parish, Pasadena
February 21-22, 2004
Regarding Reverend Walter Fernando

As you may recall from my earlier visit, I am Monsignor Craig Cox, Vicar for Clergy of the Archdiocese of Los Angeles. On the weekend of January 17-18, I spoke here at your parish about your Associate Pastor, Father Walter Fernando. In that announcement, I promised to keep you informed of future developments. I am here as an initial fulfillment of that pledge to bring additional information directly to you.

As we previously announced, an investigation was launched when we learned of the report alleging misconduct on Father Fernando's part in 1981. The investigation is being conducted by a private investigator, a former Special Agent of the FBI. I had mentioned that we requested an interview with the person who made the complaint. Subsequently, that interview was conducted. We also have asked to see the results of the police investigation. We have not yet been granted access to any of those materials. Our investigation is ongoing and it is clear that it will require significant additional time.

The Clergy Misconduct Oversight Board discussed the case of Father Fernando again, and recommended that he be placed on administrative leave. Administrative leave involves time away from the parish and from all pastoral duties until the investigation is concluded. Father Fernando began that leave of absence on Thursday.

Please note that the decision to place Father Fernando on administrative leave does not reflect a judgment that he is guilty of the alleged misconduct. By our policy, administrative leave is recommended when an initial investigation raises sufficient questions to take the precaution of placing the priest on leave while further investigation continues.

I know that this announcement is surprising and distressing. Many of you expressed tremendous support for Father Fernando when I was here last month. Clearly, he has done much good during his more than eleven years of service here. He has rights as both a citizen of this country and as a priest in the Church to defend himself, and those rights will be respected.

Please know that the Cardinal is committed to implementing all of our policies fully, assuring that we thoroughly investigate all allegations, and acting in ways that protect children as well as respect the rights of all involved.

Finally, at this distressing time, I ask that you pray with special fervor for all victims of abuse, for Father Fernando, for the success of the ongoing investigation in discovering the full truth, and for your parish community and all the Church in these difficult days. May God bless you!

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CONFIDENTIAL & PRIVILEGED
INVESTIGATIVE REPORT
ATTORNEY CLIENT WORK PRODUCT

February 25, 2004

Canonical Investigation of Father Walter Fernando

Interviewee: REDACTED

Interviewe[illegible]

Date of Interview: February 25, 2004

REDACTED was telephonically interviewed and provided the following information:

She worked in the rectory at Saint Hillary's the same time as REDACTED but REDACTED never confided anything to her regarding Father Walter Fernando back then.

She had not spoken to REDACTED in perhaps 15 years wher REDACTED called her about six months ago. They discussed mutual acquaintances including Father REDACTED asked if she remembered REDACTED and REDACTED advised that she did. REDACTED then advised REDACTED that her relationship with Fernando developed into a sexual liaison that stopped short of intercourse. REDACTED said that she and Fernando shared a certain bond and that his word was "gold" with her at that time.

REDACTED could not recall many things REDACTED told her but does remember REDACTED was quite specific regarding their activities. One thing REDACTED related was that Fernando had her unclothe in his room and then put his roman collar on her. REDACTED did not know if this occurred while Fernando was at Saint Hillary's or at another parish.

When asked if this relationship surprised her REDACTED advised that nothing of this sort surprises her anymore.

CONFIDENTIAL & PRIVILEGED
INVESTIGATIVE REPORT
ATTORNEY CLIENT WORK PRODUCT

September 24, 2004

Canonical Investigation of Father Walter Fernando

Interviewee: REDACTED
REDACTED
REDACTED

Intervie canonical auditor

Date of Interview: September 22, 2004

Detective REDACTED was contacted at his office and played a tape recording of a telephone call between REDACTED and Father Walter Fernando that took place the morning of May 24, 2002. The call lasted about 17 minutes. REDACTED had called Fernando several times in an effort to reach him and after leaving a message he returned her call. The recording was listened to only once and the following is a compilation of impressions and paraphrasing as well as quotes that were written as accurately as possible. Where quotes are cited they will be set forth in quotation marks.

REDACTED after the initial greetings almost immediately told Fernando that she had felt very guilty for years about the sexual activities the two of them had while he was assigned to Saint Hilary's Church. She mentioned specific acts such as touching, kissing her breasts and his putting her hand on his penis. He responded, "I remember kissing you. That was a moment of passion. It just happened...I don't know...it was a moment of passion. I don't remember showing my penis."

At one point REDACTED told him she was only a child and he responded, "I thought you were 19." She countered that with she was 16 or 17 and he must have known that since he knew she was still in high school.

Fernando told her that he was new and that she was nice to him in a difficult time more than once.

REDACTED recalled a letter he sent her telling her that he loved her. He remembered the letter and that in it he told her she had courage for going to the convent. He later admitted he did feel love for her.

When she brought up his rubbing her breast he said that he did recall that.

When she asked him if there were others he did similar things to, he said there were not.

She brought up his exhibiting his penis more than once and he said that he forgot that but did admit to kissing her breasts.

Fernando told her that he confessed his sins in this matter soon after she left and he asked for her forgiveness several times. She said she forgave him and asked him to pray for her. He agreed to do that and he in turn asked for her prayers as well. He told her it was a burden that he had carried.

At one point he said, "I have confessed it years ago. I am 50 years old now. I want to be a priest." He asked her to keep it between them and God.

The attitude[REDACTED] portrayed during the call was that of a person that was hurt and troubled by the indiscretions they had committed when he was at Saint Hillary's. She was persistent on putting these things in the open with him and wanting an explanation as to why he acted like this with her. When he indicated he was caught up in a moment of passion she responded that it was not a one-time event but a series of acts.

His attitude was one of repentance and he wanted her forgiveness very much. It seemed he was glad to have talked and relieved that she forgave him.

The contents of the tape appear to confirm that something of a sexual nature transpired between Fernando and[REDACTED] Although he said he does not recall activities regarding his penis, i.e., masturbation and exhibiting it to[REDACTED], he did not deny it and he did admit other untoward activity as set forth.

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CMOB #	027
Considered by CMOB	☑
Inactive Date	5/6/2009
Case Name	No Complaint (Walter Fernando
Active Case?	☐

Priest Name	Fernando, Walter
DOB	4/24/1944
Ethnicity	Sri Lankan
Diocese	Archdiocese of Los Angeles
Canon State	Diocesan Priest
Religious Order	
Incardination	
Date Of Ordination	1973
Clergy Status	Administrative Leave

Clergy (Faculties)	
Religious	☐
Diocesan	☐
Description	

Deacon	
DOB	
Diocese	
Ethnicity	
Ordination	
Status	

Date Referred to Vicar	1/22/2003
Date Of Alleged Incident	1980
Alleged Victim	Minor Female
Multiple Victims	☐
Accusers	
Investigation Complete	☐
Investigator Name	
Removed From Ministry	☐
Date Removed From Ministry	
Date Returned To Ministry	
Case Disposition	Substantiated
DispositionComments	
Intervention	☐
Description	Age 58, born in Sri Lanka; ordained in 1973; currently an associate pastor. In June 2002 Fr. X informed V/C that two detectives had stopped by rectory looking for Fr. X while he was on vacation; they left a card but no information. Fr. X is concerned about a boundary crossing 20 yrs. ago with a woman interested in entering the convent. It involved placing an arm around her while watching a movie together. Woman entered convent for a time and left. She telephoned Fr. X a couple of years ago. There have been no complaints against Fr. X. LAPD states there is an open investigation.

Ne legations: Plaintiffs' attorneys supp deta abuse of a young girl rrom 1980-81 including pre-sexual groom.ng, French kissing, hugging in sexual manner, fondling of minor's buttocks and rubbing/massaging of minor's breasts both over clothes and skin to skin; kissing neck, face & breasts, finger in minor's vagina, masturbation of perpetrator skin to skin, and tried to force oral copulation. Abuse occurred several times at the theater, in the car and at a park. Father denies specific allegations.

Case Status

January 22, 2003	The Board agreed that no action be taken until further information is provided.
March 26, 2003	The Board took a vote on the following two options: 1) To recommend immediate administrative leave; or 2) that the V/C office seek further information from Fr. X and the alleged victim, including, but not necessarily limited, to the victim's birth date, and report back as soon as possible, but in no event later than 60 days (the June 11, 2003 CMOB meeting). Of the remaining 9 members present, eight voted for option #2; there was one abstention.
April 29, 2003	Cardinal approves recommendation: "proceed forward at once."
January 14, 2004	Fr. X was identified as Father Walter Fernando in 01/14/04 L.A. Times article. Fr. submitted to a psych evaluation suggested by the Board. The Board recommended the following: (1) That Fr. Fernando not be placed on administrative leave at this time pending further & intense efforts to obtain additional to verify the truth of the allegations. He may yet need to be placed on leave depending on the results of the next two recommendations. (2) That the alleged victim be interviewed without delay. The Board was advised that her attorney has agreed to a limited interview. This interview should be scheduled as quickly as reasonably possible & should be conducted by Mr. REDACTED another professional investigator. (3) That REDACTED be authorized in his capacity as Chair of CMOB to write to Deputy D.A. William Hodgeman to obtain whatever materials have been developed by the police & the D.A. in the course of the investigation. (4) That REDACTED be authorized in his capacity as Chair of CMOB to write directly to plaintiff's counsel to request an interview with the alleged victim and/or enlist her cooperation & consent to the release of the information developed by the D.A. & the police if the interview & the request for information in Recommendations 2 & 3 are not forthcoming.
January 28, 2004	Msgr. Cox stated that announcements had been made at Fr.'s parish. The Board recommended that REDACTED should now write the letter to the plaintiff's attorney, REDACTED; REDACTED to request an interview with her client and a copy of the telephone tape or transcript thereof; the letter to Mr. REDACTED should be deferred until Mr. REDACTED
February 11, 2004	The Board found that the statement made by Ms. REDACTED appears to be credible and is corroborated by her physical description of Fr.'s private living quarters at St. John Baptist de la Salle, that Ms. REDACTED was 17 yrs. old when some of the serious allegations occurred, that the actions complained of are clearly sexual abuse, & that the zero tolerance policy applies. The Board recommends that Fr. be immediately placed on administrative leave pending further investigation.
February 20, 2004	The Cardinal concurs with the recommendation.

February 25, 200.	d was advised that Fr. was placed o mini /e leave. V/C and REDACTED will meet with Fr. and his attorney soon to obtain a statement. An announcement was made in the parish.
April 14, 2004	LAPD has agreed to release the tape of the telephone conversation between Fr. & Ms. REDACTED if needed; however, Detective Brown of LAPD offered a statement about its contents as an alternative. Msgr. Cox said it appears it is incriminating & feels it best to interview Detective Brown at this time.
November 10, 2004	The case is being sent to Rome today.
September 14, 2005	Rome responded that at the time of the alleged incident, the claimant was 17 years old and not considered to be a minor by canon law that was in effect at that time. Therefore, this case is not under the jurisdiction of Rome. The responsibility for further action now rests with the Archdiocese. The V/C will meet with father and his advocate and confront him with the evidence
December 07, 2005	Msgr Cox and Fr REDACTED met with Father and advised him as to what the investigation had uncovered. The advocate has requested a copy of all the investigative documents.
May 16, 2007	Fr REDACTED stated that no canonical action will be taken until court case is concluded. V/C stated that Fr X is living in a residence with a pastor and some other priests who are on leave.
April 21, 2009	REDACTED informed the Board of his interview of the complainant's sister who support the allegations. The Board concluded that Fr Fernando should be removed from ministry. The Board recommended that a canonist should review the case to determine if there are grounds for his laicization.
May 06, 2009	Cardinal Mahony concurred in the Board's recommendations.

Follow Up	Awaiting results of interview with victim.	
Follow Up Date	November 2007	
Legal Proceedings		
Legal Proceedings?	☐	
Court Cases Settled		
Response		
Response Date		
Sent To Rome?	☐	***Date Sent To Rome***
Canonical Trial	☐	***Canonical Trial Date***
Canonical Disposition		
Page	5	

Vicar for Clergy Database
Clergy Assignment Record



Rev Walter Fernando

St. Basil Catholic Church
637 South Kingsley Drive
Los Angeles, CA 90005-2392

Current Primary Assignment

Birth Date	4/24/1944
Birth City	Ragama, Sri Lanka
Diaconate Ordination	
Priesthood Ordination	1/25/1973
Diocese Name	Archdiocese of Los Angeles
Date of Incardination	2/24/1986
Religious Community	
Ritual Ascription	Latin
Ministry Status	Retired with No Faculties
Seminary	National, Ampitiya, Kandy, Sri Lanka
Ethnicity	Sri Lankan

Age	65
Deanery	22

Fingerprint Verification and Safeguard Training

Date Background Check
Safeguard Training

Assignment History

Assignment	***Beginning Date***	***Completion Date***
Retired with No Faculties	8/1/2009	
Administrative Leave	2/19/2004	7/31/2009
Assumption of the Blessed Virgin Mary Catholic Church, Pasadena Associate Pastor (Parochial Vicar), Active Service	7/1/1992	2/19/2004
St. Gregory the Great Catholic Church, Whittier Associate Pro Tem, Active Service	5/3/1992	6/30/1992
Cathedral Chapel, Los Angeles Associate Pastor (Parochial Vicar), Active Service	7/2/1990	5/2/1992
St. Rose of Lima Catholic Church, Simi Valley Associate Pastor (Parochial Vicar), Active Service	8/1/1986	7/1/1990
St. John Baptist de la Salle Catholic Church, Granada Hills Associate Pastor (Parochial Vicar), Active Service	11/30/1981	7/31/1986

St. Hilary Catholic Church, Pico Rivera Associate Pastor (Parochial Vicar), Active Service	3/1/1981	11/29/1981

COPY

BCC:C MOB

027

Archdiocese of Los Angeles

Office of
Vicar for Clergy
(213) 637-7284

3424
Wilshire
Boulevard

Los Angeles
California
90010-2241

October 8, 2010

REDACTED

976 Gnanartha Pradeepaya
Mawatha, Colombo 08
Sri Lanka

Dear REDACTED ,

In February, 2004, REDACTED was notified that a lawsuit had been filed alleging that a former priest of the Archdiocese of Colombo, Reverend Walter Fernando, sexually abused a woman when she was a minor.

Father Fernando was originally ordained for the service of the Archdiocese of Colombo on January 25, 1973, and served there until his arrival in the United States in 1981. Father Fernando is currently a priest incardinated in the Archdiocese of Los Angeles.

Legal issues prohibited us from addressing any abuse cases for several years. At this time, Father Fernando has been able to come to an agreement with Cardinal Roger Mahony regarding his status. A copy of that statement is attached.

Should you have any further questions regarding Father Fernando's status, please do not hesitate to contact me.

Sincerely in the Lord,

Michael Meyers

Monsignor Michael Meyers
Vicar for Clergy

Enclosure

CARDINAL ROGER MICHAEL MAHONY
Archbishop of Los Angeles

We verify that Reverend Walter Fernando, ordained on 25 January 1973 and Incardinated on 24 February 1986, is a retired priest of the Archdiocese of Los Angeles.

He does not enjoy presbyteral faculties of the Archdiocese. In view of the public good, the sensitivity of interested parties, and the publicity attendant to an allegation of past misconduct, he has voluntarily renounced his right to exercise public ministry.

Given at Los Angeles this 15th day of July in the year of our Lord 2010.

For the Cardinal Archbishop

Michael Meyers

Reverend Monsignor Michael Meyers
Vicar for Clergy

REDACTED

Seal

FERNANDEZ
F/CE

Archdiocese of Los Angeles REDACTED 3424 Wilshire Boulevard Los Angeles California 90010-2202

May 27, 2009

Deputy Chief Charles Beck
Commanding Officer, Detective Bureau
150 North Los Angeles Street
Room 602
Los Angeles, California 90012

Re: Walter Fernando/REDACTED

Dear Deputy Chief Beck:

I am again writing to you to request information on the above individual in accord with the protocol you have discussed with REDACTED the Chair of the Archdiocese's Clergy Misconduct Oversight Board.

In our investigation with respect to Father Walter Fernandez, your Department allowed REDACTED a retired FBI special agent, who has consulted for the Archdiocese, to listen to an audio tape recording of a telephone call between REDACTED REDACTED and Walter Fernandez. As shown in the attached correspondence, in September 2008 I requested a copy of the tape; the request was denied in October 2008.

At the suggestion of REDACTED I am writing to renew the request since, as noted in my September letter, access to the tape itself is important to conclude the canon law aspects of the case.

We will, of course, reimburse you for any expenses incurred in this matter.

If you have any questions, please feel to call me at 213 637-7562.

Yours very truly,
REDACTED

REDACTED

Attachments

cc: REDACTED

COPY

REDACTED

Archdiocese of Los Angeles

3424 Wilshire Boulevard

Los Angeles California 90010-2202

September 15, 2008

Los Angeles Police Department
Discovery Section
Attention: Custodian of Records
201 North Los Angeles Street
Space 301
Los Angeles. CA 90012

Re: Father Walter Fernando; DR 02-1715862

Dear Sir/Madam:

In 2004 REDACTED t, an investigator of the Archdiocese of Los Angeles, contacted Detective James Brown in the Juvenile Division of your Department regarding the above matter, with Walter Fernando, as the subject of your investigation, and REDACTED as the victim.

In a conversation earlier this week between Mr. REDACTED and an officer in your Department, we understand that this case has been closed. In accord with the internal canon laws of the Church, the Archdiocese is now going through a procedure concerning Father Fernando's status. The content of an audio tape recording by your Department of a telephone call on May 24, 2002, between Father Fernando and Ms. REDACTED is very important to our reaching a fair and logical conclusion. The call was made during the course of Detective Brown's investigation and Mr. REDACTED our investigator, was given the opportunity to listen to the tape. However, to satisfy canon law, we need to have the actual tape available to the parties reviewing the case.

Accordingly, this letter is a formal request for the tape recording, or an authenticated copy. We will, of course, reimburse you for any expenses incurred in this matter.

If you have any questions please feel free to call me at (213) 637-7562.

Sincerely,

REDACTED

cc. REDACTED

bcc

LOS ANGELES POLICE DEPARTMENT

WILLIAM J. BRATTON
Chief of Police

P. O. Box 30158
Los Angeles, California 90030
Telephone: (213) 978-2100
TDD: (877) 275-5273
Reference Number: 14.4

ANTONIO R. VILLARAIGOSA
Mayor

October 7, 2008

RECEIVED
OCT 10 2008
BY:

REDACTED
3424 Wilshire Boulevard
Los Angeles, California 90010-2202

Dear Ms. REDACTED

I have reviewed your request for a copy of a tape recording of a May 24, 2002, telephone conversation between Father Walter Fernando and REDACTED

Please be advised that the audio tape recording of a telephone call between Father Fernando and Ms. REDACTED was generated to support the Los Angeles Police Department's investigation. In accordance with Government Code Section 6254(f), records of investigations conducted by, or investigatory files compiled by, any local police agency for law enforcement purposes, are exempt from disclosure. Your request seeks records that are either investigatory records themselves or properly part of an investigative file; therefore, I am denying your request. However, if your request is due to pending litigation, the document you are requesting may possibly be obtained through a court order.

If you have any questions regarding this correspondence, please contact Management Analyst Soon Kim of the Discovery Section at (213) 978-2155.

Very truly yours,

WILLIAM J. BRATTON
Chief of Police

RAYMOND D. CRISP, Senior Management Analyst
Officer-in-Charge, Discovery Section
Risk Management Group

Archdiocese of Los Angeles
Clergy Misconduct Oversight Board

April 27, 2009

CONFIDENTIAL--
Personnel Matter

TO: Cardinal Roger M. Mahony
Archbishop of Los Angeles

FROM: REDACTED

SUBJECT: Father Walter Fernando (CMOB #027)

The Clergy Misconduct Oversight Board (Board) has concluded its review of the allegations against Father Walter Fernando. This report is submitted to both summarize the case and communicate the Board's findings and recommendations to you.

Father Walter Fernando was born in Sri Lanka on April 24, 1944, and ordained in Sri Lanka in 1973. He moved to Los Angeles and was assigned to St. Hilary's Parish in Pico Rivera on March 1, 1981. The Complainant was a high school senior who worked at St. Hilary's rectory after school. At that time, she was 17 years old (she turned 18 on REDACTED) and Fernando was 36 years old. Fernando served at St. Hilary's until his routine transfer to St. John Baptist de la Salle in Granada Hills on November 30, 1981. Fernando was incardinated in Los Angeles on February 24, 1986.

In April 2002, the Complainant told Los Angeles Police Department (LAPD) detectives that Fernando had sexually molested her when they worked together at St. Hilary's and for about a year after Fernando transferred to St. John Baptist. She alleged that she was 17 years old when their sexual relationship began. As part of their investigation, the detectives had the Complainant make a telephone call to Fernando. Without Fernando's knowledge, but with the Complainant's consent, the detectives recorded the conversation. After that, the detectives went to Fernando's rectory, but he was gone on vacation. In June 2002, Fernando was at a seminar with the Vicar for Clergy (VC). He told the VC that the police came to his rectory looking for him. He said that about 20 years earlier he had "crossed boundaries" with a woman when he took her to the movies and put his arm around her.

RCALA 002555

In August 2002, the Los Angeles Times published an article naming Fernando as the subject of a police investigation. Ultimately the criminal case was closed due to a court case (*Stogner*) that invalidated a lengthened statute of limitations for this type of case. In February 2003, the VC attempted to interview Fernando, but he declined to answer any questions regarding the Complainant on advice of counsel. In March and again in May of 2003, Fernando sent letters to the VC denying the allegations and claiming to have obeyed his vow of celibacy. In January 2004, the Los Angeles Times published another article detailing the case against Fernando and reporting that he was still in ministry. That same month a statement was read at St Hillary's weekend masses telling parishioners that Fernando had been named in a lawsuit accusing him of sexual abuse while assigned to that parish. Anyone with information regarding the matter was asked to contact the VC, but no contacts were made.

On January 24, 2004, the Complainant was interviewed by Archdiocesan Canonical Auditor REDACTED REDACTED Complainant stated that when she was a senior in high school she worked in the rectory after school on most weekdays. Because she was working after school, she usually wore her Catholic high school uniform while at the rectory. While she was 17, Fernando took her to a movie. Toward the end of the movie he put his hand on her breast and began to rub it. Then he gave her a kiss on the lips. Another time while she was still in high school they were together in a parked car when he laid his head on her lap, pulled her head towards him and gave her a long kiss putting his tongue in her mouth. On another occasion while she was in high school, he took her to a park where he kissed her and placed his hand inside her blouse and bra to rub the skin of her breast. Another time at the same park while she was in high school she was with him in a parked car in the evening. He unzipped his pants, exhibited his erect penis and tried to force her to orally copulate him. When she refused, he took her hand, placed it around his penis and, with his hand clasped over hers, masturbated until he ejaculated. She described several more incidents of sexual activity that occurred after she turned 18 while Fernando was still assigned to St Hillary's. During one of those incidents, Fernando digitally penetrating her vagina.

She recalled that Fernando was transferred to St. John Baptist parish in about December 1981. When he left St. Hillary's, she had turned 18. After his transfer, he drove to her house, picked her up and drove her back to his new parish. He took her to a private sitting room in the rectory from which there was a door leading to his bedroom. They remained in the sitting room awhile while she played her flute. He brought her to the rectory a second time and this time they went into his bedroom. He had her disrobe, kissed her breast, sucked her nipples and lay on top of her on the bed. He did not undress, but she could feel his erection. She asked him why he did not undress and he replied he didn't want her to become pregnant. She estimated she went to the parish in Granada Hills about ten times and that similar sexual activity occurred between them each time. When asked who could corroborate her story, she stated that her mother, brother and sister all knew that she was going out with Fernando.

In her interview, the Complainant provided a detailed description of the rectory at St. John Baptist as well as Fernando's living quarters there. REDACTED subsequently inspected the premises and found the Complainant's description to be completely accurate. In order to account

RCALA 002556

for any alterations that may have been made over the years, REDACTED interviewed the priest who was the pastor there at that time. His description of the premises also matched the Complainant's. Later, responding through his Canonical Advocate, Fernando denied that the Complainant was ever in his quarters at St. John Baptist de la Salle. Again communicating through his Canonical Advocate, Fernando claimed that he could not have driven Complainant as she described because he did not have a driver license when he arrived in the United States. He claims not to have obtained his license until the summer of 1981, but no documentation of that date has been obtained.

The Board had reviewed the case in 2002 and in 2003 recommending both times that additional information be obtained quickly. In February 2004, the month after the Complainant was interviewed, the Board considered the case again. The Board determined that the allegations were sufficiently credible to recommend that Fernando be placed on administrative leave while the investigation continued. The Cardinal concurred with that recommendation and Fernando was temporarily removed from public ministry.

During the subsequent investigation, REDACTED attempted to obtain a copy of the taped telephone conversation between the Complainant and Fernando. Though he was unable to obtain a copy, the LAPD investigators allowed REDACTED to listen to the tape. A March 21, 2007, Archdiocesan status report on this case states, "police record phone conversation between Complainant and Fernando in which Fernando appears to admit that sexual activity took place between him and Complainant when Complainant was 17 years old." The report goes on to say that, "Fernando said that he remembered kissing the victim but didn't remember showing her his penis; he stated that he thought the victim was 19 years old; he admitted feeling love for her and recalled rubbing her breast and kissing her breasts; he told her that he confessed his sins in this matter and asked her for her forgiveness; he stated he wanted to remain a priest and asked her to keep this between them. The investigator concluded that the tape appeared to confirm that something of a sexual nature had transpired between Fernando and the victim." Clearly Fernando's admissions in the taped conversation are in direct conflict with his March 7 and May 8, 2003, letters in which he denied "having had any sexual activity with (Complainant)."

In November 2004, the case was sent to Rome. The case was returned with a finding that, as the complainant was 17 at the time, she was not a minor under the 1917 Code of Canon Law. (The Church subsequently changed the age of majority from 16 to 18.) Consequently, Rome determined that the case is not under its jurisdiction and assigned responsibility for any further action to the Archdiocese. This complaint resulted in a civil suit and was eventually settled as part of the global settlement. The amount received by the Complainant was within the median settlement amount for that group of cases.

Once the civil suit was settled, the case was reviewed to determine if it was ready for disposition. It was decided that efforts should be made to contact the Complainant's mother, sister and/or brother in an effort to corroborate the number of "dates" she allegedly had with Fernando and to determine if any of them had any additional information to support or refute these allegations. The Complainant's sister was subsequently interviewed telephonically. She was about 13 years old when Fernando was first assigned to St. Hilary's. She and her older sister

RCALA 002557

(Complainant) shared a bedroom. They lived with their parents and two brothers who were 18 and 19 years old. Between work, school and friends, the brothers were usually gone and rarely interacted with their two younger sisters. She believes they had no idea what was happening with the Complainant at the time. The parents thought the relationship between the Complainant and Fernando was fine—they trusted him and to this day they refuse to discuss it.

She and her sister shared confidences including the Complainant's account of the numerous sexual encounters she had with Fernando. They would talk about those activities in very specific terms. For example, one time Complainant returned home very upset after going to the movies with Fernando. Complainant told her sister that Fernando had kissed her at the theater. On another occasion Complainant told her that Fernando took her for a ride and told her to touch his penis after which she needed to clean herself with a tissue. On another occasion, Complainant told her that she had disrobed in front of Fernando and while she was disrobed he put his Roman collar on her. (The Complainant described just such an incident in her interview.) The sister estimated that Fernando came to their house to pick up Complainant six to twelve times during that period.

On March 23, 2009, Fernando was to be interviewed by REDACTED After asking a few background questions, REDACTED began to ask a question regarding Fernando's prior relationships. REDACTED was immediately interrupted by Fernando's Canonical Advocate who instructed Fernando not to, "...answer any question that has to do with any relationship or any person of any kind." At that point, the interview was concluded. The Board understands from Fr. REDACTED , who has been assigned to provide us with Canonical advice, that under Canon Law the instruction from Fernando's Canonical Advocate is imputed to Fernando and is sufficient to constitute a decision by Fernando not to answer any questions without Fernando having to personally respond that he understood and agreed to follow his Advocate's admonition and advice. We therefore conclude that Fernando declined this opportunity to make whatever response he may deem appropriate. In that regard, we recognize that Fernando is not expected to admit or deny anything and that he is entirely within his rights to remain silent. Consequently, we draw no inference whatsoever from his decision.

Following this interview, Fernando's Advocate proposed the following disposition for this case:

1. Father Fernando will retire at 65 years of age (4-24-09) and will voluntarily agree to refrain from any priestly public ministry in the Archdiocese of Los Angeles.

2. Should any letter of inquiry be received from another Bishop, the parties would collaborate on the wording of any response from REDACTED of Los Angeles. The letter would not say that Fernando has been found unfit for ministry, but clearly communicate that Fernando has offered and the Archdiocese has agreed that he will not exercise ministry in this diocese. Any Bishop making an inquiry should be given the facts and the decision left up to him regarding any granting of faculties. The Advocate made it clear that the facts in the response should be stated without a conclusion that Fernando had been found unfit for ministry.

RCALA 002558

3. The original precept placing Fernando on leave would be revoked.

The Archdiocesan representatives informed Fernando's Advocate that, based upon their experience with the Board, we would most likely recommend to the Cardinal that Fernando should not be entitled to exercise public ministry anywhere. However, they agreed to inform the Board and ultimately the Cardinal of the proposal.

By Charter, the Board is responsible for ensuring that all allegations of sexual misconduct by a priest or deacon are investigated thoroughly. Consequently, the Board's first duty is to determine if all reasonable investigative avenues have been pursued and exhausted. We have considered that aspect of this case and find that this matter has been investigated adequately. As we noted several years ago, the Complainant's mother, brothers and sister should have been interviewed to determine what, if anything, they might know about this case. Eventually, the sister was interviewed and she largely corroborated the allegations. In view of the information the sister provided about her brothers and her parents' refusal to discuss the matter, it appears that efforts to interview additional family members would serve no constructive purpose. We were also concerned that the taped telephone conversation was not pursued through the protocol established for obtaining evidence from the Los Angeles Police Department. However, we are confident in relying on the Canonical investigator's report of that taped conversation.

With the adequacy of the investigation established, it now becomes the Board's responsibility to recommend an appropriate disposition. In cases such as this it is important to be mindful of the standards under which the Board must weigh the evidence presented to it. First is the Archdiocesan Policy on Sexual Abuse by Clergy which defines sexual abuse of a minor as an act(s) of sexual molestation, sexual exploitation or other behavior by which an adult uses a minor as an object of sexual gratification. Second is the standard of justice which requires that a sustained allegation must be supported by credible evidence leading a reasonable person to conclude that the alleged acts occurred, that the accused cleric committed those acts and that the acts constitute sexual abuse of a minor.

We have discussed this matter extensively, ever mindful of our responsibility to the people involved as well as to the Church itself. The Board's diversity including members with experience as mental health care professionals, law enforcement, the judiciary, abuse victims and their parents, religious and clergy all helped to ensure that every aspect of this case was fully explored. We are mindful of our duty as Catholics and members of this Board to review the facts of this case objectively and make a recommendation of conscience based upon the evidence that has been gathered. With those responsibilities in mind, we have come to the unanimous decision that the facts in this case clearly meet the burden of proof required to support the conclusion that Father Walter Fernando engaged in the sexual abuse of a minor. Consequently, we unanimously make the following recommendations:

Recommendation No. 1: We recommend that Fr. Fernando be removed from ministry permanently.

RCALA 002559

Recommendation No. 2: We recommend that Fr. Fernando's permanent removal from ministry be announced at all Archdiocesan parishes in which he has been assigned or maintained a priestly relationship.

Recommendation No. 3: We recommend that the settlement proposal put forth by Fr. Fernando's advocate be rejected. That proposal would require the Archdiocese to abdicate its moral responsibility to notify another diocese that a priest has been removed from ministry.

Recommendation No. 4: Because we believe that Fr. Fernando returns to Sri Lanka on occasion, we recommend that the Church in Sri Lanka be notified in writing of Fr. Fernando's permanent removal from ministry.

Recommendation No. 5: We recommend that the Complainant be notified of the REDACTED final decision on this matter.

With these findings and recommendations, the Board concludes this case and closes this file.

Respectfully submitted,
REDACTED

c: Monsignor Gonzales, Vicar for Clergy

I concur fully in recommendations one (1) through five (5), and request that all five be implemented at once.

+ Roger Card. Mahony
6 May 2009

RCALA 002560

LOS ANGELES POLICE DEPARTMENT

WILLIAM J. BRATTON
Chief of Police

P. O. Box 30158
Los Angeles, Calif. 90030
Telephone: (213) 978-2100
TDD: (877) 275-5273
Reference No. 14.4

ANTONIO R. VILLARAIGOSA
Mayor

RECEIVED
JUN 22 2009
BY:

June 17, 2009

Ms. REDACTED
3424 Wilshire Boulevard
Los Angeles, CA 90010-2202

Dear Ms. REDACTED:

I have reviewed your request, dated May 27, 2009, for a copy of a tape recording of a telephone conversation between Father Walter Fernando and REDACTED Your request was forwarded to my office from the Los Angeles Police Department's Detective Bureau.

As I indicated in my correspondence, dated October 7, 2008, the audio tape recording of a telephone call between Father Fernando and Ms. REDACTED was generated to support the Los Angeles Police Department's investigation. In accordance with Government Code Section 6254(f), records of investigations conducted by, or investigatory files compiled by, any local police agency for law enforcement purposes, are exempt from disclosure. Your request seeks records that are either investigatory records themselves or properly part of an investigative file; therefore, my position is unchanged and I am again denying your request. If your request is due to pending litigation, the document you are requesting may possibly be obtained through a court order.

Any correspondence regarding this matter should include a copy of this letter and be directed to the Los Angeles Police Department, Discovery Section, 201 North Los Angeles Street, Space 301, Los Angeles, California 90012. If you have any questions regarding this correspondence, please contact Management Analyst Soon Kim of the Discovery Section at (213) 978-2155.

Very truly yours,

WILLIAM J. BRATTON
Chief of Police

RAYMOND D. CRISP, Senior Management Analyst
Officer-in-Charge, Discovery Section
Risk Management Group

~~EDUCATION~~
CMOB
FILE

Archdiocese of Los Angeles
Clergy Misconduct Oversight Board

April 27, 2009

CONFIDENTIAL--
Personnel Matter

TO: Cardinal Roger M. Mahony
Archbishop of Los Angeles

FROM: REDACTED

SUBJECT: Father Walter Fernando (CMOB #027)

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RCALA 002562

In August 2002, the Los Angeles Times published an article naming Fernando as the subject of a police investigation. Ultimately the criminal case was closed due to a court case (*Stogner*) that invalidated a lengthened statute of limitations for this type of case. In February 2003, the VC attempted to interview Fernando, but he declined to answer any questions regarding the Complainant on advice of counsel. In March and again in May of 2003, Fernando sent letters to the VC denying the allegations and claiming to have obeyed his vow of celibacy. In January 2004, the Los Angeles Times published another article detailing the case against Fernando and reporting that he was still in ministry. That same month a statement was read at St Hillary's weekend masses telling parishioners that Fernando had been named in a lawsuit accusing him of sexual abuse while assigned to that parish. Anyone with information regarding the matter was asked to contact the VC, but no contacts were made.

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In her interview, the Complainant provided a detailed description of the rectory at St. John Baptist as well as Fernando's living quarters there. REDACTED subsequently inspected the premises and found the Complainant's description to be completely accurate. In order to account

RCALA 002563

for any alterations that may have been made over the years, REDACTED interviewed the priest who was the pastor there at that time. His description of the premises also matched the Complainant's. Later, responding through his Canonical Advocate, Fernando denied that the Complainant was ever in his quarters at St. John Baptist de la Salle. Again communicating through his Canonical Advocate, Fernando claimed that he could not have driven Complainant as she described because he did not have a driver license when he arrived in the United States. He claims not to have obtained his license until the summer of 1981, but no documentation of that date has been obtained.

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Once the civil suit was settled, the case was reviewed to determine if it was ready for disposition. It was decided that efforts should be made to contact the Complainant's mother, sister and/or brother in an effort to corroborate the number of "dates" she allegedly had with Fernando and to determine if any of them had any additional information to support or refute these allegations. The Complainant's sister was subsequently interviewed telephonically. She was about 13 years old when Fernando was first assigned to St. Hilary's. She and her older sister

RCALA 002564

(Complainant) shared a bedroom. They lived with their parents and two brothers who were 18 and 19 years old. Between work, school and friends, the brothers were usually gone and rarely interacted with their two younger sisters. She believes they had no idea what was happening with the Complainant at the time. The parents thought the relationship between the Complainant and Fernando was fine—they trusted him and to this day they refuse to discuss it.

She and her sister shared confidences including the Complainant's account of the numerous sexual encounters she had with Fernando. They would talk about those activities in very specific terms. For example, one time Complainant returned home very upset after going to the movies with Fernando. Complainant told her sister that Fernando had kissed her at the theater. On another occasion Complainant told her that Fernando took her for a ride and told her to touch his penis after which she needed to clean herself with a tissue. On another occasion, Complainant told her that she had disrobed in front of Fernando and while she was disrobed he put his Roman collar on her. (The Complainant described just such an incident in her interview.) The sister estimated that Fernando came to their house to pick up Complainant six to twelve times during that period.

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Following this interview, Fernando's Advocate proposed the following disposition for this case:

1. Father Fernando will retire at 65 years of age (4-24-09) and will voluntarily agree to refrain from any priestly public ministry in the Archdiocese of Los Angeles.

2. Should any letter of inquiry be received from another Bishop, the parties would collaborate on the wording of any response from the Ordinary of Los Angeles. The letter would not say that Fernando has been found unfit for ministry, but clearly communicate that Fernando has offered and the Archdiocese has agreed that he will not exercise ministry in this diocese. Any Bishop making an inquiry should be given the facts and the decision left up to him regarding any granting of faculties. The Advocate made it clear that the facts in the response should be stated without a conclusion that Fernando had been found unfit for ministry.

RCALA 002565

3. The original precept placing Fernando on leave would be revoked.

The Archdiocesan representatives informed Fernando's Advocate that, based upon their experience with the Board, we would most likely recommend to the Cardinal that Fernando should not be entitled to exercise public ministry anywhere. However, they agreed to inform the Board and ultimately the Cardinal of the proposal.

By Charter, the Board is responsible for ensuring that all allegations of sexual misconduct by a priest or deacon are investigated thoroughly. Consequently, the Board's first duty is to determine if all reasonable investigative avenues have been pursued and exhausted. We have considered that aspect of this case and find that this matter has been investigated adequately. As we noted several years ago, the Complainant's mother, brothers and sister should have been interviewed to determine what, if anything, they might know about this case. Eventually, the sister was interviewed and she largely corroborated the allegations. In view of the information the sister provided about her brothers and her parents' refusal to discuss the matter, it appears that efforts to interview additional family members would serve no constructive purpose. We were also concerned that the taped telephone conversation was not pursued through the protocol established for obtaining evidence from the Los Angeles Police Department. However, we are confident in relying on the Canonical investigator's report of that taped conversation.

With the adequacy of the investigation established, it now becomes the Board's responsibility to recommend an appropriate disposition. In cases such as this it is important to be mindful of the standards under which the Board must weigh the evidence presented to it. First is the Archdiocesan Policy on Sexual Abuse by Clergy which defines sexual abuse of a minor as an act(s) of sexual molestation, sexual exploitation or other behavior by which an adult uses a minor as an object of sexual gratification. Second is the standard of justice which requires that a sustained allegation must be supported by credible evidence leading a reasonable person to conclude that the alleged acts occurred, that the accused cleric committed those acts and that the acts constitute sexual abuse of a minor.

We have discussed this matter extensively, ever mindful of our responsibility to the people involved as well as to the Church itself. The Board's diversity including members with experience as mental health care professionals, law enforcement, the judiciary, abuse victims and their parents, religious and clergy all helped to ensure that every aspect of this case was fully explored. We are mindful of our duty as Catholics and members of this Board to review the facts of this case objectively and make a recommendation of conscience based upon the evidence that has been gathered. With those responsibilities in mind, we have come to the unanimous decision that the facts in this case clearly meet the burden of proof required to support the conclusion that Father Walter Fernando engaged in the sexual abuse of a minor. Consequently, we unanimously make the following recommendations:

Recommendation No. 1: We recommend that Fr. Fernando be removed from ministry permanently.

RCALA 002566

Recommendation No. 2: We recommend that Fr. Fernando's permanent removal from ministry be announced at all Archdiocesan parishes in which he has been assigned or maintained a priestly relationship.

Recommendation No. 3: We recommend that the settlement proposal put forth by Fr. Fernando's advocate be rejected. That proposal would require the Archdiocese to abdicate its moral responsibility to notify another diocese that a priest has been removed from ministry.

Recommendation No. 4: Because we believe that Fr. Fernando returns to Sri Lanka on occasion, we recommend that the Church in Sri Lanka be notified in writing of Fr. Fernando's permanent removal from ministry.

Recommendation No. 5: We recommend that the Complainant be notified of the Archbishop's final decision on this matter.

With these findings and recommendations, the Board concludes this case and closes this file.

Respectfully submitted,

Original singed by:

REDACTED

Original signed by:

c: Monsignor Gonzales, Vicar for Clergy

RCALA 002567

Father Walter Fernando
CMOB #027
SUMMARY

April 17, 2009

Timeline of Significant Events

Father Fernando was ordained in Sri Lanka in 1973. In 1981, he came to the Los Angeles Archdiocese and was assigned to St. Hilary's Parish on March 1, 1981. On August 7, 1981, the Complainant turned 18. Fernando served at St. Hilary's until his routine transfer to St. John Baptist de la Salle on November 30, 1981. Fernando was incardinated in Los Angeles on February 24, 1986.

4-02	The Complainant reported her alleged sexual abuse to the Los Angeles Police Department (LAPD).
5-02	As part of their investigation, the detectives had the Complainant make a monitored telephone call to Fernando. After that recorded conversation, the detectives went to Fernando's rectory, but he is gone on vacation.
6-02	Fernando informed the VC that the LAPD came to his rectory looking for him. He told the VC that about 20 years earlier he had "crossed boundaries" with a woman when he took her to the movies and put his arm around her.
8-02	The Los Angeles Times published an article naming Fernando as being under investigation by the LAPD. Ultimately the criminal case was closed due to the statute of limitations (*Stogner*).
1-03	The CMOB first discussed this case, but recommended no action due to the lack of facts.
2-03	VC and Vicar for Canonical Services interview Fernando, but he declined to answer any questions regarding the Complainant on advice of counsel. Later, Fernando sent two letters (3-7-03 and 5-8-03) to the VC in which he denied the allegations and claimed to have obeyed his vow of celibacy.
3-03	CMOB considers the case again and requests that more information be obtained
1-14-04	LA Times article is published detailing the case against Fernando and reporting that he is still in ministry. On that same day, the CMOB considered the case and requested an expedited investigation.
1-17/18-04	A statement was read at all weekend Masses at St Hillary's that Father Fernando was named in a lawsuit accusing him of sexual abuse while assigned to that parish. Any parishioner with information regarding the matter was asked to contact the VC, but no contacts were made.
2-04	CMOB considered the case again and found the allegations to be credible. They recommend that Fernando be placed on administrative leave, which he was.
11-04	Case is sent to Rome
9-05	Rome responded that the complainant was 17 at the time and under the 1917 Code of Canon Law she was not a minor. (It has since changed to 18.) Consequently,

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the case is not under Rome's jurisdiction and responsibility for further action rests with the Archdiocese.

Interview of Complainant

On January 24, 2004, the Complainant agreed to be interviewed by REDACTED They met in a restaurant accompanied by her lawyer. There were no restrictions placed on the interview other than asking that it not "drag on for several hours."

Complainant stated that when she was a senior in high school she worked as a junior secretary in the rectory. She worked most weekdays from after school until about 9:30 PM. Consequently, she almost always wore her Catholic High School uniform when working at the rectory. She was active in her parish, taught CCD and was in the choir. She characterized herself as an "unattractive nerd" with few friends and subject to verbal abuse from her peers. Her home life was troubled, so she enjoyed getting away to work in the parish.

Complainant said that while she was working at the rectory and still in high school Fernando took her to a movie. Towards the end of the movie he put his hand on her breast and began to rub it. Then he gave her a kiss on the lips. In another instance while she was still in high school they were together in a parked car and he laid his head on her lap pulling her head towards him and gave her a long kiss putting his tongue in her mouth. On another occasion while she was in high school, Fernando took her to a park where he kissed her and fondled her placing his hand inside her blouse and bra to rub the skin of her breast. Another time at the same park while she was in high school she was with him in a parked car. It was evening and he unzipped his pants, exhibited his erect penis and tried to force her to orally copulate him. She refused so he took her hand, placed it around his penis ad, with his hand clasped over hers, and masturbated until he ejaculated. She also described several incidents of sexual activity between her and Fernando that occurred after she was 18, including Fernando digitally penetrating her vagina.

Effective December 1, 1981, Fernando was transferred to St. John Baptist de la Salle parish in Granada Hills. So, the Complainant was now 18. He picked her up at her house and drove her to his new parish. He took her to a private sitting room in the rectory from which there was a door leading to his bedroom. They remained in the sitting room awhile while she played her flute. He brought her to the rectory a second time and this time they went into his bedroom. He had REDACTED r breast, sucked her nipples and lay on top of her on the bed and then alongside him. He did not undress, but she could feel his erection. She asked him why he did not undress and he replied he didn't want her to become pregnant. She estimated she went to the parish in Granada Hills about ten times and that similar sexual activity occurred between Fernando and her each time. She provided REDACTED with a detailed description of the rectory and Fernando's living quarters. When asked who could corroborate her story, she stated that her mother, brother and sister all knew that she was going out with Fernando.

Through his Canonical Advocate, Fernando denies that the Complainant was ever in his quarters at St. John Baptist de la Salle. However, REDACTED inspected the premises and found the Complainant's description of the physical layout to be completely accurate. In order to account

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for any alterations that may have been made over the years, REDACTED interviewed the priest who was the pastor there at that time. His description of the premises also matches the description given by the Complainant.

Through his Canonical Advocate, Fernando points out that he could not have driven Complainant as she describes because he did not have a driver license when he arrived in the United States. He claims not to have obtained his license until the summer of 1981. No documentation of that date has been obtained.

Monitored Telephone Call

On May 24, 2002, the LAPD detectives had the Complainant initiate a telephone call with Fernando. That conversation was recorded. Investigator REDACTED has attempted to obtain a copy of the call, but has been unsuccessful thus far. A letter from REDACTED o the LAPD resulted in an October 7, 2008, letter denying her a copy. The letter does say that if the request is due to pending litigation the document may be obtained through a court order. No effort has been made to pursue that avenue or to explore whether the police department would honor a church subpoena. There is also no explanation on why the request was not submitted to Deputy Chief Beck, the police department's Chief of Detectives.

The ability to obtain the tape notwithstanding, REDACTED has had the opportunity to listen to the tape. He describes the tape as corroborating the Complainant's allegations. Fernando's admissions during that taped conversation are in direct conflict with his statements in his March 7 and May 8, 2003, letters in which he denies "having had any sexual activity with (Complainant)" and affirms that he has obeyed his vow of celibacy. REDACTED s status report of March 21, 2007, states, "police record phone conversation between Complainant and Fernando in which Fernando appears to admit that sexual activity took place between him and Complainant when Complainant was 17 years old." His report goes on to say that, "Fernando said that he remembered kissing the victim but didn't remember showing her his penis; he stated that he thought the victim was 19 years old; he admitted feeling love for her and recalled rubbing her breast and kissing her breasts; he told her that he confessed his sins in this matter and asked her for her forgiveness; he stated he wanted to remain a priest and asked her to keep this between them. The investigator concluded that the tape appeared to confirm that something of a sexual nature had transpired between Fernando and the victim."

Interview of Complainant's Family

In the meeting of April 2, 2008, it was decided that efforts should be made to contact the Complainant's mother, sister and/or brother in an effort to corroborate the number of "dates" she allegedly had with Fernando and to determine if any of them had any additional information to support or refute these allegations. The need for this effort was consistent with REDACTED March 21, 2007, analysis of this case. In that report he recommended that the Complainant's mother, brother and sister be interviewed to ascertain what knowledge they may have of the Priest and Complainant going out together. Rather than contacting these people directly, the

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investigator has elected to seek their cooperation through the Complainant's attorney. Consequently, none of them has been interviewed nor have they declined to be interviewed.

Information from Attorneys

Attorneys representing the complainant and Archdiocese were contacted and they had no new information regarding this case.

Civil Suit

This case was settled as part of the global settlement. The amount received by this complainant was within the median amount for settlement of those cases.

Interview of Father Fernando

Once the foregoing were completed, it would then be appropriate to interview Father Fernando. Again, this would be consistent with REDACTED 's March 21, 2007, analysis of this case. His first recommendation in that report was that Father Fernando "should be interviewed *quam primum* with regard to every aspect of his case, since direct statements from him will prove invaluable for resolving many of the issues and questions that remain and will also prove useful in properly evaluating the claims advanced by (the Complainant)."

On Monday, March 23, 2009, Father Fernando was interviewed. Present were Father REDACTED REDACTED Monsignor Gabriel Gonzales, Vicar for Clergy; REDACTED

The interview was transcribed and consists of 23 pages in total. After some legal wrangling, REDACTED is allowed to begin his interview. After asking a few background questions, he asks Fernando, "Did you have any type of relationship with females prior to...." He is immediately interrupted by REDACTED who instructs Fernando not to, "...answer any question that has to do with any relationship or any person of any kind." After a brief discussion of a canonical nature, REDACTED and the recorder are asked to leave the room.

An unknown amount of time later, they reenter the room and the record continues. Father REDACTED comments that, as a result of the conversation, they "have been able to come to an accommodation that should resolve concerns that have led to this investigation. And we will put this on record, but we're thinking that there isn't any further point to the investigation as such and that Mr., REDACTED could be excused from this session." At that point the interview is concluded and REDACTED leaves the interview room.

Proposed Agreement

Once the investigation is concluded, a discussion ensues regarding an offer that Father Fernando has made and the Archdiocesan representatives apparently have accepted. That proposal is that:

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1. Father Fernando will retire at 65 years of age (4-24-09) and will voluntarily agree to refrain from any priestly public ministry in the Archdiocese of Los Angeles.

2. Should any letter of inquiry be received from another Bishop, the parties would collaborate on the wording of any response from the Ordinary of Los Angeles. The letter would not say that Fernando has been found unfit for ministry, but clearly communicate that Fernando has offered and the Archdiocese has agreed that he will not exercise ministry in this diocese. Any Bishop making an inquiry should be given the facts and the decision left up to him regarding any granting of faculties. It was pointed out that CMOB would in all likelihood have difficulty accepting that provision, but that issue was never resolved. (Fernando vacations in Sri Lanka.)

3. The original precept placing Fernando on leave would be revoked.

Not discussed in the proposal are several other considerations the CMOB usually addresses in its final recommendations to the Cardinal. Among those are:

- The appropriateness of the accused priest residing or maintaining a presence in a rectory or church facility;
- An announced at any parish with which he has maintained a priestly relationship; and,
- Notification to the Complainant regarding the Archbishop's final decision on this matter.

RCALA 002572

FERNANDO

REDACTED

From: REDACTED
Sent: Wednesday, April 02, 2008 7:04 PM
To: CMOB REDACTED
Cc: Gonzales, Msgr. Gabriel; REDACTED
REDACTED
Subject: FERNANDO CASE

REDACTED :

Per our conversation at this morning's meeting, here are the follow up items on the Fernando case:

1. Was this case part of the recent civil settlement and, if so, how much was paid to his victim?
2. Does the victim's attorney have any information we need to consider?
3. Does the Archdiocese attorney have any information we need to consider?
4. Can the complainant's mother, sister or brother corroborate the number of "dates" she had with Fernando?

When these questions have been answered, please forward the investigative report to REDACTED REDACTED and he will agendize the matter for CMOB's consideration.

Thanks,
REDACTED

5 - HOW OLD WAS SHE -- GROOMING?
6 - WHAT'S IN TAPE -- POLICE SAY IT CORROBORATES THE ACCUSER'S ACCOUNT - REDACTED USTMID TO IT!

I/U ACCUSD - P15 KICK RHONA OUT, PUT CNU, ALL DONE.

REDACTED

ITEM AGE IS AN ISSUE

March 31, 2009

Reverend Monsignor Gabriel Gonzales
Vicar for Clergy
Archdiocese of Los Angeles
3424 Wilshire Boulevard
Los Angeles, California 90010

BY FAX AND MAIL

Re: Reverend Walter Fernando
Congregation for the Clergy, Prot. No. 2008-2209

Dear Monsignor Gonzales:

This is to confirm the content of our discussion, together with REDACTED and Father REDACTED, concerning Father Fernando who was also present at our meeting of March 23, 2009.

The Congregation for the Clergy has informed us that my Recourse to that Dicastery on behalf of Father Fernando will be decided by May 14, 2009. Notwithstanding our discussion and understanding yesterday, that Recourse continues and should be decided.

In answer to my question, you confirmed that, except for the allegation of REDACTED REDACTED in 2003 of an unproven event that allegedly occurred twenty eight years ago, there is nothing in Father Fernando's record that ever raised any question about his fitness for ministry since he arrived and began his continuous priestly service in the Archdiocese of Los Angeles twenty nine years ago in 1981.

Although it has been affirmatively proven that Father Fernando has not committed the canonical crime of sexual abuse of a minor,[1] Father Fernando is aware of the unfortunate publicity given to the REDACTED allegation against him and the harm it has caused to both him and the Archdiocese. Appreciating the Cardinal's position and desiring to prevent any more adverse publicity and harassment,[2] Father Fernando is voluntarily willing to retire after he reaches his 65th birthday on April 24, 2009, and the Recourse has been decided. Even if the decision is favorable to him, he would voluntarily agree to forego exercising

[1] Ms. REDACTED herself has given vague and conflicting evidence about whether she was under 18 at the time of the alleged events, thus failing to prove that she was a minor even under civil law. CDF acknowledged this inconsistency when, after reviewing the record, it found that she was "17-18." In her taped conversation she attempts to have Fr. Fernando confirm that she was 16 at the time. This, of course, cannot be true because Ms. Price turned 17 on August 7, 1980, six months before Father Fernando arrived in this country and began work in the Archdiocese of Los Angeles on March 1, 1981. Did someone advise her that the canonical age of a minor was 16?

RCALA 002574

public ministry in the Archdiocese of Los Angeles. He would, in essence, be a retired, inactive priest of the Archdiocese of Los Angeles.

Such a voluntary signed agreement between the Cardinal and Father Fernando would obviate the need for the Cardinal to issue a new decree. A decree in any way appearing to impose a canonical penalty or to indicate guilt would again be subject to a recourse, something none of us wants, I am sure. A properly worded agreement summarizing the reason why it was entered into could also serve, without further comment, to advise any other bishop why Father Fernando does not exercise faculties in the Archdiocese of Los Angeles. I will be happy to prepare a draft of such an agreement for the Cardinal's review. A decree, however, should be issued removing the canon 1722 restrictions.[3]

However one might interpret the CDF's reply that Los Angeles is free to handle the matter administratively, any such administrative procedure cannot be *penal* since no penal action was authorized by CDF. While a priest may not have a right to an assignment, and a bishop may assign him administratively wherever the bishop wishes, a priest does have a right to the exercise of his priesthood and any deprivation of that right in its entirety would constitute an unlawful permanent penalty, as well as a right to his good reputation.

I take this opportunity to make one correction in the transcript of our meeting of March 23, 2009. On page 10 line 8: what reads "what he may or may not have done as a matter of the internal forum" should read "what he may or may not have done is a matter of the internal forum."

Respectfully and sincerely yours.
REDACTED

cc: His Eminence Roger Cardinal Mahony
REDACTED

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[2] In explaining the Cardinal's concern in our March 23 meeting, Father REDACTED confirmed that no canonical delict was committee but adds "what does remain problematic in this case is the age of the victim ("accuser" would be more accurate) at the time of the alleged activity because civilly, she may have been a minor...this puts the Cardinal in the position of dealing with the question of returning someone to ministry who may have been guilty of (sexually abusing) a civil minor." The fact of her being a minor even in civil law has not been proven and is a fact that the accuser had the burden of proving before any penal action could be taken against Father REDACTED in any forum, canonical or civil. One cannot be punished for what "may have been" or for "what may have happened". Furthermore the only issue in this case is canonical and must be resolved only by canon law. Any practical concern involved in carrying out justice according to law, as much as one may appreciate those concerns, cannot trump the obligation of a judge to administer justice according to the law and the evidence.

[3] Canon 1722 provides that restrictions cease by virtue of the law itself when the reasons for which they were placed cease. It also provides, however, that the restrictions should be revoked.

RCALA 002575

CONFIDENTIAL & PRIVILEGED
INVESTIGATIVE REPORT
ATTORNEY CLIENT WORK PRODUCT

[redacted]

To: REDACTED
Monsignor Gabriel Gonzales, vicar for clergy

From: REDACTED

Re: Canonical Investigation of Father Walter Fernando

Father Walter Fernando's accuser REDACTED did receive remuneration as part of the global settlement. Under the settlement protocol that amount is confidential.

Ms. REDACTED's attorney, REDACTED has not responded to follow up written requests or telephone messages regarding contacts with REDACTED 's family members for interviews as requested by the Clergy Misconduct Oversight Board. This fall, when Ms. REDACTED was spoken to by REDACTED and REDACTED and asked to contact the REDACTED family, she indicated that she was not optimistic that the family would make themselves available. Also from her memory she was not aware of any other information she might have pertinent to the canonical investigation of Fernando which was not previously shared with the Archdiocese.

REDACTED , the Archdiocese's counsel in the settlement, has advised there is nothing in their file regarding Fernando that the Archdiocese is not aware of that is germane to this matter.

REDACTED

This email may contain information that is privileged or confidential. If you are not the intended recipient, please delete the email and any attachments and notify us immediately. Thank you.

From: REDACTED
Sent: Sunday, December 14, 2008 6:15 PM
To: REDACTED
Cc: CMOB REDACTED
Subject: FERNANDO FOLLOW UP INVESTIGATION

REDACTED

Not mad at you, but you are the only person I can go to on this. I reviewed REDACTED follow-up investigation report on Fernando (attached) and it leaves a lot to be desired.

1. You and I agreed that the settlement amount was confidential. However, we also agreed that we need to know where it fits in relation to the median payment.

2. Calling the complainant's attorney "this fall" and being told she was "not optimistic" hardly constitutes a refusal. Somebody needs to tell us no. Additionally, I recognize the need to go through the attorney to speak to the complainant, but why do we have to work through her to talk to everyone else? All we want to know is if the mother, brother or sister can corroborate the complainant's dates with Fernando.

3. REDACTED says there is nothing in their file--nice, clean, definitive. But, on REDACTED the report says, "from her memory she was not aware of any other information she might have pertinent to the canonical investigation of Fernando which was not previously shared with the Archdiocese." From her memory? The idea is to make sure someone doesn't come up with a smoking gun a day after a decision is made and we did nothing to try and find it. How could this statement possible prevent that?

I absolutely guarantee that if I take this to the CMOB it will be returned for further investigation. I know you weren't there, but everyone at the meeting last March agreed that these things needed to be done before we ask the Cardinal to make a decision on this important case.

REDACTED

CONFIDENTIAL & PRIVILEGED
INVESTIGATIVE REPORT
ATTORNEY CLIENT WORK PRODUCT

December 15, 2008

Re: Canonical Investigation of Father Walter Fernando

To: REDACTED
Monsignor Gabriel Gonzales, vicar for clergy

From: REDACTED

On December 15, 2008, REDACTED returned the writer's call. She was asked if her law firm had any information regarding Father Walter Fernando that had not already been given to the Archdiocese that is pertinent to his canonical investigation. She replied that she had provided the Archdiocese everything as is her firm's policy.

It was also explained that the Clergy Misconduct Oversight Board wanted to know if any member of REDACTED 's family recalled how many times Fernando picked up REDACTED at the family home. Freberg advised she would call REDACTED to determine this and call back either the writer or REDACTED with this information.

REDACTED

(3)

REDACTED

From: REDACTED
Sent: Monday, March 09, 2009 9:36 AM
To: REDACTED Gonzales, Msgr. Gabriel
Subject: FW: RE: FERNANDO FOLLOW UP INVESTIGATION

REDACTED

#4 and please keep this one [redacted] pretty candid regarding the quality of the investigation and wouldn't want the FBI guys getting mad about it.

REDACTED

---- Original Message ----
From: REDACTED
To: REDACTED
Sent: 12/16/2008 5:16:24 PM
Subject: RE: FERNANDO FOLLOW UP INVESTIGATION

Confidential

Thoughts on the matter: I think REDACTED was likely trying to bring you up to date and tie up loose ends as he could before the end of the year. I also know that REDACTED is not one to dig in her files at this time: she has much too much money in the bank and in her art collection to work (these days her office is an answering machine), but I do take her at her word that she provided what she had. That has been our experience with her.

Also, though, she has been cooperative even from her semi-retirement. I called REDACTED yesterday from her cell phone and agreed to contact REDACTED to see if there is someone who can be interviewed to confirm REDACTED reports on the frequency of her contacts with Walter Fernando.

She received a settlement at the median level, but I am very reluctant to have your board make decisions using that fact since the amount awarded to a plaintiff frequently said more about a lawyer's skills/negotiating tenacity and status among the counsel group than it did about the claims (as I can say from looking at how the plaintiffs' lawyers split the pie in all of the 500+ cases)

Best I can do now.

Best, REDACTED

REDACTED
REDACTED
Archdiocese of Los Angeles
3424 Wilshire Boulevard
Los Angeles, CA 90010-2202
REDACTED
(213) 637-6123 Fax

3/9/2009

FILE COPY

REDACTED

Archdiocese of Los Angeles

3424 Wilshire Boulevard Los Angeles California 90010-2202

25 March 2009

REDACTED

Dear Mr. REDACTED

Enclosed is a copy of the transcript of our meeting this past Monday with Father Fernando and others.

Please review it for accuracy and advise me of any corrections that you think may be necessary. I have not yet reviewed it myself, so I will do the same and advise you of any changes that I think may be needed.

Since the proceedings were not under oath, I did not think it was necessary to send you the original for your client's signature. If you have any concerns, do not hesitate to let me know.

The advisory board met this morning and discussed other items since there was not enough time to review the material just received regarding Father Fernando's case. The next meeting of the board is now scheduled for Tuesday, 21 April. It will be tight, but this should give us just enough time to make the deadline in replying to Rome.

Thank you for your assistance in helping us resolve this matter.

Sincerely in Christ,
REDACTED

Copy: Msgr. Gabriel Gonzales, Vicar for Clergy

From: Gonzales, Msgr. Gabriel
To: REDACTED
Cc:
Date: 3/17/2009 5:06:58 PM
Subject: FW: REDACTED

REDACTED *this is simply for your information. We don't expect you on the call.)*

REDACTED

As previously mentioned in my messages to you, we are scheduled for a telephone conference call tomorrow, Wednesday, at 10 am. I will initiate the phone calls.

REDACTED do you prefer that I use something other than your cell phone?

REDACTED, I will use your "office" phone number.

Here are the email messages between REDACTED and REDACTED There are some questions she raises that are rather straightforward and we can easily handle – as in the most recent email.

However, as you will see, there are substantive policy questions that she raises down below for our telephone discussion for which we need to provide a response.

As a reminder, we try to keep emails for content.

Thanks, and we'll be in touch at 10 tomorrow.

Gabe

From: REDACTED
Sent: Tuesday, March 17, 2009 11:42 AM
To: C. J. Ruona
Cc: Gonzales, Msgr. Gabriel; REDACTED
Subject: Re: REDACTED

Dear REDACTED,

I talked to REDACTED. She has 3 questions:

1. Where is Fernando?
2. Is Fernando still in ministry, in any way, shape or form?
3. Is Fernando still working with children?

Please let us know.

REDACTED

> ----- Original Message -----
> **From:** REDACTED
> **To:** REDACTED
> **Cc:**

REDACTED 3/18/2009

Sent: Monday, March 16, 2009 12:49 PM
Subject: Fw: REDACTED

REDACTED

If you can obtain the information as requested and advise me this should suffice and I will not need to contact REDACTED

Thank you for your help.

REDACTED

----- Original Message -----
From: REDACTED
To: REDACTED
Cc:
Sent: Saturday, March 14, 2009 3:34 PM
Subject: Re: REDACTED

REDACTED

I also thank you for your response.

Regarding REDACTED I have been requested by the Board, as I indicated earlier, to try and determine if anyone recalls Father Walter Fernando picking REDACTED up at the family residence. If someone does remember this we want to know any particulars such as how many times; what comments REDACTED might have made to him/her, if any; etc. I realize these events occurred in 1981 but if there is someone who recalls them the Board wants me to interview him/her. I believe that if you ask REDACTED and she assures you that nobody recalls these incidents, and you advise me, that this might suffice. I will try to obtain clarification as whether this will be enough or they feel my personal contact is necessary and then e-mail you. I would hope to have an answer for you regarding this by Monday.

Regarding your other points. I am an investigator retained by the Archdiocese to assist in obtaining information to facilitate their decision making. I do not make any decisions but by your copying REDACTED and Monsignor Gabriel Gonzales you have communicated with two of the correct people to provide you with answers. From REDACTED response I see that she has apparently already begun that process.

I look forward to your response regarding REDACTED and assure you that I also will relay your concerns to the Board and other appropriate individuals.

REDACTED

----- Original Message -----
From: REDACTED
To: REDACTED
Cc: Gonzales, Msgr. Gabriel ; REDACTED
Sent: Saturday, March 14, 2009 11:46 AM
Subject: RE: REDACTED

REDACTED –thanks for the response and the thoughtful comments... I will be sure that the correct persons process them and get back to you...cannot predict what will be the response, but I will take personal responsibility to get you one.

Best, REDACTED

From: REDACTED
Sent: Saturday, March 14, 2009 8:49 AM
To: REDACTED
Cc: Gonzales, Msgr. Gabriel; REDACTED
Subject: Re: REDACTED

REDACTED

I have left messages with REDACTED and will let you know when she calls back. As we discussed, I am sure the church is aware of just how fragile REDACTED is, and yet the Board insists that it needs this information to deal with Fernando? If some family member provides information that Fernando picked up REDACTED at the house, will that be sufficient for the Board to finally deal with Fernando? Please get the answer to this question so that I can tell REDACTED

As I told you, my clients and I are extremely frustrated and upset with this whole process. What has happened with Fr. REDACTED? The church had information on him for many years (look at the proffer), REDACTED has fought and fought for his laicization, and yet we learn that he is still in ministry (with limited facilities). Unbelievable. What has happened with Fr. REDACTED? Is he also still in ministry?

You have no idea of what I have to deal with on my end, with victims putting themselves out to the Board to help, and then see nothing happen. Has the Oversight Board had the decency to contact these victims to let them know the status of the investigations? Has the Board met in person with a single victim in all of their investigations? I don't believe so, and I have actually begged the Board (through REDACTED, the church's prior attorney) in the past to do so. I believe that this simple change in the Board's process will provide answers to many of the Board's questions. Please check with the Board to see if this can this be done.

REDACTED

----- Original Message -----

From: REDACTED
To: REDACTED
Cc: Gabriel Gonzales ; Grat, Marge
Sent: Thursday, March 12, 2009 1:19 PM
Subject: REDACTED

REDACTED

REDACTED

I left a telephonic message for you on March 10th but I do not know if you are in the vicinity so suggested that I e-mail you.

If you recall we spoke on December 15, 2008, regarding you contacting REDACTED to determine who in her family might be able to provide insight on her relationship with Father Walter Fernando. Specifically if anyone recalls Fernando picking up REDACTED at the family home & any specifics they recall.

This is to resolve the matter canonically & those involved hope to do this later this month. I appreciate anything you can do and if you are otherwise unable to respond by Friday March 13th I will try to contact REDACTED on the telephone.

Thank you for your assistance in this matter.

REDACTED

CONFIDENTIAL & PRIVILEGED
INVESTIGATIVE REPORT
ATTORNEY CLIENT WORK PRODUCT

December 11, 2008

To: REDACTED
Monsignor Gabriel Gonzales, vicar for clergy

From: REDACTED

Re: Canonical Investigation of Father Walter Fernando

Father Walter Fernando's accuser REDACTED did receive remuneration as part of the global settlement. Under the settlement protocol that amount is confidential.

Ms. REDACTED s attorney, REDACTED has not responded to follow up written requests or telephone messages regarding contacts with REDACTED s family members for interviews as requested by the Clergy Misconduct Oversight Board. This fall, when Ms. REDACTED was spoken to by REDACTED and REDACTED , and asked to contact the REDACTED family, she indicated that she was not optimistic that the family would make themselves available. Also from her memory she was not aware of any other information she might have pertinent to the canonical investigation of Fernando which was not previously shared with the Archdiocese.

REDACTED , the Archdiocese's counsel in the settlement, has advised there is nothing in their file regarding Fernando that the Archdiocese is not aware of that is germane to this matter.

REDACTED

3-9-09-

① MEMO REDACTED 12-15-08-
1- NO INFO IN FILE
2- FAMILY MEMBER

② CIR FM VATICAN MAY 14 EXTENSION

① REDACTED CONTACT FAMILY

② I/U FERNANDO (CLOSE 103-25)

③ CMOB

④ REDACTED MT W/ FERNANDO

DEC FIU INV

Subject: RE: FERNANDO FOLLOW UP INVESTIGATION
From: REDACTED
Date: Tue, 16 Dec 2008 16:16:21 -0800
To: REDACTED

Confidential

Thoughts on the matter—I think REDACTED was likely trying to bring you up to date and tie up loose ends as he could before the end of the year. I also know that REDACTED is not one to dig in her files at this time...she has much too much money in the bank and in her art collection to work (these days her office is an answering machine), but I do take her at her word that she provided what she had....as that has been our experience with her.

Also, though, she has been cooperative even from her semi-retirement....and called REDACTED yesterday from her cell phone and agreed to contact REDACTED to see if there is someone who can be interviewed to confirm REDACTED re[orts on the frequency of her contacts with Walter Fernando.

She received a settlement at the median level...but I am very reluctant to have your board make decisions using that fact since the amount awarded to a plaintiff frequently said more about a lawyer's skills/negotiating tenacity and status among the counsel group than it did about the claims (as I can say from looking at how the plaintiffs' lawyers split the pie in all of the 500+ cases)

Best I can do now.

Best, REDACTED

REDACTED

Archdiocese of Los Angeles
3424 Wilshire Boulevard
Los Angeles, CA 90010-2202
REDACTED
(213) 637-6123 Fax

This email may contain information that is privileged or confidential. If you are not the intended recipient, please delete the email and any attachments and notify us immediately. Thank you.

From: REDACTED
Sent: Sunday, December 14, 2008 6:15 PM
To: REDACTED
Cc: CMOB REDACTED
Subject: FERNANDO FOLLOW UP INVESTIGATION

REDACTED

Not mad at you, but you are the only person I can go to on this. I reviewed REDACTED follow-up investigation report on Fernando (attached) and it leaves **a lot** to be desired.

1. You and I agreed that the settlement amount was confidential. However, we also agreed that we need to know where it fits in relation to the median payment.

2. Calling the complainant's attorney "this fall" and being told she was "not optimistic" hardly constitutes a refusal. Somebody needs to tell us no. Additionally, I recognize the need to go through the attorney to speak to the complainant, but why do we have to work through her to talk to everyone else? All we want to know is if the mother, brother or sister can corroborate the complainant's dates with Fernando.

3. REDACTED says there is nothing in their file--nice, clean, definitive. But, on REDACTED the report says (and this is my personal favorite), "from her memory she was not aware of any other information she might have pertinent to the canonical investigation of Fernando which was not previously shared with the Archdiocese." From her memory??????? The idea is to make sure someone doesn't come up with a smoking gun a day after a decision is made and we did nothing to try and find it. How could this statement possible prevent that?

I've had folks try to blow me off before, but never quiet as blatant as this. I absolutely guarantee that if I take this to the CMOB it will be returned for further investigation. I know you weren't there, but everyone at the meeting last March agreed that these things needed to be done before we ask REDACTED REDACTED to make a decision on this important case.

REDACTED

CONFIDENTIAL & PRIVILEGED
INVESTIGATIVE REPORT
ATTORNEY CLIENT WORK PRODUCT

December 11, 2008

To REDACTED
Monsignor Gabriel Gonzales, vicar for clergy

From REDACTED

Re: Canonical Investigation of Father Walter Fernando

Father Walter Fernando's accuser REDACTED did receive remuneration as part of the global settlement. Under the settlement protocol that amount is confidential.

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THAT'S NOT "NO"

REDACTED, the Archdiocese's counsel in the settlement, has advised there is nothing in their file regarding Fernando that the Archdiocese is not aware of that is germane to this matter.

REDACTED

(3)

Subject: FERNANDO CASE
From: REDACTED
Date: Wed, 02 Apr 2008 19:04:08 -0700
To: CMOB Kit Ruona <cjruona@cox.net>
CC: CMOB Msgr Gonzales <msgrggonzales@la-archdiocese.org>REDACTED
REDACTED

REDACTED
:

Per our conversation at this morning's meeting, here are the follow up items on the Fernando case:

1. Was this case part of the recent civil settlement and, if so, how much was paid to his victim?
2. Does the victim's attorney have any information we need to consider?
3. Does the Archdiocese attorney have any information we need to consider?
4. Can the complainant's mother, sister or brother corroborate the number of "dates" she had with Fernando?

When these questions have been answered, please forward the investigative report to REDACTED and he will agendize the matter for CMOB's consideration.

Thanks,
REDACTED

CONFIDENTIAL & PRIVILEGED
INVESTIGATIVE REPORT
ATTORNEY CLIENT WORK PRODUCT

PG 7 - COPS IN PHONE CALL
PG 8 - SUMMARY ?

January 23, 2004

Canonical Investigation of Father Walter Fernando
CMOB-027

Report of REDACTED, canonical auditor

REDACTED made an accusation of sexual abuse against Father Walter Fernando to the Los Angeles Police Department (LAPD) in April 2002. REDACTED has never personally lodged a complaint with the Los Angeles Archdiocese but the office of her attorney REDACTED communicated it to the Archdiocese. Based on her accusation the following individuals were interviewed and records were reviewed between January 14, 2004, and January 27, 2004:

1. REDACTED Los Angeles Archdiocese
2. Father REDACTED, Long Beach Memorial Hospital, Long Beach, New York
3. Father REDACTED Our Lady of Lourdes Church
4. REDACTED of REDACTED
5. REDACTED REDACTED at Saint Hilary's Church
6. REDACTED at Saint Hilary's Church
7. REDACTED at Saint Hilary's Church
8. Sister REDACTED at Saint Hilary's Grammar School
9. REDACTED at Saint Hilary's Church rectory
10. REDACTED Nativity Church
11. REDACTED at Saint John Baptist de la Salle Church
12. Father REDACTED at Saint Bernardine of Siena Church
13. Father at Our Lady of the Rosary Church
14. Lieutenant Dennis Shirey, LAPD, Officer in Charge, Juvenile Division
15. Officer James Brown, LAPD, lead detective Cleric Abuse Task Force
16. Monsignor Craig A. Cox, Vicar for Clergy

Fernando is a 59-year-old Sri Lankan-American who was ordained in Sri Lanka in 1973 and came from Sri Lanka to the Los Angeles Archdiocese in 1981. His initial assignment in the Archdiocese was at Saint Hilary's Church in Pico Rivera, reporting March 1, 1981. He served there until November 29, 1981, and was then transferred to Saint John Baptist de la Salle where he served until July 31, 1986. Since then he has served at four other parishes in the Archdiocese and has not had any complaints lodged against him other than the one that is the subject of this report. He has been an associate pastor at each of his assignments.

The allegations made by REDACTED against Fernando are contained in a Complaint filed in Los Angeles County Superior Court on December 3, 2003. Pertinent parts of the complaint state:

1. REDACTED was a minor during the alleged acts perpetrated upon her.
2. She alleges Fernando molested minor parishioners and that the Archdiocese was aware of it.
3. The specific acts involving Fernando and her included:
    a. French kissing
    b. Hugging
    c. Fondling buttocks over clothing
    d. Rubbing and massaging breasts and body
    e. Kissing neck, face and breasts
    f. Digital vaginal penetration
    g. Forced masturbation of Fernando
    h. Attempted forced oral copulation of Fernando
    i. Sexual grooming

A request has been made to REDACTED for an interview of REDACTED by a representative of the Archdiocese, preferably one of the investigators. This is one of the recommendations of the Clergy Misconduct Oversight Board, however, despite initially indicating she might allow this REDACTED has not at this time.

REDACTED's Certificate of Baptism certifies that she was born on REDACTED

REDACTED was married to REDACTED on December 23, 1986, and they separated on May 31, 1991. On April 10, 1992 their divorce became final. There were three daughters as a result of this union and REDACTED REDACTED

Fernando advised Monsignor Craig A. Cox that the LAPD wanted to talk to him (Fernando) while both were at Saint John's Seminary attending a continuing education week the first week of June 2002. He told Cox that about 20 years ago he crossed boundaries with a woman interested in entering the convent. They went to a movie together and he put his arm around her. She later entered the convent but left within a few years.

Sometime after this the archdiocese became aware that REDACTED was making an allegation against Fernando and based on this he was interviewed by Cox and Father REDACTED REDACTED on February 12, 2003. Prior to this interview Fernando retained REDACTED as his attorney and although he answered all questions pertaining to him personally and historically he acted on REDACTED advice and refused to answer questions regarding the allegations made against him by REDACTED noted that Fernando's demeanor was cordial and cooperative and that he exhibited an appropriate level of concern. Later in letters dated March 7, 2003, and May 8, 2003, that Fernando addressed to Cox he denied "each of the specific behaviors alleged." He also wrote, "I absolutely affirm that I have obeyed my vow of celibacy".

On January 21, 2004, Monsignor John A. (Archie) Rawden (retired) was telephonically contacted. He stated that in 1981 he was the Chancellor for the Archdiocese and responsible for the transfers of the priests. At that time he lived in the rectory of Immaculate Conception Church which was across the street from where the chancery. It was a large rectory and often priests coming into the Archdiocese stayed there prior to being assigned to a parish. He could not recall Fernando.

On January 16 and 17, 2004, Father REDACTED (not related to Walter) was telephonically interviewed. He is currently REDACTED at Our Lady of Lourdes Church and advised that he has known Father Walter Fernando for about 35 years, since their days in the seminary in Sri Lanka. He has always known him to be an honorable man both in Sri Lanka and in the United States. He (REDACTED preceded Walter in coming to America and when Walter arrived they spent a good deal of time together. He and his brother Father REDACTED would spend each Wednesday with Walter, as that was their day off then. Walter did not have a California driver's license for several months after he arrived and they drove him to various locations around Southern California. They often visited and had dinner at other Sri Lankan homes in the area. Walter was initially assigned to Saint Hilary's in Pico Rivera but as he recalls he did not stay there as long as it was originally intended. The reason for this might have been because of his surname he was believed to be a Spanish speaker and he was not. He was then transferred to Saint John Baptist de la Salle in Granada Hills. He does not recall any parishioners at Saint Hilary's that Walter was close to or spoke about and the name REDACTED means nothing to him. Nor does he recall Walter mentioning any Saint Hilary parishioner visiting him at Saint John's. He described Walter as a reserved soft-spoken person that in his opinion would not force himself on anybody or in any way violate his vows. He was very surprised to hear that Walter was accused of any impropriety. He believes that the first summer Walter was in America another Sri Lankan priest, REDACTED visited this country and they traveled together. REDACTED is now a bishop in Sri Lanka and he has a cousin that lives in the Torrance area named REDACTED whom they visited her on occasion back then. He advised his brother is now in ministry in New York.

On January 20, 2004, Father REDACTED (not related to Walter) was telephonically interviewed. He is currently the REDACTED at Long Beach Memorial Hospital, Long Beach, New York, and resides in the rectory at Saint Ignatius Church in Long Beach, New York. He stated that he was assigned to Saint Michael's Church in Los Angeles in 1981 when Father Walter Fernando arrived from Sri Lanka. He knew Walter in Sri Lanka and knows that he had a good reputation there. He knows this because there is only one seminary in the country and relatively few priests and if someone does something untoward it becomes known throughout the religious community. Also the Bishop would not have written a letter of recommendation for him, which was required. He (REDACTED) came to the U.S.A. in 1976 for a change and a more challenging ministry. He explained that Sri Lanka is a small country with few opportunities and he came here to broaden his experiences within the Church. He believes Walter came for the same reasons but probably with a bit of apprehension since he was leaving all of his family and most of his friends. When Walter arrived in Los

Angeles he stayed at the Immaculate Conception rectory with Monsignor Archie Rawden. He was then sent to Saint Hilary's. He remembers that Walter did not drive at that time since he did not have a California driver's license and he and his brother, Father REDACTED would drive to Walter's church and pick him up each Wednesday their day off. They would visit other Sri Lankans that resided in the area and frequently have dinner in their homes. One of these was REDACTED whose cousin, REDACTED is now a Bishop in Sri Lanka. In 1981 he was a priest from the same diocese as them in Sri Lanka and he visited the United States. REDACTED and Walter traveled to the Grand Canyon that summer as well as other places but he could not recall exact times and places. He was very surprised when he heard of the allegations made against Walter as he has always been a quiet gentleman and has a reputation for that. He never did anything indiscreet while they were together and he reiterated they spent a good deal of time together in 1981. He cannot remember Walter ever mentioning REDACTED or any other parishioner from Saint Hilary's nor does he recall him ever mentioning a former parishioner visiting him after he was transferred to Saint John's.

On January 21, 2004, REDACTED was telephonically interviewed and advised she knows Father Walter Fernando and recalls that he and her cousin REDACTED took a vacation together in 1981 when REDACTED visited the United States. She cannot remember the dates they traveled but believes they visited the Grand Canyon and Las Vegas. Back then she frequently saw the Sri Lankan priests that lived in the Los Angeles area, including Fernando, and they were all good men. She could offer no other information of value.

On January 17, 2004, REDACTED was telephonically interviewed and on January 20 was personally contacted at Saint Hilary's. She is currently teaching at Saint Benedict's Grammar School in Montebello but has been employed at Saint Hilary's in some capacity, part time or full time since 1985. In the mid-1980s she worked in the office and now does some secretarial work and maintains the archived records of the parish. Although she was not working in the parish when Walter Fernando was an Associate Pastor at Saint Hilary's she was a parishioner and remembers him. She also knew REDACTED as they both were in the parish youth choir. REDACTED played the flute in the choir. This was after REDACTED graduated from high school and before she went into the convent. After she left the convent REDACTED re-joined the group. Before REDACTED graduated from high school and joined the choir she worked in the rectory part-time answering the telephones and the door. This was on the weekends and in the early evenings. A search of pay records failed to locate any for REDACTED which makes REDACTED believe that since she was part-time she was paid in cash and no records were maintained. REDACTED described REDACTED as a needy person who had a troubled family life. She seemed lonely and REDACTED 's family was uninvolved with her activities. REDACTED also said that REDACTED has had financial problems for years. Less than two years after leaving the convent REDACTED was married and it might have been to the first person she dated. REDACTED did not believe the marriage lasted four years and REDACTED had three daughters as a result of it. REDACTED told REDACTED that her husband was having an affair and that after the divorce she felt like a failure again and questioned where to go from there. REDACTED never mentioned Fernando to her or anyone else as far as she knows. She remembered Fernando as a gentle, reserved, docile person

and felt if anything did occur between REDACTED and him she probably instigated it. If he made any advances on her REDACTED feels REDACTED would have told someone. She cannot recall any birthday or any other type party for REDACTED in the rectory. She has not seen REDACTED in over a year and does not know where she is living or if she is employed. She does know one of her daughters has a serious health problem. Her daughters went to Saint Hilary's school at one time. REDACTED was the parish secretary in 1981 but she is now very elderly and feeble. In 1985 REDACTED became the parish secretary and REDACTED later met her when both had children in school at Saint Hilary's. REDACTED is the current parish business manager and does not know REDACTED personally but requested REDACTED locate old pay roll records for her. She does not know who asked REDACTED to provide them. She also checked parish records dating back to 1981 for vehicles, expenses, retreats, training or anything else regarding Fernando with negative results. The only thing she could locate from that time period were Sunday parish bulletins. The full time rectory employee at that time was REDACTED who is now deceased. REDACTED REDACTED also worked as a junior, or part-time, secretary the same time that REDACTED did and she also played guitar in the youth choir. She might be able to provide some information. REDACTED mother REDACTED was the housekeeper in 1981 and is now 84 years old and residing at Nazareth House. She might remember something, as she knew both REDACTED and Fernando. She frequently talked to REDACTED and was fond of her and never mentioned to REDACTED that REDACTED had a relationship with a priest. Her mother was the only person other than the priests that was allowed in their private quarters and she would not allow anyone else to violate their space.

On January 20, 2004, the Saint Hilary's Sunday Parish Bulletins for 1981 were reviewed. The March 8th one welcomed Fernando to the parish. On April 26 his name is listed on the cover as a parish priest. On November 29th it announces he is being transferred to Saint John's. On December 13th he is no longer named on the cover as a parish priest. The bulletins for that year indicate that Father REDACTED was REDACTED and that REDACTED were Father REDACTED and Father REDACTED REDACTED is deceased and REDACTED left the Archdiocese May 23, 1985, apparently to return to his Diocese in Enugu, Nigeria. Parish records reflect REDACTED married REDACTED on February 21, 1987, and the marriage was declared null and void on April 12, 1994.

On January 16, 2004, Father REDACTED at Our Lady of the Rosary Church, was telephonically contacted. He advised that he was an associate pastor at Saint Hilary's in 1981 and remembers Father Walter Fernando there. He recalled Fernando as a hard working priest that was very gentle and quiet and definitely never saw him do anything of a suspicious nature. He could not remember anyone in the parish that Fernando was particularly close to. He had recently come from Sri Lanka and he socialized with other Sri Lankan priests on his day off. He recalls that they came to pick him up and that they would go to various places in the area. He cannot recall if Fernando was assigned a vehicle but believes that he probably was. He did not recall when Fernando's vacation was or if he took a parish car when he went. He did not remember REDACTED

On January 21, 2004, Sister REDACTED , principal of Saint Hilary's School was telephonically contacted. She advised that REDACTED did not attend Saint Hilary's School but that her children did for a period of time. She knew her as a parent of a student and nothing more. Her children were withdrawn from the school she believes for financial reasons.

On January 21, 2004, REDACTED Saint Hilary's Church, was telephonically contacted. She advised she does not know Father Walter Fernando or REDACTED She learned of REDACTED's name in this matter from her pastor and advised that a state agency had requested payroll records for REDACTED in July 2003 but there were no records.

On January 21, 2004, REDACTED was interviewed at Nazareth House. She advised that she was the housekeeper at the rectory of Saint Hilary's Church when Father Walter Fernando was assigned there. He was a very quiet nice man who she liked a lot. He related well to the parishioners and they liked him. REDACTED was a junior secretary in the rectory and answered the telephone and the front door. She was in high school and worked part-time. She was a hard worker and helped to support her family. Before she entered the convent she discussed it with Father REDACTED and he later told REDACTED that he did not think she would make it in religious life. REDACTED is now an interpreter in the court system in Los Angeles and she believes that REDACTED continues to help support her parents. She knew of no connection between Fernando and REDACTED Nobody was allowed in the priests' quarters but her, not even the parish secretary. She did not remember any type party for REDACTED in the rectory.

On January 21, 2004, REDACTED was interviewed at the Nazareth House. He remembered Father Walter Fernando as one of his associate pastors at Saint John's and that he was an excellent, obedient young man. He was given the hospital ministry and worked very hard at it. He has no recollection of anything that would reflect poorly upon Fernando. The only female he remembers visiting Fernando was another Sri Lankan. He characterized him as "one of my prized young men."

On January 21, 2004, Father REDACTED , was telephonically interviewed. He is currently pastor of Saint Bernardine of Siena Church and was an associate pastor at Saint John's in 1981 when Father Walter Fernando arrived. He was a very reserved gentleman and he was never suspicious of Fernando for any reason. He has called appropriate people for the activities of others over the years but not Fernando. He cannot recall any parishioners from Saint Hilary's visiting Fernando at Saint John's.

On January 21, 2004, REDACTED of Nativity Church, was telephonically interviewed and advised he was the Vicar for Clergy in 1990 and 1992 when Father Walter Fernando was transferred from Cathedral Chapel and Saint Gregory the Great Churches after what appears to be abbreviated stays. He could not recall why these transfers were made but is certain that if there was a serious problem behind them it would be noted in Fernando's file.

On January 22, 2004, a meeting was held with LAPD Lieutenant Dennis Shirey, Officer in Charge of the Juvenile Division and LAPD Officer James Brown senior detective of the cleric abuse task force. They advised they were not at liberty to release any portions of their case relating to Father Walter Fernando including the transcript of the monitored telephone call between Fernando and REDACTED This would be against their policy and could be harmful to a future case if another victim comes forward since the REDACTED case can be used for corroboration. Due to the Stogner Decision Fernando will not be prosecuted in this matter but Brown opined that the telephone call corroborated REDACTED s claims. Brown will contact Deputy District Attorney William Hodgeman to obtain his opinion on allowing the transcript of the call to be viewed by the Archdiocese and advise once this decision is made.

On January 15, 2004, Sister REDACTED for Women Religious, advised in a memo that REDACTED entered the Daughters of Saint Paul in January 1983. After her postulancy she became a novice and then left the community on March 27, 1985.

On January 17 and 18, 2004, a statement was read at all week end Masses at Saint Hillary's that Father Walter Fernando was named in a law suit accusing him of sexual abuse while assigned to that parish. It requested any parishioner with information regarding this matter to contact the Archdiocese and left Monsignor Craig A. Cox's telephone number. No contact has been made.

On January 21, 2004, REDACTED parish secretary at Saint Hilary's from 1983 until 1998 advised that she had no information of value relating to this matter.

The February 2003 issue of the Los Angeles Lay Catholic Mission contains an article stating that the January 2nd Los Angeles Times named REDACTED as a sexual abuse victim handing out leaflets at the Sherman Oaks Galleria. The pamphlets informed victims of sexual abuse by priests that they could bring suit against perpetrators for the duration of 2003 and urged them to contact the Church.

On January 27, 2004, REDACTED of Colombo, Sri Lanka, e-mailed REDACTED the following information. He has known Fernando since 1964 and they attended the seminary together. Between roughly September 5th and 18th 1981 he and Fernando traveled by car to the Grand Canyon. They also spent time in Flagstaff, Arizona, and Las Vegas, Nevada, on the trip which took four or five days. Fernando was assigned to Saint John Baptist de la Salle at the time.

A public records database search was done on REDACTED and provided no information of value in this matter.

Analysis and Observations

This allegation was made 21 years after the act supposedly took place.

There are no independent witnesses named by REDACTED as having ever observed any of the alleged activities. Therefore much of the investigation set forth above revolves around character evaluation of the parties by those that knew them at that time as well as now.

REDACTED had a difficult childhood and as a young woman left religious life and had a failed acrimonious marriage.

She is raising three daughters at least one of which has a serious health problem.

She has had financial difficulties throughout her life.

Fernando was assigned to Saint Hilary's on March 1, 1981, and remained there until November 30, 1981.

Fernando did not drive for a couple of months after arriving at Saint Hilary's due to a lack of a valid driver's license.

Although the LAPD advised that in their opinion Fernando corroborated REDACTED 's allegations in the recorded telephone call Officer Brown on another occasion said the call "seemed to corroborate her account." HUH?

REDACTED s 18th birthday was REDACTED

No other complaints have been lodged against Fernando.

These issues have a bearing on this analysis but without more information it cannot be determined at this time, with any level of certainty, whether the alleged activities took place or not.

Timeline Regarding Father Walter Fernando

April 24, 1944…Walter Fernando born in Ragama, Sri Lanka

January 1, 1973…Fernando ordained for Diocese of Colombo, Sri Lanka

March 1, 1981…Fernando assigned to Saint Hilary's Parish, Pico Rivera

REDACTED REDACTED 18th birthday

November 29, 1981…Fernando leaves Saint Hilary's

November 30, 1981…Fernando assigned to Saint John Baptist de la Salle, Granada Hills

January 1983..REDACTED enters convent

March 27, 1985..REDACTED leaves convent

February 24, 1986…Fernando incardinated in Los Angeles

July 31, 1986…Fernando leaves Saint John's

August 1, 1986…Fernando assigned to Saint Rose of Lima, Simi Valley

December 23, 1987..REDACTED marriesREDACTED at Saint Hilary's

July 1, 1990…Fernando leaves Saint Rose

July 2, 1990…Fernando assigned Cathedral Chapel, Los Angeles

June 12, 1991..REDACTEDand REDACTED file for divorce

May 2, 1992…Fernando leaves Cathedral Chapel

May 3, 1992…Fernando assigned Saint Gregory the Great, Whittier

June 30, 1992…Fernando leaves Saint Gregory

July 1, 1992…Fernando assigned Assumption of the Blessed Virgin Mary, Pasadena

April 12, 1994..REDACTED marriage declared null and void by Catholic Church

April 2002..REDACTEDreports molestation to LAPD

May 2002..REDACTED makes monitored telephone call to Fernando

June 13, 2002…Fernando advises Monsignor Craig A. Cox LAPD wants to talk to him

August 18, 2002…Los Angeles Times article names Fernando as being under investigation

August 30, 2002…Officer Dale Barraclough advises Sister REDACTED LAPD has open case on Fernando

January 1, 2003… REDACTED identified in Los Angeles Times as abuse victim per February edition of the Los Angeles Lay Catholic Mission

January 1, 2003.. REDACTED appears on list of plaintiffs

January 22, 2003…CMOB discusses matter but has few facts and takes no action

February 12, 2003…Fernando interviewed by Cox and Father REDACTED

March 7, 2003…Fernando sends Cox letter denying most serious charges

March 26, 2003…CMOB discusses matter and requests more information be obtained

May 8, 2003…Fernando sends second letter to Cox denying all allegations

January 14, 2004…L.A. Times article details case against Fernando and that he is still in ministry

January 14, 2004…CMOB discusses matter and requests expedited investigation

FRANKED

ID	27
CMOB #	027
Case Name	No Complaint (Walter Fernando
Active Case?	☑
Cleric Name	Walter Fernando
Cleric Age	58
Cleric Ethnicity	Asian
Incardination	
Date Of Ordination	1973
Clergy Status	On Leave
Date Referred To Vicar	1/22/2003
Claimant	Minor Female
Date Of Alleged Incident	1980
Investigation Complete	☐
Investigator Name	
Date Investigation Initiated	
Date Investigation Completed	
Case Disposition	
Intervention	☐

MOLESTED GIRL WITH 17 -- ID ROME -- KICK BACK AS 17 ISN'T CANON LAW VIOLATION

① PG 7 - MARITOLD PHONE CALL, WE COPS OUT
② SHE IS CREDIBLE!
- PHONE TAPE YET?
- CIVIL SETTLEMENT?

Description

Age 58, born in Sri Lanka; ordained in 1973; currently an associate pastor. In June 2002 Fr. X informed V/C that two detectives had stopped by rectory looking for Fr. X while he was on vacation; they left a card but no information. Fr. X is concerned about a boundary crossing 20 yrs. ago with a woman interested in entering the convent. It involved placing an arm around her while watching a movie together. Woman entered convent for a time and left. She telephoned Fr. X a couple of years ago. There have been no complaints against Fr. X. LAPD states there is an open investigation.

New Allegations: Plaintiffs' attorneys supplied details of abuse of a young girl from 1980-81 including pre-sexual grooming, French kissing, hugging in sexual manner, fondling of minor's buttocks and rubbing/massaging of minor's breasts both over clothes and skin to skin; kissing neck, face & breasts, finger in minor's vagina, masturbation of perpetrator skin to skin, and tried to force oral copulation. Abuse occurred several times at the theater, in the car and at a park. Father denies specific allegations.

Case Status

January 22, 2003	The Board agreed that no action be taken until further information is provided.

March 26, 2003	The Board took a vote on the following two options: 1) To recommend immediate administrative leave; or 2) that the V/C office seek further information from Fr. X and the alleged victim, including, but not necessarily limited, to the victim's birth date, and report back as soon as possible, but in no event later than 60 days (the June 11, 2003 CMOB meeting). Of the remaining 9 members present, eight voted for option #2; there was one abstention.
April 29, 2003	Cardinal approves recommendation: "proceed forward at once."
January 14, 2004	Fr. X was identified as Father Walter Fernando in 01/14/04 L.A. Times article. Fr. submitted to a psych evaluation suggested by the Board. The Board recommended the following: (1) That Fr. Fernando not be placed on administrative leave at this time pending further & intense efforts to obtain additional to verify the truth of the allegations. He may yet need to be placed on leave depending on the results of the next two recommendations. (2) That the alleged victim be interviewed without delay. The Board was advised that her attorney has agreed to a limited interview. This interview should be scheduled as quickly as reasonably possible & should be conducted by Mr. REDACTED or another professional investigator. (3) That REDACTED REDACTED be authorized in his capacity as Chair of CMOB to write to Deputy D.A. William Hodgeman to obtain whatever materials have been developed by the police & the D.A. in the course of the investigation. (4) That REDACTED be authorized in his capacity as Chair of CMOB to write directly to plaintiff's counsel to request an interview with the alleged victim and/or enlist her cooperation & consent to the release of the information developed by the D.A. & the police if the interview & the request for information in Recommendations 2 & 3 are not forthcoming.
January 28, 2004	Msgr. Cox stated that announcements had been made at Fr.'s parish. The Board recommended that REDACTED should now write the letter to the plaintiff's attorney, REDACTED , to request an interview with her client and a copy of the telephone tape or transcript thereof; the letter to Mr. REDACTED should be deferred until Mr. REDACTED

February 11, 2004	The Board found that the statement made by Ms. REDACTED appears to be credible and is corroborated by her physical description of Fr.'s private living quarters at St. John Baptist de la Salle, that Ms. REDACTED was 17 yrs. old when some of the serious allegations occurred, that the actions complained of are clearly sexual abuse, & that the zero tolerance policy applies. The Board recommends that Fr. be immediately placed on administrative leave pending further investigation.
February 20, 2004	The Cardinal concurs with the recommendation.
February 25, 2004	Board was advised that Fr. was placed on administrative leave. V/C and REDACTED will meet with Fr. and his attorney soon to obtain a statement. An announcement was made in the parish.
April 14, 2004	LAPD has agreed to release the tape of the telephone conversation between Fr. & Ms. REDACTED if needed; however, Detective Brown of LAPD offered a statement about its contents as an alternative. Msgr. Cox said it appears it is incriminating & feels it best to interview Detective Brown at this time.
November 10, 2004	The case is being sent to Rome today.
September 14, 2005	Rome responede that at the time of the alleged incident, the claimant was 17 years old and not considered to be a minor by canon law that was in effect at that time. Therefore, this case is not under the jurisdiction of Rome. The responsibility for further action now rests with the Archdiocese. The V/C will meet with father and his advocate and confront him with the evidence
December 07, 2005	Msgr Cox and Fr REDACTED met with Father and advised him as to what the investigation had uncovered. The advocate has requested a copy of all the investigative documents.

2-04
CMOB:
CREDIBLE
ALLEGATION
ADMIN LEAVE

FR COPS OUT
ON TAPED PHONE
CALL

TO ROME, BUT
ROME RETURNS
IT AS IT ISN'T
CANON VIOLATION

Follow Up	Advocate's response to evidence
Follow Up Date	April 2006
Legal Proceedings	
Sent To Rome?	☐ ***Date Sent To Rome***
Canonical Trial	☐ ***Canonical Trial Date***
Canonical Disposition	
Page	2

WALTER FERNANDO – CMOB-027-01

UPDATED INFORMATION

Father was listed on list from plaintiffs' attorneys.

Abuse alleged by REDACTED as a minor from 1980 through 1981 occuring at the theatre, in the car and at a park. Abuse included French kissing, hugging in sexual manner; fondling of minor's buttocks both over clothes and skin to skin, rubbing and massaging of minor's breast both over clothes and skin to skin; kissing neck, face and breasts skin to skin; perpetrator put finger in minor's vagina; masturbation of perpetrator skin to skin; tried to force minor to oral copulation of him; pre-sexual grooming (special attention, movies, etc.)

02/12/03: Father was interviewed by Auditor (Fr. REDACTED) with Msgr. Cox present and the allegations stated in a print out were presented to him. Upon advice of his counsel, he stated he was present to listen and to take notes but not respond. He was cooperative and verified dates, history, etc. concerning his service as a priest.

02/13/03 Cardinal Mahony is advised.

03/07/03 Father responds to V/C in writing and denies any and all claims that he put his finger in her vagina, masturbated her and attempted to force her into oral sex. Letter does not mention other charges listed in print out.

New Allegations: Plaintiffs' attorneys supplied details of abuse of a young girl from 1980-81 including pre-sexual grooming, French kissing, hugging in sexual manner, fondling of minor's buttocks and rubbing/massaging of minor's breasts both over clothes and skin; kissing neck, face & breasts, finger in minor's vagina, masturbation of perpetrator skin to skin, and tried to force oral copulation, pre-sexual grooming. Abuse occurred several times at the theater, in the car and at a park. Father denies specific allegations.

WALTER FERNANDO – CMOB-027-01

Age 58 – born in Sri Lanka
Ordained 1973

Active service, Assoc. Pastor, Assumption of the Blessed Virgin Mary, Pasadena

Reported in LA Times article of August 25, 2002 that he was on inactive leave. LAPD investigating a claim that he fondled a teenage girl in the 1980's while serving at St. Hilary's in Pico Rivera. Denies allegations.

V/C corrected the information at CMOB meeting: He is still an associate pastor and no complaint has ever been received. He notified the Archdiocese that two detectives had been looking for him while he was on vacation in Sri Lanka. He did get an attorney. The Archdiocese will not put him on leave.

Sequence of events per file:

06/13/02: Memo to file from V/C re conversation with Father. Father informed V/C that he had learned from the parish secretary that while he was on vacation in Sri Lanka two detectives had stopped by the rectory looking for him. Father expressed a fear that he was under investigation. He stated apprx. 20 years ago he had crossed boundaries with a woman who was interested in entering the convent. The boundary crossing involved placing an arm around her while they saw a movie together. She did enter the convent for a time and then left. A couple of years ago this woman called him and they spoke by telephone. V/C suggested Father attend a workshop being given by atty[REDACTED] and chat with him afterwards to seek advice.

08/30/02 E-mail from Sr.[REDACTED] to Detective Barraclough regarding the LA Times article (8/25/02) and an announcement that will be read at the church correcting the information which stated Father was on inactive leave. The announcement will state he is in active ministry and the Archdiocese has not received any complaints about sexual misconduct.

Reply e-mail from Detective Barraclough: "We do have an open investigation on Walter Fernando."

09/03/02 Attorney-client communication – ltr from Father to Sr.[REDACTED] asserting legal rights re any files, reports, statements or communications.

09/30/02 Ltr of representation from atty[REDACTED] to Sr.[REDACTED] – objecting to release of any information.

CMOB-027-01: "No Complaint" – Age 58, born in Sri Lanka; ordained in 1973; currently an associate pastor. In June 2002 Fr. informed V/C that two detectives had stopped by rectory looking for Fr. while he was

on vacation; they left a card but no information. Fr. is concerned about a boundary crossing 20 yrs ago with a woman interested in entering the convent. It involved placing an arm around her while watching a movie together. Woman entered convent for a time and left. She telephoned Fr. a couple of years ago. There have been no complaints against Fr. LAPD states there is an open investigation.

LOS ANGELES POLICE DEPARTMENT

WILLIAM J. BRATTON
Chief of Police

ANTONIO R. VILLARAIGOSA
Mayor

P. O. Box 30158
Los Angeles, California 90030
Telephone: (213) 978-2100
TDD: (877) 275-5273
Reference Number: 14.4

RECEIVED
OCT 10 2008
BY:

October 7, 2008

Ms. REDACTED
3424 Wilshire Boulevard
Los Angeles, California 90010-2202

Dear Ms. REDACTED

I have reviewed your request for a copy of a tape recording of a May 24, 2002, telephone conversation between Father Walter Fernando and REDACTED

Please be advised that the audio tape recording of a telephone call between Father Fernando and Ms. REDACTED was generated to support the Los Angeles Police Department's investigation. In accordance with Government Code Section 6254(f), records of investigations conducted by, or investigatory files compiled by, any local police agency for law enforcement purposes, are exempt from disclosure. Your request seeks records that are either investigatory records themselves or properly part of an investigative file; therefore, I am denying your request. However, if your request is due to pending litigation, the document you are requesting may possibly be obtained through a court order.

If you have any questions regarding this correspondence, please contact Management Analyst Soon Kim of the Discovery Section at (213) 978-2155.

Very truly yours,

WILLIAM J. BRATTON
Chief of Police

RAYMOND D. CRISP, Senior Management Analyst
Officer-in-Charge, Discovery Section
Risk Management Group

DIOCESE	Los Angeles in California
NAME OF ORDINARY	Cardinal Roger M. Mahony
CDF PROT. N. (*if available*)	
NAME OF CLERIC	Reverend Walter Fernando

PERSONAL DETAILS OF THE CLERIC	**Date of Birth**	24 April 1944	**Age**	60
	Ordination	25 January 1973	**Years of ministry**	31

ORIGINAL DIOCESE OF INCARDINATION	Colombo, Sri Lanka
MINISTRY IN/TRANSFER TO OTHER DIOCESE	Los Angeles in California, incardinated on 24 February 1986
CONTACT ADDRESS OF THE CLERIC	REDACTED
PROCURATOR (*include original signed mandate*)	Mr. REDACTED
CONTACT ADDRESS OF THE PROCURATOR	

ASSIGNMENTS

Year	Parish	Location	Appointment
1973	St. Anthony	Kepungoda	Parochial Vicar
1974	St. Mary	Dehiwala	Parochial Vicar
1976	St. Thomas	Kotte	Parochial Vicar
1977	St. Cadjetan	Kotugoda	Parochial Vicar
1981	St. Hilary	Pico Rivera, California	Parochial Vicar
1981	St. John Baptist de la Salle	Granada Hills, California	Parochial Vicar
1986	St. Rose of Lima	Simi Valley, California	Parochial Vicar
1990	Cathedral Chapel	Los Angeles, California	Parochial Vicar
1992	St. Gregory the Great	Whittier, California	Parochial Vicar (Pro Tem)
1992	Assumption of the Blessed Virgin Mary	Pasadena, California	Parochial Vicar
2004			Leave of Absence

ACCUSATIONS AGAINST THE CLERIC

Year	Victim	Age	Imputable Acts	Denunciation
1981	REDACTED	17		2003

CIVIL PROCEEDINGS AGAINST THE CLERIC

Year	Type/Case	Conviction	Sentence (*include copies of civil documents*)
2002	Police Investigation and Grand Jury Subpoena	Dismissed	Case closed because of the expiration of criminal statute of limitations in accord with the Supreme Court Stogner case.
2003	Civil Lawsuit for Damages REDACTED	pending	

MEASURES ADOPTED BY THE DIOCESE

Year	
2003	Preliminary Investigation Initiated
2004	Father Fernando was placed on Administrative Leave

SUSTENANCE PROVIDED BY THE DIOCESE TO THE CLERIC

Father Fernando is living in an ecclesiastical house with his room and board provided. He continues to receive his salary and is covered by medical and other benefits. He has the same transportation provisions as a priest serving actively. He has requested and been granted loans for criminal defense.

RESPONSE/RECOURSE MADE BY THE CLERIC

Year	

BISHOP'S *VOTUM*

In this case, the alleged sexually abusive activities occurred while the 1917 Code of Canon Law was in force. The alleged misconduct did not violate canon 2359 of that Code because Ms. REDACTED was age 17, and hence not a minor at canon law. She was a minor in the law of the State of California and the alleged activity did amount to a crime in the law of the State.

Recognizing this reality, we are nonetheless seeking an ecclesiastical trial, not to impose a penalty but to declare the juridic fact (canon 1400, §1, 1°) of whether or not the alleged abusive conduct took place. The seriousness of the matter requires an unbiased determination with moral certitude of the facts of the matter, with all the protections for the rights of the parties that a trial affords.

If the judges conclude that Father Fernando perpetrated the alleged deeds, we would forward those results to the Congregation in order to consult how to proceed, perhaps in light of the provisions of canon 223, §2.

FERNANDO CASE

Promotoris Iustitiae Notes/Analysis/Recommendations

REDACTED — 21 Mar 07

ESSENTIAL TIMELINE

07 Aug 63: birthdate of REDACTED she turned 16 on REDACTED after which time she is no longer a minor in canon law; she turned 18 on REDACTED, after which time she is no longer a minor in civil law.

01 Feb 81: Father Walter Fernando (WF) arrives in Los Angeles from Sri Lanka and receives hospitality at Immaculate Conception parish in Los Angeles.

01 Mar 81: WF begins assignment at St. Hilary's in Pico Rivera, serving there nine months, through 29 Nov 81.

24 May 02: police record phone conv. betw. REDACTED and WF in which WF appears to admit that sexual activity took place betw. him and REDACTED when REDACTED was 17 years old (cf. documentation sent to CDF [d/CDF], pp. 102-103).

13 Jun 02: having learned that police detectives wished to talk with him, WF contacts Vicar for Clergy (V/C) seeking advice, as he thinks the matter might involve a situation from some 20 years earlier when he "crossed boundaries" with a young female parishioner (d/CDF, 1).

07 Mar 03: WF puts into writing categorical denial of REDACTED s claims that he put his "finger in her vagina, masturbated her, and attempted to force her into oral sex" (d/CDF, 16).

25 Apr 03: CMOB reports class-action lawsuit listing WF as having sexually abused a young girl in 1980-1981; WF denied allegations in writing, CMOB instructed REDACTED to obtain further info., incl. girl's age at time of alleged abuse (d/CDF, 17).

08 May 03: WF puts into writing denial of "having had any sexual activity with Ms. REDACTED . Although I do not know what allegations she might allege in the future, I absolutely affirm that I have obeyed my vow of celibacy" (d/CDF, 18).

09 Dec 03: lawsuit filed by REDACTED claiming sexual abuse by WF when REDACTED was a minor (d/CDF, 19-40).

14 Jan 04: CMOB seeks further info.; reports that it will not hesitate to recommend adm. leave if credible info. warranting such action is presented (d/CDF, 44-45).

16 and 17 Jan 04: canonical auditor (c/aud) interviews Father REDACTED (no relation to WF) who has known WF for about 35 years, since their seminary days in Sri Lanka. Fr. REDACTED reported that he spent a good deal of time w/WF after WF's arrival in Los Angeles; he and his brother, Fr. REDACTED would spend each Wed., their day off, with WF. He reports that WF did not have a driver's license for several months after arriving in L.A. and so he and his brother drove WF around. Fr. REDACTED does not recall any parishioners at St. Hilary's to whom WF may have been close, nor does the name REDACTED mean anything to him, nor does he recall WF ever mentioning St. Hilary parishioners visiting WF while WF was at St. John Baptist De La Salle in Granada Hills. He was very surprised to learn of the accusations against WF, as he does not believe WF would force himself on anyone or violate his vows.

20 Jan 04: c/aud interviews Father REDACTED brother to Father REDACTED mmediately above but no relation to WF, who remembers that WF stayed at Immaculate Conception when he first arrived in L.A., he was then assigned to St. Hilary's. He reports that WF did not drive at that time, since he didn't have a CA driver's license, and so Fr. REDACTED, and his brother would pick WF up each Wed. and the three would spend their day off together. He has no recollection of WF ever mentioning REDACTED or any other parishioner from St. Hilary's, nor does he recall WF ever mention-

ing a St. Hilary's parishioner visiting him after he was transferred from St. Hilary's. He was surprised to learn of the allegations against WF, as he believes WF to be a gentleman with a good reputation who would not commit indiscretions.

23 Jan 04: report of c/aud that REDACTED was born on 7 Aug 1963, that WF was at St. Hilary's 1 Mar 81 – 29 Nov 81, that there are no indepndt witnesses to corroborate REDACTED's allegations, that police recorded a telephone conversation betw. REDACTED and WF which, according to police, corroborates REDACTED's account, (d/CDF, 63).

29 Jan 04: report of c/aud that sometime betw. 2000 and 2002 REDACTED confided to a friend that WF "had abused their relationship"; this friend does not think that REDACTED would lie about such a thing, nor, however, did it occur to this friend that the "abuse" was sexual, she presumed it to be something like betraying a confidence (d/CDF, 73-74).

08 Feb 04: c/aud's report of interview with REDACTED states that she was 17 at time of relationship w/WF (d/CDF, 80-86); report submitted to REDACTED and her lawyer for final corrections (d/CDF, 91-94).

17 Feb 04: CMOB recommends adm. leave for WF; REDACTED's account of events appears credible, despite WF's denials (d/CDF, 95-96).

19 Feb 04: WF is placed on adm. leave (d/CDF, 97).

22 Sep 04: c/aud listens to police recording of phone conversation betw. REDACTED and WF, made on 24 May 02; on tape, WF says he remembers kissing REDACTED but doesn't remember showing her his penis; WF states that he thought REDACTED was 19 years old; he admitted feeling love for her; he recalled rubbing her breast and admitted to kissing her breasts; he told her that he confessed his sins in this matter and asked her for her forgiveness; he stated that he wanted to remain a priest and asked her to keep this betw. them; tape appears to confirm that something of a sexual nature transpired betw. them (d/CDF, 102-103).

24 Sep 04: WF's canonical advisor (c/adv) writes to V/C raising substantive doubt as to whether any of the behavior alleged by REDACTED took place before she was 18; basis of doubt hinges on when WF obtained his CA driver's license and began to drive, since virtually all of alleged abuse involved WF driving REDACTED to some location.

09 Nov 04: Card. Mahony sends documentation regarding WF case to CDF seeking advice, since the prelim. investigation established the semblance of truth in REDACTED's allegations that, when she was 17 years old, she was sexually abused by WF; the difficulties of the case include the fact that, if the accusations are true, REDACTED would not have been a minor in canon law, although she would have been a minor in civil law.

04 Jul 05: CDF responds to Card. Mahony advising him that since the case does not involve a reserved *gravius delictum*, no special authorization is needed for him to evaluate the merits of the case and act accordingly.

09 Nov 05: WF's c/adv writes to V/C expressing concern at V/C's proposal to engage in further "fact-finding" investigation while the civil lawsuit by REDACTED is pending; he suggests that the status quo — i.e. WF's continuing adm. leave w/residence at St. Basil's and no further action on the part of the Archdiocese — should be preserved until the conclusion of the civil suit.

19 Dec 05: WF's c/adv writes to V/C expressing concern that doubt exists as to whether REDACTED was under 18 years of age when the alleged abuse took place and objects to any "fact-finding" on the part of the Archdiocese until it is proven that REDACTED was in fact under 18.

06 Nov 06: WF's c/adv writes to V/C complaining of delay in acting on case and asks why WF is still out of ministry; c/adv also asks what action the Archdiocese intends to take in the case.

15 Dec 06: V/C writes to WF's c/adv explaining that, in agreement with what the c/adv had written in his letter of 9 Nov 05, the Archdiocese also felt that it was in the best interest of all concerned to preserve the status quo w/regard to WF (i.e. adm. leave and residence at St. Basil's) until the civil suit

should be concluded; at the opportune time, the serious question of WF's suitability for ministry will be properly dealt with.

QUESTION OF [redacted]'S AGE AT TIME OF ALLEGED ABUSE

The only direct testimony in this regard comes from [redacted] and is consistent in the assertion that she was under 18 at the time the alleged abuse began; rebuttal testimony comes from WF through his c/adv.

[redacted]'s **civil complaint**, filed on 9 Dec 03: [redacted] claims that "when she was a minor" she suffered "acts of sexual abuse and molestation" from WF, which included "French kissing, hugging, fondling of Plaintiff's buttocks over her clothes, rubbing and massaging Plaintiff's breasts and body, kissing Plaintiff's neck, face and breasts, digital vaginal penetration, forced masturbation of the Perpetrator, attempted forced oral copulation" (lawsuit, section 8.1).

mediation documentation, signed and sworn by [redacted] on 15 Apr 04: [redacted] states that she was 17 when abuse began, and to the best of her recollection it began when WF "first came to St. Hilary"; she states unequivocally that WF "sexually abused me on multiple occasions, up to and beyond my 18th birthday" (mediation document, section 4,a,v); [redacted] does state that the digital penetration of her vagina by WF may have occurred after she turned 18 (*ibid.*, section 4,c), and that the touching of her breasts skin-to-skin, kissing them and touching other parts of her body skin-to-skin did occur after she was 18 (*ibid.*); [redacted]'s clear recollection is that the other acts alleged occurred when she was under the age of 18.

interview of [redacted] by c/aud, 30 Jan 04, revised report w/changes made by [redacted] and her lawyer: [redacted] states that while she "was still in high school" WF took her to a movie, towards the end of which he "put his hand on her breast and began to rub it"; at the movie's conclusion, he gave her a kiss on the lips; following the incident at the movie theater, and again while [redacted] "was still in high school," she was with WF in a parked car and he laid his head in her lap, pulled her head down towards him and gave her a long kiss, putting "his tongue in her mouth"; on another occasion, once more while [redacted] "was still in high school," WF took her to Legg Park where he kissed her and fondled her, placing his hand inside her blouse and bra "so he was rubbing the skin of her breast"; another time at Legg Park, while [redacted] was still in high school, she was with WF in his parked car, it was evening and WF unzipped his pants, exhibited his erect penis and tried to force [redacted] to orally copulate him, but she would not and so he took her hand, placed it around his penis and, with his hand clasped over hers, masturbated until he ejaculated; during this interview, [redacted] also related sexual behavior that occurred betw. her and WF after she had turned 18, and recounted, w/great difficulty, the account of WF digitally penetrating her vagina — she was unable to recall whether this occurred before or after she had turned 18.

letter from WF's c/adv, 24 Sep 04: the c/adv claims that [redacted]'s statements that WF would take her driving "in the spring, while I was still in high school" cannot be true, as WF had no car and no driver's license in the spring while [redacted] was still in high school; the c/adv states that WF went out with [redacted] only once, on a shopping trip to a mall, during which outing they also went to a movie — this outing took place after WF had left St. Hilary's and hence after [redacted] had turned 18; the c/adv states that [redacted] was never in WF's quarters at St. John Baptist De La Salle, Granada Hills

ALLEGATIONS OF ABUSIVE BEHAVIOR AFTER [redacted] WAS 18 YEARS OLD

In her 30 Jan 04 interview with c/aud [redacted] stated that after WF had been transferred to St. John the Baptist De La Salle in Granada Hills, and hence after she had turned 18, he picked her up at her house and drove her out to his new parish. He brought her into a private sitting room in the rectory, from which there was a door leading to his bedroom; they remained in the sitting room and she played her flute. He brought her to the rectory a second time and this time they entered WF's bedroom, where he had her disrobe, kissed her breasts, sucked her nipples and lay on top of her on the bed and side-by-side; he did not undress but she could feel his erection; she asked him why he did not undress and he replied that he didn't want her to become pregnant. She also met some of his Sri Lankan priest friends but never spoke with

them. She estimated that she traveled to Granada Hills a total of about ten times and that similar activity took place betw. herself and WF each time. She also described her recollection of the rectory layout (the rear entrance and WF's quarters).

WF, through his c/adv, denies that REDACTED was ever in his quarters at the rectory of St. John Baptist De La Salle in Granada Hills.

The c/aud performed an on-grounds inspection of the rectory area described by REDACTED with the Business Manager at St. John Baptist De La Salle parish; the description given by REDACTED is very accurate.

On 5 Feb 04 Father REDACTED at St. John Baptist De La Salle parish when WF arrived there in 1981, was contacted by the c/aud and described the quarters that had been assigned to WF — his description matches that given by REDACTED s name held no meaning for Fr. REDACTED REDACTED

ADMISSIONS MADE BY WF

The only admission made by WF of any inappropriate behavior w/ REDACTED is purportedly found on the recorded telephone conversation that took place betw. him and REDACTED on 24 May 02. The c/aud listened to this tape and reported that WF says he remembers kissing REDACTED admits feeling love for her, recalls rubbing and kissing her breasts. The c/aud portrays REDACTED s attitude during the call as that of someone who was hurt and troubled by indiscretions committed by WF, and WF's attitude as that of someone who was repentant and wanted forgiveness from the person he had wronged; this forgiveness was given and WF was relieved. WF told REDACTED that he wanted to be a priest and asked her to keep this betw. them. The c/aud observes that WF admits certain of the behavior alleged by REDACTED ; and that while he does not recall other behavior, e.g. showing REDACTED his penis and forced masturbation, he does not deny this behavior.

FURTHER QUESTIONS

When did WF obtain his driver's license?

The significance of this question arises in light of c/adv's remarks that WF "had no car and no license in spring [1981] when she REDACTED was still in high school"; that WF "did not obtain his driver's license till the summertime," hence he "could not then have been driving her [REDACTED] around 'in the spring when she was still in high school', and still 17"; REDACTED turned 18 on 7 Aug 81 (ltr, REDACTED *, 24 Sep 04).*

Is it possible to corroborate that WF and REDACTED went out more than once together?

Through his c/adv (letter of 24 Sep 94), WF denies ever going out w/ REDACTED other than one time to a shopping mall, and this after he had left St. Hilary's; REDACTED claims that her "mother, brother and sister all knew that I was going on outings with Father REDACTED *" (mediation document, 4,b). There is no record of REDACTED 's mother, brother or sister being asked about this.*

Why did WF leave Sri Lanka and incardinate into L.A.?

In communications with his Archbishop in Colombo (Abp/C), WF refers to leaving his home diocese with "a great deal of pain in mind" (letter of 20 Oct 82), and Abp/C also refers to this same "great deal of pain" in his response and states, "You will, I am sure, agree that that pain was not in any way caused by me" (letter of 07 Nov 82).

CANONICAL ISSUES

The question of a reserved *gravius delictum* has already been resolved in the negative; but the entire matter is not yet resolved definitively. Some of the issues remaining include:

(1) whether the delict of an offence against the sixth commandment committed with force has been committed (canon 1395 §2; **NB**: the expiration of prescription prevents any *criminal action* w/regard to such a delict [canon 1362], but does not strictly prevent an investigation into whether such a delict was committed);

(2) whether an external violation of a law has occurred such that the special gravity of the violation demands punishment and there is an urgent need to prevent or repair scandal (canon 1399; **NB**: expiration of prescription as in no. 1 above);

(3) whether this is a particular case calling for the ordinary to pass judgment regarding the obligation to observe perfect and perpetual continence (canon 277 §3);

(4) whether an act of sexual abuse of a minor (in civil law) has been committed, wherefore the *reus* is to be removed permanently from ecclesiastical ministry (US Essential Norms, article 8; **NB**: the expiration of prescription, as in nos. 1 and 2 above, probably needs to be taken into account here as well);

(5) whether, in view of the common good, this is a particular case calling for the Archbishop to limit or otherwise direct the exercise of WF's rights as a cleric (canon 233 §2).

PAYMENT OF FEES LEVIED BY C/ADV

Since WF's case does not involve a *gravius delictum*, and since any delict he may have committed is no longer subject to criminal action because of the expiration of prescription, there can be no penal process initiated against him. He therefore will not need the services of a canonical advocate, and authorization for bills from his current c/adv to be sent directly to V/C for payment may be withdrawn. Should WF wish to continue to avail himself of the services of his present c/adv, he is free to make such arrangements personally; otherwise, the Archdiocese can arrange for a qualified canonist to provide him with the counsel he might need as his case is brought to a conclusion.

RECOMMENDATIONS

With a view to moving WF's case to a definitive resolution while upholding the public good, the following recommendations are made:

(1) WF should be interviewed *quam primum* with regard to every aspect of his case, since direct statements from him will prove invaluable for resolving many of the issues and questions that remain, and will also prove useful in properly evaluating the claims advanced by REDACTED

(2) WF should be advised that, whereas the V/C has up till now paid the bills for consultation submitted by his c/adv (a total of $12,836.64 as of 25 Jan 07; cf. APPENDIX below, "C/Adv Bills in WF Case"), future costs will be his responsibility; if he cannot afford the fees charged by the c/adv he has engaged, he may consult the V/C so that arrangements may be made for him to receive the canonical counsel suited to his needs;

(3) AP's mother, brother and sister should be interviewed to ascertain what knowledge they may have of WF and REDACTED going on outings together;

(4) all c/aud reports should be carefully reviewed to determine whether possible follow-up may be useful.

APPENDIX: bills paid by Archdiocese to REDACTED in Fernando case

25 Jan 07:	2,183.33
21 Feb 06:	2,583.33
06 Dec 05:	2,207.08
19 Jul 05:	4,529.90
29 Mar 05:	1,333.00
TOTAL:	**12,836.64**

WALTER FERNANDO

Summary

General Data

Walter Fernando was born on 24 Apr 44 and ordained in Sri Lanka on 25 Jan 73, where he ministered until 1981. In 1981, he came to Los Angeles, where he ministered until 2004, having been incardinated into L.A. in 1986. In 2002, police began investigating an allegation that, some 20 years earlier, Fernando had sexually abused a 17-year-old girl. Fernando denied all claims of abuse, canonical investigation was undertaken, and despite Fernando's denial of allegations, accusation was deemed credible and Fernando was placed on administrative leave in 2004.

Details of Allegation

In 2002, an adult woman claimed that in 1981 when she was 17 years old, and continuing on past her 18th birthday (REDACTED), Fernando engaged her in a sexual relationship that included kissing, touching and kissing of breasts, digital penetration of vagina, masturbation of victim and attempts to force victim to orally copulate the perpetrator.

Statements by Fernando

Denials. In Mar 03 Fernando wrote to the Vicar for Clergy denying the girl's claim that he digitally penetrated her, masturbated her and attempted to force her to have oral sex. In a subsequent letter the same month he denied having had any sexual activity with the girl in question and affirmed that he had absolutely obeyed his vow of celibacy.

Admissions. In 2002, Fernando, having been contacted by police detectives, sought advice from the Vicar for Clergy, as he thought the matter might involve a situation from 20 years earlier when he "crossed boundaries" with a young female parishioner. A month earlier, police had recorded a phone conversation between the alleged victim and Fernando, which, according to police, corroborated the allegations made.

In 2004, a canonical investigator listened to the police recording of the phone conversation, and reported that on the tape Fernando said that he remembered kissing the victim but didn't remember showing her his penis; he stated that he thought the victim was 19 years old; he admitted feeling love for her and recalled rubbing her breast and kissing her breasts; he told her that he confessed his sins in this matter and asked her for her forgiveness; he stated that he wanted to remain a priest and asked her to keep this between them. The investigator concluded that the tape appeared to confirm that something of a sexual nature had transpired between Fernando and the victim.

Admission of Victim to Third Party

Sometime between 2000 and 2002, the alleged victim told a friend of hers that Fernando had abused their relationship. This friend does not believe that the victim would lie about such a thing, nor did it occur to this friend that the abuse was sexual, she presumed it to have been something like the betraying of a confidence.

Criminal/Civil proceedings

No criminal charges were filed against Fernando, but a civil lawsuit was filed in 2003 and settled in 2007.

Canonical proceedings

A canonical investigation found the accusation to be credible, but the victim was not a minor in canon law; hence there is no *gravius delictum*. Fernando's canonical advisor claims that

the victim, even if her allegations are true, was not even a minor in civil law, as none of the behavior alleged could have occurred before she was 18 (the advisor explains that Fernando did not have a driver's license until after the victim had graduated from high school, and all the alleged behavior involves Fernando driving the victim in his car). The victim, however, clearly recalls much of the behavior occurring while she was still in high school, before she turned 18.

Conclusions

Whatever may have happened between Fernando and the victim, and however old the victim may have been, this was clearly a one-time occurrence, that is, at no time after these alleged events in 1981, have there been any reports of misconduct by Fernando. Fernando appears to pose no real danger to any minor. However, a determination needs to be made whether Fernando can be returned to active ministry of any kind, even restricted. Although the case does not involve a *gravius delictum*, the Archbishop can — should he determine that the case warrants it — restrict Fernando's ministry in accordance with the norms of canons 233 §2 and 277 §3.

REDACTED

From: REDACTED
To:
Sent: Monday, February 09, 2004 8:37 AM
Subject: Report

I/U OF REDACTED

Dear REDACTED
I am relying on your word that you will look into the Sri Lanka matter.

Please find attached your report with our changes in bold and underlined:

January 30, 2004

Canonical Investigation of Father Walter Fernando

Interviewee: REDACTED

Interviewer REDACTED canonical auditor

Date of interview: January 29, 2004

Place of interview: REDACTED Whittier, California

The morning of January 29th REDACTED telephonically advised me that he had spoken with REDACTED , the counsel for REDACTED and that REDACTED would be available for an interview that evening. I telephonically contacted REDACTED who advised that REDACTED would meet with me at the REDACTED noted above at 6:00 p. m. that evening. She also advised that an associate of hers REDACTED would be there to make REDACTED more comfortable. She put no restrictions on the interview and only asked it not drag on for several hours **because** REDACTED **was very emotional about this, and a long interview would be too stressful**. She was assured it would not.

At 5:45 p. m. I identified myself to REDACTED and we exchanged business cards. He was sitting in a relatively private booth in the restaurant and REDACTED had gone to the rest room. Shortly thereafter she returned and REDACTED introduced me to her. At that point he requested no questions be asked regarding damages in the suit REDACTED had filed. He was assured that was not the intent of the interview. REDACTED then provided the following information:

She met Father Walter Fernando in either late 1980 or early 1981 at Saint Hilary's Catholic Church in Pico Rivera. She was **16 or** 17, a senior at Saint Paul's High School and working at Saint Hilary's as a junior secretary in the rectory. She was very active in the parish at that time. She taught a Confraternity of Christian Doctrine (CCD) class in her junior and senior year in high school and was in the **youth** choir where she sang and played the flute. She characterized herself as an unattractive nerd in high school who had few, if any, friends and was the subject of verbal abuse. She had a 4.0 grade point average and some of the students may have resented her for that. Her home life was also troubled and she enjoyed being at the parish, as it was a refuge for her. She began volunteer work in the rectory during her junior year and between her junior and senior year she was hired as a junior secretary and began to receive a salary.

The priests at Saint Hilary's at that time were the REDACTED who is now deceased; REDACTED a Nigerian; and Fernando. She could not be certain if a Vietnamese priest named REDACTED was there at that time or came shortly after Fernando left. She thought he might have been there a short time while Fernando was there as she recalled REDACTED and REDACTED had rooms downstairs in the rectory and REDACTED and Fernando were upstairs. As a junior secretary she came to the rectory directly from school. The school bus had a stop at the church making it convenient for her and she reported to work wearing her school uniform. She would work as late as 9:30 p. m. at times on week nights and also on weekends. She was restricted to working not more than 25 hours a week. REDACTED REDACTED who was attending **Whittier College initially and later** California State University at Los Angeles, was also working there **(strike:** and trained REDACTED but other than the training) **but** they were not there together as one would normally relieve the other. There was another junior secretary for a short time but she was fired due to talking to her boyfriend on the telephone at work. REDACTED not only did not have a boyfriend but did not date until years later after leaving the convent. Her duties included doing parish clerical work and answering the telephone and door. She placed the priests' messages in boxes that were next to where she sat. She normally ate her dinner in the kitchen but on occasion was invited to eat in the dining room with the priests.

The rectory was quiet in the evening and normally only she and the priests were there. It was not uncommon for them to come by to check their mailboxes for messages. Fernando began to strike up conversations with her in the evening when they were alone. These talks became increasingly longer and friendlier as time went on. The first thing she recalls that was a bit unusual was one evening he began to shoot rubber bands at her. Late one Sunday afternoon in perhaps **March or** April 1981 Fernando suggested they go to the parish hall behind the church and he would play his violin and she her flute. They were there alone with a piano near the stage and she played her flute and sang. Then he played the violin and brought out music and sang a love song entitled, "Drink To Me Only With Thine Eyes". She felt this was a strange selection for him to pick since it was a love song. They were there about an hour.

Shortly after the parish hall incident she was alone at her desk one evening. **She is not completely sure but she may have been** wearing her high school uniform. Fernando showed her a book and suggested that she read it. She turned the book over and read a synopsis of the story on the rear cover. It was about a priest who was having an affair and she gave it back to him. He inquired as to why she did not want to read it and she told him that she did not think that priests should do that sort of thing. He then explained to her there was a difference between celibacy and chastity. According to him celibacy meant simply that priests were precluded from marriage. Chastity was a vow that only priests that were in a religious order took along with poverty and obedience. Since he was a diocesan priest chastity did not pertain to him and he only had to remain celibate, that is not marry. Nobody had ever explained this to her and she was confused but since he was a priest accepted what he said. Nevertheless she did not read the book and cannot remember the title.

Not long after the book incident, while still in high school, either on his day off or on the weekend he mentioned that he wanted to see a movie and asked her to accompany him. She rarely went to movies and since he was a priest and was showing her attention she readily accepted. He drove to her house, honked the horn and she came out. This is the procedure he used whenever he came to pick her up in the future. He never came into the house to talk to her parents or siblings. Her parents did not object to her going and she believes they felt good about it since they thought she was in the safe care of a priest. They drove down Rosemead Boulevard to Downey the city that adjoins Pico Rivera to the south. They went to the Showcase Theatre located next to a Farrell's Ice Cream Parlor **which were part of the Stonewood Shopping Center**. Neither of those structures is any longer there as **it has since been converted into an indoor** shopping center. He sat to her left during the movie and during the movie reached over and initially patted her hand. He then reached his arm around her shoulder and put his hand on her breast and began to rub it. She stared straight ahead and not knowing what to do she did not do or say anything. The movie was near its conclusion when this happened and when it finished she asked him to hand her a sweater she **had** placed on the seat next to him **to his left**. When she did this he abruptly leaned **forward** and gave her a hard kiss on the lips. She had never been kissed on the lips before and she was shocked and emotional. She told him she had to go to the ladies' room and excused herself. When she returned to him she was still in shock and they proceeded back to the car. She cannot recall the name of the movie. The vehicle was a white parish car that Fernando used and she does not know if it was assigned to him or not. As he was leaving the parking lot he backed into another **parked** car and continued to drive away. She called his attention to it since it was very apparent but he told her not to worry about it and left. He was quiet after the movie and little if anything was said on the drive home. He did not come into her house when he **dropped** her off either.

Not long after the movie incident, while she was still in high school, they returned to the same parking lot. She cannot recall the reason they were there but he parked in front of Farrell's and laid his head in her lap. While in this position he pulled her head down and kissed her. This was a longer kiss than the one in the movie and he put his tongue in her mouth. After the kiss he took her home.

On another occasion while she was still in high school, probably on a Saturday, he took her to the Los Angeles County Arboretum. She wore her hair in bangs and she recalled that she had braces on her teeth then. It was a warm day and she wore a white dress that she made and white sandals. As in the other described incidents he did not wear his clerical clothes. He brought a camera and took about five photographs during the day which he later showed to her. He did not give her any of them and she has no idea where they are now. He did not feel comfortable driving on freeways and so he drove home on Rosemead Boulevard. This route passed through the Whittier Narrows and a large park at Legg Lake. He pulled onto the parking lot at Legg Lake and parked. He wanted to take a walk and so they did for a while and then they stopped at a picnic table and sat down. He then began to kiss **her** and fondle her. It was dark and they were there for about an hour. This time he put his hand inside her blouse and bra so he was rubbing the skin of her breast. They then returned to the car and drove home.

After the first Legg Lake incident they returned there and once again he was not in clerical garb. This time it was in the evening and the light was very dim. He was sitting in the driver's seat and she was in the front passenger seat when he unzipped his pants and exhibited his erect penis outside of his pants. She had never seen a penis before and did not want to look but did see it as she glanced over. He then told her to kiss his penis and when she said, "No Father, **I don't want to do that.**", he tried to force her **by putting his right hand behind her neck and pulling her head downward toward his penis** and instructed her to do it. When she did not he took her left hand in his, put **it** on his penis **encircling it, and while he kept his hand clasped over hers** began to masturbate . He was breathing hard and kept repeating, "Do it! Do it!" This continued until he ejaculated and her hand was covered with fluid. He then gave her a napkin or something similar to clean up with.

It was sometime after the second Legg Lake incident she remembers being on the school bus approaching the Saint Hilary's rectory when some of the girls noticed Fernando walking on the street. He was dressed in black **clerical garb** wearing white shoes **with buckles** and they thought he **looked funny** and giggling commented to that effect. At that time she felt a great deal of shame and fear wondering if

anyone could tell by looking at her what she had done with him. She did not know of anyone who had ever observed them, either from the parish or anywhere else, during one of these incidents but she had these thoughts nonetheless. She remembers being confused with her emotions because most of the time he was kind to her, paid attention to her and showed her affection. Nobody else did this.

Sometime after these incidents Fernando was transferred to Saint John Baptist de la Salle in Granada Hills. She had never been to Granada Hills and it sounded very affluent to her and she thought he had done very well. Once he was there he called her and said he was happy there and wanted her to visit. He drove to her house and took her back to the Saint John's rectory. This first trip she brought her flute. He parked in the rear of the rectory in an area that appeared to be for the priests. They then entered what she thought was a back door and immediately to the left was a sitting room. From this room was a door that entered into his room. The first trip there she played her flute in the sitting room.

Other times he brought her there, they went into his room. As they entered his room there was a bed to the left of the door. **Across from** the foot of the bed was a dresser with a mirror above it. The room was carpeted and to the left of the dresser was a chair. He had her disrobe when they were in his room but she kept her slip on. He pulled down her slip and bra and kissed her breasts and sucked on her nipples. They laid on the bed on top of each other and side-by-side and she could feel his erection but she did not know if he ejaculated during their activity. She asked him why he did not undress and he responded that he did not want her to become pregnant.

During one of these episodes she asked him **if he had ever considered leaving** the priesthood and he said **no because** that was the only thing he knew and that he could do nothing else. He mentioned that in the seminary in Sri Lanka the seminarians were discouraged from touching themselves and were given some type of implement to tuck their shirts in so they would not touch themselves in **the groin** area of the body. He told her that his Sri Lankan first name is Rangith and that the **sur**name Fernando came from the Portuguese that settled that area of Sri Lanka. He never mentioned his family or why he came to America. She met some of the other Sri Lankan priests who were his friends but never had a conversation with them.

She estimated that she traveled to Granada Hills on **more than twice but less than** ten occasions and similar things happened that were previously described. Only one time, during her last visit, did he have her take all of her clothes off including her undergarments. They lay on the bed that time and he "spooned" her. She described that as lying closely side-by-side, **both facing the same way.** He would always do the touching and she neither wanted to nor did touch him. She was always in a passive state during these encounters and is unaware if he ejaculated since he was wearing his clothes.

After he instructed her to dress he **on more than one occasion** went to the kitchen and brought her back **vanilla** ice cream. He knew she liked ice cream and she would sit in the chair in his room and eat it and then he drove her home. One time as they both stood in front of his mirror he took a roman collar from a dresser drawer and put it on her. After they both looked at it for a few moments in the mirror he took it off and put it back. **She does not recall** either one of them **saying** anything. During these visits she met the housekeeper once, who she could only describe as an **older** Anglo female. This woman knew that she and Fernando were in his room together behind closed doors. Another time she met a priest at the doorway of the sitting room and he had several lay people with him. She was simply introduced as a friend by Fernando.

He sent her two letters while he was at Saint John's. The first one mentioned that he went to an outdoor play and after that had a sore throat. He said that one kiss from her would cure it. The second letter was just before she entered the convent and he told her how brave she was to do that. She had not seen him **for** awhile and believes she probably told him about her plans for the convent during her last visit with him. She entered the convent on January 9, 1983. She does not have either letter or any other document from that era with the exception of an old address book with Fernando's telephone number in Granada Hills. She did not have that with her.

She was never in Fernando's room at Saint Hilary's while he was there. At times she would assist the housekeeper delivering laundry to the priests' room. She could not recall seeing any type of unusual marks or scars on Fernando's private parts but said he was very dark skinned and had hairy arms. Another recollection was that he frequently wore mismatched clothes.

Due to the confused state of mind she was in and lack of close friends she did not confide in anybody at the time these events happened and not until 2002 did she reveal it. **She does however recall having mentioned to her mother just immediately before entering the convent that something bad had happened between her and Fr. Fernando. Her mother did not inquire further, but rather deflected conversation away from the subject by telling her to put that behind her and begin a brand new life in the convent. Ms.** REDACTED **dropped the subject at that point. Ms.** REDACTED **also vaguely recalls a conversation she had with her sister, which occurred shortly after the incident in Fernando's rectory when she was fully disrobed. However, she does not recall the details of that conversation and her sister, being young at the time, did not ever bring the subject up again after that one conversation.** It was **not until April of 2002** while she was reading an article in one of the weekly news publications, perhaps Time or Newsweek, about a Catholic priest abuse victim that was a musician and had thought about entering the seminary that all of these memories came flooding back to her. She was at work and became very distraught. Driving home and when she arrived **home** her brother immediately noticed there was something wrong. When he inquired as to what was bothering her she blurted out what **had** occurred. He told her that she needed some help. They then searched Fernando's name on the internet and determined he was still an active priest. On learning this she

was horrified and concerned that he might have preyed on others and was continuing to do so. Shortly after that she approached an attorney acquaintance and confided in her. She gave her the telephone number of the appropriate unit in the Los Angeles Police Department (LAPD) and about one week later she filed a complaint with them.

Regarding the consensually monitored telephone call she made to Fernando at the behest of the LAPD she does not have a copy or a transcript of it. She has never listened to the recording or seen a transcript. She not only has no problem with the Archdiocese listening to the conservation she desires that this be done. She and REDACTED advised that REDACTED would be told of this and it was requested they ask REDACTED to call Detective James Brown or Lieutenant Dennis Shirey to facilitate the Archdiocese obtaining a copy. In the call Fernando immediately acknowledged remembering her and did not seem surprised that she was calling him. She told him she was upset at the news coming out of Boston regarding the clerical sexual abuse cases. She asked him if he remembered what happened between them and mentioned specific acts and places they happened. He responded that he did although as she recalls there were a couple of things he claimed not to remember. He acknowledged thinking about it over the years and when she mentioned specific sexual activity between them he agreed that it occurred. The letters were also mentioned and he recalled them. He continually asked for her forgiveness, said he was sorry and told her that he went to confession and received absolution. He also said that he thought she was older and that it was in **a moment of** passion. She pointed out to him that she was in high school and he regularly saw her in her high school uniform and that since it happened on a number of times it could not have been a momentary passionate impulse. He also mentioned that he was young but she pointed out he was 36 **or 37** years old in 1981. **When she asked him why he had done those things to her, he** said that **it was because he was new to the parish and that** she treated him **nicely and was** helpful to him. **She asked him whether he had loved her or had any feelings for her. He responded that yes** he loved her. She **then** asked if he loved her why he had **done this to her. When she asked him if he had done these things to anyone else he said that he had not.** . She finally said that she forgave him and he felt relieved at that. He asked her if she had told anyone else about what he had done and she said that she had not. **He said that it was good and that he was glad that she hadn't spoken about it to anyone else.** He asked her to pray for him and to call him again **from time to time** in the future **to check on him. She assured him that she would.** The call was then terminated.

On reflection she now feels his behavior was predatory and calculated and emphasized her fear that he might have done this to someone else and her desire that he be relieved of his ministry. It tormented her to know that he was in a position that allows him to this again.

REDACTED **was very** emotional at times when recounting the details set forth above. She advised early in the interview that there was one incident she had a particular hard time with and that it might upset her enough when she described it that she would not be able to continue. **She requested to be allowed to** relate that at the end of the interview. **Her request was granted and** this is what she recounted. She could not give a time frame for when this happened, before or after his transfer to Saint John's, but remembered they parked in the parking lot at Rio Vista Elementary School on Coffman-Pico Road in Pico Rivera. This is the street her parents live on and did then also. There were a line of skinny **tall** trees that blocked the view of the parking lot from the street and these trees have since been removed. After he parked there, he put his finger into her vagina. **She does not recall what happened either before or after this incident. She recalls that this was painful and that she** kept repeating, "Father, Father, ..." It was very traumatic to her and that is all she remembers.

She reiterated that she was always taught to be **submissive**, passive and respectful of adults especially priests and she never thought of saying no to his abusive activities. Even now she finds it very difficult to talk about. She never saw him do anything like this to anyone else and she is not aware of him abusing anyone else. **However, because of the manner in which he both groomed her for and went about abusing her, she feels strongly the possibility that she was neither the first nor the last of his victims.**

REDACTED

CONFIDENTIAL & PRIVILEGED
INVESTIGATIVE REPORT
ATTORNEY-CLIENT WORK PRODUCT

February 8, 2004

Canonical Investigation of Father Walter Fernando
CMOB-027

Supplemental Report of REDACTED , canonical auditor

Reference Report Dated January 23, 2004

The morning of January 29th REDACTED telephonically advised that he had spoken with REDACTED the counsel for REDACTED and that REDACTED would be available for an interview that evening. I telephonically contacted REDACTED who advised that REDACTED would meet with me at the REDACTED located at REDACTED Whittier at 6:00 p. m. that evening. She also said that an associate of hers REDACTED would be there to make REDACTED more comfortable. She put no restrictions on the interview and only asked it not drag on for several hours. She was assured it would not.

At 5:45 p. m. I identified myself to REDACTED and we exchanged business cards. He was sitting in a relatively private booth in the restaurant and REDACTED had gone to the rest room. Shortly thereafter she returned and REDACTED introduced me to her. At that point he requested no questions be asked regarding damages in the suit REDACTED had filed. He was assured that was not the intent of the interview. REDACTED then provided the following information:

She met Father Walter Fernando in either late 1980 or early 1981 at Saint Hilary's Catholic Church in Pico Rivera. She was 17, a senior at Saint Paul's High School and working at Saint Hilary's as a junior secretary in the rectory. She was very active in the parish at that time. She taught a Confraternity of Christian Doctrine (CCD) class in her junior and senior year in high school and was in the junior choir where she sang and played the flute. She characterized herself as an unattractive nerd while in high school who had few, if any, friends and was the subject of verbal abuse. She had a 4.0 grade point average and some of the students may have resented her for that. Her home life was also troubled and she enjoyed being at the parish, as it was a refuge for her. She began volunteer work in the rectory during her junior year and between her junior and senior year she was hired as a junior secretary and began to receive a salary.

The priests at Saint Hilary's at that time were the REDACTED who is now deceased; REDACTED a Nigerian; and Fernando. She could not be certain if a Vietnamese priest named REDACTED was there at that time or came shortly after Fernando left. She thought he might have been there a short time while Fernando was there as she recalled REDACTED and REDACTED had rooms downstairs in the rectory and REDACTED

REDACTED and Fernando were upstairs. As a junior secretary she came to the rectory directly from school. The school bus had a stop at the church making it convenient for her and she reported to work wearing her school uniform. She would work as late as 9:30 p. m. at times on week nights and also on weekends. She was restricted to working not more than 25 hours a week. REDACTED who was attending California State University at Los Angeles, was also working there and trained REDACTED but other than the training they were not there together as one would normally relieve the other. There was another junior secretary for a short time but she was fired due to talking to her boyfriend on the telephone at work. REDACTED not only did not have a boyfriend but did not date until years later after leaving the convent. Her duties included doing parish clerical work and answering the telephone and door. She placed the priests' messages in boxes that were next to where she sat. She normally ate her dinner in the kitchen but on occasion was invited to eat in the dining room with the priests.

The rectory was quiet in the evening and normally only she and the priests were there. It was not uncommon for them to come by to check their mailboxes for messages. Fernando began to strike up conversations with her in the evening when they were alone. These talks became increasingly longer and friendlier. The first thing she recalls that was a bit unusual was one evening he began to shoot rubber bands at her. Late one Sunday afternoon in perhaps April 1981 Fernando suggested they go to the parish hall behind the church and he would play his violin and she her flute. They were there alone with a piano near the stage and she played her flute and sang. Then he played the violin and brought out music and sang a love song entitled, "Drink To Me Only With Thine Eyes". She felt this was a strange selection for him to pick since it was a love song. They were there about an hour.

Shortly after the parish hall incident she was alone at her desk one evening wearing her high school uniform. Fernando showed her a book and suggested that she read it. She turned the book over and read a synopsis of the story on the rear cover. It was about a priest who was having an affair and she gave it back to him. He inquired as to why she did not want to read it and she told him that she did not think that priests should do that sort of thing. He then explained to her there was a difference between celibacy and chastity. According to him celibacy meant simply that priests were precluded from marriage. Chastity was a vow that only priests that were in a religious order took along with poverty and obedience. Since he was a diocesan priest chastity did not pertain to him and he only had to remain celibate that is not marrying. Nobody had ever explained this to her and she was confused but since he was a priest she accepted what he said. Nevertheless she did not read the book and cannot remember the title.

Not long after the book incident, while still in high school, either on his day off or on the weekend he mentioned that he wanted to see a movie and asked her to accompany him. She rarely went to movies and since he was a priest and was showing her attention she readily accepted. He drove to her house, honked the horn and she came out. This is the procedure he used whenever he came to pick her up in the future. He never came into the house to talk to her parents or siblings. Her parents did not object to her going and she believes they felt good about it since they thought she was in the safe care of a priest.

They drove down Rosemead Boulevard to Downey the city that adjoins Pico Rivera to the south. They went to the Showcase Theatre located next to a Farrell's Ice Cream Parlor. Neither structure is any longer there as it is now a shopping center. He sat to her left during the movie and during the movie reached over and initially patted her hand. He then reached his arm around her shoulder and put his hand on her breast and began to rub it. She stared straight ahead and not knowing what to do she did not do or say anything. The movie was near its conclusion when this happened and when it finished she asked him to hand her a sweater she placed on the seat next to him. When she did this he abruptly leaned down and gave her a hard kiss on the lips. She had never been kissed on the lips before and she was shocked and emotional. She told him she had to go to the ladies' room and excused herself. When she returned to him she was still in shock and they proceeded back to the car. She cannot recall the name of the movie. The vehicle was a white parish car that Fernando used and she does not know if it was assigned to him or not. As he was leaving the parking lot he backed into another car and continued to drive away. She called his attention to it since it was very apparent but he told her not to worry about it and left. He was quiet after the movie and little if anything was said on the drive home. He did not come into her house when he brought her home either.

Not long after the movie incident, while she was still in high school, they returned to the same parking lot. She cannot recall the reason they were there but he parked in front of Farrell's and laid his head in her lap. While in this position he pulled her head down and kissed her. This was a longer kiss than the one in the movie and he put his tongue in her mouth. After the kiss he took her home.

On another occasion while she was still in high school, probably on a Saturday, he took her to the Los Angeles County Arboretum. She wore her hair in bangs and she recalled that she had braces on her teeth then. It was a warm day and she wore a white dress that she made and white sandals. As in the other described incidents he did not wear his clerical clothes. He brought a camera and took about five photographs during the day which he later showed to her. He did not give her any of them and she has no idea where they are now. He did not feel comfortable driving on freeways and so he drove home on Rosemead Boulevard. This route passed through the Whittier Narrows and a large park at Legg Lake. He pulled into the parking lot at Legg Lake and parked. He wanted to take a walk and so they did for a while and then they stopped at a picnic table and sat down. He began to kiss and fondle her. It was dark and they were there for about an hour. This time he put his hand inside her blouse and bra so he was rubbing the skin of her breast. They then returned to the car and drove home.

After the first Legg Lake incident they returned there and once again he was not in clerical garb. This time it was in the evening and the light was very dim. He was sitting in the driver's seat and she was in the front passenger seat when he unzipped his pants and exhibited his erect penis outside of his pants. She had never seen a penis before and did not want to look but did see it as she glanced over. He then told her to kiss his penis and when she said, "No Father", he tried to force her and instructed her to do it. When she did not he took her left hand in his, put in on his penis and began to masturbate. He was breathing hard and kept repeating, "Do it! Do it!" This continued until he ejaculated

and her hand was covered with fluid. He then gave her a napkin or something similar to clean up with.

It was sometime after the second Legg Lake incident she remembers being on the school bus approaching the Saint Hilary's rectory when some of the girls noticed Fernando walking on the street. He was dressed in black wearing white shoes and they thought he resembled a penguin and giggling commented to that effect. At that time she felt a great deal of shame and fear wondering if anyone could tell by looking at her what she had done with him. She did not know of anyone who had ever observed them, either from the parish or anywhere else, during one of these incidents but she had these thoughts nonetheless. She remembers being confused with her emotions because most of the time he was kind to her, paid attention to her and showed her affection. Nobody else did this.

Sometime after these incidents Fernando was transferred to Saint John Baptist de la Salle in Granada Hills. She had never been to Granada Hills and it sounded very affluent to her and she thought he had done very well. Once he was there he called her and said he was happy there and wanted her to visit. He drove to her house and took her back to the Saint John's rectory. This first trip she brought her flute. He parked in the rear of the rectory in an area that appeared to be for the priests. They then entered what she thought was a back door and immediately to the left was a sitting room. From this room was a door that entered into his room. The first trip there she played her flute in the sitting room.

The second time he brought her there they went into his room. As they entered his room there was a bed to the left of the door. At the foot of the bed was a dresser with a mirror above it. The room was carpeted and to the left of the dresser was a chair. There was a window on the left wall entering his room. He had her disrobe when they were in his room but she kept her slip on. He pulled down her slip and bra and kissed her breasts and sucked on her nipples. They laid on the bed on top of each other and side-by-side and she could feel his erection but she did not know if he ejaculated during their activity. She asked him why he did not undress and he responded that he did not want her to become pregnant.

During one of these episodes she asked him why he did not leave the priesthood and he said that was the only thing he knew and that he could do nothing else. He mentioned that in the seminary in Sri Lanka the seminarians were discouraged from touching themselves and were given some type of implement to tuck their shirts in so they would not touch themselves in that area of the body. He told her that his Sri Lankan first name is REDACTED and that the name Fernando came from the Portuguese that settled that area of Sri Lanka. He never mentioned his family or why he came to America. She met some of the other Sri Lankan priests who were his friends but never had a conversation with them.

She estimated that she traveled to Granada Hills on perhaps ten occasions and similar things happened that were previously described. Only one time, during her last visit, did he have her take all of her clothes off including her undergarments. They laid on the bed that time and he "spooned" her. She described that as lying closely side-by-side. He

would always do the touching and she neither wanted to nor did touch him. She was always in a passive state during these encounters and is unaware if he ejaculated since he was wearing his clothes.

After he instructed her to dress he always went to the kitchen and brought her back ice cream. He knew she liked ice cream and she would sit in the chair in his room and eat it and then he drove her home. One time as they both stood in front of his mirror he took a roman collar from a dresser drawer and put it on her. After they both looked at it for a few moments in the mirror he took it off and put it back. Neither one of them said anything. During these visits she met the housekeeper once, who she could only describe as an Anglo female. This woman knew that she and Fernando were in his room together behind closed doors. Another time she met a priest at the doorway of the sitting room and he had several lay people with him. She was simply introduced as a friend by Fernando.

He sent her two letters while he was at Saint John's. The first one mentioned that he went to an outdoor play and after that had a sore throat. He said that one kiss from her would cure it. The second letter was just before she entered the convent and he told her how brave she was to do that. She had not seen him in quite awhile and believes she probably told him about her plans for the convent during her last visit with him. She entered the convent on January 9, 1983. She does not have either letter or any other document from that era with the exception of an old address book with Fernando's telephone number in Granada Hills. She did not have that with her.

She was never in Fernando's room at Saint Hilary's while he was there. At times she would assist the housekeeper delivering laundry to the priests' room. She could not recall seeing any type of unusual marks or scars on Fernando's private parts but said he was very dark skinned and had hairy arms. Another recollection was that he frequently wore mismatched clothes.

Due to the confused state of mind she was in and lack of close friends she did not confide in anybody at the time these events happened and not until 2002 did she reveal it. It was while she was reading an article in one of the weekly news publications, perhaps Time or Newsweek, about a Catholic priest abuse victim that was a musician and had thought about entering the seminary that all of these memories came flooding back to her. She was at work and became very distraught. Driving home that is all that she thought of and when she arrived her brother immediately noticed there was something wrong. When he inquired as to what was bothering her she blurted out what occurred. He told her that she needed some help. They then searched Fernando's name on the internet and determined he was still an active priest. On learning this she was horrified and concerned that he might have preyed on others and was continuing to do so. Shortly after that she approached an attorney acquaintance and confided in her. She gave her the telephone number of the appropriate unit in the Los Angeles Police Department (LAPD) and about one week later she filed a complaint with them.

Regarding the consensually monitored telephone call she made to Fernando at the behest of the LAPD she does not have a copy or a transcript of it. She has never listened to the recording or seen a transcript. She not only has no problem with the Archdiocese listening to the conservation she desires that this be done. She and REDACTED advised that REDACTED would be told of this and it was requested they ask REDACTED to call Detective James Brown or Lieutenant Dennis Shirey to facilitate the Archdiocese obtaining a copy. In the call Fernando immediately acknowledged remembering her and did not seem surprised that she was calling him. She told him she was upset at the news coming out of Boston regarding the clerical sexual abuse cases. She asked him if he remembered what happened between them and mentioned specific acts and places they happened. He responded that he did although as she recalls there were a couple of things he claimed not to remember. He acknowledged thinking about it over the years and when she mentioned specific sexual activity between them he agreed that it occurred. The letters were also mentioned and he recalled them. He continually asked for her forgiveness, said he was sorry and told her that he went to confession and received absolution. He also said that he thought she was older and that it was in the heat of passion. She pointed out to him that she was in high school and he regularly saw her in her high school uniform and that since it happened on a number of times it could not have been a momentary passionate impulse. He mentioned that he was young but she pointed out he was 37 years old in 1981. He also said that she treated him nicely, was helpful to him and that he loved her. She asked if he loved her why he had hurt her so badly. He also told her he had not done anything like that to anyone else. She finally said that she forgave him and he felt relieved at that. He asked her if she had told anyone else about what he had done and she said that she had not. He asked her to pray for him and to call him again in the future. The call was then terminated.

On reflection she now feels his behavior was predatory and calculated and emphasized her fear that he might have done this to someone else and her desire that he be relieved of his ministry. It tormented her to know that he was in a position that allows him to this again.

REDACTED became emotional at times when recounting the details set forth above. She advised early in the interview that there was one incident she had a particular hard time with and that it might upset her enough when she described it that she would not be able to continue. It was suggested that she relate that at the end of the interview. This was acceptable to her and this is what she recounted. She could not give a time frame for when this happened, before or after his transfer to Saint John's, but remembered they parked in the parking lot at REDACTED REDACTED This is the street her parents live on and did then also. There were a line of skinny trees that blocked the view of the parking lot from the street and these trees have since been removed. After he parked there, without any foreplay, he put his finger into her vagina. This was very painful and she told him that and kept repeating, "Father, Father, ..." It was very traumatic to her and that is all she remembers.

She reiterated that she was always taught to be permissive, passive and respectful of adults especially priests and she never thought of saying no to his abusive activities.

Even now she finds it very difficult to talk about. She never saw him do anything like this to anyone else and she is not aware of him abusing anyone else.

REDACTED of Saint John Baptist de la Salle Church, was contacted on February 2, 2004, and conducted a tour of the rectory and surrounding area.

She pointed out that the area behind the rectory was made into a gathering area, or plaza, in 1991. Prior to that it was a parking lot and if a priest did not park in the garage he could have easily parked there and it would have been convenient to the priests' private entrance into the rectory.

Leaving this area is a walkway between the church and the rectory that leads to the private entrance on the west side of the rectory. Entering this door a hallway goes about ten feet and then there is left turn and an immediate left turn into a sitting room. This is a private sitting room and a door from it leads directly into a bedroom. Entering the bedroom looking at the wall to the left is a window. Currently the head of the bed is under the window but REDACTED advised the previous occupant had the head of the bed immediately to the left as one entered the room. If the bed was configured in that manner the chest of drawers and mirror on the far wall would be at the foot of the bed. REDACTED stated that particular piece of furniture has been positioned that way as long as she has been at Saint John's, which is the early 1990s.

She was not working at the parish when Father Walter Fernando was there but believes this room was more than likely his. The other associate pastor suite is across the hall.

REDACTED provided blue prints for the rectory.

FatherREDACTED was telephonically interviewed on February 5, 2004, and provided the following information:

When Father Walter Fernando came to Saint John Baptist de la Salle Church in Granada Hills in 1981 as an associate pastor he was assigned a room in the rectory. REDACTED was the other associate at that time and described that on entering the rectory from the priests' entrance off of the walkway between the rectory and church there is a hallway. Straight ahead a few feet is another hallway to the left and then immediately to the left a door into the sitting room that is part of the suite in which Fernando lived. There is also a bedroom and bathroom in that suite.

There was parking in the rear of the rectory at that time and no door existed into the rear of the rectory from that parking area.

The nameREDACTED means nothing to him.

REDACTED superintendent of secondary schools, Department of Catholic Schools, Archdiocese of Los Angeles was interviewed on February 2, 2004, and provided the following information:

She contacted REDACTED at Saint Paul High School in Santa Fe Springs regarding REDACTED. He advised that REDACTED was an outstanding student and very active in the music program when she attended Saint Paul's. She won several scholastic awards when she graduated.

REDACTED (protect identity upon request) was telephonically interviewed on January 29, 2004, and provided the following information:

She met REDACTED when they sang in the junior choir at Saint Hilary's in 1979-1980. She (REDACTED was in the seventh grade and REDACTED was about four years older. In her sophomore year she began work at the parish as a junior secretary and REDACTED was leaving to enter the convent. REDACTED trained her and their tenure at the rectory overlapped briefly. While REDACTED was in the convent she only saw her once wher REDACTED was home on vacation and she came by the rectory to say hello.

REDACTED ACTED

REDACTED

REDACTED was a priest at Saint Hilary's who they both knew. When it became public that he had abused REDACTED, who they both knew also, they discussed it. On one of these occasions REDACTED asked her if she remembered Father Walter Fernando and she told REDACTED that her memory of him was very faint. REDACTED then told her that he had abused their relationship when REDACTED worked in the rectory. She asked REDACTED what she meant by that but REDACTED refused to detail what had happened and was clearly embarrassed by it. This was the only time it was mentioned and she could not say with any accuracy when it happened except that it was after the REDACTED incident became public and at least a year ago. They have a mutual friend, REDACTED who lives in Moreno Valley. About the time REDACTED mentioned Fernando to her she was talking to REDACTED and REDACTED related that REDACTED had asked her also if she remembered Fernando. She cannot recall what REDACTED's response was. It surprised her that REDACTED would say something like that about a priest.

She does not believe REDACTED would make something like this up but at the time it did not occur to her that the abuse was sexual in nature. She assumed that REDACTED had told him something in confidence and he repeated it to someone or something like that. At the time she was a fairly close friend of REDACTED and wondered why REDACTED had not told her sooner than she did.

She has not seen REDACTED in over a year and has lost track of her. She does not know where REDACTED is living or working. She described REDACTED as a very quiet and shy person.

MEMORANDUM

TO: Cardinal Roger Mahony

FROM: REDACTED

RE: ***Recommendation of the Clergy Misconduct Oversight Board Reverend Walter Fernando [CMOB-027-01]***

DATE: April 25, 2003

The case of Father Walter Fernando was first considered at the CMOB meeting on January 22, 2003. At that time Monsignor Cox reported that in June of 2002 Father Fernando informed him that two detectives from the Los Angeles Police Department had stopped by the rectory looking for him while he was on vacation. They left a business card, but no information. LAPD would only state that there was an open investigation. Father Fernando told Monsignor Cox that he didn't know what they were concerned about but that it could be an incident which occurred some 20 years ago when he placed an arm around a woman while they were watching a movie together. There had never been any complaints. The CMOB discussed the case and recommended at that time that no action be taken until further information was obtained. For some reason, this recommendation was not reported to you at that time.

We returned to Father Fernando's case on March 26, 2003. Msgr. Cox reported that Father Fernando's name recently appeared on the list of alleged perpetrators and purported victims in the class action suit currently in mediation. The information stated that Father Fernando had abused a young girl from 1980-81 by pre-sexual grooming, French kissing, hugging in a sexual manner, fondling her buttocks and rubbing/massaging of her breasts both over clothes and skin to skin, kissing her neck, face and breasts, putting a finger in her vagina, her masturbation of him skin to skin, and his trying to force oral copulation. The abuse was alleged to have occurred several times at the theater, in the car and at a park.

Father Fernando met with Father REDACTED and Monsignor Cox on February 12, 2003. Upon advice of counsel, he did not respond except to verify dates concerning his service as a priest. On March 7, 2003, he responded to the charges in writing and denied any and all claims that he put his finger in her vagina, masturbated her and attempted to force her into oral sex. His letter did not mention the other charges listed in the print out.

The Board took a vote on the following two options: 1) that Father Fernando be put on administrative leave immediately, or 2) that the Vicar for Clergy's office seek further information from Father Fernando and the alleged victim, including, but not necessarily limited to, the victim's birth date, and report back as soon as possible, but in no event later than the June 11, 2003 CMOB meeting (60 days). Of the nine Board members present at the time of the vote, eight voted for Option 2 and one abstained.

I concur with the Board on Option 2 – provided that this process [illegible] found at once – + Roger Card. Mahony 29 April 2003

REDACTED

From: REDACTED
Sent: Tuesday, January 06, 2004 10:42 AM
To: REDACTED
Subject: FW: RE: answer to REDACTED

REDACTED

> [Original Message]
> From: REDACTED
> To: REDACTED
> Date: 1/6/2004 10:24:38 AM
> Subject: RE: answer to REDACTED
>
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>
> > -----Original Message-----
> > From: REDACTED
> > Sent: Tuesday, January 06, 2004 7:35 AM
> > To: REDACTED
> > Cc:
> > Subject: answer to REDACTED
> >
> > Hi REDACTED d:
> >
> > The person accusing Father Fernando has never come forward to us
> > with a
complaint. We have [REDACTED ---- no information on what is claimed to have happened, when it was supposed to have happened or to whom it allegedly happened. REDACTED information about the alleged molestations provided by the victim's attorney in the course of mediation. This is privileged, unverified information received indirectly. In accord with our policies, the Clergy Sexual Misconduct Oversight Board reviewed Father Fernando's case and recommended that he not be removed from ministry at this time because the current information does not warrant such action.
> >
> > The pastor and parishioners are fully aware of Father Fernando's
situation. It has been addressed in the parish. No one has complained to the Archdiocese as a result of these discussions.
> >
> > Father Fernando has adamantly denied that he ever abused anyone.
> >
> > As far as the other priest, he is on administrative leave.
> > Accordingly,
he is not in any ministry and has had his faculties removed, so he cannot function as a priest. He moved out of the Archdiocese and moved in with family. In accord with the Charter for the Protection of Children and Young People, the bishop of the diocese in which he is living with family has been notified of the circumstances of his situation.
> >
> >
> > The names of both priests have been reported to the civil
> > authorities.
> >
> > Thanks,
> >
> > REDACTED
> >
> >
> > Office of Media Relations
> > Roman Catholic Archdiocese of Los Angeles

> > 3424 Wilshire Blvd.
> > Los Angeles, CA 90010-2248
> >
> > REDACTED
> > REDACTED
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> REDACTED
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> ---
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> permanently delete the original and any copy of this message, its
> attachments, and any printout thereof. Thank you.

MEMORANDUM

TO: Cardinal Roger Mahony
REDACTED
FROM:

RE: *Recommendation of the Clergy Misconduct Oversight Board*
Reverend Walter Fernando (CMOB 027-01)

DATE: 14 January 2004

The CMOB met today and continued our discussion of Father Fernando, especially in light of the lawsuit filed against him on December 9, 2003 and the article in today's *Los Angeles Times*.

Father Fernando's case was discussed by the Board on January 22, 2002 and March 26, 2003. I submitted a report summarizing the case and our discussions and conclusions on April 25, 2003. At that time we felt that we needed additional information before we could come to a conclusion and recommended that the Vicar for Clergy's office seek further information from Father Fernando and REDACTED the alleged victim. You concurred with our recommendation provided that this process proceed forward at once.

Since that memorandum, Father Fernando wrote a letter more specifically denying each of the claims made by Ms. REDACTED as stated in very summary fashion on the spreadsheet supplied by her attorneys. Those are the same behaviors alleged in the lawsuit. Father Fernando also underwent a psychological evaluation as recommended by the Board, the results of which are in his file. REDACTED, the psychologist who conducted the evaluation, concluded that while it is impossible for him to determine if the acts complained of occurred as Father Fernando described them, his profile was not consistent with an individual who would lie to an evaluator or of an individual who is capable of deceit.

Today, we had a lengthy and thoughtful discussion. The members of the Board are very concerned about protecting children and young people and will not hesitate to recommend that a priest be removed from ministry and put on administrative leave if credible information is presented to support such action. We concluded, however, that the filing of an unverified lawsuit or the publication of a newspaper article are not, in themselves, sufficient to automatically trigger removing a priest from ministry and putting him on administrative leave.

The allegations made by Ms. REDACTED in her lawsuit, if true, are very serious and describe behaviors which are abusive and which would justify permanently removing Father Fernando from all ministry. Unfortunately, up to this point, these are only allegations that have come to us indirectly and without the kind of specificity that allows an appropriate investigation to proceed.

Therefore, because of the paucity of information, the members of the Clergy Misconduct Oversight Board recommend the following:

I concur

1. That Father Fernando not be placed on administrative leave at this time pending further and intense efforts to obtain additional information to verify the truth of Ms. REDACTED allegations. He may yet need to be placed on leave depending on the results of the next two recommendations.

I concur

2. That Ms. REDACTED be interviewed without delay. We were advised at our meeting that her attorney has agreed to a limited interview. We recommend that this interview be scheduled as quickly as reasonably possible and urge that Mr. REDACTED or another professional investigator conduct this interview.

I concur

3. That you authorize me, in my capacity as Chair of the Clergy Misconduct Oversight Board, to write to Deputy District Attorney William Hodgeman to obtain whatever materials have been developed by the police and the District Attorney in the course of their investigation. We understand that the Archdiocese has already made a similar request but without success. However, if the Board is to act responsibly we need all the information we can get and it's unreasonable for the District Attorney or the police to withhold information that will assist us in our work.

I concur

4. That you authorize me, in my capacity as Chair of the Board, to write directly to Ms. REDACTED, attorney to request an interview with Ms. REDACTED and/or to enlist her cooperation and consent to the release of the information developed by the District Attorney and the police if the interview and the request for information in Recommendation Nos. 2 and 3 are not forthcoming.

Monsignor Cox informed us that he will make an announcement to the parishioners at Father Fernando's current parish this weekend. This accords with our current policy.

The Board intends to review this matter again at our next meeting. Further recommendations may be forthcoming after that review.

Thank you.

cc: Msgr. Craig A. Cox

I concur in all the steps proposed — please proceed at once —

+ Roger Card. Mahony

16 Jan. 2004

COPY

MEMORANDUM

TO: Cardinal Roger Mahony

FROM: REDACTED

RE: ***Recommendation of the Clergy Misconduct Oversight Board***
Reverend Walter Fernando (CMOB 027-01)

DATE: 17 February 2004

The Board discussed the case of Father Walter Fernando at our meeting on February 11, 2004.

On January 14, 2004, we recommended (1) that Father Fernando not be placed on administrative leave at this time pending further investigation, (2) that the complainant, REDACTED, be interviewed without delay, (3) that I be authorized to write to Deputy District Attorney William Hodgeman to obtain whatever materials have been developed by the police and the district attorney in the course of their investigation, and (4) that I be authorized to write directly to Ms. REDACTED's attorney to request an interview with Ms. REDACTED and/or to enlist her cooperation and consent to the release of the information requested in #3. You concurred in these recommendations and directed me to proceed at once.

REDACTED was successful in arranging for REDACTED the former FBI special agent who has been working on this case as canonical auditor, to meet with Ms. REDACTED on January 29, 2004. Mr. REDACTED interviewed her in person on that date and documented his interview in a lengthy written report which he shared with the Board. In substance, Ms. REDACTED told him that she met Father Fernando in either late 1980 or early 1981 when he was at St. Hilary's Catholic Church in Pico Rivera and she was a 17 year old student at St. Paul's High School and working as a junior secretary in the rectory. Their relationship was platonic at first but this changed when Father Fernando took her to a movie and put his arm around her and fondled her breast. She told Mr. REDACTED that she was a nerd and did not have a boyfriend or had not even dated until years later. She was confused and somewhat attracted by his attention. The relationship developed and, on other occasions, similar and more serious sexual activity ensued, much of which is quite egregious as set out in Mr. REDACTED's report.

Ms. REDACTED turned eighteen in August, 1981. Father Fernando was transferred to St. John Baptist de la Salle in Granada Hills sometime in the fall, after her birthday. Their relationship continued and she visited him in Granada Hills on as many as ten occasions and they engaged in similar sexual activity. She said she was never in Father Fernando's private living quarters at St. Hilary's but she was at St. John Baptist and she described them with specificity. Mr. REDACTED visited St. John Baptist on February 2, 2004 and verified that Ms. REDACTED's description of the premises was accurate.

Father Fernando has consistently stated that his "indiscretion" was limited to putting his arm around Ms. REDACTED while attending a movie. Ms. REDACTED's account indicates a series of sexual encounters extending over a considerable period of time and is at odds with Father Fernando's version.

Mr. REDACTED was impressed with Ms. REDACTED and believes she and her account of what transpired are credible. Her description of Father Fernando's private living quarters at St. John Baptist supplies corroboration.

Efforts are being made to listen to or obtain a copy or transcript of a tape recording that was made by the police of a telephone conversation between Ms. REDACTED and Father Fernando. Ms. REDACTED does not have a copy and expressed a willingness to assist us in obtaining one. Monsignor Cox, REDACTED met with detectives from the Los Angeles Police Department on February 13, 2004 and, while they were not given the tape or a transcript or told what in contains, they believe they may have a way to either obtain a copy or find out what was said. I believe it would be best for me to defer writing to DDA Hodgeman until after they have explored this new approach.

The Board discussed Father Fernando's case and found that the statement made by Ms. REDACTED appears to be credible and is corroborated by her physical description of Father Fernando's private living quarters at St. John Baptist de la Salle, that Ms. REDACTED was seventeen years old when some of the serious allegations occurred, that the actions complained of are clearly child sexual abuse, and that the zero tolerance policy applies.

Father Fernando met with Monsignor Cox and Mr. REDACTED this afternoon and was advised by Monsignor Cox that he was being placed on administrative leave in view of what was learned by Mr. REDACTED in his interview with Ms. REDACTED however, he was not confronted with what she said because his attorney, REDACTED was not present and had asked that any discussion of the allegations with Father Fernando be deferred until he was in attendance. An interview with Father Fernando and Mr. REDACTED to confront Father Fernando with the allegations against him will be arranged shortly.

Accordingly, and with regret, the Board recommends that Father Fernando be immediately placed on administrative leave pending further investigation.

cc: Monsignor Craig A. Cox

I concur in the recommendation -
+ Roger Card. Mahony
20 Febry 2004

Father Walter Fernando
CMOB #027
SUMMARY

April 17, 2009

Timeline of Significant Events

Father Fernando was ordained in Sri Lanka in 1973. In 1981, he came to the Los Angeles Archdiocese and was assigned to St. Hilary's Parish on March 1, 1981. On August 7, 1981, the Complainant turned 18. Fernando served at St. Hilary's until his routine transfer to St. John Baptist de la Salle on November 30, 1981. Fernando was incardinated in Los Angeles on February 24, 1986.

4-02	The Complainant reported her alleged sexual abuse to the Los Angeles Police Department (LAPD).
5-02	As part of their investigation, the detectives had the Complainant make a monitored telephone call to Fernando. After that recorded conversation, the detectives went to Fernando's rectory, but he is gone on vacation.
6-02	Fernando informed the VC that the LAPD came to his rectory looking for him. He told the VC that about 20 years earlier he had "crossed boundaries" with a woman when he took her to the movies and put his arm around her.
8-02	The Los Angeles Times published an article naming Fernando as being under investigation by the LAPD. Ultimately the criminal case was closed due to the statute of limitations (*Stogner*).
1-03	The CMOB first discussed this case, but recommended no action due to the lack of facts.
2-03	VC and Vicar for Canonical Services interview Fernando, but he declined to answer any questions regarding the Complainant on advice of counsel. Later, Fernando sent two letters (3-7-03 and 5-8-03) to the VC in which he denied the allegations and claimed to have obeyed his vow of celibacy.
3-03	CMOB considers the case again and requests that more information be obtained
1-14-04	LA Times article is published detailing the case against Fernando and reporting that he is still in ministry. On that same day, the CMOB considered the case and requested an expedited investigation.
1-17/18-04	A statement was read at all weekend Masses at St Hillary's that Father Fernando was named in a lawsuit accusing him of sexual abuse while assigned to that parish. Any parishioner with information regarding the matter was asked to contact the VC, but no contacts were made.
2-04	CMOB considered the case again and found the allegations to be credible. They recommend that Fernando be placed on administrative leave, which he was.
11-04	Case is sent to Rome
9-05	Rome responded that the complainant was 17 at the time and under the 1917 Code of Canon Law she was not a minor. (It has since changed to 18.) Consequently,

the case is not under Rome's jurisdiction and responsibility for further action rests with the Archdiocese.

Interview of Complainant

On January 24, 2004, the Complainant agreed to be interviewed by REDACTED They met in a restaurant accompanied by her lawyer. There were no restrictions placed on the interview other than asking that it not "drag on for several hours."

Complainant stated that when she was a senior in high school she worked as a junior secretary in the rectory. She worked most weekdays from after school until about 9:30 PM. Consequently, she almost always wore her Catholic High School uniform when working at the rectory. She was active in her parish, taught CCD and was in the choir. She characterized herself as an "unattractive nerd" with few friends and subject to verbal abuse from her peers. Her home life was troubled, so she enjoyed getting away to work in the parish.

Complainant said that while she was working at the rectory and still in high school Fernando took her to a movie. Towards the end of the movie he put his hand on her breast and began to rub it. Then he gave her a kiss on the lips. In another instance while she was still in high school they were together in a parked car and he laid his head on her lap pulling her head towards him and gave her a long kiss putting his tongue in her mouth. On another occasion while she was in high school, Fernando took her to a park where he kissed her and fondled her placing his hand inside her blouse and bra to rub the skin of her breast. Another time at the same park while she was in high school she was with him in a parked car. It was evening and he unzipped his pants, exhibited his erect penis and tried to force her to orally copulate him. She refused so he took her hand, placed it around his penis ad, with his hand clasped over hers, and masturbated until he ejaculated. She also described several incidents of sexual activity between her and Fernando that occurred after she was 18, including Fernando digitally penetrating her vagina.

Effective December 1, 1981, Fernando was transferred to St. John Baptist de la Salle parish in Granada Hills. So, the Complainant was now 18. He picked her up at her house and drove her to his new parish. He took her to a private sitting room in the rectory from which there was a door leading to his bedroom. They remained in the sitting room awhile while she played her flute. He brought her to the rectory a second time and this time they went into his bedroom. He had her disrobe, kissed her breast, sucked her nipples and lay on top of her on the bed and then alongside him. He did not undress, but she could feel his erection. She asked him why he did not undress and he replied he didn't want her to become pregnant. She estimated she went to the parish in Granada Hills about ten times and that similar sexual activity occurred between Fernando and her each time. She provided REDACTED with a detailed description of the rectory and Fernando's living quarters. When asked who could corroborate her story, she stated that her mother, brother and sister all knew that she was going out with Fernando.

Through his Canonical Advocate, Fernando denies that the Complainant was ever in his quarters at St. John Baptist de la Salle. However, REDACTED inspected the premises and found the Complainant's description of the physical layout to be completely accurate. In order to account

for any alterations that may have been made over the years, REDACTED interviewed the priest who was the pastor there at that time. His description of the premises also matches the description given by the Complainant.

Through his Canonical Advocate, Fernando points out that he could not have driven Complainant as she describes because he did not have a driver license when he arrived in the United States. He claims not to have obtained his license until the summer of 1981. No documentation of that date has been obtained.

Monitored Telephone Call

On May 24, 2002, the LAPD detectives had the Complainant initiate a telephone call with Fernando. That conversation was recorded. Investigator REDACTED has attempted to obtain a copy of the call, but has been unsuccessful thus far. A letter from REDACTED to the LAPD resulted in an October 7, 2008, letter denying her a copy. The letter does say that if the request is due to pending litigation the document may be obtained through a court order. No effort has been made to pursue that avenue or to explore whether the police department would honor a church subpoena. There is also no explanation on why the request was not submitted to Deputy Chief Beck, the police department's Chief of Detectives.

The ability to obtain the tape notwithstanding, REDACTED has had the opportunity to listen to the tape. He describes the tape as corroborating the Complainant's allegations. Fernando's admissions during that taped conversation are in direct conflict with his statements in his March 7 and May 8, 2003, letters in which he denies "having had any sexual activity with (Complainant)" and affirms that he has obeyed his vow of celibacy. REDACTED status report of March 21, 2007, states, "police record phone conversation between Complainant and Fernando in which Fernando appears to admit that sexual activity took place between him and Complainant when Complainant was 17 years old." His report goes on to say that, "Fernando said that he remembered kissing the victim but didn't remember showing her his penis; he stated that he thought the victim was 19 years old; he admitted feeling love for her and recalled rubbing her breast and kissing her breasts; he told her that he confessed his sins in this matter and asked her for her forgiveness; he stated he wanted to remain a priest and asked her to keep this between them. The investigator concluded that the tape appeared to confirm that something of a sexual nature had transpired between Fernando and the victim."

Interview of Complainant's Family

In the meeting of April 2, 2008, it was decided that efforts should be made to contact the Complainant's mother, sister and/or brother in an effort to corroborate the number of "dates" she allegedly had with Fernando and to determine if any of them had any additional information to support or refute these allegations. The need for this effort was consistent with REDACTED March 21, 2007, analysis of this case. In that report he recommended that the Complainant's mother, brother and sister be interviewed to ascertain what knowledge they may have of the Priest and Complainant going out together. Rather than contacting these people directly, the

investigator has elected to seek their cooperation through the Complainant's attorney. Consequently, none of them has been interviewed nor have they declined to be interviewed.

Information from Attorneys

Attorneys representing the complainant and Archdiocese were contacted and they had no new information regarding this case.

Civil Suit

This case was settled as part of the global settlement. The amount received by this complainant was within the median amount for settlement of those cases.

Interview of Father Fernando

Once the foregoing were completed, it would then be appropriate to interview Father Fernando. Again, this would be consistent with REDACTED s March 21, 2007, analysis of this case. His first recommendation in that report was that Father Fernando "should be interviewed *quam primum* with regard to every aspect of his case, since direct statements from him will prove invaluable for resolving many of the issues and questions that remain and will also prove useful in properly evaluating the claims advanced by (the Complainant)."

On Monday, March 23, 2009, Father Fernando was interviewed. Present were Father REDACTED REDACTED Monsignor Gabriel Gonzales, Vicar for Clergy; REDACTED

The interview was transcribed and consists of 23 pages in total. After some legal wrangling, REDACTED is allowed to begin his interview. After asking a few background questions, he asks Fernando, "Did you have any type of relationship with females prior to...." He is immediately interrupted by REDACTED who instructs Fernando not to, "...answer any question that has to do with any relationship or any person of any kind." After a brief discussion of a canonical nature, REDACTED and the recorder are asked to leave the room.

An unknown amount of time later, they reenter the room and the record continues. Father REDACTED comments that, as a result of the conversation, they "have been able to come to an accommodation that should resolve concerns that have led to this investigation. And we will put this on record, but we're thinking that there isn't any further point to the investigation as such and that Mr., REDACTED could be excused from this session." At that point the interview is concluded and REDACTED leaves the interview room.

Proposed Agreement

Once the investigation is concluded, a discussion ensues regarding an offer that Father Fernando has made and the Archdiocesan representatives apparently have accepted. That proposal is that:

1. Father Fernando will retire at 65 years of age (4-24-09) and will voluntarily agree to refrain from any priestly public ministry in the Archdiocese of Los Angeles.

2. Should any letter of inquiry be received from another Bishop, the parties would collaborate on the wording of any response from the Ordinary of Los Angeles. The letter would not say that Fernando has been found unfit for ministry, but clearly communicate that Fernando has offered and the Archdiocese has agreed that he will not exercise ministry in this diocese. Any Bishop making an inquiry should be given the facts and the decision left up to him regarding any granting of faculties. It was pointed out that CMOB would in all likelihood have difficulty accepting that provision, but that issue was never resolved. (Fernando vacations in Sri Lanka.)

3. The original precept placing Fernando on leave would be revoked.

Not discussed in the proposal are several other considerations the CMOB usually addresses in its final recommendations to the Cardinal. Among those are:

- The appropriateness of the accused priest residing or maintaining a presence in a rectory or church facility;
- An announced at any parish with which he has maintained a priestly relationship; and,
- Notification to the Complainant regarding the Archbishop's final decision on this matter.

LA Times 1/14/04

Priest in Sex Lawsuit Still a Parish Cleric

He denies wrongdoing and church officials say the woman didn't tell them. But she did contact police.

By Richard Winton
Times Staff Writer

Despite the Roman Catholic Church's zero-tolerance policy on sexual abuse, the Archdiocese of Los Angeles has allowed a priest to continue working in a Pasadena parish nearly two years after a woman told police the pastor molested her when she was 17.

The woman told authorities in April 2002 that she was molested by Father Walter Fernando when she attended the Pico Rivera church he was serving. She said Fernando molested her in 1981 during trips to a Downey movie theater, in his car, at the Whittier Narrows Recreation Area, and in his parish bedroom after she turned 18, according to police reports.

With detectives listening, the woman telephoned Fernando in May 2002 to confront him. Fernando, 59, made statements during the conversation that police felt corroborated her account, said Los Angeles Police Det. James Brown. He declined to specify what the priest said.



Father Walter Fernando in the L.A. Archdiocese 1999 Catholic Directory

Donald Steier, attorney for Fernando — associate pastor at Assumption of the Blessed Virgin Mary Catholic Church in Pasadena — said his client denied wrongdoing.

LAPD investigators said Fernando was not charged in 2002 because the alleged molestation — which involved fondling — was not a felony in the early 1980s. For a period of years, California law allowed prosecution of felony sex crimes from past decades. But the U.S. Supreme Court ruled the law unconstitutional last summer.

Had Fernando's conduct occurred today, Brown said, "it would have been an egregious and serious felony sexual assault. But based upon the laws at

[*See Priest, Page B8*]

IX 000743

RCALA 002642

IX 000744

Priest Still Working Despite Woman's Abuse Claim

[*Priest, from Page B1*]

the time, charges could not be filed against him."

The U.S. Conference of Catholic Bishops approved a zero-tolerance policy for sexually abusive priests in June 2002. Under the policy, a priest, deacon or other church employee must be temporarily removed from any ministry or function when a "credible allegation" of sexual abuse is lodged against him. The policy also requires any priest or deacon guilty of sexual abuse to be permanently removed from ministry.

The policy was amended in December 2002 to say that if "sufficient evidence" of sexual abuse was found, the priest must immediately go on administrative leave pending a church trial.

J. Michael Hennigan, the archdiocese's attorney, said that Fernando's case had been "high on the radar screen for some time," but that church officials didn't have sufficient evidence to justify placing him on leave. He said the only information the church had about the woman's accusations came "secondhand" from her attorney and that church officials had not talked to her directly.

Fernando "has vigorously denied all the charges," Hennigan said, adding that the allegations have been reviewed twice by the church's misconduct board. "What do you do when the challenge is, you only have two witnesses? It is 'he said, she said.' "

After inquiries by The Times, archdiocese spokesman Tod Tamberg said Fernando's case will be reviewed by the misconduct board again today. He said the archdiocese has asked to interview the alleged victim and requested that her attorney provide a sworn statement of the accusations.

"What we have so far, then, is a 23-year-old allegation with no firsthand sworn testimony to support it and no further allegations of abuse of any kind from anyone who has been associated with Father Fernando, past or present," he said.

Church critics say the Fernando case shows that priests accused of sexual abuse are allowed to continue serving in parishes.

"This demonstrates the dishonesty of the zero-tolerance pledge," said Father Thomas P. Doyle, who co-wrote a report to U.S. bishops in 1985 warning of problems with abusive priests. "At the very least they should have put him on an administrative hold until this is resolved."

A native of Sri Lanka, Fernando first came to the archdiocese as a visiting priest in 1981 at St. Hilary Church in Pico Rivera. Later that year he moved to St. John Baptist de la Salle Church in Granada Hills. In 1986, Fernando joined the permanent ranks of the archdiocese's priests. He served at St. Rose of Lima Church in Simi Valley, Cathedral Chapel in Los Angeles and St. Gregory the Great Church in Whittier before going to Assumption in 1992.

Fernando continues to say daily Mass at Assumption, which has an elementary school, and conduct other duties, Tamberg said.

The woman, whose identity is being withheld by The Times as a potential victim of a sexual assault, said she came forward after reading about other cases. "I wanted to do what was necessary to stop him from harming anyone else," she said in an interview.

The accusations were first made public in a Times story in August 2002.

Katherine Freberg, an attorney for the alleged victim, said she provided details of the case to an archdiocese attorney in February 2003. A few months later, a Los Angeles grand jury issued a subpoena for Fernando's personnel file from the archdiocese.

Freberg sued in December, claiming Fernando kissed the plaintiff, touched her breasts and forced her to touch him.

Tamberg said Cardinal Roger M. Mahony is a strong advocate of the zero-tolerance policy and created similar rules years before the bishops acted.

"There is no one in ministry that we know of in the Archdiocese of Los Angeles who has been found to have abused a minor," Tamberg said.

The archdiocese was not aware of the details of the police investigation, he added, and would like to review any information investigators have.

Church officials have told Fernando's parishioners about the allegations but have found no additional alleged victims, Tamberg added.

"They aren't looking to find anyone, as this case demonstrates," said Mary Grant, a spokeswoman for the Survivors Network of Those Abused by Priests. "If they were really concerned about protecting children, they would pursue this more vigorously."

RCALA 002643

Priest Put on Leave in Sex Inquiry

The L.A. Archdiocese says that until recently only secondhand allegations had surfaced.

By RICHARD WINTON
Times Staff Writer

One of the 10 priests who were ministering in the Archdiocese of Los Angeles last month despite sexual molestation allegations has been placed on leave pending a church investigation.

Cardinal Roger M. Mahony placed Father Walter Fernando on administrative leave from his duties at Assumption of the Blessed Virgin Mary Church in Pasadena.

The decision comes more than a year after church officials learned of the accusations against him. Fernando has vigorously denied the allegations through his attorney.

Mahony's decision was based on a recommendation from the Clergy Misconduct Oversight Board after church officials recently interviewed a woman who alleges that Fernando molested her in 1981 when she was 17 years old and attending a Pico Rivera parish.

The board discussed Fernando at least twice previously, but cited a lack of evidence in leaving him in parish ministry.

Tod Tamberg, archdiocese spokesman, said the allegations until recently were secondhand, made by the alleged victim's attorney in February 2003. In August 2002, The Times reported that Fernando was under police investigation. Fernando's personnel file was also subpoenaed by the Los Angeles County Grand Jury last summer.

The accuser sued the church in December, alleging that Fernando touched her breasts and forced her to touch him.

In a statement to parishioners dated Feb. 21, Vicar of the Clergy Craig Cox said the decision to remove Fernando did not reflect a judgment on his guilt. Cox said that an investigation by a private investigator who is a former FBI agent is continuing.

"By our policy, administrative leave is recommended when an initial investigation raises sufficient questions to take the precaution of placing the priest on leave while further investigation continues," he said.

The Times disclosed Jan. 14 that the LAPD listened to a telephone conversation between the accuser and the priest in May 2002 in which the cleric made statements that corroborated the alleged victim's account of molestation, according to a police detective. Fernando was not criminally charged.

Tamberg said that before that story, church officials were not aware of the content of the police investigation.

Cox told parishioners the archdiocese had yet to be granted access to the police investigation's results and said the church inquiry "will require significant additional time."

Archdiocese officials said that others among the 10 accused priests were not removed because they face allegations from a single accuser that have not been substantiated.

Last month, however, one of the 10 priests was removed from the ministry after a second alleged victim came forward.

The archdiocese has said that since 1931, 244 of its priests have been accused of molesting 656 victims.

Pasadena Star News 3/4/04

Priest accused of molestation put on leave

By Sonya Geis
CORRESPONDENT

PASADENA — A woman who has accused a Pasadena priest of "predatory" sexual behavior toward her in 1981 said Wednesday she is relieved he has been put on administrative leave, but is upset that the church took so long to address her charges.

Armida Price filed a police report nearly two years ago claiming the Rev. Walter Fernando, of Assumption of the Blessed Virgin Mary Catholic Church in Pasadena sexually molested her when she was a 17-year-old parishioner in Pico Rivera in 1981.

"My initial reaction (to Fernando's removal) is tremendous relief," Price said. "I feel vindicated."

Through his attorney, Fernando, 59, denied any wrongdoing. Fernando has served more than 11 years at the church on Orange Grove Boulevard.

Price said the Archdiocese of Los Angeles, which knew of the molestation allegations for more than a year, should have acted sooner.

"I've been frustrated by the church's slowness in their reaction in finally removing this priest," Price said. They still seem to be erring on the side of protecting the reputation of the priest and church at large, instead of focusing on public safety."

Tod Tamberg, spokesman for the archdiocese, said the process for removing priests works to

Please turn to PRIEST / A6

PRIEST

Accuser filed police report

Continued from A1

protect both accusers and accused.

In this case, Tamberg said, the church acted as soon as its own investigator was able to interview Price and deemed her accusations credible.

The investigation's findings were turned over to the Clergy Misconduct Oversight Board, a body composed of two church officials and 11 lay people, including parents of boys molested by priests.

The board recommended Cardinal Roger Mahony place Fernando on leave, which he did Feb. 19.

In a statement to parishioners at the Pasadena church Fernando served, Craig Cox, vicar for clergy, said the diocese has employed a former special agent of the FBI to conduct its investigation of the case.

Cox said the investigation will require "significant additional time."

The diocese first learned of Price's accusations through a newspaper story, Tamberg said.

Price filed her police report in April 2002. An investigation was launched that year, and Fernando's personnel file was subpoenaed by the Los Angeles County grand jury in 2003.

'My initial reaction (to Fernando's removal) is tremendous relief. I feel vindicated. I've been frustrated by the church's slowness in their reaction in finally removing this priest.'

Armida Price, alleged victim

As a part of the investigation, Price spoke to Fernando on the phone with police listening in.

A change in the statute of limitations for sex-abuse cases meant the allegations were too old for prosecution, she said.

Price filed a civil lawsuit in December 2003 instead. The suit claims Fernando touched her breasts and forced her to touch him.

Price said she no longer practices Catholicism, though she still lives within walking distance of the Pico Rivera church where she alleges the abuse took place.

"It's a painful daily reminder," Price said.

Claims Against Priest Reviewed

By RICHARD WINTON
Times Staff Writer

An Archdiocese of Los Angeles' clergy misconduct board on Wednesday reviewed allegations that a Pasadena priest sexually abused a teenage girl 23 years ago, and sent a memorandum on the cleric's future to Cardinal Roger M. Mahony, who has power to remove individuals from the ministry.

Although the Roman Catholic Church has a zero-tolerance policy for sexual abuse, Father Walter Fernando has been allowed to continue working for nearly two years after a woman told police the pastor molested her as a 17-year-old in 1981, when he was serving in a Pico Rivera parish. Police detectives and prosecutors said they believed the woman's accusations but could not bring charges because the most serious allegations were not crimes at the time.

Tod Tamberg, archdiocese spokesman, said the details of the memo sent by the Clergy Misconduct Oversight Board are confidential.

He said the panel typically would make a recommendation to Mahony on what action to take against the accused priest.

"Usually, he follows their recommendation," said Tamberg.

Under church law, Mahony has the ultimate authority on whether a priest stays in ministry or is temporarily or permanently removed because of sexual abuse allegations.

The clergy misconduct board has twice before reviewed the case against Fernando, but on prior occasions it did not have enough evidence to remove him from the ministry, archdiocese officials said.

Tamberg said the allegations the archdiocese had received against Fernando were second-hand, from the alleged victim's attorney and an August 2002 Times story stating Fernando was under investigation by police.

The zero-tolerance policy governing dioceses across the United States allows the removal of a priest when there is a credible allegation.

Tamberg said that because the allegations were not directly from the woman or in a sworn statement, the archdiocese did not consider them to meet that standard. He said church officials have requested an interview with the woman and a sworn statement.

COPY

MEMORANDUM

TO: Cardinal Roger Mahony

FROM: REDACTED

RE: ***Recommendation of the Clergy Misconduct Oversight Board***
Reverend Walter Fernando (CMOB 027-01)

DATE: 17 February 2004

The Board discussed the case of Father Walter Fernando at our meeting on February 11, 2004.

On January 14, 2004, we recommended (1) that Father Fernando not be placed on administrative leave at this time pending further investigation, (2) that the complainant, REDACTED be interviewed without delay, (3) that I be authorized to write to Deputy District Attorney William Hodgeman to obtain whatever materials have been developed by the police and the district attorney in the course of their investigation, and (4) that I be authorized to write directly to Ms. REDACTED's attorney to request an interview with Ms. REDACTED and/or to enlist her cooperation and consent to the release of the information requested in #3. You concurred in these recommendations and directed me to proceed at once.

REDACTED was successful in arranging for REDACTED, the former FBI special agent who has been working on this case as canonical auditor, to meet with Ms. REDACTED on January 29, 2004. Mr. REDACTED interviewed her in person on that date and documented his interview in a lengthy written report which he shared with the Board. In substance, Ms. REDACTED told him that she met Father Fernando in either late 1980 or early 1981 when he was at St. Hilary's Catholic Church in Pico Rivera and she was a 17 year old student at St. Paul's High School and working as a junior secretary in the rectory. Their relationship was platonic at first but this changed when Father Fernando took her to a movie and put his arm around her and fondled her breast. She told Mr. REDACTED that she was a nerd and did not have a boyfriend or had not even dated until years later. She was confused and somewhat attracted by his attention. The relationship developed and, on other occasions, similar and more serious sexual activity ensued, much of which is quite egregious as set out in Mr. REDACTED's report.

Ms. REDACTED turned eighteen in August, 1981. Father Fernando was transferred to St. John Baptist de la Salle in Granada Hills sometime in the fall, after her birthday. Their relationship continued and she visited him in Granada Hills on as many as ten occasions and they engaged in similar sexual activity. She said she was never in Father Fernando's private living quarters at St. Hilary's but she was at St. John Baptist and she described them with specificity. Mr. REDACTED visited St. John Baptist on February 2, 2004 and verified that Ms. REDACTED's description of the premises was accurate.

Father Fernando has consistently stated that his "indiscretion" was limited to putting his arm around Ms. REDACTED while attending a movie. Ms. REDACTED's account indicates a series of sexual encounters extending over a considerable period of time and is at odds with Father Fernando's version.

Mr. REDACTED was impressed with Ms. REDACTED and believes she and her account of what transpired are credible. Her description of Father Fernando's private living quarters at St. John Baptist supplies corroboration.

Efforts are being made to listen to or obtain a copy or transcript of a tape recording that was made by the police of a telephone conversation between Ms. REDACTED and Father Fernando. Ms. REDACTED does not have a copy and expressed a willingness to assist us in obtaining one. Monsignor Cox REDACTED and Mr. REDACTED met with detectives from the Los Angeles Police Department on February 13, 2004 and, while they were not given the tape or a transcript or told what in contains, they believe they may have a way to either obtain a copy or find out what was said. I believe it would be best for me to defer writing to DDA Hodgeman until after they have explored this new approach.

The Board discussed Father Fernando's case and found that the statement made by Ms. REDACTED appears to be credible and is corroborated by her physical description of Father Fernando's private living quarters at St. John Baptist de la Salle, that Ms. REDACTED was seventeen years old when some of the serious allegations occurred, that the actions complained of are clearly child sexual abuse, and that the zero tolerance policy applies.

Father Fernando met with Monsignor Cox and Mr. REDACTED this afternoon and was advised by Monsignor Cox that he was being placed on administrative leave in view of what was learned by Mr. REDACTED in his interview with Ms. REDACTED; however, he was not confronted with what she said because his attorney, REDACTED was not present and had asked that any discussion of the allegations with Father Fernando be deferred until he was in attendance. An interview with Father Fernando and Mr. REDACTED to confront Father Fernando with the allegations against him will be arranged shortly.

Accordingly, and with regret, the Board recommends that Father Fernando be immediately placed on administrative leave pending further investigation.

cc: Monsignor Craig A. Cox

I concur in the recommendation -
+ Roger Card. Mahony
20 Febry 2004

CONFIDENTIAL & PRIVILEGED
INVESTIGATIVE REPORT
ATTORNEY-CLIENT WORK PRODUCT

February 8, 2004

Canonical Investigation of Father Walter Fernando
CMOB-027

Supplemental Report of REDACTED , canonical auditor

Reference Report Dated January 23, 2004

The morning of January 29th REDACTED telephonically advised that he had spoken with REDACTED the counsel for REDACTED and that REDACTED would be available for an interview that evening. I telephonically contacted REDACTED who advised that REDACTED would meet with me at the REDACTED located at REDACTED in Whittier at 6:00 p. m. that evening. She also said that an associate of hers REDACTED would be there to make REDACTED more comfortable. She put no restrictions on the interview and only asked it not drag on for several hours. She was assured it would not.

At 5:45 p. m. I identified myself to REDACTED and we exchanged business cards. He was sitting in a relatively private booth in the restaurant and REDACTED had gone to the rest room. Shortly thereafter she returned and REDACTED introduced me to her. At that point he requested no questions be asked regarding damages in the suit REDACTED had filed. He was assured that was not the intent of the interview. REDACTED then provided the following information:

She met Father Walter Fernando in either late 1980 or early 1981 at Saint Hilary's Catholic Church in Pico Rivera. She was 17, a senior at Saint Paul's High School and working at Saint Hilary's as a junior secretary in the rectory. She was very active in the parish at that time. She taught a Confraternity of Christian Doctrine (CCD) class in her junior and senior year in high school and was in the junior choir where she sang and played the flute. She characterized herself as an unattractive nerd while in high school who had few, if any, friends and was the subject of verbal abuse. She had a 4.0 grade point average and some of the students may have resented her for that. Her home life was also troubled and she enjoyed being at the parish, as it was a refuge for her. She began volunteer work in the rectory during her junior year and between her junior and senior year she was hired as a junior secretary and began to receive a salary.

The priests at Saint Hilary's at that time were the pastor REDACTED , who is now deceased; REDACTED a Nigerian; and Fernando. She could not be certain if a Vietnamese priest named REDACTED was there at that time or came shortly after Fernando left. She thought he might have been there a short time while Fernando was there as she recalled REDACTED and REDACTED had rooms downstairs in the rectory and REDACTED

REDACTED and Fernando were upstairs. As a junior secretary she came to the rectory directly from school. The school bus had a stop at the church making it convenient for her and she reported to work wearing her school uniform. She would work as late as 9:30 p. m. at times on week nights and also on weekends. She was restricted to working not more than 25 hours a week. REDACTED who was attending California State University at Los Angeles, was also working there and trained REDACTED but other than the training they were not there together as one would normally relieve the other. There was another junior secretary for a short time but she was fired due to talking to her boyfriend on the telephone at work. REDACTED not only did not have a boyfriend but did not date until years later after leaving the convent. Her duties included doing parish clerical work and answering the telephone and door. She placed the priests' messages in boxes that were next to where she sat. She normally ate her dinner in the kitchen but on occasion was invited to eat in the dining room with the priests.

The rectory was quiet in the evening and normally only she and the priests were there. It was not uncommon for them to come by to check their mailboxes for messages. Fernando began to strike up conversations with her in the evening when they were alone. These talks became increasingly longer and friendlier. The first thing she recalls that was a bit unusual was one evening he began to shoot rubber bands at her. Late one Sunday afternoon in perhaps April 1981 Fernando suggested they go to the parish hall behind the church and he would play his violin and she her flute. They were there alone with a piano near the stage and she played her flute and sang. Then he played the violin and brought out music and sang a love song entitled, "Drink To Me Only With Thine Eyes". She felt this was a strange selection for him to pick since it was a love song. They were there about an hour.

Shortly after the parish hall incident she was alone at her desk one evening wearing her high school uniform. Fernando showed her a book and suggested that she read it. She turned the book over and read a synopsis of the story on the rear cover. It was about a priest who was having an affair and she gave it back to him. He inquired as to why she did not want to read it and she told him that she did not think that priests should do that sort of thing. He then explained to her there was a difference between celibacy and chastity. According to him celibacy meant simply that priests were precluded from marriage. Chastity was a vow that only priests that were in a religious order took along with poverty and obedience. Since he was a diocesan priest chastity did not pertain to him and he only had to remain celibate that is not marrying. Nobody had ever explained this to her and she was confused but since he was a priest she accepted what he said. Nevertheless she did not read the book and cannot remember the title.

Not long after the book incident, while still in high school, either on his day off or on the weekend he mentioned that he wanted to see a movie and asked her to accompany him. She rarely went to movies and since he was a priest and was showing her attention she readily accepted. He drove to her house, honked the horn and she came out. This is the procedure he used whenever he came to pick her up in the future. He never came into the house to talk to her parents or siblings. Her parents did not object to her going and she believes they felt good about it since they thought she was in the safe care of a priest.

They drove down Rosemead Boulevard to Downey the city that adjoins Pico Rivera to the south. They went to the Showcase Theatre located next to a Farrell's Ice Cream Parlor. Neither structure is any longer there as it is now a shopping center. He sat to her left during the movie and during the movie reached over and initially patted her hand. He then reached his arm around her shoulder and put his hand on her breast and began to rub it. She stared straight ahead and not knowing what to do she did not do or say anything. The movie was near its conclusion when this happened and when it finished she asked him to hand her a sweater she placed on the seat next to him. When she did this he abruptly leaned down and gave her a hard kiss on the lips. She had never been kissed on the lips before and she was shocked and emotional. She told him she had to go to the ladies' room and excused herself. When she returned to him she was still in shock and they proceeded back to the car. She cannot recall the name of the movie. The vehicle was a white parish car that Fernando used and she does not know if it was assigned to him or not. As he was leaving the parking lot he backed into another car and continued to drive away. She called his attention to it since it was very apparent but he told her not to worry about it and left. He was quiet after the movie and little if anything was said on the drive home. He did not come into her house when he brought her home either.

Not long after the movie incident, while she was still in high school, they returned to the same parking lot. She cannot recall the reason they were there but he parked in front of Farrell's and laid his head in her lap. While in this position he pulled her head down and kissed her. This was a longer kiss than the one in the movie and he put his tongue in her mouth. After the kiss he took her home.

On another occasion while she was still in high school, probably on a Saturday, he took her to the Los Angeles County Arboretum. She wore her hair in bangs and she recalled that she had braces on her teeth then. It was a warm day and she wore a white dress that she made and white sandals. As in the other described incidents he did not wear his clerical clothes. He brought a camera and took about five photographs during the day which he later showed to her. He did not give her any of them and she has no idea where they are now. He did not feel comfortable driving on freeways and so he drove home on Rosemead Boulevard. This route passed through the Whittier Narrows and a large park at Legg Lake. He pulled into the parking lot at Legg Lake and parked. He wanted to take a walk and so they did for a while and then they stopped at a picnic table and sat down. He began to kiss and fondle her. It was dark and they were there for about an hour. This time he put his hand inside her blouse and bra so he was rubbing the skin of her breast. They then returned to the car and drove home.

After the first Legg Lake incident they returned there and once again he was not in clerical garb. This time it was in the evening and the light was very dim. He was sitting in the driver's seat and she was in the front passenger seat when he unzipped his pants and exhibited his erect penis outside of his pants. She had never seen a penis before and did not want to look but did see it as she glanced over. He then told her to kiss his penis and when she said, "No Father", he tried to force her and instructed her to do it. When she did not he took her left hand in his, put in on his penis and began to masturbate. He was breathing hard and kept repeating, "Do it! Do it!" This continued until he ejaculated

and her hand was covered with fluid. He then gave her a napkin or something similar to clean up with.

It was sometime after the second Legg Lake incident she remembers being on the school bus approaching the Saint Hilary's rectory when some of the girls noticed Fernando walking on the street. He was dressed in black wearing white shoes and they thought he resembled a penguin and giggling commented to that effect. At that time she felt a great deal of shame and fear wondering if anyone could tell by looking at her what she had done with him. She did not know of anyone who had ever observed them, either from the parish or anywhere else, during one of these incidents but she had these thoughts nonetheless. She remembers being confused with her emotions because most of the time he was kind to her, paid attention to her and showed her affection. Nobody else did this.

Sometime after these incidents Fernando was transferred to Saint John Baptist de la Salle in Granada Hills. She had never been to Granada Hills and it sounded very affluent to her and she thought he had done very well. Once he was there he called her and said he was happy there and wanted her to visit. He drove to her house and took her back to the Saint John's rectory. This first trip she brought her flute. He parked in the rear of the rectory in an area that appeared to be for the priests. They then entered what she thought was a back door and immediately to the left was a sitting room. From this room was a door that entered into his room. The first trip there she played her flute in the sitting room.

The second time he brought her there they went into his room. As they entered his room there was a bed to the left of the door. At the foot of the bed was a dresser with a mirror above it. The room was carpeted and to the left of the dresser was a chair. There was a window on the left wall entering his room. He had her disrobe when they were in his room but she kept her slip on. He pulled down her slip and bra and kissed her breasts and sucked on her nipples. They laid on the bed on top of each other and side-by-side and she could feel his erection but she did not know if he ejaculated during their activity. She asked him why he did not undress and he responded that he did not want her to become pregnant.

During one of these episodes she asked him why he did not leave the priesthood and he said that was the only thing he knew and that he could do nothing else. He mentioned that in the seminary in Sri Lanka the seminarians were discouraged from touching themselves and were given some type of implement to tuck their shirts in so they would not touch themselves in that area of the body. He told her that his Sri Lankan first name is Rangith and that the name Fernando came from the Portuguese that settled that area of Sri Lanka. He never mentioned his family or why he came to America. She met some of the other Sri Lankan priests who were his friends but never had a conversation with them.

She estimated that she traveled to Granada Hills on perhaps ten occasions and similar things happened that were previously described. Only one time, during her last visit, did he have her take all of her clothes off including her undergarments. They laid on the bed that time and he "spooned" her. She described that as lying closely side-by-side. He

would always do the touching and she neither wanted to nor did touch him. She was always in a passive state during these encounters and is unaware if he ejaculated since he was wearing his clothes.

After he instructed her to dress he always went to the kitchen and brought her back ice cream. He knew she liked ice cream and she would sit in the chair in his room and eat it and then he drove her home. One time as they both stood in front of his mirror he took a roman collar from a dresser drawer and put it on her. After they both looked at it for a few moments in the mirror he took it off and put it back. Neither one of them said anything. During these visits she met the housekeeper once, who she could only describe as an Anglo female. This woman knew that she and Fernando were in his room together behind closed doors. Another time she met a priest at the doorway of the sitting room and he had several lay people with him. She was simply introduced as a friend by Fernando.

He sent her two letters while he was at Saint John's. The first one mentioned that he went to an outdoor play and after that had a sore throat. He said that one kiss from her would cure it. The second letter was just before she entered the convent and he told her how brave she was to do that. She had not seen him in quite awhile and believes she probably told him about her plans for the convent during her last visit with him. She entered the convent on January 9, 1983. She does not have either letter or any other document from that era with the exception of an old address book with Fernando's telephone number in Granada Hills. She did not have that with her.

She was never in Fernando's room at Saint Hilary's while he was there. At times she would assist the housekeeper delivering laundry to the priests' room. She could not recall seeing any type of unusual marks or scars on Fernando's private parts but said he was very dark skinned and had hairy arms. Another recollection was that he frequently wore mismatched clothes.

Due to the confused state of mind she was in and lack of close friends she did not confide in anybody at the time these events happened and not until 2002 did she reveal it. It was while she was reading an article in one of the weekly news publications, perhaps Time or Newsweek, about a Catholic priest abuse victim that was a musician and had thought about entering the seminary that all of these memories came flooding back to her. She was at work and became very distraught. Driving home that is all that she thought of and when she arrived her brother immediately noticed there was something wrong. When he inquired as to what was bothering her she blurted out what occurred. He told her that she needed some help. They then searched Fernando's name on the internet and determined he was still an active priest. On learning this she was horrified and concerned that he might have preyed on others and was continuing to do so. Shortly after that she approached an attorney acquaintance and confided in her. She gave her the telephone number of the appropriate unit in the Los Angeles Police Department (LAPD) and about one week later she filed a complaint with them.

Regarding the consensually monitored telephone call she made to Fernando at the behest of the LAPD she does not have a copy or a transcript of it. She has never listened to the recording or seen a transcript. She not only has no problem with the Archdiocese listening to the conservation she desires that this be done. She and REDACTED advised that REDACTED would be told of this and it was requested they ask REDACTED to call Detective James Brown or Lieutenant Dennis Shirey to facilitate the Archdiocese obtaining a copy. In the call Fernando immediately acknowledged remembering her and did not seem surprised that she was calling him. She told him she was upset at the news coming out of Boston regarding the clerical sexual abuse cases. She asked him if he remembered what happened between them and mentioned specific acts and places they happened. He responded that he did although as she recalls there were a couple of things he claimed not to remember. He acknowledged thinking about it over the years and when she mentioned specific sexual activity between them he agreed that it occurred. The letters were also mentioned and he recalled them. He continually asked for her forgiveness, said he was sorry and told her that he went to confession and received absolution. He also said that he thought she was older and that it was in the heat of passion. She pointed out to him that she was in high school and he regularly saw her in her high school uniform and that since it happened on a number of times it could not have been a momentary passionate impulse. He mentioned that he was young but she pointed out he was 37 years old in 1981. He also said that she treated him nicely, was helpful to him and that he loved her. She asked if he loved her why he had hurt her so badly. He also told her he had not done anything like that to anyone else. She finally said that she forgave him and he felt relieved at that. He asked her if she had told anyone else about what he had done and she said that she had not. He asked her to pray for him and to call him again in the future. The call was then terminated.

On reflection she now feels his behavior was predatory and calculated and emphasized her fear that he might have done this to someone else and her desire that he be relieved of his ministry. It tormented her to know that he was in a position that allows him to this again.

REDACTED became emotional at times when recounting the details set forth above. She advised early in the interview that there was one incident she had a particular hard time with and that it might upset her enough when she described it that she would not be able to continue. It was suggested that she relate that at the end of the interview. This was acceptable to her and this is what she recounted. She could not give a time frame for when this happened, before or after his transfer to Saint John's, but remembered they parked in the parking lot at REDACTED REDACTED This is the street her parents live on and did then also. There were a line of skinny trees that blocked the view of the parking lot from the street and these trees have since been removed. After he parked there, without any foreplay, he put his finger into her vagina. This was very painful and she told him that and kept repeating, "Father, Father, ..." It was very traumatic to her and that is all she remembers.

She reiterated that she was always taught to be permissive, passive and respectful of adults especially priests and she never thought of saying no to his abusive activities.

Even now she finds it very difficult to talk about. She never saw him do anything like this to anyone else and she is not aware of him abusing anyone else.

REDACTED of Saint John Baptist de la Salle Church, was contacted on February 2, 2004, and conducted a tour of the rectory and surrounding area.

She pointed out that the area behind the rectory was made into a gathering area, or plaza, in 1991. Prior to that it was a parking lot and if a priest did not park in the garage he could have easily parked there and it would have been convenient to the priests' private entrance into the rectory.

Leaving this area is a walkway between the church and the rectory that leads to the private entrance on the west side of the rectory. Entering this door a hallway goes about ten feet and then there is left turn and an immediate left turn into a sitting room. This is a private sitting room and a door from it leads directly into a bedroom. Entering the bedroom looking at the wall to the left is a window. Currently the head of the bed is under the window but REDACTED advised the previous occupant had the head of the bed immediately to the left as one entered the room. If the bed was configured in that manner the chest of drawers and mirror on the far wall would be at the foot of the bed. REDACTED stated that particular piece of furniture has been positioned that way as long as she has been at Saint John's, which is the early 1990s.

She was not working at the parish when Father Walter Fernando was there but believes this room was more than likely his. The other associate pastor suite is across the hall.

REDACTED provided blue prints for the rectory.

Father REDACTED was telephonically interviewed on February 5, 2004, and provided the following information:

When Father Walter Fernando came to Saint John Baptist de la Salle Church in Granada Hills in 1981 as an associate pastor he was assigned a room in the rectory. REDACTED was the other associate at that time and described that on entering the rectory from the priests' entrance off of the walkway between the rectory and church there is a hallway. Straight ahead a few feet is another hallway to the left and then immediately to the left a door into the sitting room that is part of the suite in which Fernando lived. There is also a bedroom and bathroom in that suite.

There was parking in the rear of the rectory at that time and no door existed into the rear of the rectory from that parking area.

The name REDACTED means nothing to him.

REDACTED REDACTED Department of Catholic Schools, Archdiocese of Los Angeles was interviewed on February 2, 2004, and provided the following information:

She contacted REDACTED at Saint Paul High School in Santa Fe Springs regarding REDACTED He advised that REDACTED was an outstanding student and very active in the music program when she attended Saint Paul's. She won several scholastic awards when she graduated.

REDACTED (protect identity upon request) was telephonically interviewed on January 29, 2004, and provided the following information:

She met REDACTED when they sang in the junior choir at Saint Hilary's in 1979-1980. She (REDACTED) was in the seventh grade and REDACTED was about four years older. In her sophomore year she began work at the parish as a junior secretary and REDACTED was leaving to enter the convent. REDACTED trained her and their tenure at the rectory overlapped briefly. While REDACTED was in the convent she only saw her once when REDACTED was home on vacation and she came by the rectory to say hello.

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REDACTED was a priest at Saint Hilary's who they both knew. When it became public that he had abused REDACTED who they both knew also, they discussed it. On one of these occasions REDACTED asked her if she remembered Father Walter Fernando and she told REDACTED that her memory of him was very faint. REDACTED then told her that he had abused their relationship when REDACTED worked in the rectory. She asked REDACTED what she meant by that but REDACTED refused to detail what had happened and was clearly embarrassed by it. This was the only time it was mentioned and she could not say with any accuracy when it happened except that it was after the REDACTED incident became public and at least a year ago. They have a mutual friend REDACTED who lives in Moreno Valley. About the time REDACTED mentioned Fernando to her she was talking to REDACTED and REDACTED related that REDACTED had asked her also if she remembered Fernando. She cannot recall what REDACTED 's response was. It surprised her that REDACTED would say something like that about a priest.

She does not believe REDACTED would make something like this up but at the time it did not occur to her that the abuse was sexual in nature. She assumed that REDACTED had told him something in confidence and he repeated it to someone or something like that. At the time she was a fairly close friend of REDACTED and wondered why REDACTED had not told her sooner than she did.

She has not seen REDACTED in over a year and has lost track of her. She does not know where REDACTED is living or working. She described REDACTED as a very quiet and shy person.

REDACTED

From: REDACTED
To:
Sent: Monday, February 09, 2004 8:37 AM
Subject: Report

Dear REDACTED:
I am relying on your word that you will look into the Sri Lanka matter.

Please find attached your report with our changes in bold and underlined:

January 30, 2004

Canonical Investigation of Father Walter Fernando

Interviewee: REDACTED

Interviewer: REDACTED canonical auditor

Date of interview: January 29, 2004

Place of interview: REDACTED Whittier, California

The morning of January 29th REDACTED telephonically advised me that he had spoken with REDACTED the counsel for REDACTED and that REDACTED would be available for an interview that evening. I telephonically contacted REDACTED who advised that REDACTED would meet with me at the REDACTED as noted above at 6:00 p. m. that evening. She also advised that an associate of hers REDACTED REDACTED would be there to make REDACTED more comfortable. She put no restrictions on the interview and only asked it not drag on for several hours **because** REDACTED **was very emotional about this, and a long interview would be too stressful**. She was assured it would not.

At 5:45 p. m. I identified myself to REDACTED and we exchanged business cards. He was sitting in a relatively private booth in the restaurant and REDACTED had gone to the rest room. Shortly thereafter she returned and REDACTED introduced me to her. At that point he requested no questions be asked regarding damages in the suit REDACTED had filed. He was assured that was not the intent of the interview. REDACTED then provided the following information:

She met Father Walter Fernando in either late 1980 or early 1981 at Saint Hilary's Catholic Church in Pico Rivera. She was **16 or** 17, a senior at Saint Paul's High School and working at Saint Hilary's as a junior secretary in the rectory. She was very active in the parish at that time. She taught a Confraternity of Christian Doctrine (CCD) class in her junior and senior year in high school and was in the **youth** choir where she sang and played the flute. She characterized herself as an unattractive nerd in high school who had few, if any, friends and was the subject of verbal abuse. She had a 4.0 grade point average and some of the students may have resented her for that. Her home life was also troubled and she enjoyed being at the parish, as it was a refuge for her. She began volunteer work in the rectory during her junior year and between her junior and senior year she was hired as a junior secretary and began to receive a salary.

The priests at Saint Hilary's at that time were the REDACTED who is now deceased; REDACTED a Nigerian; and Fernando. She could not be certain if a Vietnamese priest named REDACTED was there at that time or came shortly after Fernando left. She thought he might have been there a short time while Fernando was there as she recalled REDACTED and REDACTED had rooms downstairs in the rectory and REDACTED and Fernando were upstairs. As a junior secretary she came to the rectory directly from school. The school bus had a stop at the church making it convenient for her and she reported to work wearing her school uniform. She would work as late as 9:30 p. m. at times on week nights and also on weekends. She was restricted to working not more than 25 hours a week. REDACTED REDACTED who was attending **Whittier College initially and later** California State University at Los Angeles, was also working there **(strike:** and trained REDACTED but other than the training) **but** they were not there together as one would normally relieve the other. There was another junior secretary for a short time but she was fired due to talking to her boyfriend on the telephone at work. REDACTED not only did not have a boyfriend but did not date until years later after leaving the convent. Her duties included doing parish clerical work and answering the telephone and door. She placed the priests' messages in boxes that were next to where she sat. She normally ate her dinner in the kitchen but on occasion was invited to eat in the dining room with the priests.

The rectory was quiet in the evening and normally only she and the priests were there. It was not uncommon for them to come by to check their mailboxes for messages. Fernando began to strike up conversations with her in the evening when they were alone. These talks became increasingly longer and friendlier as time went on. The first thing she recalls that was a bit unusual was one evening he began to shoot rubber bands at her. Late one Sunday afternoon in perhaps **March or** April 1981 Fernando suggested they go to the parish hall behind the church and he would play his violin and she her flute. They were there alone with a piano near the stage and she played her flute and sang. Then he played the violin and brought out music and sang a love song entitled, "Drink To Me Only With Thine Eyes". She felt this was a strange selection for him to pick since it was a love song. They were there about an hour.

Shortly after the parish hall incident she was alone at her desk one evening. **She is not completely sure but she may have been** wearing her high school uniform. Fernando showed her a book and suggested that she read it. She turned the book over and read a synopsis of the story on the rear cover. It was about a priest who was having an affair and she gave it back to him. He inquired as to why she did not want to read it and she told him that she did not think that priests should do that sort of thing. He then explained to her there was a difference between celibacy and chastity. According to him celibacy meant simply that priests were precluded from marriage. Chastity was a vow that only priests that were in a religious order took along with poverty and obedience. Since he was a diocesan priest chastity did not pertain to him and he only had to remain celibate, that is not marry. Nobody had ever explained this to her and she was confused but since he was a priest accepted what he said. Nevertheless she did not read the book and cannot remember the title.

Not long after the book incident, while still in high school, either on his day off or on the weekend he mentioned that he wanted to see a movie and asked her to accompany him. She rarely went to movies and since he was a priest and was showing her attention she readily accepted. He drove to her house, honked the horn and she came out. This is the procedure he used whenever he came to pick her up in the future. He never came into the house to talk to her parents or siblings. Her parents did not object to her going and she believes they felt good about it since they thought she was in the safe care of a priest. They drove down Rosemead Boulevard to Downey the city that adjoins Pico Rivera to the south. They went to the Showcase Theatre located next to a Farrell's Ice Cream Parlor **which were part of the Stonewood Shopping Center**. Neither of those structures is any longer there as **it has since been converted into an indoor** shopping center. He sat to her left during the movie and during the movie reached over and initially patted her hand. He then reached his arm around her shoulder and put his hand on her breast and began to rub it. She stared straight ahead and not knowing what to do she did not do or say anything. The movie was near its conclusion when this happened and when it finished she asked him to hand her a sweater she **had** placed on the seat next to him **to his left**. When she did this he abruptly leaned **forward** and gave her a hard kiss on the lips. She had never been kissed on the lips before and she was shocked and emotional. She told him she had to go to the ladies' room and excused herself. When she returned to him she was still in shock and they proceeded back to the car. She cannot recall the name of the movie. The vehicle was a white parish car that Fernando used and she does not know if it was assigned to him or not. As he was leaving the parking lot he backed into another **parked** car and continued to drive away. She called his attention to it since it was very apparent but he told her not to worry about it and left. He was quiet after the movie and little if anything was said on the drive home. He did not come into her house when he **dropped** her off either.

Not long after the movie incident, while she was still in high school, they returned to the same parking lot. She cannot recall the reason they were there but he parked in front of Farrell's and laid his head in her lap. While in this position he pulled her head down and kissed her. This was a longer kiss than the one in the movie and he put his tongue in her mouth. After the kiss he took her home.

On another occasion while she was still in high school, probably on a Saturday, he took her to the Los Angeles County Arboretum. She wore her hair in bangs and she recalled that she had braces on her teeth then. It was a warm day and she wore a white dress that she made and white sandals. As in the other described incidents he did not wear his clerical clothes. He brought a camera and took about five photographs during the day which he later showed to her. He did not give her any of them and she has no idea where they are now. He did not feel comfortable driving on freeways and so he drove home on Rosemead Boulevard. This route passed through the Whittier Narrows and a large park at Legg Lake. He pulled onto the parking lot at Legg Lake and parked. He wanted to take a walk and so they did for a while and then they stopped at a picnic table and sat down. He then began to kiss **her** and fondle her. It was dark and they were there for about an hour. This time he put his hand inside her blouse and bra so he was rubbing the skin of her breast. They then returned to the car and drove home.

After the first Legg Lake incident they returned there and once again he was not in clerical garb. This time it was in the evening and the light was very dim. He was sitting in the driver's seat and she was in the front passenger seat when he unzipped his pants and exhibited his erect penis outside of his pants. She had never seen a penis before and did not want to look but did see it as she glanced over. He then told her to kiss his penis and when she said, "No Father, **I don't want to do that.**", he tried to force her **by putting his right hand behind her neck and pulling her head downward toward his penis** and instructed her to do it. When she did not he took her left hand in his, put **it** on his penis **encircling it, and while he kept his hand clasped over hers** began to masturbate . He was breathing hard and kept repeating, "Do it! Do it!" This continued until he ejaculated and her hand was covered with fluid. He then gave her a napkin or something similar to clean up with.

It was sometime after the second Legg Lake incident she remembers being on the school bus approaching the Saint Hilary's rectory when some of the girls noticed Fernando walking on the street. He was dressed in black **clerical garb** wearing white shoes **with buckles** and they thought he **looked funny** and giggling commented to that effect. At that time she felt a great deal of shame and fear wondering if

anyone could tell by looking at her what she had done with him. She did not know of anyone who had ever observed them, either from the parish or anywhere else, during one of these incidents but she had these thoughts nonetheless. She remembers being confused with her emotions because most of the time he was kind to her, paid attention to her and showed her affection. Nobody else did this.

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Other times he brought her there, they went into his room. As they entered his room there was a bed to the left of the door. **Across from** the foot of the bed was a dresser with a mirror above it. The room was carpeted and to the left of the dresser was a chair. He had her disrobe when they were in his room but she kept her slip on. He pulled down her slip and bra and kissed her breasts and sucked on her nipples. They laid on the bed on top of each other and side-by-side and she could feel his erection but she did not know if he ejaculated during their activity. She asked him why he did not undress and he responded that he did not want her to become pregnant.

During one of these episodes she asked him **if he had ever considered leaving** the priesthood and he said **no because** that was the only thing he knew and that he could do nothing else. He mentioned that in the seminary in Sri Lanka the seminarians were discouraged from touching themselves and were given some type of implement to tuck their shirts in so they would not touch themselves in **the groin** area of the body. He told her that his Sri Lankan first name is Rangith and that the **sur**name Fernando came from the Portuguese that settled that area of Sri Lanka. He never mentioned his family or why he came to America. She met some of the other Sri Lankan priests who were his friends but never had a conversation with them.

She estimated that she traveled to Granada Hills on **more than twice but less than** ten occasions and similar things happened that were previously described. Only one time, during her last visit, did he have her take all of her clothes off including her undergarments. They lay on the bed that time and he "spooned" her. She described that as lying closely side-by-side, **both facing the same way.** He would always do the touching and she neither wanted to nor did touch him. She was always in a passive state during these encounters and is unaware if he ejaculated since he was wearing his clothes.

After he instructed her to dress he **on more than one occasion** went to the kitchen and brought her back **vanilla** ice cream. He knew she liked ice cream and she would sit in the chair in his room and eat it and then he drove her home. One time as they both stood in front of his mirror he took a roman collar from a dresser drawer and put it on her. After they both looked at it for a few moments in the mirror he took it off and put it back. **She does not recall** either one of them **saying** anything. During these visits she met the housekeeper once, who she could only describe as an **older** Anglo female. This woman knew that she and Fernando were in his room together behind closed doors. Another time she met a priest at the doorway of the sitting room and he had several lay people with him. She was simply introduced as a friend by Fernando.

He sent her two letters while he was at Saint John's. The first one mentioned that he went to an outdoor play and after that had a sore throat. He said that one kiss from her would cure it. The second letter was just before she entered the convent and he told her how brave she was to do that. She had not seen him **for** awhile and believes she probably told him about her plans for the convent during her last visit with him. She entered the convent on January 9, 1983. She does not have either letter or any other document from that era with the exception of an old address book with Fernando's telephone number in Granada Hills. She did not have that with her.

She was never in Fernando's room at Saint Hilary's while he was there. At times she would assist the housekeeper delivering laundry to the priests' room. She could not recall seeing any type of unusual marks or scars on Fernando's private parts but said he was very dark skinned and had hairy arms. Another recollection was that he frequently wore mismatched clothes.

Due to the confused state of mind she was in and lack of close friends she did not confide in anybody at the time these events happened and not until 2002 did she reveal it. **She does however recall having mentioned to her mother just immediately before entering the convent that something bad had happened between her and Fr. Fernando. Her mother did not inquire further, but rather deflected conversation away from the subject by telling her to put that behind her and begin a brand new life in the convent. Ms. REDACTED dropped the subject at that point. Ms. REDACTED also vaguely recalls a conversation she had with her sister, which occurred shortly after the incident in Fernando's rectory when she was fully disrobed. However, she does not recall the details of that conversation and her sister, being young at the time, did not ever bring the subject up again after that one conversation.** It was **not until April of 2002** while she was reading an article in one of the weekly news publications, perhaps Time or Newsweek, about a Catholic priest abuse victim that was a musician and had thought about entering the seminary that all of these memories came flooding back to her. She was at work and became very distraught. Driving home and when she arrived **home** her brother immediately noticed there was something wrong. When he inquired as to what was bothering her she blurted out what **had** occurred. He told her that she needed some help. They then searched Fernando's name on the internet and determined he was still an active priest. On learning this she

was horrified and concerned that he might have preyed on others and was continuing to do so. Shortly after that she approached an attorney acquaintance and confided in her. She gave her the telephone number of the appropriate unit in the Los Angeles Police Department (LAPD) and about one week later she filed a complaint with them.

Regarding the consensually monitored telephone call she made to Fernando at the behest of the LAPD she does not have a copy or a transcript of it. She has never listened to the recording or seen a transcript. She not only has no problem with the Archdiocese listening to the conservation she desires that this be done. She and REDACTED advised that REDACTED would be told of this and it was requested they ask REDACTED to call Detective James Brown or Lieutenant Dennis Shirey to facilitate the Archdiocese obtaining a copy. In the call Fernando immediately acknowledged remembering her and did not seem surprised that she was calling him. She told him she was upset at the news coming out of Boston regarding the clerical sexual abuse cases. She asked him if he remembered what happened between them and mentioned specific acts and places they happened. He responded that he did although as she recalls there were a couple of things he claimed not to remember. He acknowledged thinking about it over the years and when she mentioned specific sexual activity between them he agreed that it occurred. The letters were also mentioned and he recalled them. He continually asked for her forgiveness, said he was sorry and told her that he went to confession and received absolution. He also said that he thought she was older and that it was in **a moment of** passion. She pointed out to him that she was in high school and he regularly saw her in her high school uniform and that since it happened on a number of times it could not have been a momentary passionate impulse. He also mentioned that he was young but she pointed out he was 36 **or 37** years old in 1981. **When she asked him why he had done those things to her, he** said that **it was because he was new to the parish and that** she treated him **nicely and was** helpful to him. **She asked him whether he had loved her or had any feelings for her. He responded that yes** he loved her. She **then** asked if he loved her why he had **done this to her. When she asked him if he had done these things to anyone else he said that he had not.** . She finally said that she forgave him and he felt relieved at that. He asked her if she had told anyone else about what he had done and she said that she had not. **He said that it was good and that he was glad that she hadn't spoken about it to anyone else.** He asked her to pray for him and to call him again **from time to time** in the future **to check on him. She assured him that she would.** The call was then terminated.

On reflection she now feels his behavior was predatory and calculated and emphasized her fear that he might have done this to someone else and her desire that he be relieved of his ministry. It tormented her to know that he was in a position that allows him to this again.

REDACTED **was very** emotional at times when recounting the details set forth above. She advised early in the interview that there was one incident she had a particular hard time with and that it might upset her enough when she described it that she would not be able to continue. **She requested to be allowed to** relate that at the end of the interview. **Her request was granted and** this is what she recounted. She could not give a time frame for when this happened, before or after his transfer to Saint John's, but remembered they parked in the REDACTED REDACTED This is the street her parents live on and did then also. There were a line of skinny **tall** trees that blocked the view of the parking lot from the street and these trees have since been removed. After he parked there, he put his finger into her vagina. **She does not recall what happened either before or after this incident. She recalls that this was painful and that she** kept repeating, "Father, Father, ..." It was very traumatic to her and that is all she remembers.

She reiterated that she was always taught to be **submissive**, passive and respectful of adults especially priests and she never thought of saying no to his abusive activities. Even now she finds it very difficult to talk about. She never saw him do anything like this to anyone else and she is not aware of him abusing anyone else. **However, because of the manner in which he both groomed her for and went about abusing her, she feels strongly the possibility that she was neither the first nor the last of his victims.**

REDACTED

CONFIDENTIAL & PRIVILEGED
INVESTIGATIVE REPORT
ATTORNEY CLIENT WORK PRODUCT

January 23, 2004

Canonical Investigation of Father Walter Fernando
CMOB-027

Report of REDACTED , canonical auditor

REDACTED made an accusation of sexual abuse against Father Walter Fernando to the Los Angeles Police Department (LAPD) in April 2002. REDACTED has never personally lodged a complaint with the Los Angeles Archdiocese but the office of her attorney REDACTED communicated it to the Archdiocese. Based on her accusation the following individuals were interviewed and records were reviewed between January 14, 2004, and January 27, 2004:

1. REDACTED Los Angeles Archdiocese
2. Father REDACTED Long Beach Memorial Hospital, Long Beach, New York
3. Father REDACTED Our Lady of Lourdes Church
4. REDACTED cousin of REDACTED
5. REDACTED at Saint Hilary's Church
6. REDACTED at Saint Hilary's Church
7. REDACTED at Saint Hilary's Church
8. REDACTED at Saint Hilary's Grammar School
9. REDACTED at Saint Hilary's Church rectory
10. REDACTED at Nativity Church
11. REDACTED at Saint John Baptist de la Salle Church
12. Father REDACTED at Saint Bernardine of Siena Church
13. Father REDACTED at Our Lady of the Rosary Church
14. Lieutenant Dennis Shirey, LAPD, Officer in Charge, Juvenile Division
15. Officer James Brown, LAPD, lead detective Cleric Abuse Task Force
16. Monsignor Craig A. Cox, Vicar for Clergy

Fernando is a 59-year-old Sri Lankan-American who was ordained in Sri Lanka in 1973 and came from Sri Lanka to the Los Angeles Archdiocese in 1981. His initial assignment in the Archdiocese was at Saint Hilary's Church in Pico Rivera, reporting March 1, 1981. He served there until November 29, 1981, and was then transferred to Saint John Baptist de la Salle where he served until July 31, 1986. Since then he has served at four other parishes in the Archdiocese and has not had any complaints lodged against him other than the one that is the subject of this report. He has been an associate pastor at each of his assignments.

The allegations made by REDACTED against Fernando are contained in a Complaint filed in Los Angeles County Superior Court on December 3, 2003. Pertinent parts of the complaint state:

1. REDACTED was a minor during the alleged acts perpetrated upon her.
2. She alleges Fernando molested minor parishioners and that the Archdiocese was aware of it.
3. The specific acts involving Fernando and her included:
    a. French kissing
    b. Hugging
    c. Fondling buttocks over clothing
    d. Rubbing and massaging breasts and body
    e. Kissing neck, face and breasts
    f. Digital vaginal penetration
    g. Forced masturbation of Fernando
    h. Attempted forced oral copulation of Fernando
    i. Sexual grooming

A request has been made to REDACTED for an interview of REDACTED by a representative of the Archdiocese, preferably one of the investigators. This is one of the recommendations of the Clergy Misconduct Oversight Board, however, despite initially indicating she might allow this REDACTED has not at this time.

REDACTED's Certificate of Baptism certifies that she was born on REDACTED

REDACTED was married to REDACTED on December 23, 1986, and they separated on May 31, 1991. On April 10, 1992 their divorce became final. There were three daughters as a result of this union and REDACTED was granted custody after the acrimonious divorce.

Fernando advised Monsignor Craig A. Cox that the LAPD wanted to talk to him (Fernando) while both were at Saint John's Seminary attending a continuing education week the first week of June 2002. He told Cox that about 20 years ago he crossed boundaries with a woman interested in entering the convent. They went to a movie together and he put his arm around her. She later entered the convent but left within a few years.

Sometime after this the archdiocese became aware that REDACTED was making an allegation against Fernando and based on this he was interviewed by Cox and Father REDACTED REDACTED on February 12, 2003. Prior to this interview Fernando retained REDACTED as his attorney and although he answered all questions pertaining to him personally and historically he acted on REDACTED's advice and refused to answer questions regarding the allegations made against him by REDACTED REDACTED noted that Fernando's demeanor was cordial and cooperative and that he exhibited an appropriate level of concern. Later in letters dated March 7, 2003, and May 8, 2003, that Fernando addressed to Cox he denied "each of the specific behaviors alleged." He also wrote, "I absolutely affirm that I have obeyed my vow of celibacy".

On January 21, 2004, Monsignor John A. (Archie) Rawden (retired) was telephonically contacted. He stated that in 1981 he was the Chancellor for the Archdiocese and responsible for the transfers of the priests. At that time he lived in the rectory of Immaculate Conception Church which was across the street from where the chancery. It was a large rectory and often priests coming into the Archdiocese stayed there prior to being assigned to a parish. He could not recall Fernando.

On January 16 and 17, 2004, Father REDACTED (not related to Walter) was telephonically interviewed. He is currently REDACTED at Our Lady of Lourdes Church and advised that he has known Father Walter Fernando for about 35 years, since their days in the seminary in Sri Lanka. He has always known him to be an honorable man both in Sri Lanka and in the United States. He (REDACTED) preceded Walter in coming to America and when Walter arrived they spent a good deal of time together. He and his brother Father REDACTED would spend each Wednesday with Walter, as that was their day off then. Walter did not have a California driver's license for several months after he arrived and they drove him to various locations around Southern California. They often visited and had dinner at other Sri Lankan homes in the area. Walter was initially assigned to Saint Hilary's in Pico Rivera but as he recalls he did not stay there as long as it was originally intended. The reason for this might have been because of his surname he was believed to be a Spanish speaker and he was not. He was then transferred to Saint John Baptist de la Salle in Granada Hills. He does not recall any parishioners at Saint Hilary's that Walter was close to or spoke about and the name REDACTED means nothing to him. Nor does he recall Walter mentioning any Saint Hilary parishioner visiting him at Saint John's. He described Walter as a reserved soft-spoken person that in his opinion would not force himself on anybody or in any way violate his vows. He was very surprised to hear that Walter was accused of any impropriety. He believes that the first summer Walter was in America another Sri Lankan priest, REDACTED visited this country and they traveled together. REDACTED is now a bishop in Sri Lanka and he has a cousin that lives in the Torrance area named REDACTED whom they visited her on occasion back then. He advised his brother is now in ministry in New York.

On January 20, 2004, Father REDACTED (not related to Walter) was telephonically interviewed. He is currently the hospital chaplain at Long Beach Memorial Hospital, Long Beach, New York, and resides in the rectory at Saint Ignatius Church in Long Beach, New York. He stated that he was assigned to Saint Michael's Church in Los Angeles in 1981 when Father Walter Fernando arrived from Sri Lanka. He knew Walter in Sri Lanka and knows that he had a good reputation there. He knows this because there is only one seminary in the country and relatively few priests and if someone does something untoward it becomes known throughout the religious community. Also the Bishop would not have written a letter of recommendation for him, which was required. He (REDACTED) came to the U.S.A. in 1976 for a change and a more challenging ministry. He explained that Sri Lanka is a small country with few opportunities and he came here to broaden his experiences within the Church. He believes Walter came for the same reasons but probably with a bit of apprehension since he was leaving all of his family and most of his friends. When Walter arrived in Los

Angeles he stayed at the Immaculate Conception rectory with Monsignor Archie Rawden. He was then sent to Saint Hilary's. He remembers that Walter did not drive at that time since he did not have a California driver's license and he and his brother, Father REDACTED), would drive to Walter's church and pick him up each Wednesday their day off. They would visit other Sri Lankans that resided in the area and frequently have dinner in their homes. One of these was REDACTED whose cousin, REDACTED is now a Bishop in Sri Lanka. In 1981 he was a priest from the same diocese as them in Sri Lanka and he visited the United States. REDACTED and Walter traveled to the Grand Canyon that summer as well as other places but he could not recall exact times and places. He was very surprised when he heard of the allegations made against Walter as he has always been a quiet gentleman and has a reputation for that. He never did anything indiscreet while they were together and he reiterated they spent a good deal of time together in 1981. He cannot remember Walter ever mentioning REDACTED or any other parishioner from Saint Hilary's nor does he recall him ever mentioning a former parishioner visiting him after he was transferred to Saint John's.

On January 21, 2004, REDACTED was telephonically interviewed and advised she knows Father Walter Fernando and recalls that he and her cousin REDACTED took a vacation together in 1981 when REDACTED visited the United States. She cannot remember the dates they traveled but believes they visited the Grand Canyon and Las Vegas. Back then she frequently saw the Sri Lankan priests that lived in the Los Angeles area, including Fernando, and they were all good men. She could offer no other information of value.

On January 17, 2004, REDACTED was telephonically interviewed and on January 20 was personally contacted at Saint Hilary's. She is currently teaching at Saint Benedict's Grammar School in Montebello but has been employed at Saint Hilary's in some capacity, part time or full time since 1985. In the mid-1980s she worked in the office and now does some secretarial work and maintains the archived records of the parish. Although she was not working in the parish when Walter Fernando was an Associate Pastor at Saint Hilary's she was a parishioner and remembers him. She also knew REDACTED as they both were in the parish youth choir. REDACTED played the flute in the choir. This was after REDACTED graduated from high school and before she went into the convent. After she left the convent REDACTED re-joined the group. Before REDACTED graduated from high school and joined the choir she worked in the rectory part-time answering the telephones and the door. This was on the weekends and in the early evenings. A search of pay records failed to locate any for REDACTED which makes REDACTED believe that since she was part-time she was paid in cash and no records were maintained. REDACTED described REDACTED as a needy person who had a troubled family life. She seemed lonely and REDACTED's family was uninvolved with her activities. REDACTED also said that REDACTED has had financial problems for years. Less than two years after leaving the convent REDACTED was married and it might have been to the first person she dated. REDACTED did not believe the marriage lasted four years and REDACTED had three daughters as a result of it. REDACTED told REDACTED that her husband was having an affair and that after the divorce she felt like a failure again and questioned where to go from there. REDACTED never mentioned Fernando to her or anyone else as far as she knows. She remembered Fernando as a gentle, reserved, docile person

and felt if anything did occur between REDACTED and him she probably instigated it. If he made any advances on her REDACTED feels REDACTED would have told someone. She cannot recall any birthday or any other type party for REDACTED in the rectory. She has not seen REDACTED in over a year and does not know where she is living or if she is employed. She does know one of her daughters has a serious health problem. Her daughters went to Saint Hilary's school at one time. REDACTED was the parish secretary in 1981 but she is now very elderly and feeble. In 1985 REDACTED became the parish secretary and REDACTED later met her when both had children in school at Saint Hilary's. REDACTED is the current parish business manager and does not know REDACTED personally but requested REDACTED locate old pay roll records for her. She does not know who asked REDACTED to provide them. She also checked parish records dating back to 1981 for vehicles, expenses, retreats, training or anything else regarding Fernando with negative results. The only thing she could locate from that time period were Sunday parish bulletins. The full time rectory employee at that time was REDACTED who is now deceased. REDACTED REDACTED also worked as a junior, or part-time, secretary the same time that REDACTED did and she also played guitar in the youth choir. She might be able to provide some information. REDACTED mother REDACTED was the housekeeper in 1981 and is now 84 years old and residing at Nazareth House. She might remember something, as she knew both REDACTED and Fernando. She frequently talked to REDACTED and was fond of her and never mentioned to REDACTED that REDACTED had a relationship with a priest. Her mother was the only person other than the priests that was allowed in their private quarters and she would not allow anyone else to violate their space.

On January 20, 2004, the Saint Hilary's Sunday Parish Bulletins for 1981 were reviewed. The March 8th one welcomed Fernando to the parish. On April 26 his name is listed on the cover as a parish priest. On November 29th it announces he is being transferred to Saint John's. On December 13th he is no longer named on the cover as a parish priest. The bulletins for that year indicate that Father REDACTED was the REDACTED and that REDACTED were Father REDACTED and Father REDACTED REDACTED is deceased and REDACTED left the Archdiocese May 23, 1985, apparently to return to his Diocese in Enugu, Nigeria. Parish records reflect REDACTED married REDACTED on February 21, 1987, and the marriage was declared null and void on April 12, 1994.

On January 16, 2004, Father REDACTED at Our Lady of the Rosary Church, was telephonically contacted. He advised that he was an REDACTED at Saint Hilary's in 1981 and remembers Father Walter Fernando there. He recalled Fernando as a hard working priest that was very gentle and quiet and definitely never saw him do anything of a suspicious nature. He could not remember anyone in the parish that Fernando was particularly close to. He had recently come from Sri Lanka and he socialized with other Sri Lankan priests on his day off. He recalls that they came to pick him up and that they would go to various places in the area. He cannot recall if Fernando was assigned a vehicle but believes that he probably was. He did not recall when Fernando's vacation was or if he took a parish car when he went. He did not remember REDACTED

On January 21, 2004, Sister REDACTED of Saint Hilary's School was telephonically contacted. She advised that REDACTED did not attend Saint Hilary's School but that her children did for a period of time. She knew her as a parent of a student and nothing more. Her children were withdrawn from the school she believes for financial reasons.

On January 21, 2004, REDACTED Saint Hilary's Church, was telephonically contacted. She advised she does not know Father Walter Fernando or REDACTED She learned of REDACTED s name in this matter from her pastor and advised that a state agency had requested payroll records for REDACTED in July 2003 but there were no records.

On January 21, 2004, REDACTED , was interviewed at Nazareth House. She advised that she was the housekeeper at the rectory of Saint Hilary's Church when Father Walter Fernando was assigned there. He was a very quiet nice man who she liked a lot. He related well to the parishioners and they liked him. REDACTED was a junior secretary in the rectory and answered the telephone and the front door. She was in high school and worked part-time. She was a hard worker and helped to support her family. Before she entered the convent she discussed it with Father REDACTED and he later told REDACTED that he did not think she would make it in religious life. REDACTED is now an interpreter in the court system in Los Angeles and she believes that REDACTED continues to help support her parents. She knew of no connection between Fernando and REDACTED . Nobody was allowed in the priests' quarters but her, not even the parish secretary. She did not remember any type party for REDACTED in the rectory.

On January 21, 2004, REDACTED (retired), was interviewed at the Nazareth House. He remembered Father Walter Fernando as one of his associate pastors at Saint John's and that he was an excellent, obedient young man. He was given the hospital ministry and worked very hard at it. He has no recollection of anything that would reflect poorly upon Fernando. The only female he remembers visiting Fernando was another Sri Lankan. He characterized him as "one of my prized young men."

On January 21, 2004, Father REDACTED was telephonically interviewed. He is currently REDACTED of Saint Bernardine of Siena Church and was an associate pastor at Saint John's in 1981 when Father Walter Fernando arrived. He was a very reserved gentleman and he was never suspicious of Fernando for any reason. He has called appropriate people for the activities of others over the years but not Fernando. He cannot recall any parishioners from Saint Hilary's visiting Fernando at Saint John's.

On January 21, 2004, Monsignor Timothy J. Dyer, Pastor of Nativity Church, was telephonically interviewed and advised he was the Vicar for Clergy in 1990 and 1992 when Father Walter Fernando was transferred from Cathedral Chapel and Saint Gregory the Great Churches after what appears to be abbreviated stays. He could not recall why these transfers were made but is certain that if there was a serious problem behind them it would be noted in Fernando's file.

On January 22, 2004, a meeting was held with LAPD Lieutenant Dennis Shirey, Officer in Charge of the Juvenile Division and LAPD Officer James Brown senior detective of the cleric abuse task force. They advised they were not at liberty to release any portions of their case relating to Father Walter Fernando including the transcript of the monitored telephone call between Fernando and REDACTED . This would be against their policy and could be harmful to a future case if another victim comes forward since the REDACTED case can be used for corroboration. Due to the Stogner Decision Fernando will not be prosecuted in this matter but Brown opined that the telephone call corroborated REDACTED claims. Brown will contact Deputy District Attorney William Hodgeman to obtain his opinion on allowing the transcript of the call to be viewed by the Archdiocese and advise once this decision is made.

On January 15, 2004, Sister REDACTED for Women Religious, advised in a memo that REDACTED entered the Daughters of Saint Paul in January 1983. After her postulancy she became a novice and then left the community on March 27, 1985.

On January 17 and 18, 2004, a statement was read at all week end Masses at Saint Hillary's that Father Walter Fernando was named in a law suit accusing him of sexual abuse while assigned to that parish. It requested any parishioner with information regarding this matter to contact the Archdiocese and left Monsignor Craig A. Cox's telephone number. No contact has been made.

On January 21, 2004, REDACTED at Saint Hilary's from 1983 until 1998 advised that she had no information of value relating to this matter.

The February 2003 issue of the Los Angeles Lay Catholic Mission contains an article stating that the January 2nd Los Angeles Times named REDACTED as a sexual abuse victim handing out leaflets at the Sherman Oaks Galleria. The pamphlets informed victims of sexual abuse by priests that they could bring suit against perpetrators for the duration of 2003 and urged them to contact the Church.

On January 27, 2004, REDACTED the Auxiliary Bishop of Colombo, Sri Lanka, e-mailed REDACTED the following information. He has known Fernando since 1964 and they attended the seminary together. Between roughly September 5th and 18th 1981 he and Fernando traveled by car to the Grand Canyon. They also spent time in Flagstaff, Arizona, and Las Vegas, Nevada, on the trip which took four or five days. Fernando was assigned to Saint John Baptist de la Salle at the time.

A public records database search was done on REDACTED and provided no information of value in this matter.

Analysis and Observations

This allegation was made 21 years after the act supposedly took place.

There are no independent witnesses named by REDACTED as having ever observed any of the alleged activities. Therefore much of the investigation set forth above revolves around character evaluation of the parties by those that knew them at that time as well as now.

REDACTED had a difficult childhood and as a young woman left religious life and had a failed acrimonious marriage.

She is raising three daughters at least one of which has a serious health problem.

She has had financial difficulties throughout her life.

Fernando was assigned to Saint Hilary's on March 1, 1981, and remained there until November 30, 1981.

Fernando did not drive for a couple of months after arriving at Saint Hilary's due to a lack of a valid driver's license.

Although the LAPD advised that in their opinion Fernando corroborated REDACTED's allegations in the recorded telephone call Officer Brown on another occasion said the call "seemed to corroborate her account."

REDACTED 's 18th birthday was REDACTED

No other complaints have been lodged against Fernando.

These issues have a bearing on this analysis but without more information it cannot be determined at this time, with any level of certainty, whether the alleged activities took place or not.

Timeline Regarding Father Walter Fernando

April 24, 1944...Walter Fernando born in Ragama, Sri Lanka

January 1, 1973...Fernando ordained for Diocese of Colombo, Sri Lanka

March 1, 1981...Fernando assigned to Saint Hilary's Parish, Pico Rivera

REDACTED REDACTED

November 29, 1981...Fernando leaves Saint Hilary's

November 30, 1981...Fernando assigned to Saint John Baptist de la Salle, Granada Hills

January 1983...REDACTED enters convent

March 27, 1985...REDACTED leaves convent

February 24, 1986...Fernando incardinated in Los Angeles

July 31, 1986...Fernando leaves Saint John's

August 1, 1986...Fernando assigned to Saint Rose of Lima, Simi Valley

December 23, 1987...REDACTED marries REDACTED at Saint Hilary's

July 1, 1990...Fernando leaves Saint Rose

July 2, 1990...Fernando assigned Cathedral Chapel, Los Angeles

June 12, 1991..REDACTED andREDACTED file for divorce

May 2, 1992...Fernando leaves Cathedral Chapel

May 3, 1992...Fernando assigned Saint Gregory the Great, Whittier

June 30, 1992...Fernando leaves Saint Gregory

July 1, 1992...Fernando assigned Assumption of the Blessed Virgin Mary, Pasadena

April 12, 1994...REDACTED marriage declared null and void by Catholic Church

April 2002...REDACTED eports molestation to LAPD

May 2002..REDACTED makes monitored telephone call to Fernando

June 13, 2002...Fernando advises Monsignor Craig A. Cox LAPD wants to talk to him

August 18, 2002...Los Angeles Times article names Fernando as being under investigation

August 30, 2002...Officer Dale Barraclough advises Sister REDACTED LAPD has open case on Fernando

January 1, 2003... REDACTED identified in Los Angeles Times as abuse victim per February edition of the Los Angeles Lay Catholic Mission

January 1, 2003.. REDACTED appears on list of plaintiffs

January 22, 2003...CMOB discusses matter but has few facts and takes no action

February 12, 2003...Fernando interviewed by Cox and Father REDACTED

March 7, 2003...Fernando sends Cox letter denying most serious charges

March 26, 2003...CMOB discusses matter and requests more information be obtained

May 8, 2003...Fernando sends second letter to Cox denying all allegations

January 14, 2004...L.A. Times article details case against Fernando and that he is still in ministry

January 14, 2004...CMOB discusses matter and requests expedited investigation

MEMORANDUM

TO: Cardinal Roger Mahony

FROM: REDACTED

RE: ***Recommendation of the Clergy Misconduct Oversight Board***
Reverend Walter Fernando (CMOB 027-01)

DATE: 14 January 2004

The CMOB met today and continued our discussion of Father Fernando, especially in light of the lawsuit filed against him on December 9, 2003 and the article in today's *Los Angeles Times*.

Father Fernando's case was discussed by the Board on January 22, 2002 and March 26, 2003. I submitted a report summarizing the case and our discussions and conclusions on April 25, 2003. At that time we felt that we needed additional information before we could come to a conclusion and recommended that the Vicar for Clergy's office seek further information from Father Fernando and REDACTED the alleged victim. You concurred with our recommendation provided that this process proceed forward at once.

Since that memorandum, Father Fernando wrote a letter more specifically denying each of the claims made by Ms. REDACTED as stated in very summary fashion on the spreadsheet supplied by her attorneys. Those are the same behaviors alleged in the lawsuit. Father Fernando also underwent a psychological evaluation as recommended by the Board, the results of which are in his file. REDACTED the psychologist who conducted the evaluation, concluded that while it is impossible for him to determine if the acts complained of occurred as Father Fernando described them, his profile was not consistent with an individual who would lie to an evaluator or of an individual who is capable of deceit.

Today, we had a lengthy and thoughtful discussion. The members of the Board are very concerned about protecting children and young people and will not hesitate to recommend that a priest be removed from ministry and put on administrative leave if credible information is presented to support such action. We concluded, however, that the filing of an unverified lawsuit or the publication of a newspaper article are not, in themselves, sufficient to automatically trigger removing a priest from ministry and putting him on administrative leave.

The allegations made by Ms. REDACTED in her lawsuit, if true, are very serious and describe behaviors which are abusive and which would justify permanently removing Father Fernando from all ministry. Unfortunately, up to this point, these are only allegations that have come to us indirectly and without the kind of specificity that allows an appropriate investigation to proceed.

Therefore, because of the paucity of information, the members of the Clergy Misconduct Oversight Board recommend the following:

I concur

1. That Father Fernando not be placed on administrative leave at this time pending further and intense efforts to obtain additional information to verify the truth of Ms. REDACTED s allegations. He may yet need to be placed on leave depending on the results of the next two recommendations.

I concur

2. That Ms. REDACTED be interviewed without delay. We were advised at our meeting that her attorney has agreed to a limited interview. We recommend that this interview be scheduled as quickly as reasonably possible and urge that Mr. REDACTED or another professional investigator conduct this interview.

I concur

3. That you authorize me, in my capacity as Chair of the Clergy Misconduct Oversight Board, to write to Deputy District Attorney William Hodgeman to obtain whatever materials have been developed by the police and the District Attorney in the course of their investigation. We understand that the Archdiocese has already made a similar request but without success. However, if the Board is to act responsibly we need all the information we can get and it's unreasonable for the District Attorney or the police to withhold information that will assist us in our work.

I concur

4. That you authorize me, in my capacity as Chair of the Board, to write directly to Ms. REDACTED s attorney to request an interview with Ms. REDACTED and/or to enlist her cooperation and consent to the release of the information developed by the District Attorney and the police if the interview and the request for information in Recommendation Nos. 2 and 3 are not forthcoming.

Monsignor Cox informed us that he will make an announcement to the parishioners at Father Fernando's current parish this weekend. This accords with our current policy.

The Board intends to review this matter again at our next meeting. Further recommendations may be forthcoming after that review.

Thank you.

cc: Msgr. Craig A. Cox

I concur in all the steps proposed — please proceed at once —

+ Roger Card. Mahony

16 Jan. 2004

REDACTED

From: REDACTED
Sent: Tuesday, January 06, 2004 10:42 AM
To: REDACTED
Subject: FW: RE: answer to REDACTED

REDACTED

> [Original Message]
> From: REDACTED
> To:
> Date: 1/6/2004 10:24:38 AM
> Subject: RE: answer to REDACTED
>
>
>
> > -----Original Message-----
> > From: REDACTED
> > Sent: Tuesday, January 06, 2004 7:35 AM
> > To: REDACTED
> > Cc:
> > Subject: answer to REDACTED
> >
> > Hi REDACTED
> >
> > The person accusing Father Fernando has never come forward to us
> > with a
complaint. We have REDACTED ---- no information on what is claimed to have happened, when it was supposed to have happened or to whom it allegedly happened. REDACTED information about the alleged molestations provided by the victim's attorney in the course of mediation. This is privileged, unverified information received indirectly. In accord with our policies, the Clergy Sexual Misconduct Oversight Board reviewed Father Fernando's case and recommended that he not be removed from ministry at this time because the current information does not warrant such action.
> >
> > The pastor and parishioners are fully aware of Father Fernando's
situation. It has been addressed in the parish. No one has complained to the Archdiocese as a result of these discussions.
> >
> > Father Fernando has adamantly denied that he ever abused anyone.
> >
> > As far as the other priest, he is on administrative leave.
> > Accordingly,
he is not in any ministry and has had his faculties removed, so he cannot function as a priest. He moved out of the Archdiocese and moved in with family. In accord with the Charter for the Protection of Children and Young People, the bishop of the diocese in which he is living with family has been notified of the circumstances of his situation.
> >
> >
> > The names of both priests have been reported to the civil
> > authorities.
> >
> > Thanks,
> >
> > REDACTED
> >
> >
> >
> > Office of Media Relations
> > Roman Catholic Archdiocese of Los Angeles

> > 3424 Wilshire Blvd.
> > Los Angeles, CA 90010-2248
> >
> > (213) 637-7216 work
> > REDACTED
> > (213) 385-6586 fax
> > e-mail: REDACTED
> >
> ----------
>REDACTED
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>
> REDACTED
> ----------
> This e-mail, and any attachments thereto, is intended only for use by
> the addressee(s) named herein and may contain legally privileged
> and/or confidential information. If you are not the intended
> recipient of this e-mail, you are hereby notified that any
> dissemination, distribution or copying of this e-mail, and any
> attachments thereto, is strictly prohibited. If you have received
> this e-mail in error, please immediately notify me by telephone and
> permanently delete the original and any copy of this message, its
> attachments, and any printout thereof. Thank you.

MEMORANDUM

TO: Cardinal Roger Mahony

FROM: REDACTED

RE: ***Recommendation of the Clergy Misconduct Oversight Board***
Reverend Walter Fernando [CMOB-027-01]

DATE: April 25, 2003

The case of Father Walter Fernando was first considered at the CMOB meeting on January 22, 2003. At that time Monsignor Cox reported that in June of 2002 Father Fernando informed him that two detectives from the Los Angeles Police Department had stopped by the rectory looking for him while he was on vacation. They left a business card, but no information. LAPD would only state that there was an open investigation. Father Fernando told Monsignor Cox that he didn't know what they were concerned about but that it could be an incident which occurred some 20 years ago when he placed an arm around a woman while they were watching a movie together. There had never been any complaints. The CMOB discussed the case and recommended at that time that no action be taken until further information was obtained. For some reason, this recommendation was not reported to you at that time.

We returned to Father Fernando's case on March 26, 2003. Msgr. Cox reported that Father Fernando's name recently appeared on the list of alleged perpetrators and purported victims in the class action suit currently in mediation. The information stated that Father Fernando had abused a young girl from 1980-81 by pre-sexual grooming, French kissing, hugging in a sexual manner, fondling her buttocks and rubbing/massaging of her breasts both over clothes and skin to skin, kissing her neck, face and breasts, putting a finger in her vagina, her masturbation of him skin to skin, and his trying to force oral copulation. The abuse was alleged to have occurred several times at the theater, in the car and at a park.

Father Fernando met with Father REDACTED and Monsignor Cox on February 12, 2003. Upon advice of counsel, he did not respond except to verify dates concerning his service as a priest. On March 7, 2003, he responded to the charges in writing and denied any and all claims that he put his finger in her vagina, masturbated her and attempted to force her into oral sex. His letter did not mention the other charges listed in the print out.

The Board took a vote on the following two options: 1) that Father Fernando be put on administrative leave immediately, or (2) that the Vicar for Clergy's office seek further information from Father Fernando and the alleged victim, including, but not necessarily limited to, the victim's birth date, and report back as soon as possible, but in no event later than the June 11, 2003 CMOB meeting (60 days). Of the nine Board members present at the time of the vote, eight voted for Option 2 and one abstained.

I concur with the Board on Option 2 – provided that this process moves forward at once – + Rosa Carl. Mahony 29 April 2003

WALTER FERNANDO – CMOB-027-01

UPDATED INFORMATION

Father was listed on list from plaintiffs' attorneys.

Abuse alleged by REDACTED as a minor from 1980 through 1981 occuring at the theatre, in the car and at a park. Abuse included French kissing, hugging in sexual manner; fondling of minor's buttocks both over clothes and skin to skin, rubbing and massaging of minor's breast both over clothes and skin to skin; kissing neck, face and breasts skin to skin; perpetrator put finger in minor's vagina; masturbation of perpetrator skin to skin; tried to force minor to oral copulation of him; pre-sexual grooming (special attention, movies, etc.)

02/12/03: Father was interviewed by Auditor (Fr. REDACTED with Msgr. Cox present and the allegations stated in a print out were presented to him. Upon advice of his counsel, he stated he was present to listen and to take notes but not respond. He was cooperative and verified dates, history, etc. concerning his service as a priest.

02/13/03 Cardinal Mahony is advised.

03/07/03 Father responds to V/C in writing and denies any and all claims that he put his finger in her vagina, masturbated her and attempted to force her into oral sex. Letter does not mention other charges listed in print out.

New Allegations: Plaintiffs' attorneys supplied details of abuse of a young girl from 1980-81 including pre-sexual grooming, French kissing, hugging in sexual manner, fondling of minor's buttocks and rubbing/massaging of minor's breasts both over clothes and skin; kissing neck, face & breasts, finger in minor's vagina, masturbation of perpetrator skin to skin, and tried to force oral copulation, pre-sexual grooming. Abuse occurred several times at the theater, in the car and at a park. Father denies specific allegations.

WALTER FERNANDO – CMOB-027-01

Age 58 – born in Sri Lanka
Ordained 1973

Active service, Assoc. Pastor, Assumption of the Blessed Virgin Mary, Pasadena

Reported in LA Times article of August 25, 2002 that he was on inactive leave. LAPD investigating a claim that he fondled a teenage girl in the 1980's while serving at St. Hilary's in Pico Rivera. Denies allegations.

V/C corrected the information at CMOB meeting: He is still an associate pastor and no complaint has ever been received. He notified the Archdiocese that two detectives had been looking for him while he was on vacation in Sri Lanka. He did get an attorney. The Archdiocese will not put him on leave.

Sequence of events per file:

06/13/02: Memo to file from V/C re conversation with Father. Father informed V/C that he had learned from the parish secretary that while he was on vacation in Sri Lanka two detectives had stopped by the rectory looking for him. Father expressed a fear that he was under investigation. He stated apprx. 20 years ago he had crossed boundaries with a woman who was interested in entering the convent. The boundary crossing involved placing an arm around her while they saw a movie together. She did enter the convent for a time and then left. A couple of years ago this woman called him and they spoke by telephone. V/C suggested Father attend a workshop being given by atty REDACTED and chat with him afterwards to seek advice.

08/30/02 E-mail from Sr REDACTED to Detective Barraclough regarding the LA Times article (8/25/02) and an announcement that will be read at the church correcting the information which stated Father was on inactive leave. The announcement will state he is in active ministry and the Archdiocese has not received any complaints about sexual misconduct.

Reply e-mail from Detective Barraclough: "We do have an open investigation on Walter Fernando."

09/03/02 Attorney-client communication – ltr from Father to Sr. REDACTED asserting legal rights re any files, reports, statements or communications.

09/30/02 Ltr of representation from atty REDACTED to Sr. REDACTED – objecting to release of any information.

CMOB-027-01: "No Complaint" – Age 58, born in Sri Lanka; ordained in 1973; currently an associate pastor. In June 2002 Fr. informed V/C that two detectives had stopped by rectory looking for Fr. while he was

on vacation; they left a card but no information. Fr. is concerned about a boundary crossing 20 yrs ago with a woman interested in entering the convent. It involved placing an arm around her while watching a movie together. Woman entered convent for a time and left. She telephoned Fr. a couple of years ago. There have been no complaints against Fr. LAPD states there is an open investigation.

Statement for Weekend Masses at Assumption of the Blessed Virgin Mary Parish, Pasadena
February 21-22, 2004
Regarding Reverend Walter Fernando

As you may recall from my earlier visit, I am Monsignor Craig Cox, Vicar for Clergy of the Archdiocese of Los Angeles. On the weekend of January 17-18, I spoke here at your parish about your Associate Pastor, Father Walter Fernando. In that announcement, I promised to keep you informed of future developments. I am here as an initial fulfillment of that pledge to bring additional information directly to you.

As we previously announced, an investigation was launched when we learned of the report alleging misconduct on Father Fernando's part in 1981. The investigation is being conducted by a private investigator, a former Special Agent of the FBI. I had mentioned that we requested an interview with the person who made the complaint. Subsequently, that interview was conducted. We also have asked to see the results of the police investigation. We have not yet been granted access to any of those materials. Our investigation is ongoing and it is clear that it will require significant additional time.

The Clergy Misconduct Oversight Board discussed the case of Father Fernando again, and recommended that he be placed on administrative leave. Administrative leave involves time away from the parish and from all pastoral duties until the investigation is concluded. Father Fernando began that leave of absence on Thursday.

Please note that the decision to place Father Fernando on administrative leave does not reflect a judgment that he is guilty of the alleged misconduct. By our policy, administrative leave is recommended when an initial investigation raises sufficient questions to take the precaution of placing the priest on leave while further investigation continues.

I know that this announcement is surprising and distressing. Many of you expressed tremendous support for Father Fernando when I was here last month. Clearly, he has done much good during his more than eleven years of service here. He has rights as both a citizen of this country and as a priest in the Church to defend himself, and those rights will be respected.

Please know that the Cardinal is committed to implementing all of our policies fully, assuring that we thoroughly investigate all allegations, and acting in ways that protect children as well as respect the rights of all involved.

Finally, at this distressing time, I ask that you pray with special fervor for all victims of abuse, for Father Fernando, for the success of the ongoing investigation in discovering the full truth, and for your parish community and all the Church in these difficult days. May God bless you!

01/15/04

LOS ANGELES

Claims Against Priest Reviewed

By Richard Winton
Times Staff Writer

An Archdiocese of Los Angeles' clergy misconduct board on Wednesday reviewed allegations that a Pasadena priest sexually abused a teenage girl 23 years ago, and sent a memorandum on the cleric's future to Cardinal Roger M. Mahony, who has power to remove individuals from the ministry.

Although the Roman Catholic Church has a zero-tolerance policy for sexual abuse, Father Walter Fernando has been allowed to continue working for nearly two years after a woman told police the pastor molested her as a 17-year-old in 1981, when he was serving in a Pico Rivera parish. Police detectives and prosecutors said they believed the woman's accusations but could not bring charges because the most serious allegations were not crimes at the time.

Tod Tamberg, archdiocese spokesman, said the details of the memo sent by the Clergy Misconduct Oversight Board are confidential.

He said the panel typically would make a recommendation to Mahony on what action to take against the accused priest.

"Usually, he follows their recommendation," said Tamberg.

Under church law, Mahony has the ultimate authority on whether a priest stays in ministry or is temporarily or permanently removed because of sexual abuse allegations.

The clergy misconduct board has twice before reviewed the case against Fernando, but on prior occasions it did not have enough evidence to remove him from the ministry, archdiocese officials said.

Tamberg said the allegations the archdiocese had received against Fernando were secondhand, from the alleged victim's attorney and an August 2002 Times story stating Fernando was under investigation by police.

The zero-tolerance policy governing dioceses across the United States allows the removal of a priest when there is a credible allegation.

Tamberg said that because the allegations were not directly from the woman or in a sworn statement, the archdiocese did not consider them to meet that standard. He said church officials have requested an interview with the woman and a sworn statement.

LA Times 01/14/04

Priest in Sex Lawsuit Still a Parish Cleric

He denies wrongdoing and church officials say the woman didn't tell them. But she did contact police.

By Richard Winton
Times Staff Writer

Despite the Roman Catholic Church's zero-tolerance policy on sexual abuse, the Archdiocese of Los Angeles has allowed a priest to continue working in a Pasadena parish nearly two years after a woman told police the pastor molested her when she was 17.

The woman told authorities in April 2002 that she was molested by Father Walter Fernando when she attended the Pico Rivera church he was serving. She said Fernando molested her in 1981 during trips to a Downey movie theater, in his car, at the Whittier Narrows Recreation Area, and in his parish bedroom after she turned 18, according to police reports.

With detectives listening, the woman telephoned Fernando in May 2002 to confront him. Fernando, 59, made statements during the conversation that police felt corroborated her account, said Los Angeles Police Det. James Brown. He declined to specify what the priest said.



Father Walter Fernando in the L.A. Archdiocese 1999 Catholic Directory

Donald Steier, attorney for Fernando — associate pastor at Assumption of the Blessed Virgin Mary Catholic Church in Pasadena — said his client denied wrongdoing.

LAPD investigators said Fernando was not charged in 2002 because the alleged molestation — which involved fondling — was not a felony in the early 1980s. For a period of years, California law allowed prosecution of felony sex crimes from past decades. But the U.S. Supreme Court ruled the law unconstitutional last summer.

Had Fernando's conduct occurred today, Brown said, "it would have been an egregious and serious felony sexual assault. But based upon the laws at

[See Priest, Page B8]

Priest Still Working Despite Woman's Abuse Claim

[*Priest, from Page B1*]

the time, charges could not be filed against him."

The U.S. Conference of Catholic Bishops approved a zero-tolerance policy for sexually abusive priests in June 2002. Under the policy, a priest, deacon or other church employee must be temporarily removed from any ministry or function when a "credible allegation" of sexual abuse is lodged against him. The policy also requires any priest or deacon guilty of sexual abuse to be permanently removed from ministry.

The policy was amended in December 2002 to say that if "sufficient evidence" of sexual abuse was found, the priest must immediately go on administrative leave pending a church trial.

J. Michael Hennigan, the archdiocese's attorney, said that Fernando's case had been "high on the radar screen for some time," but that church officials didn't have sufficient evidence to justify placing him on leave. He said the only information the church had about the woman's accusations came "secondhand" from her attorney and that church officials had not talked to her directly.

Fernando "has vigorously denied all the charges," Hennigan said, adding that the allegations have been reviewed twice by the church's misconduct board. "What do you do when the challenge is, you only have two witnesses? It is 'he said, she said.' "

After inquiries by The Times, archdiocese spokesman Tod Tamberg said Fernando's case will be reviewed by the misconduct board again today. He said the archdiocese has asked to interview the alleged victim and requested that her attorney provide a sworn statement of the accusations.

"What we have so far, then, is a 23-year-old allegation with no firsthand sworn testimony to support it and no further allegations of abuse of any kind from anyone who has been associated with Father Fernando, past or present," he said.

Church critics say the Fernando case shows that priests accused of sexual abuse are allowed to continue serving in parishes.

"This demonstrates the dishonesty of the zero-tolerance pledge," said Father Thomas P. Doyle, who co-wrote a report to U.S. bishops in 1985 warning of problems with abusive priests. "At the very least they should have put him on an administrative hold until this is resolved."

A native of Sri Lanka, Fernando first came to the archdiocese as a visiting priest in 1981 at St. Hilary Church in Pico Rivera. Later that year he moved to St. John Baptist de la Salle Church in Granada Hills. In 1986, Fernando joined the permanent ranks of the archdiocese's priests. He served at St. Rose of Lima Church in Simi Valley, Cathedral Chapel in Los Angeles and St. Gregory the Great Church in Whittier before going to Assumption in 1992.

Fernando continues to say daily Mass at Assumption, which has an elementary school, and conduct other duties, Tamberg said.

The woman, whose identity is being withheld by The Times as a potential victim of a sexual assault, said she came forward after reading about other cases. "I wanted to do what was necessary to stop him from harming anyone else," she said in an interview.

The accusations were first made public in a Times story in August 2002.

Katherine Freberg, an attorney for the alleged victim, said she provided details of the case to an archdiocese attorney in February 2003. A few months later, a Los Angeles grand jury issued a subpoena for Fernando's personnel file from the archdiocese.

Freberg sued in December, claiming Fernando kissed the plaintiff, touched her breasts and forced her to touch him.

Tamberg said Cardinal Roger M. Mahony is a strong advocate of the zero-tolerance policy and created similar rules years before the bishops acted.

"There is no one in ministry that we know of in the Archdiocese of Los Angeles who has been found to have abused a minor," Tamberg said.

The archdiocese was not aware of the details of the police investigation, he added, and would like to review any information investigators have.

Church officials have told Fernando's parishioners about the allegations but have found no additional alleged victims, Tamberg added.

"They aren't looking to find anyone, as this case demonstrates," said Mary Grant, a spokeswoman for the Survivors Network of Those Abused by Priests. "If they were really concerned about protecting children, they would pursue this more vigorously."

IX 000785

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RCALA 002685

Los Angeles Times CMOB-027-01

10 Priests in Lawsuits Still on Job

L.A. Archdiocese says it lacks evidence of abuse. Cases test limits of the 'zero tolerance' policy.

By William Lobdell and Jean Guccione
Times Staff Writers

At least 10 priests in the Roman Catholic Archdiocese of Los Angeles remain in parish ministry despite lawsuits filed late last year that accuse them of molesting children.

Among the priests are some of the archdiocese's most prominent clerics, including Msgr. Richard A. Loomis, former head of clergy who oversaw misconduct allegations against priests; Msgr. Patrick Reilly in Burbank; and Father Michael J. Carroll, who was voted Walnut's man of the year last week.

Church leaders justified their action by citing lack of evidence to support the allegations and, in some cases, their inability to interview the victims. Announcements of the accusations were made in the congregations of the priests last Sunday.

Each cleric has denied wrongdoing, and none are under criminal investigation.

The cases test the limits of the Vatican's "zero tolerance" policy against priestly miscon-

[See Church, Page A22]

Accused Priests' Status Pending Inquiries Murky

[Church, from Page A1]

duct and point to the conflicts the church faces in policing itself.

Archdiocesan spokesman Tod Tamberg said that although many past claims of sexual abuse have been credible, "not all allegations are true or immediately credible."

"And there are those that are demonstrably false," he said. "To take someone out of ministry when allegations are false or there is a severe lack of first- or even second-hand information is not only unjust to the person accused, it also diminishes the impact of those claims which are credible and true."

The archdiocese's stance has infuriated victims' advocates, who say that once again the church has put the protection of priests over the safety of children.

"The problem is not false allegations," said John Manly, a Costa Mesa attorney whose firm represents about 80 alleged victims of sexual abuse by priests. "The problem is child rape. When are the bishops going to get that through their thick ecclesiastical heads?"

The debate over how to treat the priests named in lawsuits comes as the archdiocese is also battling prosecutors and civil litigants over access to personnel files on accused priests.

The church has argued that the files are confidential and protected from disclosure by law; prosecutors insist that the documents are necessary to investigate possible criminal wrongdoing.

The priests still in active ministry are among about 200 Los Angeles-area clerics named in an avalanche of litigation in 2003.

The lawsuits were filed after California lifted for one year the statute of limitations for older cases of sexual abuse involving minors. About 500 people sued the Los Angeles Archdiocese last year out of 800 suits statewide.

Asked about the accusations, Loomis, who was vicar for clergy from 1996 to 2000, said: "I have not done anything wrong."

Speaking of his accuser, he added: "I do not recall this person, and I did not molest him."

Similarly, Manuel Sanchez of Sacred Heart Church in Pomona said Friday that he did not even know his accuser. "I am completely innocent of the charges," the priest said. He said he learned of "this terrible accusation" six months ago and believed that his accuser was either "looking for money or he sincerely confused me with another person."

Another of the priests, James M. Ford of San Roque Church in Santa Barbara, said he was "shocked when I heard of this lawsuit." Ford said he was "deeply hurt by this allegation of 35 years ago. It's completely and absolutely false."

Edward Dober of Our Lady of the Rosary Church in Paramount released a statement denying the allegation. "The archdiocese did not find it credible, and there is no basis for the lawsuit," the statement said.

The other priests still on active ministry, each of whom denied the allegations personally or through an attorney, are Sean Cronin of Our Lady of Lourdes Church in Northridge, Walter Fernando of Assumption of the Blessed Virgin Mary Church in Pasadena, Richard Martini of Transfiguration Church in Los Angeles and Samuel Orellana of Presentation of Mary Church, also in L.A.

In some cases, the status of the clerics facing allegations exposes a contentious and largely unexplored area of the church's zero-tolerance policy, which was adopted in 2002 and calls for removing priests against whom credible allegations of molestation have been made. The policy is silent about a cleric's status between the time an allegation is lodged and a church investigation is completed.

Should a priest, accused of a decades-old molestation, be immediately placed on administrative leave until an inquiry is complete? Or should he remain at his post until the church determines that there is sufficient evidence to remove him?

"In some cases, it's a very, very shaky allegation by someone who's not very credible," said Father Robert J. Silva, president of the National Federation of Priests' Councils. "On the other hand . . . we want to be very sensitive to the victims."

Nor does the policy define "sufficient evidence," the standard of proof needed to remove a priest from ministry under the reformed policy.

Zero tolerance

Excerpts from the Catholic Church's Charter for the Protection of Children and Young People

ARTICLE 5. We repeat the words of our Holy Father in his address to the cardinals of the United States and conference officers: "There is no place in the priesthood or religious life for those who would harm the young."

When an allegation of sexual abuse of a minor by a priest or a deacon is received, a preliminary investigation . . . will be initiated and conducted promptly and objectively. If this investigation so indicates, the diocesan/eparchial bishop will both notify the Congregation for the Doctrine of the Faith and . . . relieve the alleged offender promptly of his ministerial duties.

Source: U.S. Conference of Catholic Bishops

Los Angeles Times

IX 000786

"It all hangs on what's credible evidence, and that's up to interpretation," said Father Thomas J. Reese, editor of the Catholic weekly magazine, America.

The 194 U.S. dioceses operate independently and report only to the Vatican. Some dioceses, New Orleans, for example, follow investigative procedures similar to those in Los Angeles. In others, including the Diocese of Orange, officials immediately place accused priests on administrative leave until inquiries are completed. Similar policies are in force in Seattle, Pittsburgh and Lafayette, La.

The Los Angeles Archdiocese's decision to keep accused priests in ministry has put further strain on the already acrimonious relationship between the church hierarchy and alleged victims and their advocates.

"I wouldn't trust the church to investigate anything," said Father Thomas P. Doyle, who co-wrote a report to U.S. bishops in 1985 warning of problems with abusive priests. "From history, we'd know it's self-serving. They shouldn't be investigating; someone should be investigating them."

Victims' advocates say filing a lawsuit should provide enough evidence to justify placing a priest on leave. California law requires an independent therapist to attest to the merits of a plaintiff's allegations before a sexual abuse lawsuit can be filed. After that, a judge must decide if the suit has merit enough to proceed.

"One must convince both an attorney and a therapist before filing," said David Clohessy, executive director of the Survivors Network for Those Abused by Priests (SNAP). "So one could argue that church officials ought to give more weight and credence to an allegation that is publicly presented in civil courts over one that's privately presented in a church office."

SNAP members in Los Angeles plan to protest the archdiocese's policy Sunday at the parishes of the accused priests.

"Church officials don't believe the victims, the police, mental health professionals and judges," said Mary Grant, regional director of the group. "I don't believe church officials are in a dilemma. They know exactly what they are doing in stonewalling and protecting priests."

But others said that without hard evidence, placing a priest on administrative leave was fundamentally unfair and could lead to witch hunts.

"The way priests are investigated and handled and treated is unconscionable," said William Donohue, president of the Catholic League for Religious and Civil Rights, a conservative group with 350,000 members. "Bishops protect themselves [from public outcry] at the expense of the accused priests. They are selling them down the river."

Attorney Donald Steier, who represents eight of the 10 accused priests still in Los Angeles Archdiocese parishes, said a single allegation of abuse — without corroborating evidence — shouldn't be enough to put a clergyman on leave.

"It doesn't appear that they are a current risk to anybody, so unless there is more to it, there's still a certain presumption [of innocence] in this country," he said. Steier said that the required psychological reports are filed under seal and that neither the archdiocese nor the priests can review them.

Some of the announcements read in the parishes of accused priests last weekend include the most detailed explanations of the abuse allegations made by the archdiocese to date.

In half the cases, parishioners were told that the archdiocese's Clergy Misconduct Oversight Board, which consists of 11 laypeople and two others, investigated and found no evidence of misconduct. In the other cases, the board did not recommend that the accusers be placed on administrative leave.

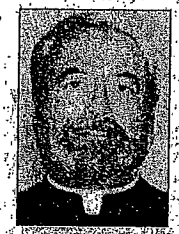
In a few cases, for instance, the archdiocese said it had been unable to interview the accuser and considered the allegations "hearsay in nature," lacking the kind of detail needed for the archdiocese to conduct a thorough investigation and for the priest to present a reasonable defense.

Priests accused of abuse in lawsuits

These 10 Roman Catholic priests were accused of sexual abuse in civil lawsuits filed last year. The Archdiocese of Los Angeles has reviewed the allegations, and all remain in parish ministry.



Michael J. Carroll, pastor, San Lorenzo Ruiz Church, Walnut
Accused of molesting a teenage girl from 1967-71 at St. Anselm Parish in Los Angeles.
He denied the allegation. The Clergy Misconduct Oversight Board of the Roman Catholic Archdiocese of Los Angeles recommended he remain in the ministry.



Sean Cronin, associate pastor, Our Lady of Lourdes Church, Northridge
Accused of molesting two children between 1972 and 1980 while at St. Genevieve Parish in Panorama City and St. Monica Parish in Santa Monica.
He denied the allegations. The board recommended he remain in parish ministry pending further investigation.



Edward Dober, pastor, Our Lady of the Rosary Church, Paramount
Accused of fondling a boy at Queen of the Angels Junior Seminary in Los Angeles in 1990 and 1991.
He denied the allegations. The board found "no evidence of misconduct." Parishioners were told Dober had the archdiocese's "complete confidence."



Walter Fernando, associate pastor, Assumption of the Blessed Virgin Mary Church, Pasadena
Accused of molesting a woman in 1981 at St. Hilary Parish in Pico Rivera.
He denied the allegations. Los Angeles police said he made incriminating statements during a taped conversation with the alleged victim. The board recommended he remain in parish ministry and stated it had insufficient information to investigate.



James M. Ford, pastor, San Roque Church, Santa Barbara
Accused of molesting a teenager from about 1968 to 1971 at an unspecified parish in the city of Orange.
He denied the allegation. The board found it was "not appropriate" to place him on administrative leave "based on information currently available."



Msgr. Richard A. Loomis, pastor, Sts. Felicitas and Perpetua Church, San Marino
Accused of molesting a boy between 1969 and 1971 when he taught at a Los Angeles-area Catholic high school.
He denied the allegation. The board found "no credible evidence of misconduct has been presented to us." Parishioners were told that Loomis had the archdiocese's "complete confidence."



Richard Martini, pastor, Transfiguration Church, Los Angeles
Accused of fondling a boy at Queen of the Angels Junior Seminary in Los Angeles in 1990 and 1991.
He denied the allegations, and the board found "no evidence of misconduct." Parishioners were told Martini had the archdiocese's "complete confidence."



Samuel Orellana, associate pastor, Presentation of Mary Church, Los Angeles
Accused of misconduct in 1987 at Sagrado Corazon Parish in Compton.
He denied the allegation and said he did not remember the accuser. The board recommended he remain in the ministry pending further investigation.



Msgr. Patrick Reilly, pastor emeritus, St. Robert Bellarmine Church, Burbank
Accused of misconduct between 1980 and 1984 while at Sacred Heart Parish in Covina.
He denied the allegations. The oversight board found there was "no credible evidence of misconduct."



Msgr. Manuel Sanchez, pastor emeritus, Sacred Heart Church, Pomona
Accused of molesting a child in 1981 while pastor at Sacred Heart Parish in Pomona.
The board found that "the evidence did not support the charges."

Source: Archdiocese of Los Angeles and lawsuits. Photos from Archdiocese of Los Angeles 2002 Catholic Directory.

IX 000789

Statement for Weekend Masses at St. Hilary Parish, Pico Rivera
January 17-18, 2004
Regarding Reverend Walter Fernando

As you may recall, in August of 2002, the *Los Angeles Times* published an article on sexual misconduct by Catholic priests and, among many others, named Father Walter Fernando, as someone who allegedly engaged in the sexual abuse of a minor. Father Fernando was an Associate Pastor at St. Hilary in March through November of 1981. When the article was published in August of 2002, officials of the Archdiocese knew only that an investigation was being conducted and had not received any complaint of misconduct by Father Fernando at that time.

Earlier this week, on Wednesday, January 14, 2004, *The Times* published another article focusing on Father Fernando. Additionally, a lawsuit was filed in December charging Father Fernando with abusive behavior. The alleged misconduct is said to have taken place during the time of his service here at St. Hilary. Only one complaint has been lodged against Father Fernando.

In keeping with our commitment to protect children and young people, Cardinal Mahony has arranged for this complaint to be investigated very thoroughly by a former FBI agent. The results of that investigation will be provided to the Cardinal and to the Clergy Misconduct Oversight Board, headed by a retired Superior Court judge and consisting of fourteen members, twelve of whom are lay persons.

If any parishioners have information to report that might assist in the investigation of this matter, we urge you to come forward. You may contact either Monsignor Craig Cox, Vicar for Clergy, or the investigator, Mr. REDACTED, at REDACTED. If you forget this number, you may request it at the rectory office at any time.

The Cardinal has dedicated himself and the Archdiocese to do all that is possible to assure our children and young people are safe. Towards this end, he has pledged to remove from ministry any priest who is determined to have sexually abused a minor. We are committed to take allegations of this sort seriously -- precisely because we want to uncover the full truth and then act in accord with the truth. Again, I invite any parishioner who may have information to come forward to assist us.

Finally, I ask that you please pray for everyone involved -- people who have been harmed by sexual abuse, priests, and those conducting the investigations. Thank you.

06/000 XI

Declaración para las Misas del fin de semana
en la Parroquia de St. Hilary, Pico Rivera
17-18 de enero, 2004
Respecto al asunto del Reverendo Walter Fernando

Quizás recuerden que en el mes de agosto de 2002, el periódico *Los Angeles Times* publicó un artículo sobre la mala conducta sexual por parte de sacerdotes Católicos y, entre otros, nombró al Padre Walter Fernando como uno que, según las alegaciones, había participado en el abuso de una persona menor de edad. El Padre Fernando entonces servía como asociado pastor en la parroquia de St. Hilary desde marzo hasta noviembre del 1981. Cuando se publicó el artículo en el mes de agosto del 2002, los oficiales de la Arquidiócesis sabían solamente que se había iniciado una investigación pero no habían recibido de ninguna persona una queja de mala conducta por parte del Padre Fernando en aquel tiempo.

El día miércoles de esta semana, 14 de enero, 2004 el *Los Angeles Times* publicó otro artículo sobre la persona del Padre Fernando. Además, una demanda se entabló el mes de diciembre acusando al Padre Fernando de comportamiento abusivo. La mala conducta, según tal, ocurrió durante el periodo de servicio del Padre en la parroquia de St. Hilary. Fue una sola queja que fue presentada contra el Padre Fernando.

De acuerdo con nuestro compromiso de proteger a niños y jóvenes, el Cardenal Mahony ha pedido una investigación de fondo de esta acusación por un ex-agente del FBI. Los resultados de esa investigación serán presentados al Cardenal Mahony y a los miembros del Comité Arquidiocesano de Supervisión de Casos de Mala Conducta, cuyo presidente es un juez jubilado de la Corte Superior. Además, el Comité se compone de catorce personas de los cuales doce son laicos.

Si alguien tiene información que puede facilitar esta investigación, le suplicamos que la presente. Pueden comunicarse al respecto con el Monseñor Craig Cox, el Vicario para el Clero, o con el investigador, el señor REDACTED al número REDACTED Si se les olvida este número, pueden conseguirlo en las oficinas de su parroquia.

Se ha comprometido el Cardenal que la Arquidiócesis haga todo lo posible para que ustedes sientan la plena confianza que sus hijos están seguros. Hacia este fin, él está totalmente comprometido a remover del ministerio cualquier sacerdote que ha abusado sexualmente a un menor de edad. Estamos comprometidos a tomar y recibir estas acusaciones muy en serio – precisamente porque queremos descubrir la plena verdad y, por consecuencia responder de acuerdo con la verdad. De nuevo, invito a cualquier parroquiano quien tenga alguna información que la presente para ayudarnos.

Por fin, les pido que recen por todas las personas involucradas – personas dañadas por el abuso, por las sacerdotes, y por las personas dirigiendo las investigaciones.
Gracias.

IX 000791

Statement for Weekend Masses at Assumption of the Blessed Virgin Mary Parish, Pasadena
Wednesday, January 17-18, 2004
Regarding Reverend Walter Fernando

As you know, in August of 2002, the *Los Angeles Times* published an article on sexual misconduct by Catholic priests and, among many others, named your Associate Pastor, Father Walter Fernando, as someone who allegedly engaged in the sexual abuse of a minor. On that occasion, Monsignor Moretti made an announcement in the parish indicating that while officials of the Archdiocese were aware that an investigation was being conducted, we had not received any complaint of misconduct by Father Fernando at that time.

Earlier this week, on Wednesday, January 14, 2004, *The Times* published another article focusing specifically on Father Fernando. Additionally, a lawsuit was filed in December charging Father Fernando with abusive behavior.

Prior to this, there had never been any complaint about Father Fernando. He has denied any sexually abusive conduct with the person who filed the lawsuit or, for that matter, with anyone else. There is only one person who has made any claim against Father Fernando. Only on this past Wednesday has she consented to being interviewed by an investigator of the Archdiocese. Up to this point, she has not submitted written responses to a questionnaire as part of the court-ordered mediation process. We have asked to see the results of the police investigation so that we can know and assess any evidence the police may have obtained. We still hope that the police and District Attorney will release this information to us.

Our Clergy Misconduct Oversight Board has considered the case of Father Fernando on several occasions. Up to the present, the information available to us has been hearsay in nature and without the kind of detail that would enable the Archdiocese to investigate more fully, or enable Father Fernando to present a reasonable defense. As a result, the Board has not recommended that Father Fernando be placed on administrative leave. It has recommended a number of steps that either have been or are being pursued.

Cardinal Mahony is committed to assuring that children and young people are safe. He has pledged that when it is determined that a priest has engaged in sexual misconduct with a minor, that he will be permanently removed from ministry. That pledge has been implemented. The fact that a lawsuit has been filed or a complaint made to the police does not mean that Father Fernando has acted in an abusive fashion. All people, priests included, must be presumed innocent until there is proof to the contrary. At the same time, the Church takes allegations of this sort seriously -- precisely because we want to uncover the full truth and then act in accord with the truth. Therefore, we will continue to seek all available information.

We will continue to keep you informed of developments. We ask that you please pray for everyone involved -- people who have been harmed by sexual abuse, priests, and those conducting the investigations. Thank you.

Monsignor Craig A. Cox

COPY

Archdiocese of Los Angeles

REDACTED

3424 Wilshire Boulevard

Los Angeles California 90010-2202

September 15, 2008

Los Angeles Police Department
Discovery Section
Attention: Custodian of Records
201 North Los Angeles Street
Space 301
Los Angeles, CA 90012

Re: Father Walter Fernando; DR REDACTED

Dear Sir/Madam:

In 2004 REDACTED an investigator of the Archdiocese of Los Angeles, contacted Detective James Brown in the Juvenile Division of your Department regarding the above matter, with Walter Fernando, as the subject of your investigation, and REDACTED as the victim.

In a conversation earlier this week between Mr. REDACTED and an officer in your Department, we understand that this case has been closed. In accord with the internal canon laws of the Church, the Archdiocese is now going through a procedure concerning Father Fernando's status. The content of an audio tape recording by your Department of a telephone call on May 24, 2002, between Father Fernando and Ms. REDACTED is very important to our reaching a fair and logical conclusion. The call was made during the course of Detective Brown's investigation and Mr. Ruona, our investigator, was given the opportunity to listen to the tape. However, to satisfy canon law, we need to have the actual tape available to the parties reviewing the case.

Accordingly, this letter is a formal request for the tape recording, or an authenticated copy. We will, of course, reimburse you for any expenses incurred in this matter.

If you have any questions please feel free to call me at REDACTED

REDACTED

LOS ANGELES POLICE DEPARTMENT

WILLIAM J. BRATTON
Chief of Police

ANTONIO R. VILLARAIGOSA
Mayor

P. O. Box 30158
Los Angeles, California 90030
Telephone: (213) 978-2100
TDD: (877) 275-5273
Reference Number: 14.4

October 7, 2008

RECEIVED
OCT 10 2008
BY:

REDACTED

Dear REDACTED

I have reviewed your request for a copy of a tape recording of a May 24, 2002, telephone conversation between Father Walter Fernando and REDACTED

Please be advised that the audio tape recording of a telephone call between Father Fernando and Ms. REDACTED was generated to support the Los Angeles Police Department's investigation. In accordance with Government Code Section 6254(f), records of investigations conducted by, or investigatory files compiled by, any local police agency for law enforcement purposes, are exempt from disclosure. Your request seeks records that are either investigatory records themselves or properly part of an investigative file; therefore, I am denying your request. However, if your request is due to pending litigation, the document you are requesting may possibly be obtained through a court order.

If you have any questions regarding this correspondence, please contact Management Analyst Soon Kim of the Discovery Section at (213) 978-2155.

Very truly yours,

WILLIAM J. BRATTON
Chief of Police

RAYMOND D. CRISP, Senior Management Analyst
Officer-in-Charge, Discovery Section
Risk Management Group

Archdiocese of Los Angeles REDACTED 3424 Wilshire Boulevard Los Angeles California 90010-2202

May 27, 2009

Deputy Chief Charles Beck
Commanding Officer, Detective Bureau
150 North Los Angeles Street
Room 602
Los Angeles, California 90012

Re: Walter Fernando REDACTED

Dear Deputy Chief Beck:

I am again writing to you to request information on the above individual in accord with the protocol you have discussed with REDACTED

In our investigation with respect to Father Walter Fernandez, your Department allowed REDACTED a retired FBI special agent, who has consulted for the Archdiocese, to listen to an audio tape recording of a telephone call between REDACTED REDACTED and Walter Fernandez. As shown in the attached correspondence, in September 2008 I requested a copy of the tape; the request was denied in October 2008.

At the suggestion of REDACTED I am writing to renew the request since, as noted in my September letter, access to the tape itself is important to conclude the canon law aspects of the case.

We will, of course, reimburse you for any expenses incurred in this matter.

If you have any questions, please feel to call me at 213 637-7562.

Yours very truly,
REDACTED

Attachments

cc: REDACTED
REDACTED

LOS ANGELES POLICE DEPARTMENT

WILLIAM J. BRATTON
Chief of Police

P. O. Box 30158
Los Angeles, Calif. 90030
Telephone: (213) 978-2100
TDD: (877) 275-5273
Reference No. 14.4

ANTONIO R. VILLARAIGOSA
Mayor

June 17, 2009

RECEIVED
JUN 22 2009
BY:

REDACTED

REDACTED
Dear

I have reviewed your request, dated May 27, 2009, for a copy of a tape recording of a telephone conversation between Father Walter Fernando and REDACTED Your request was forwarded to my office from the Los Angeles Police Department's Detective Bureau.

As I indicated in my correspondence, dated October 7, 2008, the audio tape recording of a telephone call between Father Fernando and REDACTED was generated to support the Los Angeles Police Department's investigation. In accordance with Government Code Section 6254(f), records of investigations conducted by, or investigatory files compiled by, any local police agency for law enforcement purposes, are exempt from disclosure. Your request seeks records that are either investigatory records themselves or properly part of an investigative file; therefore, my position is unchanged and I am again denying your request. If your request is due to pending litigation, the document you are requesting may possibly be obtained through a court order.

Any correspondence regarding this matter should include a copy of this letter and be directed to the Los Angeles Police Department, Discovery Section, 201 North Los Angeles Street, Space 301, Los Angeles, California 90012. If you have any questions regarding this correspondence, please contact Management Analyst Soon Kim of the Discovery Section at (213) 978-2155.

Very truly yours,

WILLIAM J. BRATTON
Chief of Police

RAYMOND D. CRISP, Senior Management Analyst
Officer-in-Charge, Discovery Section
Risk Management Group

REDACTED

REDACTED

REDACTED

His Eminence Roger Cardinal Mahony
Archbishop of Los Angeles
3424 Wilshire Boulevard
Los Angeles, California 90010-2202
UNITED STATES OF AMERICA.

PERSONAL
CONFIDENTIAL

RCALA 002696

IX 000068



CONGREGAZIONE PER IL CLERO

00120 CITTÀ DEL VATICANO

PERSONAL
CONFIDENTIAL

CONGREGATIO
PRO CLERICIS

Vatican City, 13 November, 2010

Prot. N. 20102992

His Eminence Roger Cardinal Mahony
Archbishop of Los Angeles
3424 Wilshire Boulevard
Los Angeles, California 90010-2202
UNITED STATES OF AMERICA.

Your Eminence,

This Congregation has received and thanks Your Eminence for your letter of 3 September last, indicating a definitive resolution in the matter of the hierarchical recourse placed against Your Eminence's dispositions, expressed in your decree of June 5, 2009, concerning the Reverend Walter Fernando.

This Dicastery has recently corresponded with Fr. Fernando in care of his advocate. A copy of that letter is enclosed for Your Eminence's information. Given the mutually agreed resolution of the matter, this Congregation considers the hierarchical recourse to have been concluded.

I take this opportunity to renew my sentiments of esteem and with every best wish, I remain,

Sincerely yours in Christ,

+ Mauro Piacenza

✠Mauro Piacenza
Titular Archbishop of Vittoriana
Prefect

(Enclosure)

CONGREGATIO
PRO CLERICIS

Vatican City, 13 November, 2010

Prot. N. 20102992

Rev. Walter Fernando
c/o REDACTED
REDACTED

UNITED STATES OF AMERICA.

Dear Fr. Fernando,

This Congregation has received the letter of 24 August last, from your advocate REDACTED, indicating a resolution in the matter of the the hierarchical recourse placed before this Congregation against the dispositions of His Eminence Roger Cardinal Mahony, by his decree of 5 June, 2009, in your regard.

This Dicastery now considers the matter concluded, and notes that you have reached a mutual agreement with His Eminence, Roger Cardinal Mahony, Archbishop of Los Angeles.

With assurance of prayers and cordial best wishes, I remain,

Sincerely yours in Christ,

Mons. Celso Morga Iruzubieta
Under-Secretary

APOSTOLIC NUNCIATURE
UNITED STATES OF AMERICA

3339 MASSACHUSETTS AVENUE, N.W.
WASHINGTON, D.C. 20008-3610

No. 16667

This No. Should Be Prefixed to the Answer

August 4, 2010

REDACTED

ARCHDIOCESE OF LOS ANGELES
3424 Wilshire Boulevard
Los Angeles, CA 90010-2202

Dear REDACTED

In the temporary absence of the Apostolic Nuncio, I acknowledge your kind letter of July 27, 2010, with enclosure.

Rest assured that the sealed packet addressed to His Eminence Cardinal William Levada, Prefect, *Congregation for the Doctrine of the Faith,* has been transmitted through the diplomatic pouch.

With respectful regards and best wishes, I am,

Sincerely in Christ Jesus,

Jean-François Lantheaume

Monsignor Jean-François Lantheaume
Chargé d'Affaires, a.i.

FILE COPY

Archdiocese of Los Angeles
Office of the Archbishop (213) 637-7288
3424 Wilshire Boulevard
Los Angeles California 90010-2241

3 September 2010

Prot. N. 20102051

His Eminence
Claudio Cardinal Hummes, Prefect
Congregation for the Clergy
Piazza Pio X11, 3
00120 Vatican City
EUROPE

Your Eminence:

In reply to your letter dated 21 July 2010 in the matter of Rev. Walter Fernando, I am pleased to inform you that we have at last received Father Fernando's signed acceptance of the agreement reached to resolve his situation. An original copy of his signed acceptance is enclosed herewith.

Father Fernando has agreed to retire from active ministry and to voluntarily renounce any claim on the right to exercise minimal public priestly ministry. He has agreed to the text of a "Letter of Verification" that will be sent to his diocese of origin in Sri Lanka and to any other diocese that inquires about his status. A copy of the text is enclosed.

He has also agreed to the text of announcements that will be made in the two parishes where he served and where in the interests of the good of the faithful previous announcements were made regarding the existence of allegations of misconduct made against him. The text of these new announcements is enclosed herewith.

I also affirm that Father Fernando continues to enjoy the normal financial and social benefits of a retired priest of the Archdiocese of Los Angeles.

Thanking you for your assistance in this matter, I remain

Fraternally yours in Christ,

+ Roger Card. Mahony

His Eminence
Roger Cardinal Mahony
Archbishop of Los Angeles

Enclosures

REDACTED

August 24. 2010

Reverend Walter Fernando
REDACTED

Re; Father Walter Fernando
Congregation for the Clergy
Prot. N. 20091414

Dear Father Fernando:

This is to confirm that you have agreed to retire as an incardinated priest of the Archdiocese of Los Angeles and have voluntarily agreed not to have faculties in the Archdiocese of Los Angeles or to exercise public ministry.

You have approved the attached announcements which are to be made at Assumption of the Blessed Virgin Mary parish in Pasadena and St. Hilary's parish in Pico Rivera as well the letter which would be sent to Ordinaries of dioceses to which you may travel. I also enclose a copy of. REDACTED letter of July 15, 2010 reflecting these matters.

If you have any questions about these documents or your clerical status in the Archdiocese of Los Angeles, Please call me. If not, please sign and date each of the four copies of this latter. Return two copies to REDACTED in the enclosed, addressed envelope, keep a copy for your records and return a copy to me.

With every best wish,

Respectfully and sincerely,
REDACTED

I approve of this letter and the documents referenced herein which I have reviewed..

Dated: August 31, 2010

Father Walter Fernando

Text of Letter of Verification

ADLA
[address]

CARDINAL ROGER MICHAEL MAHONY
Archbishop of Los Angeles

We verify that Reverend Walter Fernando, ordained on 25 January 1973 and incardinated on 24 February 1986, is a retired priest of the Archdiocese of Los Angeles.

He does not enjoy presbyteral faculties of the Archdiocese. In view of the public good, the sensitivity of interested parties, and the publicity attendant to an allegation of past misconduct, he has voluntarily renounced his right to exercise public ministry.

Given at Los Angeles this _____ day of _____ in the year of Our Lord 2010.

For the Cardinal Archbishop

SEAL

REDACTED

Ecclesiastical Notary

Announcement to be Placed in Parish Bulletin
of
Assumption of the Blessed Virgin Mary (Pasadena)

In January and February 2004 announcements were made in this parish regarding an allegation of misconduct against Father Walter Fernando.

After the completion of a canonical process and consideration of the matter by the Archdiocesan Clergy Misconduct Oversight Board, Father Fernando has accepted full retirement and will no longer perform priestly ministry.

Announcement to be Placed in Parish Bulletin
of
St. Hilary (Pico Rivera)

In January 2004 an announcement was made in this parish regarding an allegation of misconduct against Father Walter Fernando.

After the completion of a canonical process and consideration of the matter by the Archdiocesan Clergy Misconduct Oversight Board, Father Fernando has accepted full retirement and will no longer perform priestly ministry.

REDACTED

August 24. 2010

Reverend Walter Fernando
REDACTED

Re; Father Walter Fernando
Congregation for the Clergy
Prot. N. 20091414

Dear Father Fernando:

This is to confirm that you have agreed to retire as an incardinated priest of the Archdiocese of Los Angeles and have voluntarily agreed not to have faculties in the Archdiocese of Los Angeles or to exercise public ministry.

You have approved the attached announcements which are to be made at Assumption of the Blessed Virgin Mary parish in Pasadena and St. Hilary's parish in Pico Rivera as well the letter which would be sent to Ordinaries of dioceses to which you may travel. I also enclose a copy of. REDACTED letter of July 15, 2010 reflecting these matters.

If you have any questions about these documents or your clerical status in the Archdiocese of Los Angeles, Please call me. If not, please sign and date each of the four copies of this latter. Return two copies to REDACTED in the enclosed, addressed envelope, keep a copy for your records and return a copy to me.

With every best wish,

Respectfully and sincerely,
REDACTED

I approve of this letter and the documents referenced herein which I have reviewed..

Dated: August 31, 2010

Father Walter Fernando

REDACTED

REDACTED

Archdiocese of Los Angeles
3424 Wilshire Blvd.
Los Angeles 90010-2202

90010+2241

LOS ANGELES CA 900

REDACTED

August 24, 2010

Reverend Monsignor James Anthony McDaid
Congregation for Clergy
Piazza Pio XII, 3
00120 Vatican City

Re: Prot. N. 20091414
Reverend Walter Fernando

Dear Monsignor McDaid:

This letter is to advise the Congregation for the Clergy that a settlement has been achieved in the above- referenced case between Father Walter Fernando and the Archdiocese of Los Angeles.

Father Walter Fernando has been allowed to retire as an incardinated priest of the Archdiocese of Los Angeles and has voluntarily renounced his right in law to exercise minimal public ministry, doing so for the good of all involved.

REDACTED will be forwarding to you the requisite documentation when completed.

Respectfully and sincerely yours,

REDACTED

REDACTED for Father Walter Fernando

cc: REDACTED
Office of Canonical Services
Archdiocese of Los angeles

REDACTED

His Eminence Roger Cardinal Mahony
Archbishop of Los Angeles
3424 Wilshire Boulevard
Los Angeles, California 90010-2202
UNITED STATES OF AMERICA.

REDACTED

CONFIDENTIAL

RCALA 002708

IX 000080



CONGREGAZIONE PER IL CLERO

00120 CITTÀ DEL VATICANO

CONFIDENTIAL

CONGREGATIO
PRO CLERICIS

Vatican City, 21 July, 2010

Prot. N. 20102051

His Eminence Roger Cardinal Mahony
Archbishop of Los Angeles
3424 Wilshire Boulevard
Los Angeles, California 90010-2202
UNITED STATES OF AMERICA.

Your Eminence,

This Congregation and received and thanks Your Eminence for your letter of 2 July, 2010, regarding a possible resolution regarding the matter of the hierarchical recourse placed against Your Eminence's dispositions, expressed in your decree of June 5, 2009, to the Rev. Walter Fernando.

This Dicastery, referencing this case, wishes to inform you that it has been necessary to extend the time limits involved. The Congregation, therefore, by virtue of article 136 of the *General Regulations of the Roman Curia*, hereby extends the time limits (CIC can. 57) for the recourse until October 21, 2010 pending the amicable resolution Your Eminence mentioned in the letter of 2 July. Mindful of the time limits operative, it would be helpful to receive notification as soon as a resolution has taken place.

I take this opportunity to renew my sentiments of esteem and with every best wish, I remain,

Sincerely yours in Christ,

+ Mauro Piacenza

✠Mauro Piacenza
Titular Archbishop of Vittoriana
Secretary

His Eminence Claudio Cardinal Hummes, OFM
Prefect, Congregation for Clergy
Piazza Pio X11, 3
00120 Vatican City.

Re: Prot. N. 20091414
Reverend Walter Fernando.

Your Eminence:

I write to you regarding the above entitled matter pending in your congregation. On further review we are in the process of reaching an amicable resolution of this case. I will apprise you of the outcome of our efforts in a timely manner.

Thank you for your efforts on our behalf.

Msgr. Anthony McDaid.

Re:
Dear Msgr. McDaid:

This is to inform you that I have notified Cardinal Hummes that we are in the process of reaching an amicable resolution in the above entitled case.

Thank you for your guidance in this in this unfortunate matter.

COPY

REDACTED

Archdiocese of Los Angeles

3424 Wilshire Boulevard
Los Angeles California 90010-2202

15 July 2010

REDACTED

Dear REDACTED,

Following up on our telephone conversation before I left town last week, I am sending you two draft statements which hopefully will allow us to reach an amicable resolution of the status of Father Walter Fernando.

The first is entitled "Text of Letter of Verification." It is the kind of document that is sent to ordinaries of other dioceses regarding the current status of an incardinated priest of Los Angeles. Please note that the letter reports Father Fernando's voluntary renunciation of the right he has in law to exercise minimal public priestly ministry without a due process finding of guilt, and that he does so for the sake of the good all others concerned.

As REDACTED is obligated to inform other ordinaries of Father's status where he is expected to travel, our idea is to send this letter of verification to (1) his diocese of origin in Sri Lanka and (2) to any other diocese that inquires or to which he intends to travel.

The second document presents the proposed text of an announcement that would be placed in the parish bulletin of the two parishes where announcements had been made before. It is our thought that placing the statement in the bulletin would be better than making the announcement orally.

After you have reviewed these, please give me a call to discuss the matter more fully. Thank you for your efforts to bring this matter to a conclusion.

Sincerely in Christ,

REDACTED

Copies: REDACTED
Rev. Msgr. Michael W. Meyers, Vicar for Clergy

Encs

Text of Letter of Verification

ADLA
[address]

CARDINAL ROGER MICHAEL MAHONY
Archbishop of Los Angeles

We verify that Reverend Walter Fernando, ordained on 25 January 1973 and incardinated on 24 February 1986, is a retired priest of the Archdiocese of Los Angeles.

He does not enjoy presbyteral faculties of the Archdiocese. In view of the public good, the sensitivity of interested parties, and the publicity attendant to an allegation of past misconduct, he has voluntarily renounced his right to exercise public ministry.

Given at Los Angeles this _____ day of _____ in the year of Our Lord 2010.

For the Cardinal Archbishop

SEAL

REDACTED

_____
Ecclesiastical Notary

Announcement to be Placed in Parish Bulletin
of
Assumption of the Blessed Virgin Mary (Pasadena)

In January and February 2004 announcements were made in this parish regarding an allegation of misconduct against Father Walter Fernando.

After the completion of a canonical process and consideration of the matter by the Archdiocesan Clergy Misconduct Oversight Board, Father Fernando has accepted full retirement and will no longer perform priestly ministry.

Announcement to be Placed in Parish Bulletin
of
St. Hilary (Pico Rivera)

In January 2004 an announcement was made in this parish regarding an allegation of misconduct against Father Walter Fernando.

After the completion of a canonical process and consideration of the matter by the Archdiocesan Clergy Misconduct Oversight Board, Father Fernando has accepted full retirement and will no longer perform priestly ministry.

REDACTED

REDACTED

ADLA
[address]

CARDINAL ROGER MICHAEL MAHONY
Archbishop of Los Angeles

We verify that Reverend Walter Fernando, ordained on 25 January 1973 and incardinated on 24 February 1986, is a retired priest of the Archdiocese of Los Angeles.

He does not enjoy presbyteral faculties of the Archdiocese. In view of the public good, the sensitivity of interested parties, and the publicity attendant to an allegation of past misconduct, he has voluntarily renounced his right to exercise public ministry.

Given at Los Angeles this _____ day of _____ in the year of Our Lord 2010.

For the Cardinal Archbishop

SEAL

REDACTED

_____
Ecclesiastical Notary

Case of Walter Fernando

CMOB recommendations	Cardinal's decree 5 June 2009	[redacted] offer 30 June 2009	Observations, issues
1. Fernando be removed from ministry permanently	1. Fernando may not exercise any priestly public ministry. He does not have AD faculties; he may not celebrate Mass publicly; he may not preach	1. Fernando be permitted to retire with his promise to exercise no public ministry in Los Angeles	[redacted] position here is why CMOB insisted on point #3
2. His permanent removal be announced at all parishes where he was assigned or served	2. His permanent removal is to be notified to all concerned parties, including diocese of origin in Sri Lanka	2. Any announcement of permanent removal would publicly indicate a finding of guilt (in effect, defame him)	[redacted] argument is fallacious. Another reason for permanent "removal" can be the public good's need for a priest to be reasonably above suspicion
3. The settlement proposed by [redacted] be rejected because it would require AD to abdicate its responsibility to notify other dioceses	3. Addressed in #2 above	3. Should anyone inquire, simply say because of the publicity of the allegation, he has voluntarily agreed not to exercise public ministry	The facts of the case (not all of which were presented to Clergy) show clearly that Fernando is not above reasonable suspicion
4. The Church in Sri Lanka be specifically notified re his permanent removal	4. Addressed in #2 above	4. No formal announcement be made to anyone; no further decrees or canonical action	Justice demands that all interested parties, incl. the claimant, be notified of the final decision
5. Complainant be notified of [redacted] final decision	5. Addressed in #2 above.	5. Not specifically addressed	Note: Since the victim was not both a canonical as well as a civil minor, this case technically falls outside the application of the Essential Norms.
Note: Cardinal signed his concurrence with all 5 points above 6 May 2009	Note: No notifications have been made as yet, pending resolution of F's recourse to Rome	Note: The key argument here is that permanent removal entails finding Fernando guilty	Note: The CDF has correctly ruled that no reserved delict is at issue. Prescription has time-barred action on whatever violation of celibacy occurred.

In view of all the above and of Clergy's insistence that perpetual penalties cannot be applied in the case, the proposed "testimonial letter" for Fernando emphasizes his voluntary renunciation of the right he has in law to exercise minimal public priestly ministry without a due process finding of guilt and for the sake of the good of all others concerned. The text of the letter states the substance of what would be said in announcements to be made in accordance with CMOB's recommendations.

IX 000089

RCALA 002717

Observations on the Fernando Case
5 June 2009

Once it was determined that a canonical delict did not occur because the claimant was over age 16, the case essentially became a matter of assessing the credibility of the claimant and the accused respectively.

As outlined in the decree of 5 June 2009, the investigation surfaced information that tended to strengthen the claimant's credibility.

Not presented in the same decree are the results of the investigation which tended to undermine the credibility of the accused:

1. Fernando denied the truth of the accusations against him, stating that he had "absolutely obeyed his vow of celibacy." However, his tape recorded admission to the claimant that he had crossed sexual boundaries (fondling and kissing her breasts) and that he had confessed the matter in sacramental confession implies that one or more sins against the sixth commandment of the Decalogue did occur.

2. The principal purpose of Fernando's canonical interview was to try to resolve the apparent contradiction just noted. Before the formal interview ended, Fernando stated that there would have been no reason for the claimant or any other person in the United States to know the Sri Lankan familiar name that his own family used for him. Yet the claimant did know this term and used it with Fernando, as learned by the canonical auditor from the claimant.

3. Fernando's canonical advocate also listened to the tape recorded conversation, so he knows whether damaging statements were made. He refused to let his client answer questions regarding his relationship with any women, thereby bringing the formal interview to an end.

4. The fact that the advocate presented a form of plea bargain on Fernando's behalf, offering that his client would retire without archdiocesan faculties so long as no public statement was made as to why he did not have faculties, indicates that he had no reasonable hope of dispelling the accusation.

5. The advocate also effectively tried to deflect the direction of the interview by maintaining that the fact of any sacramental confession Fernando may have made and the nature of any content of such a confession were matters of the internal forum and could not be used against him. This argument ignores the fact that Fernando himself made the matters public by stating them to another person (the claimant), which conversation has been heard by a minimum of three other people (the canonical auditor, the advocate, and an unknown number of members of the LAPD).

6. In the taped conversation with the claimant, Fernando stated that he thought she was 19 and not a minor. This now seems to be a self-serving statement, and can no longer be accepted at face value as representing his true mind. In fact, the claimant started working in the parish rectory while a 16-year-old student in her junior year at the local Catholic high school. The rectory is where Fernando met and got to know her. It is unlikely that in the time he knew her (which began allegedly while he was a visitor at the parish, the year before he was assigned there), the question of her age would not have arisen.

TCa

Archdiocese of Los Angeles
Clergy Misconduct Oversight Board

April 27, 2009

CONFIDENTIAL--
Personnel Matter

TO: Cardinal Roger M. Mahony
Archbishop of Los Angeles

FROM: REDACTED

Clergy Misconduct Oversight Board

SUBJECT: Father Walter Fernando (CMOB #027)

The Clergy Misconduct Oversight Board (Board) has concluded its review of the allegations against Father Walter Fernando. This report is submitted to both summarize the case and communicate the Board's findings and recommendations to you.

Father Walter Fernando was born in Sri Lanka on April 24, 1944, and ordained in Sri Lanka in 1973. He moved to Los Angeles and was assigned to St. Hilary's Parish in Pico Rivera on March 1, 1981. The Complainant was a high school senior who worked at St. Hilary's rectory after school. At that time, she was 17 years old (she turned 18 on REDACTED) and Fernando was 36 years old. Fernando served at St. Hilary's until his routine transfer to St. John Baptist de la Salle in Granada Hills on November 30, 1981. Fernando was incardinated in Los Angeles on February 24, 1986.

In April 2002, the Complainant told Los Angeles Police Department (LAPD) detectives that Fernando had sexually molested her when they worked together at St. Hilary's and for about a year after Fernando transferred to St. John Baptist. She alleged that she was 17 years old when their sexual relationship began. As part of their investigation, the detectives had the Complainant make a telephone call to Fernando. Without Fernando's knowledge, but with the Complainant's consent, the detectives recorded the conversation. After that, the detectives went to Fernando's rectory, but he was gone on vacation. In June 2002, Fernando was at a seminar with the Vicar for Clergy (VC). He told the VC that the police came to his rectory looking for him. He said that about 20 years earlier he had "crossed boundaries" with a woman when he took her to the movies and put his arm around her.

In August 2002, the Los Angeles Times published an article naming Fernando as the subject of a police investigation. Ultimately the criminal case was closed due to a court case (*Stogner*) that invalidated a lengthened statute of limitations for this type of case. In February 2003, the VC attempted to interview Fernando, but he declined to answer any questions regarding the Complainant on advice of counsel. In March and again in May of 2003, Fernando sent letters to the VC denying the allegations and claiming to have obeyed his vow of celibacy. In January 2004, the Los Angeles Times published another article detailing the case against Fernando and reporting that he was still in ministry. That same month a statement was read at St Hillary's weekend masses telling parishioners that Fernando had been named in a lawsuit accusing him of sexual abuse while assigned to that parish. Anyone with information regarding the matter was asked to contact the VC, but no contacts were made.

On January 24, 2004, the Complainant was interviewed by Archdiocesan Canonical Auditor REDACTED a retired F. B. I. agent. Complainant stated that when she was a senior in high school she worked in the rectory after school on most weekdays. Because she was working after school, she usually wore her Catholic high school uniform while at the rectory. While she was 17, Fernando took her to a movie. Toward the end of the movie he put his hand on her breast and began to rub it. Then he gave her a kiss on the lips. Another time while she was still in high school they were together in a parked car when he laid his head on her lap, pulled her head towards him and gave her a long kiss putting his tongue in her mouth. On another occasion while she was in high school, he took her to a park where he kissed her and placed his hand inside her blouse and bra to rub the skin of her breast. Another time at the same park while she was in high school she was with him in a parked car in the evening. He unzipped his pants, exhibited his erect penis and tried to force her to orally copulate him. When she refused, he took her hand, placed it around his penis and, with his hand clasped over hers, masturbated until he ejaculated. She described several more incidents of sexual activity that occurred after she turned 18 while Fernando was still assigned to St Hillary's. During one of those incidents, Fernando digitally penetrating her vagina.

She recalled that Fernando was transferred to St. John Baptist parish in about December 1981. When he left St. Hillary's, she had turned 18. After his transfer, he drove to her house, picked her up and drove her back to his new parish. He took her to a private sitting room in the rectory from which there was a door leading to his bedroom. They remained in the sitting room awhile while she played her flute. He brought her to the rectory a second time and this time they went into his bedroom. He had her disrobe, kissed her breast, sucked her nipples and lay on top of her on the bed. He did not undress, but she could feel his erection. She asked him why he did not undress and he replied he didn't want her to become pregnant. She estimated she went to the parish in Granada Hills about ten times and that similar sexual activity occurred between them each time. When asked who could corroborate her story, she stated that her mother, brother and sister all knew that she was going out with Fernando.

In her interview, the Complainant provided a detailed description of the rectory at St. John Baptist as well as Fernando's living quarters there. REDACTED ubsequently inspected the premises and found the Complainant's description to be completely accurate. In order to account

for any alterations that may have been made over the years, REDACTED interviewed the priest who was the pastor there at that time. His description of the premises also matched the Complainant's. Later, responding through his Canonical Advocate, Fernando denied that the Complainant was ever in his quarters at St. John Baptist de la Salle. Again communicating through his Canonical Advocate, Fernando claimed that he could not have driven Complainant as she described because he did not have a driver license when he arrived in the United States. He claims not to have obtained his license until the summer of 1981, but no documentation of that date has been obtained.

The Board had reviewed the case in 2002 and in 2003 recommending both times that additional information be obtained quickly. In February 2004, the month after the Complainant was interviewed, the Board considered the case again. The Board determined that the allegations were sufficiently credible to recommend that Fernando be placed on administrative leave while the investigation continued. The Cardinal concurred with that recommendation and Fernando was temporarily removed from public ministry.

During the subsequent investigation, REDACTED attempted to obtain a copy of the taped telephone conversation between the Complainant and Fernando. Though he was unable to obtain a copy, the LAPD investigators allowed REDACTED to listen to the tape. A March 21, 2007, Archdiocesan status report on this case states, "police record phone conversation between Complainant and Fernando in which Fernando appears to admit that sexual activity took place between him and Complainant when Complainant was 17 years old." The report goes on to say that, "Fernando said that he remembered kissing the victim but didn't remember showing her his penis; he stated that he thought the victim was 19 years old; he admitted feeling love for her and recalled rubbing her breast and kissing her breasts; he told her that he confessed his sins in this matter and asked her for her forgiveness; he stated he wanted to remain a priest and asked her to keep this between them. The investigator concluded that the tape appeared to confirm that something of a sexual nature had transpired between Fernando and the victim." Clearly Fernando's admissions in the taped conversation are in direct conflict with his March 7 and May 8, 2003, letters in which he denied "having had any sexual activity with (Complainant)."

In November 2004, the case was sent to Rome. The case was returned with a finding that, as the complainant was 17 at the time, she was not a minor under the 1917 Code of Canon Law. (The Church subsequently changed the age of majority from 16 to 18.) Consequently, Rome determined that the case is not under its jurisdiction and assigned responsibility for any further action to the Archdiocese. This complaint resulted in a civil suit and was eventually settled as part of the global settlement. The amount received by the Complainant was within the median settlement amount for that group of cases.

Once the civil suit was settled, the case was reviewed to determine if it was ready for disposition. It was decided that efforts should be made to contact the Complainant's mother, sister and/or brother in an effort to corroborate the number of "dates" she allegedly had with Fernando and to determine if any of them had any additional information to support or refute these allegations. The Complainant's sister was subsequently interviewed telephonically. She was about 13 years old when Fernando was first assigned to St. Hilary's. She and her older sister

(Complainant) shared a bedroom. They lived with their parents and two brothers who were 18 and 19 years old. Between work, school and friends, the brothers were usually gone and rarely interacted with their two younger sisters. She believes they had no idea what was happening with the Complainant at the time. The parents thought the relationship between the Complainant and Fernando was fine—they trusted him and to this day they refuse to discuss it.

She and her sister shared confidences including the Complainant's account of the numerous sexual encounters she had with Fernando. They would talk about those activities in very specific terms. For example, one time Complainant returned home very upset after going to the movies with Fernando. Complainant told her sister that Fernando had kissed her at the theater. On another occasion Complainant told her that Fernando took her for a ride and told her to touch his penis after which she needed to clean herself with a tissue. On another occasion, Complainant told her that she had disrobed in front of Fernando and while she was disrobed he put his Roman collar on her. (The Complainant described just such an incident in her interview.) The sister estimated that Fernando came to their house to pick up Complainant six to twelve times during that period.

On March 23, 2009, Fernando was to be interviewed by REDACTED After asking a few background questions, REDACTED began to ask a question regarding Fernando's prior relationships. REDACTED was immediately interrupted by Fernando's Canonical Advocate who instructed Fernando not to, "...answer any question that has to do with any relationship or any person of any kind." At that point, the interview was concluded. The Board understands from Fr. REDACTED , who has been assigned to provide us with Canonical advice, that under Canon Law the instruction from Fernando's Canonical Advocate is imputed to Fernando and is sufficient to constitute a decision by Fernando not to answer any questions without Fernando having to personally respond that he understood and agreed to follow his Advocate's admonition and advice. We therefore conclude that Fernando declined this opportunity to make whatever response he may deem appropriate. In that regard, we recognize that Fernando is not expected to admit or deny anything and that he is entirely within his rights to remain silent. Consequently, we draw no inference whatsoever from his decision.

Following this interview, Fernando's Advocate proposed the following disposition for this case:

1. Father Fernando will retire at 65 years of age (4-24-09) and will voluntarily agree to refrain from any priestly public ministry in the Archdiocese of Los Angeles.

2. Should any letter of inquiry be received from another Bishop, the parties would collaborate on the wording of any response from REDACTED of Los Angeles. The letter would not say that Fernando has been found unfit for ministry, but clearly communicate that Fernando has offered and the Archdiocese has agreed that he will not exercise ministry in this diocese. Any Bishop making an inquiry should be given the facts and the decision left up to him regarding any granting of faculties. The Advocate made it clear that the facts in the response should be stated without a conclusion that Fernando had been found unfit for ministry.

3. The original precept placing Fernando on leave would be revoked.

The Archdiocesan representatives informed Fernando's Advocate that, based upon their experience with the Board, we would most likely recommend to the Cardinal that Fernando should not be entitled to exercise public ministry anywhere. However, they agreed to inform the Board and ultimately the Cardinal of the proposal.

By Charter, the Board is responsible for ensuring that all allegations of sexual misconduct by a priest or deacon are investigated thoroughly. Consequently, the Board's first duty is to determine if all reasonable investigative avenues have been pursued and exhausted. We have considered that aspect of this case and find that this matter has been investigated adequately. As we noted several years ago, the Complainant's mother, brothers and sister should have been interviewed to determine what, if anything, they might know about this case. Eventually, the sister was interviewed and she largely corroborated the allegations. In view of the information the sister provided about her brothers and her parents' refusal to discuss the matter, it appears that efforts to interview additional family members would serve no constructive purpose. We were also concerned that the taped telephone conversation was not pursued through the protocol established for obtaining evidence from the Los Angeles Police Department. However, we are confident in relying on the Canonical investigator's report of that taped conversation.

With the adequacy of the investigation established, it now becomes the Board's responsibility to recommend an appropriate disposition. In cases such as this it is important to be mindful of the standards under which the Board must weigh the evidence presented to it. First is the Archdiocesan Policy on Sexual Abuse by Clergy which defines sexual abuse of a minor as an act(s) of sexual molestation, sexual exploitation or other behavior by which an adult uses a minor as an object of sexual gratification. Second is the standard of justice which requires that a sustained allegation must be supported by credible evidence leading a reasonable person to conclude that the alleged acts occurred, that the accused cleric committed those acts and that the acts constitute sexual abuse of a minor.

We have discussed this matter extensively, ever mindful of our responsibility to the people involved as well as to the Church itself. The Board's diversity including members with experience as mental health care professionals, law enforcement, the judiciary, abuse victims and their parents, religious and clergy all helped to ensure that every aspect of this case was fully explored. We are mindful of our duty as Catholics and members of this Board to review the facts of this case objectively and make a recommendation of conscience based upon the evidence that has been gathered. With those responsibilities in mind, we have come to the unanimous decision that the facts in this case clearly meet the burden of proof required to support the conclusion that Father Walter Fernando engaged in the sexual abuse of a minor. Consequently, we unanimously make the following recommendations:

Recommendation No. 1: We recommend that Fr. Fernando be removed from ministry permanently.

Recommendation No. 2: We recommend that Fr. Fernando's permanent removal from ministry be announced at all Archdiocesan parishes in which he has been assigned or maintained a priestly relationship.

Recommendation No. 3: We recommend that the settlement proposal put forth by Fr. Fernando's advocate be rejected. That proposal would require the Archdiocese to abdicate its moral responsibility to notify another diocese that a priest has been removed from ministry.

Recommendation No. 4: Because we believe that Fr. Fernando returns to Sri Lanka on occasion, we recommend that the Church in Sri Lanka be notified in writing of Fr. Fernando's permanent removal from ministry.

Recommendation No. 5: We recommend that the Complainant be notified of the Archbishop's final decision on this matter.

With these findings and recommendations, the Board concludes this case and closes this file.

Respectfully submitted,

REDACTED

c: Monsignor Gonzales, Vicar for Clergy

I concur fully in recommendations one (1) through five (5), and request that all five be implemented at once.

+ Roger Card. Mahony

6 May 2009

REDACTED

Copy

June 28, 2009

His Eminence Claudio Cardinal Hummes, OFM
Prefect, Congregation for Clergy
Piazza Pio XII, 3
00120 Vatican City

Re: Your Prot. N. 20091414
Reverend Walter Fernando

Your Eminence:

On June 12, 2009 I received the enclosed Decree, dated June 5, issued by His Eminence Roger Cardinal Mahony. I sent a Petition to Cardinal Mahony to Amend part and Revoke part of his decree. I enclose a copy of the petition for reconsideration as well.

Although the new decree is not now an issue before your Congregation, it could become an issue depending on the decision the Congregation renders in my above-numbered Recourse, which decision is due on or about August 20, 2009. I have delayed and debated whether you should be made aware of this new action taken by Los Angeles. Consultation with knowledgeable canonists has prompted me to advise you of the decree.

I do not know what opposition to my recourse has been filed by Los Angeles. Coming as this new decree does so close to the time that your Congregation is to decide whether Father Fernando should be re-instated, it seems that the decree is issued to anticipate and nullify the effect of a decision on the recourse that would be favorable to Father Fernando.

The Cardinal's new decree is twofold. It first revokes the February 18, 2004 decree which had placed Father Fernando on temporary restriction form public ministry pending the resolution of the allegation that he had sexually abused a minor in 1981.This temporary restriction should have been revoked and had, in fact, been revoked by operation of law when the penal process ceased on July 5, 2005, when the Congregation for the Doctrine of the Faith declared that the allegation did not constitute a canonical *delict.* (Canon 1722). Father Fernando, however, has continued to be kept on leave.

The new decree then immediately imposes a *permanent penalty* of removal from public ministry of the priesthood without any seemingly valid canonical reason, process or authority. It is based on the one same allegation of twenty eight years ago, the only complaint against Father Fernando in his entire priestly record. It is this part of the decree which I ask Cardinal Mahony to revoke.

Father Fernando has now reached the age of 65 and is petitioning for retirement. He wishes only to live out his priesthood in private as a retired priest in good standing without engaging in any public ministry. During these past four years he has remained private, has complied with Cardinal Mahony's wishes that he remain "on leave" and has avoided all publicity. He is anxious to avoid any and all future publicity for the sake of the church and the Archdiocese as well for himself and his own good name.

I look forward to the decision your Congregation will render on the recourse for re-instatement presently before it. It will affect what future actions can and should be taken relating to the new decree if said decree is not revoked.

With every best wish and prayer for you and all who work in your Congregation, I remain,

Respectfully and sincerely yours,

REDACTED
REDACTED

cc: His Eminence Roger Cardinal Mahony
Archbishop of Los Angeles

Archdiocese of Los Angeles
Office of the Archbishop (213) 637-7288
3424 Wilshire Boulevard
Los Angeles California 90010-2202

4 May 2009

Prot. N. 20082209

His Eminence
Claudio Cardinal Hummes, Prefect
Congregation for the Clergy
Piazza Pio X11, 3
00120 Vatican City
EUROPE

Your Eminence:

The measures referenced in my letter to you dated September 22, 2008, deemed necessary to respond fully to the hierarchical recourse placed against me before your Congregation by Rev. Walter Fernando, are now complete. These measures included further investigation, hearing Father Fernando again on the matter, and having the formal recommendation of our Clergy Misconduct Oversight Board.

Your Eminence will have already gleaned the facts of this case both from the acts which you already have in your possession, and from the written recourse prepared by Father Fernando's procurator and advocate.

The focal point of the case is the complaint made to the Los Angeles Police Department by REDACTED that Father Fernando sexually molested her while she was still a teenager. As part of their investigation, the police monitored a telephone call between REDACTED and Father Fernando.

Father Fernando was not present when the police came to the parish rectory looking to interview him. He opined to my Vicar for Clergy that the reason the police were looking for him was that twenty years earlier he had "crossed boundaries" with a woman. The civil criminal process was closed due to the expiration of the statute of limitations. Nonetheless, a civil lawsuit was filed against our Archdiocese in 2003 by REDACTED and a settlement was reached in 2007 amounting to a sizable amount of money. Meanwhile, the matter received extensive coverage in our local media. Furthermore, in keeping with our policy to properly inform the faithful in these cases, announcements were made at two parishes at which Father Fernando served.

A canonical investigation ensued, and it was determined that since the complainant was over the age of 16 at the time of the alleged offense, the matter fell outside the realm of a *gravius*

delictum. Thus I was informed by the Congregation for the Doctrine of the Faith that I did not need authorization from that Dicastery to evaluate the merits of the case and to act accordingly.

Father Fernando has adamantly denied ever having engaged in sexual behavior with REDACTED. Yet there are indications that something of a sexual nature occurred between them. Principally, these indications are:

a) Father Fernando's statement to our Vicar for Clergy that he suspected that the reason the police wished to interview him was because he had "crossed boundaries" with a woman some twenty years earlier.

b) Our investigator inspected the location where some of the sexual activity was alleged to have occurred and found the complainant's description of Father Fernando's living quarters to be completely accurate. This would seem to lend some credibility to statements made by REDACTED

c) Our investigator was permitted to listen to the telephone conversation between REDACTED and Father Fernando taped by the Police Department referenced above. The investigator concluded that the tape appeared to confirm that something of a sexual nature had transpired between Father Fernando and REDACTED

d) The statement of REDACTED sister of REDACTED to our canonical auditor (complete statement attached), that she witnessed Father Fernando coming to their home " between six and twelve times" to take her sister "out on excursions to movies and other places." Among the matters REDACTED shared with her sister was that on one occasion Fernando told REDACTED to touch his penis and after she did this she needed to clean herself off with a Kleenex.

An ameliorating circumstance is the fact that there is no record of an accusation of this nature against Father Fernando other than that brought by REDACTED On the other hand, aggravating circumstances are these:

a) The wide publicity this matter received in our Local Church.

b) The fact that REDACTED though not a minor at canon law, was still a minor at civil law when the alleged activity occurred.

c) Though there was no determination of guilt, the fact that REDACTED prevailed in her lawsuit against our Archdiocese.

Norm IV. of the *Essential Norms*, the particular law for the United States, provides that the Diocesan Bishop shall have a review board, precisely for cases such as this, which will function as a confidential consultative body to assist him in discharging his responsibilities. My review board, called the Clergy Misconduct Oversight Board, has advised me not to return Father Fernando to active ministry.

The numerous factors that come into play in the resolution of cases such as this render their resolution very difficult. I have carefully considered every aspect of this case, including the

good of all involved, accused and accuser alike, and the good of our Local Church in reaching my decision. I will use the executive power of governance, within the parameters of the universal law of the church, through an administrative act to limit Father Fernando's exercise of priestly ministry. This administrative action shall be taken in writing by means of a decree (Canons 47-58) so that Father Fernando will be afforded the opportunity of recourse against it in accordance with canon law (Canons 1734 ff.).

Enclosed with this letter, please find,

1. The statement of REDACTED, sister of the complainant, REDACTED. (Please note that the typed statement was reviewed and expanded by REDACTED.)
2. Transcript of the canonical interview with Father Walter Fernando.
3. Memo and recommendations from Clergy Misconduct Oversight Board.

Thanking you for your assistance in this matter, I remain

Fraternally yours in Christ,

+ Roger Card. Mahony

His Eminence
Roger Cardinal Mahony
Archbishop of Los Angeles

Enclosures

MEMORANDUM

To: Cardinal Roger Mahony

From: Monsignor Michael Meyers mm

Date: June 30, 2010

RE: Reverend Walter Fernando

Father REDACTED and REDACTED are have reviewed the list of concerns about Father Fernando. It tries to reconcile the recommendations of CMOB, your Decree and the request of REDACTED who represents Father Fernando.

There must obviously be a compromise. We began by trying to develop a letter which we would use describing his status in the Archdiocese—similar to a letter which we would send to another diocese for one of our priests to receive faculties.

Recommendation: You should have a meeting with Father REDACTED and me to review and explain the details highlighted in the attached schema and attempt to finalize the document to be presented to Father Fernando for his status. If this is an urgent matter for you after your conversation on the phone with Rome, a meeting could be scheduled for this Friday. Otherwise we can schedule something after you return.

MEMORANDUM

To: Cardinal Roger Mahony

From: Monsignor Michael Meyers mm

Date: June 30, 2010

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From:

Case of Walter Fernando

CMOB recommendations	Cardinal's decree 5 June 2009	offer 30 June 2009	Observations, issues
1. Fernando be removed from ministry permanently	1. Fernando may not exercise any priestly public ministry. He does not have AD faculties; he may not celebrate Mass publicly; he may not preach	1. Fernando be permitted to retire with his promise to exercise no public ministry in Los Angeles	position here is why CMOB insisted on point #3
2. His permanent removal be announced at all parishes where he was assigned or served	2. His permanent removal is to be notified to all concerned parties, including diocese of origin in Sri Lanka	2. Any announcement of permanent removal would publicly indicate a finding of guilt (in effect, defame him)	argument is fallacious. Another reason for permanent "removal" can be the public good's need for a priest to be reasonably above suspicion
3. The settlement proposed by be rejected because it would require AD to abdicate its responsibility to notify other dioceses	3. Addressed in #2 above	3. Should anyone inquire, simply say because of the publicity of the allegation, he has voluntarily agreed not to exercise public ministry	The facts of the case (not all of which were presented to Clergy) show clearly that Fernando is not above reasonable suspicion
4. The Church in Sri Lanka be specifically notified re his permanent removal	4. Addressed in #2 above	4. No formal announcement be made to anyone; no further decrees or canonical action	Justice demands that all interested parties, incl. the claimant, be notified of the final decision
5. Complainant be notified of AB's final decision	5. Addressed in #2 above.	5. Not specifically addressed	Note: Since the victim was not both a canonical as well as a civil minor, this case technically falls outside the application of the Essential Norms.
Note: Cardinal signed his concurrence with all 5 points above 6 May 2009	Note: No notifications have been made as yet, pending resolution of F's recourse to Rome	Note: The key argument here is that permanent removal entails finding Fernando guilty	Note: The CDF has correctly ruled that no reserved delict is at issue. Prescription has time-barred action on whatever violation of celibacy occurred.

In view of all the above and of Clergy's insistence that perpetual penalties cannot be applied in the case, the proposed "testimonial letter" for Fernando emphasizes his voluntary renunciation of the right he has in law to exercise minimal public priestly ministry without a due process finding of guilt and for the sake of the good of all others concerned. The text of the letter states the substance of what would be said in announcements to be made in accordance with CMOB's recommendations.

06/30/2010 16:02 #244 P.002/003

RCALA 002733

IX 000105

ADLA
[address]

CARDINAL ROGER MICHAEL MAHONY
Archbishop of Los Angeles

We verify that Reverend Walter Fernando, ordained on 25 January 1973 and incardinated on 24 February 1986, is a retired priest of the Archdiocese of Los Angeles.

He does not enjoy presbyteral faculties of the Archdiocese. In view of the public good, the sensitivity of interested parties, and the publicity attendant to an allegation of past misconduct, he has voluntarily renounced his right to exercise public ministry.

Given at Los Angeles this _____ day of _____ in the year of Our Lord 2010.

For the Cardinal Archbishop

SEAL

REDACTED

Ecclesiastical Notary

ADLA
[address]

CARDINAL ROGER MICHAEL MAHONY
Archbishop of Los Angeles

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Given at Los Angeles this _____ day of _____ in the year of Our Lord 2010.

For the Cardinal Archbishop

SEAL

REDACTED

Associate Vicar for Clergy

Ecclesiastical Notary

Case of Walter Fernando

CMOB recommendations	Cardinal's decree 5 June 2009	[redacted] offer 30 June 2009	Observations, issues
1. Fernando be removed from ministry permanently	1. Fernando may not exercise any priestly public ministry. He does not have AD faculties; he may not celebrate Mass publicly; he may not preach	1. Fernando be permitted to retire with his promise to exercise no public ministry in Los Angeles	[redacted] position here is why CMOB insisted on point #3
2. His permanent removal be announced at all parishes where he was assigned or served	2. His permanent removal is to be notified to all concerned parties, including diocese of origin in Sri Lanka	2. Any announcement of permanent removal would publicly indicate a finding of guilt (in effect, defame him)	[redacted] argument is fallacious. Another reason for permanent "removal" can be the public good's need for a priest to be reasonably above suspicion
3. The settlement proposed by [redacted] be rejected because it would require AD to abdicate its responsibility to notify other dioceses	3. Addressed in #2 above	3. Should anyone inquire, simply say because of the publicity of the allegation, he has voluntarily agreed not to exercise public ministry	The facts of the case (not all of which were presented to Clergy) show clearly that Fernando is not above reasonable suspicion
4. The Church in Sri Lanka be specifically notified re his permanent removal	4. Addressed in #2 above	4. No formal announcement be made to anyone; no further decrees or canonical action	Justice demands that all interested parties, incl. the claimant, be notified of the final decision
5. Complainant be notified of [redacted] final decision	5. Addressed in #2 above.	5. Not specifically addressed	Note: Since the victim was not both a canonical as well as a civil minor, this case technically falls outside the application of the Essential Norms.
Note: Cardinal signed his concurrence with all 5 points above 6 May 2009	Note: No notifications have been made as yet, pending resolution of F's recourse to Rome	Note: The key argument here is that permanent removal entails finding Fernando guilty	Note: The CDF has correctly ruled that no reserved delict is at issue. Prescription has time-barred action on whatever violation of celibacy occurred.

In view of all the above and of Clergy's insistence that perpetual penalties cannot be applied in the case, the proposed "testimonial letter" for Fernando emphasizes his voluntary renunciation of the right he has in law to exercise minimal public priestly ministry without a due process finding of guilt and for the sake of the good of all others concerned. The text of the letter states the substance of what would be said in announcements to be made in accordance with CMOB's recommendations.

IX 000108

RCALA 002736

REDACTED

Archdiocese of Los Angeles

3424 Wilshire Boulevard Los Angeles California 90010-2202

DECREE

I, REDACTED of Los Angeles, upon receiving information which had the semblance of truth, that the Reverend Walter Fernando committed the delict of Canon 1395 §2, directed that a canonical investigation be initiated in accord with Canon 1717. Pending the outcome of the investigation, Father Fernando was placed on administrative leave effective 19 February 2004, in accordance with Canon 1722.

It was determined that since the complainant, A. P., was over the age of 16 at the time of the alleged offense, the matter fell outside the realm of a *gravius delictum*. Thus the investigation into the possibility that a delict had been committed was closed by a decree on 27 September 2004.

However, the decree closing the investigation acknowledged that "there is significant evidence that the woman, a minor at civil law, may well have suffered abuse from Father Fernando." For that reason the decree placing Father Fernando on administrative leave was not revoked pending further investigation into his suitability for return to ministry. Meanwhile, the complaint resulted in civil litigation and was settled as part of a global settlement.

Once the settlement was reached, it was determined that attempts be made at further investigation. Now that the Clergy Misconduct Oversight Board has issued its final recommendation to me, I formally revoke the earlier decree of 18 February 2004 which placed Father Fernando on administrative leave.

Furthermore:

I, REDACTED of Los Angeles, do declare that, after a careful investigation, it has been established with reasonable certitude that the Reverend Walter Fernando engaged in a relationship of a sexual nature with A. P. Father Fernando has adamantly denied ever having engaged in such behavior with her. Yet the investigation yielded indications which, taken cumulatively, argue that something of a sexual nature occurred between them.

Principally, the indications are:

1. The testimony of the complainant herself that she and Walter Fernando engaged in intimate sexual activity.

2. Our canonical auditor inspected the location where the sexual activity was alleged to have occurred and found the complainant's description of Fr. Fernando's quarters to be completely accurate. This lends credibility to the statements made by REDACTED

3. Our canonical auditor was permitted to listen to the telephone conversation between REDACTED and Father Fernando taped by the police department. The investigator concluded that the tape appeared to confirm that something of a sexual nature had transpired between them.

4. The statement of REDACTED sister of REDACTED to our canonical auditor that she witnessed Father Fernando coming to their home "between six and twelve times" to take her sister "out on excursions to movies and other places." Among the matters REDACTED shared with her sister was that on one occasion Fr. Fernando told REDACTED to touch his penis, and after she did this she needed to clean herself off with Kleenex.

Aggravating circumstances are:

1. The wide publicity this matter received in our Local Church.

2. The fact that REDACTED though not a minor at canon law, was still a minor at civil law when the alleged activity occurred.

3. The fact that REDACTED prevailed in the lawsuit against the Archdiocese regardless of any determination of guilt on the part of Father Fernando.

Reverend Walter Fernando has been made aware of the evidence collected, has enjoyed the services of an ecclesiastical advocate, and has presented a defense in which he has argued that his difficulties are not of the nature or severity to render him unfit for return to ministry. His argument has been taken into account, and his rights have been protected.

I have carefully considered every aspect of this case, including the good of all involved, accused and accuser alike, and the good of our Local Church in reaching my decision to use the executive power of governance, within the parameters of the universal law of the church, through an administrative act to limit Father Fernando's exercise of priestly ministry as follows:

1. Father Fernando may not exercise any priestly public ministry. This means that he does not enjoy the faculties of this Archdiocese; he may not celebrate Mass publicly (canon 906); and he may not preach (canon 764).

2. Notice of his permanent removal from public ministry shall be given to all concerned parties, including the Bishop of his Diocese of origin in Sri Lanka.

This administrative action is taken in writing by means of this decree so that Fr. Fernando will be afforded the opportunity of recourse against it in accord with the provision of Canons 1734ff.

Given on the 5th of June 2009 at the Curia of the Archdiocese of Los Angeles.

Cardinal Roger M. Mahony
Archbishop of Los Angeles

ARCHDIOCESAN SEAL

REDACTED

REDACTED

June 30, 2009

His Eminence Roger Cardinal Mahony
Archbishop of Los Angeles
555 W. Temple Street
Los Angeles, CA 90012-2202

Re: Father Walter Fernando

Dear Cardinal Mahony:

I was surprised and sorry to receive your decree of June 5, 2009, coming, as it does, after Father Fernando and I met with Monsignor Gonzales, REDACTED and Father REDACTED at their request to discuss his case. At that time Father Fernando expressed his intention to petition for retirement since he reached age 65 on April 24, 2009. He also expressed his understanding of the effects of the publicity not only on him but also on you and the Archdiocese. Unfortunately you are both victims of that publicity which was purposefully caused by the alleged victim and her civil attorneys.

Understanding the effect of the publicity, Father Fernando has always remained private and obedient to the limitations you placed on him when you placed him on leave five years ago. For this reason Father Fernando also expressed his willingness to live as he has been doing, and, to voluntarily not exercise public ministry in the Archdiocese in the future. I am sure you would trust him on his promise and assurance.

To make any announcement to anyone that he has been "permanently removed from ministry" would be an unnecessary and unjust act publicly indicating that he has been found guilty of the only allegation ever brought against him when no such finding has ever been made. Unfortunately, the payment of a substantial sum of money by the Archdiocese to the alleged victim in the absence of any such finding, has already given such an unfair indication.

If Father Fernando were permitted to retire with his promise to exercise no public ministry in Los Angeles in his retirement, that promise would achieve the same result as that which your decree attempts to effect by imposing a permanent penalty. Should anyone, priest or lay person inquire, the honest and just reply would be that Father Fernando has retired and, because of the publicity of the allegation brought against him, has voluntarily agreed not to exercise public ministry in his retirement. It seems that the matter could effectively be resolved without any formal announcement to anyone wrongfully implying guilt and punishment and without any need for further decrees or canonical action of any kind, as the Code prefers and encourages.

Father Fernando wishes me to reiterate his desire and willingness to live out his priesthood in private after retirement with no exercise of any public priestly ministry, as he has been doing the past five years.

I write this letter with a sincere desire to achieve a just conclusion to this unfortunate case. It is for this reason that I submitted to you my motion for your reconsideration of the June 5th decree. If I am mistaken about any fact or ignorant of any relevant consideration I would be most anxious to be so informed.

With continuing best wishes and prayers for your ministry as Archbishop of Los Angeles, I remain

Respectfully and sincerely yours

REDACTED

ADLA
[address]

CARDINAL ROGER MICHAEL MAHONY
Archbishop of Los Angeles

We verify that Reverend Walter Fernando, ordained on 25 January 1973 and incardinated on 24 February 1986, is a retired priest of the Archdiocese of Los Angeles.

He does not enjoy presbyteral faculties of the Archdiocese. In view of the public good, the sensitivity of interested parties, and the publicity attendant to an allegation of past misconduct, he has voluntarily renounced his right to exercise public ministry.

Given at Los Angeles this _____ day of _____ in the year of Our Lord 2010.

For the Cardinal Archbishop

SEAL

REDACTED
Associate Vicar for Clergy

_____
Ecclesiastical Notary

Case of Walter Fernando

CMOB recommendations	Cardinal's decree 5 June 2009	[redacted] offer 30 June 2009	Observations, issues
1. Fernando be removed from ministry permanently	1. Fernando may not exercise any priestly public ministry. He does not have AD faculties; he may not celebrate Mass publicly; he may not preach	1. Fernando be permitted to retire with his promise to exercise no public ministry in Los Angeles	[redacted] position here is why CMOB insisted on point #3
2. His permanent removal be announced at all parishes where he was assigned or served	2. His permanent removal is to be notified to all concerned parties, including diocese of origin in Sri Lanka	2. Any announcement of permanent removal would publicly indicate a finding of guilt (in effect, defame him)	[redacted] argument is fallacious. Another reason for permanent "removal" can be the public good's need for a priest to be reasonably above suspicion
3. The settlement proposed by [redacted] be rejected because it would require AD to abdicate its responsibility to notify other dioceses	3. Addressed in #2 above	3. Should anyone inquire, simply say because of the publicity of the allegation, he has voluntarily agreed not to exercise public ministry	The facts of the case (not all of which were presented to Clergy) show clearly that Fernando is not above reasonable suspicion
4. The Church in Sri Lanka be specifically notified re his permanent removal	4. Addressed in #2 above	4. No formal announcement be made to anyone; no further decrees or canonical action	Justice demands that all interested parties, incl. the claimant, be notified of the final decision
5. Complainant be notified of [redacted]'s final decision	5. Addressed in #2 above.	5. Not specifically addressed	Note: Since the victim was not both a canonical as well as a civil minor, this case technically falls outside the application of the Essential Norms.
Note: Cardinal signed his concurrence with all 5 points above 6 May 2009	Note: No notifications have been made as yet, pending resolution of F's recourse to Rome	Note: The key argument here is that permanent removal entails finding Fernando guilty	Note: The CDF has correctly ruled that no reserved delict is at issue. Prescription has time-barred action on whatever violation of celibacy occurred.

In view of all the above and of Clergy's insistence that perpetual penalties cannot be applied in the case, the proposed "testimonial letter" for Fernando emphasizes his voluntary renunciation of the right he has in law to exercise minimal public priestly ministry without a due process finding of guilt and for the sake of the good of all others concerned. The text of the letter states the substance of what would be said in announcements to be made in accordance with CMOB's recommendations.

RCALA 002743

Archdiocese of Los Angeles
Clergy Misconduct Oversight Board

April 27, 2009

CONFIDENTIAL--
Personnel Matter

TO: Cardinal Roger M. Mahony
Archbishop of Los Angeles

FROM: REDACTED

Clergy Misconduct Oversight Board

SUBJECT: Father Walter Fernando (CMOB #027)

The Clergy Misconduct Oversight Board (Board) has concluded its review of the allegations against Father Walter Fernando. This report is submitted to both summarize the case and communicate the Board's findings and recommendations to you.

Father Walter Fernando was born in Sri Lanka on April 24, 1944, and ordained in Sri Lanka in 1973. He moved to Los Angeles and was assigned to St. Hilary's Parish in Pico Rivera on March 1, 1981. The Complainant was a high school senior who worked at St. Hilary's rectory after school. At that time, she was 17 years old (she turned 18 on August 7, 1981) and Fernando was 36 years old. Fernando served at St. Hilary's until his routine transfer to St. John Baptist de la Salle in Granada Hills on November 30, 1981. Fernando was incardinated in Los Angeles on February 24, 1986.

In April 2002, the Complainant told Los Angeles Police Department (LAPD) detectives that Fernando had sexually molested her when they worked together at St. Hilary's and for about a year after Fernando transferred to St. John Baptist. She alleged that she was 17 years old when their sexual relationship began. As part of their investigation, the detectives had the Complainant make a telephone call to Fernando. Without Fernando's knowledge, but with the Complainant's consent, the detectives recorded the conversation. After that, the detectives went to Fernando's rectory, but he was gone on vacation. In June 2002, Fernando was at a seminar with the Vicar for Clergy (VC). He told the VC that the police came to his rectory looking for him. He said that about 20 years earlier he had "crossed boundaries" with a woman when he took her to the movies and put his arm around her.

In August 2002, the Los Angeles Times published an article naming Fernando as the subject of a police investigation. Ultimately the criminal case was closed due to a court case (*Stogner*) that invalidated a lengthened statute of limitations for this type of case. In February 2003, the VC attempted to interview Fernando, but he declined to answer any questions regarding the Complainant on advice of counsel. In March and again in May of 2003, Fernando sent letters to the VC denying the allegations and claiming to have obeyed his vow of celibacy. In January 2004, the Los Angeles Times published another article detailing the case against Fernando and reporting that he was still in ministry. That same month a statement was read at St Hillary's weekend masses telling parishioners that Fernando had been named in a lawsuit accusing him of sexual abuse while assigned to that parish. Anyone with information regarding the matter was asked to contact the VC, but no contacts were made.

On January 24, 2004, the Complainant was interviewed by Archdiocesan Canonical Auditor REDACTED a retired F. B. I. agent. Complainant stated that when she was a senior in high school she worked in the rectory after school on most weekdays. Because she was working after school, she usually wore her Catholic high school uniform while at the rectory. While she was 17, Fernando took her to a movie. Toward the end of the movie he put his hand on her breast and began to rub it. Then he gave her a kiss on the lips. Another time while she was still in high school they were together in a parked car when he laid his head on her lap, pulled her head towards him and gave her a long kiss putting his tongue in her mouth. On another occasion while she was in high school, he took her to a park where he kissed her and placed his hand inside her blouse and bra to rub the skin of her breast. Another time at the same park while she was in high school she was with him in a parked car in the evening. He unzipped his pants, exhibited his erect penis and tried to force her to orally copulate him. When she refused, he took her hand, placed it around his penis and, with his hand clasped over hers, masturbated until he ejaculated. She described several more incidents of sexual activity that occurred after she turned 18 while Fernando was still assigned to St Hillary's. During one of those incidents, Fernando digitally penetrating her vagina.

She recalled that Fernando was transferred to St. John Baptist parish in about December 1981. When he left St. Hillary's, she had turned 18. After his transfer, he drove to her house, picked her up and drove her back to his new parish. He took her to a private sitting room in the rectory from which there was a door leading to his bedroom. They remained in the sitting room awhile while she played her flute. He brought her to the rectory a second time and this time they went into his bedroom. He had her disrobe, kissed her breast, sucked her nipples and lay on top of her on the bed. He did not undress, but she could feel his erection. She asked him why he did not undress and he replied he didn't want her to become pregnant. She estimated she went to the parish in Granada Hills about ten times and that similar sexual activity occurred between them each time. When asked who could corroborate her story, she stated that her mother, brother and sister all knew that she was going out with Fernando.

In her interview, the Complainant provided a detailed description of the rectory at St. John Baptist as well as Fernando's living quarters there. Ruona subsequently inspected the premises and found the Complainant's description to be completely accurate. In order to account

for any alterations that may have been made over the years, REDACTED interviewed the priest who was the pastor there at that time. His description of the premises also matched the Complainant's. Later, responding through his Canonical Advocate, Fernando denied that the Complainant was ever in his quarters at St. John Baptist de la Salle. Again communicating through his Canonical Advocate, Fernando claimed that he could not have driven Complainant as she described because he did not have a driver license when he arrived in the United States. He claims not to have obtained his license until the summer of 1981, but no documentation of that date has been obtained.

The Board had reviewed the case in 2002 and in 2003 recommending both times that additional information be obtained quickly. In February 2004, the month after the Complainant was interviewed, the Board considered the case again. The Board determined that the allegations were sufficiently credible to recommend that Fernando be placed on administrative leave while the investigation continued. The Cardinal concurred with that recommendation and Fernando was temporarily removed from public ministry.

During the subsequent investigation, REDACTED attempted to obtain a copy of the taped telephone conversation between the Complainant and Fernando. Though he was unable to obtain a copy, the LAPD investigators allowed REDACTED to listen to the tape. A March 21, 2007, Archdiocesan status report on this case states, "police record phone conversation between Complainant and Fernando in which Fernando appears to admit that sexual activity took place between him and Complainant when Complainant was 17 years old." The report goes on to say that, "Fernando said that he remembered kissing the victim but didn't remember showing her his penis; he stated that he thought the victim was 19 years old; he admitted feeling love for her and recalled rubbing her breast and kissing her breasts; he told her that he confessed his sins in this matter and asked her for her forgiveness; he stated he wanted to remain a priest and asked her to keep this between them. The investigator concluded that the tape appeared to confirm that something of a sexual nature had transpired between Fernando and the victim." Clearly Fernando's admissions in the taped conversation are in direct conflict with his March 7 and May 8, 2003, letters in which he denied "having had any sexual activity with (Complainant)."

In November 2004, the case was sent to Rome. The case was returned with a finding that, as the complainant was 17 at the time, she was not a minor under the 1917 Code of Canon Law. (The Church subsequently changed the age of majority from 16 to 18.) Consequently, Rome determined that the case is not under its jurisdiction and assigned responsibility for any further action to the Archdiocese. This complaint resulted in a civil suit and was eventually settled as part of the global settlement. The amount received by the Complainant was within the median settlement amount for that group of cases.

Once the civil suit was settled, the case was reviewed to determine if it was ready for disposition. It was decided that efforts should be made to contact the Complainant's mother, sister and/or brother in an effort to corroborate the number of "dates" she allegedly had with Fernando and to determine if any of them had any additional information to support or refute these allegations. The Complainant's sister was subsequently interviewed telephonically. She was about 13 years old when Fernando was first assigned to St. Hilary's. She and her older sister

(Complainant) shared a bedroom. They lived with their parents and two brothers who were 18 and 19 years old. Between work, school and friends, the brothers were usually gone and rarely interacted with their two younger sisters. She believes they had no idea what was happening with the Complainant at the time. The parents thought the relationship between the Complainant and Fernando was fine—they trusted him and to this day they refuse to discuss it.

She and her sister shared confidences including the Complainant's account of the numerous sexual encounters she had with Fernando. They would talk about those activities in very specific terms. For example, one time Complainant returned home very upset after going to the movies with Fernando. Complainant told her sister that Fernando had kissed her at the theater. On another occasion Complainant told her that Fernando took her for a ride and told her to touch his penis after which she needed to clean herself with a tissue. On another occasion, Complainant told her that she had disrobed in front of Fernando and while she was disrobed he put his Roman collar on her. (The Complainant described just such an incident in her interview.) The sister estimated that Fernando came to their house to pick up Complainant six to twelve times during that period.

On March 23, 2009, Fernando was to be interviewed by REDACTED After asking a few background questions, REDACTED began to ask a question regarding Fernando's prior relationships. Ruona was immediately interrupted by Fernando's Canonical Advocate who instructed Fernando not to, "...answer any question that has to do with any relationship or any person of any kind." At that point, the interview was concluded. The Board understands from Fr. REDACTED who has been assigned to provide us with Canonical advice, that under Canon Law the instruction from Fernando's Canonical Advocate is imputed to Fernando and is sufficient to constitute a decision by Fernando not to answer any questions without Fernando having to personally respond that he understood and agreed to follow his Advocate's admonition and advice. We therefore conclude that Fernando declined this opportunity to make whatever response he may deem appropriate. In that regard, we recognize that Fernando is not expected to admit or deny anything and that he is entirely within his rights to remain silent. Consequently, we draw no inference whatsoever from his decision.

Following this interview, Fernando's Advocate proposed the following disposition for this case:

1. Father Fernando will retire at 65 years of age (4-24-09) and will voluntarily agree to refrain from any priestly public ministry in the Archdiocese of Los Angeles.

2. Should any letter of inquiry be received from another Bishop, the parties would collaborate on the wording of any response from the Ordinary of Los Angeles. The letter would not say that Fernando has been found unfit for ministry, but clearly communicate that Fernando has offered and the Archdiocese has agreed that he will not exercise ministry in this diocese. Any Bishop making an inquiry should be given the facts and the decision left up to him regarding any granting of faculties. The Advocate made it clear that the facts in the response should be stated without a conclusion that Fernando had been found unfit for ministry.

3. The original precept placing Fernando on leave would be revoked.

The Archdiocesan representatives informed Fernando's Advocate that, based upon their experience with the Board, we would most likely recommend to the Cardinal that Fernando should not be entitled to exercise public ministry anywhere. However, they agreed to inform the Board and ultimately the Cardinal of the proposal.

By Charter, the Board is responsible for ensuring that all allegations of sexual misconduct by a priest or deacon are investigated thoroughly. Consequently, the Board's first duty is to determine if all reasonable investigative avenues have been pursued and exhausted. We have considered that aspect of this case and find that this matter has been investigated adequately. As we noted several years ago, the Complainant's mother, brothers and sister should have been interviewed to determine what, if anything, they might know about this case. Eventually, the sister was interviewed and she largely corroborated the allegations. In view of the information the sister provided about her brothers and her parents' refusal to discuss the matter, it appears that efforts to interview additional family members would serve no constructive purpose. We were also concerned that the taped telephone conversation was not pursued through the protocol established for obtaining evidence from the Los Angeles Police Department. However, we are confident in relying on the Canonical investigator's report of that taped conversation.

With the adequacy of the investigation established, it now becomes the Board's responsibility to recommend an appropriate disposition. In cases such as this it is important to be mindful of the standards under which the Board must weigh the evidence presented to it. First is the Archdiocesan Policy on Sexual Abuse by Clergy which defines sexual abuse of a minor as an act(s) of sexual molestation, sexual exploitation or other behavior by which an adult uses a minor as an object of sexual gratification. Second is the standard of justice which requires that a sustained allegation must be supported by credible evidence leading a reasonable person to conclude that the alleged acts occurred, that the accused cleric committed those acts and that the acts constitute sexual abuse of a minor.

We have discussed this matter extensively, ever mindful of our responsibility to the people involved as well as to the Church itself. The Board's diversity including members with experience as mental health care professionals, law enforcement, the judiciary, abuse victims and their parents, religious and clergy all helped to ensure that every aspect of this case was fully explored. We are mindful of our duty as Catholics and members of this Board to review the facts of this case objectively and make a recommendation of conscience based upon the evidence that has been gathered. With those responsibilities in mind, we have come to the unanimous decision that the facts in this case clearly meet the burden of proof required to support the conclusion that Father Walter Fernando engaged in the sexual abuse of a minor. Consequently, we unanimously make the following recommendations:

Recommendation No. 1: We recommend that Fr. Fernando be removed from ministry permanently.

Recommendation No. 2: We recommend that Fr. Fernando's permanent removal from ministry be announced at all Archdiocesan parishes in which he has been assigned or maintained a priestly relationship.

Recommendation No. 3: We recommend that the settlement proposal put forth by Fr. Fernando's advocate be rejected. That proposal would require the Archdiocese to abdicate its moral responsibility to notify another diocese that a priest has been removed from ministry.

Recommendation No. 4: Because we believe that Fr. Fernando returns to Sri Lanka on occasion, we recommend that the Church in Sri Lanka be notified in writing of Fr. Fernando's permanent removal from ministry.

Recommendation No. 5: We recommend that the Complainant be notified of the Archbishop's final decision on this matter.

With these findings and recommendations, the Board concludes this case and closes this file.

Respectfully submitted,

REDACTED

c: Monsignor Gonzales, Vicar for Clergy

I concur fully in recommendations one (1) through five (5), and request that all five be implemented at once.

+ Roger Card. Mahony
6 May 2009

Archdiocese of Los Angeles
Clergy Misconduct Oversight Board

April 27, 2009

CONFIDENTIAL--
Personnel Matter

TO: Cardinal Roger M. Mahony
Archbishop of Los Angeles

FROM: REDACTED

Clergy Misconduct Oversight Board

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(Complainant) shared a bedroom. They lived with their parents and two brothers who were 18 and 19 years old. Between work, school and friends, the brothers were usually gone and rarely interacted with their two younger sisters. She believes they had no idea what was happening with the Complainant at the time. The parents thought the relationship between the Complainant and Fernando was fine—they trusted him and to this day they refuse to discuss it.

She and her sister shared confidences including the Complainant's account of the numerous sexual encounters she had with Fernando. They would talk about those activities in very specific terms. For example, one time Complainant returned home very upset after going to the movies with Fernando. Complainant told her sister that Fernando had kissed her at the theater. On another occasion Complainant told her that Fernando took her for a ride and told her to touch his penis after which she needed to clean herself with a tissue. On another occasion, Complainant told her that she had disrobed in front of Fernando and while she was disrobed he put his Roman collar on her. (The Complainant described just such an incident in her interview.) The sister estimated that Fernando came to their house to pick up Complainant six to twelve times during that period.

On March 23, 2009, Fernando was to be interviewed by REDACTED. After asking a few background questions, REDACTED began to ask a question regarding Fernando's prior relationships. REDACTED was immediately interrupted by Fernando's Canonical Advocate who instructed Fernando not to, "...answer any question that has to do with any relationship or any person of any kind." At that point, the interview was concluded. The Board understands from Fr. REDACTED, who has been assigned to provide us with Canonical advice, that under Canon Law the instruction from Fernando's Canonical Advocate is imputed to Fernando and is sufficient to constitute a decision by Fernando not to answer any questions without Fernando having to personally respond that he understood and agreed to follow his Advocate's admonition and advice. We therefore conclude that Fernando declined this opportunity to make whatever response he may deem appropriate. In that regard, we recognize that Fernando is not expected to admit or deny anything and that he is entirely within his rights to remain silent. Consequently, we draw no inference whatsoever from his decision.

Following this interview, Fernando's Advocate proposed the following disposition for this case:

1. Father Fernando will retire at 65 years of age (4-24-09) and will voluntarily agree to refrain from any priestly public ministry in the Archdiocese of Los Angeles.

2. Should any letter of inquiry be received from another Bishop, the parties would collaborate on the wording of any response from the Ordinary of Los Angeles. The letter would not say that Fernando has been found unfit for ministry, but clearly communicate that Fernando has offered and the Archdiocese has agreed that he will not exercise ministry in this diocese. Any Bishop making an inquiry should be given the facts and the decision left up to him regarding any granting of faculties. The Advocate made it clear that the facts in the response should be stated without a conclusion that Fernando had been found unfit for ministry.

3. The original precept placing Fernando on leave would be revoked.

The Archdiocesan representatives informed Fernando's Advocate that, based upon their experience with the Board, we would most likely recommend to the Cardinal that Fernando should not be entitled to exercise public ministry anywhere. However, they agreed to inform the Board and ultimately the Cardinal of the proposal.

By Charter, the Board is responsible for ensuring that all allegations of sexual misconduct by a priest or deacon are investigated thoroughly. Consequently, the Board's first duty is to determine if all reasonable investigative avenues have been pursued and exhausted. We have considered that aspect of this case and find that this matter has been investigated adequately. As we noted several years ago, the Complainant's mother, brothers and sister should have been interviewed to determine what, if anything, they might know about this case. Eventually, the sister was interviewed and she largely corroborated the allegations. In view of the information the sister provided about her brothers and her parents' refusal to discuss the matter, it appears that efforts to interview additional family members would serve no constructive purpose. We were also concerned that the taped telephone conversation was not pursued through the protocol established for obtaining evidence from the Los Angeles Police Department. However, we are confident in relying on the Canonical investigator's report of that taped conversation.

With the adequacy of the investigation established, it now becomes the Board's responsibility to recommend an appropriate disposition. In cases such as this it is important to be mindful of the standards under which the Board must weigh the evidence presented to it. First is the Archdiocesan Policy on Sexual Abuse by Clergy which defines sexual abuse of a minor as an act(s) of sexual molestation, sexual exploitation or other behavior by which an adult uses a minor as an object of sexual gratification. Second is the standard of justice which requires that a sustained allegation must be supported by credible evidence leading a reasonable person to conclude that the alleged acts occurred, that the accused cleric committed those acts and that the acts constitute sexual abuse of a minor.

We have discussed this matter extensively, ever mindful of our responsibility to the people involved as well as to the Church itself. The Board's diversity including members with experience as mental health care professionals, law enforcement, the judiciary, abuse victims and their parents, religious and clergy all helped to ensure that every aspect of this case was fully explored. We are mindful of our duty as Catholics and members of this Board to review the facts of this case objectively and make a recommendation of conscience based upon the evidence that has been gathered. With those responsibilities in mind, we have come to the unanimous decision that the facts in this case clearly meet the burden of proof required to support the conclusion that Father Walter Fernando engaged in the sexual abuse of a minor. Consequently, we unanimously make the following recommendations:

Recommendation No. 1: We recommend that Fr. Fernando be removed from ministry permanently.

Recommendation No. 2: We recommend that Fr. Fernando's permanent removal from ministry be announced at all Archdiocesan parishes in which he has been assigned or maintained a priestly relationship.

Recommendation No. 3: We recommend that the settlement proposal put forth by Fr. Fernando's advocate be rejected. That proposal would require the Archdiocese to abdicate its moral responsibility to notify another diocese that a priest has been removed from ministry.

Recommendation No. 4: Because we believe that Fr. Fernando returns to Sri Lanka on occasion, we recommend that the Church in Sri Lanka be notified in writing of Fr. Fernando's permanent removal from ministry.

Recommendation No. 5: We recommend that the Complainant be notified of the Archbishop's final decision on this matter.

With these findings and recommendations, the Board concludes this case and closes this file.

Respectfully submitted,

REDACTED

c: Monsignor Gonzales, Vicar for Clergy

I concur fully in recommendations one (1) through five (5) and request that all five be implemented at once.

+ Roger Card. Mahony
6 May 2009

REDACTED

June 30, 2009

His Eminence Roger Cardinal Mahony
Archbishop of Los Angeles
555 W. Temple Street
Los Angeles, CA 90012-2202

Re: Father Walter Fernando

Dear Cardinal Mahony:

I was surprised and sorry to receive your decree of June 5, 2009, coming, as it does, after Father Fernando and I met with Monsignor Gonzales, REDACTED and Father REDACTED at their request to discuss his case. At that time Father Fernando expressed his intention to petition for retirement since he reached age 65 on April 24, 2009. He also expressed his understanding of the effects of the publicity not only on him but also on you and the Archdiocese. Unfortunately you are both victims of that publicity which was purposefully caused by the alleged victim and her civil attorneys.

Understanding the effect of the publicity, Father Fernando has always remained private and obedient to the limitations you placed on him when you placed him on leave five years ago. For this reason Father Fernando also expressed his willingness to live as he has been doing, and, to voluntarily not exercise public ministry in the Archdiocese in the future. I am sure you would trust him on his promise and assurance.

To make any announcement to anyone that he has been "permanently removed from ministry" would be an unnecessary and unjust act publicly indicating that he has been found guilty of the only allegation ever brought against him when no such finding has ever been made. Unfortunately, the payment of a substantial sum of money by the Archdiocese to the alleged victim in the absence of any such finding, has already given such an unfair indication.

If Father Fernando were permitted to retire with his promise to exercise no public ministry in Los Angeles in his retirement, that promise would achieve the same result as that which your decree attempts to effect by imposing a permanent penalty. Should anyone, priest or lay person inquire, the honest and just reply would be that Father Fernando has retired and, because of the publicity of the allegation brought against him, has voluntarily agreed not to exercise public ministry in his retirement. It seems that the matter could effectively be resolved without any formal announcement to anyone wrongfully implying guilt and punishment and without any need for further decrees or canonical action of any kind, as the Code prefers and encourages.

Roger Cardinal Mahony, June 30, 2009, page two

Father Fernando wishes me to reiterate his desire and willingness to live out his priesthood in private after retirement with no exercise of any public priestly ministry, as he has been doing the past five years.

I write this letter with a sincere desire to achieve a just conclusion to this unfortunate case. It is for this reason that I submitted to you my motion for your reconsideration of the June 5th decree. If I am mistaken about any fact or ignorant of any relevant consideration I would be most anxious to be so informed.

With continuing best wishes and prayers for your ministry as Archbishop of Los REDACTED I remain

Respectfully and sincerely yours

REDACTED

Observations on the Fernando Case
5 June 2009

Once it was determined that a canonical delict did not occur because the claimant was over age 16, the case essentially became a matter of assessing the credibility of the claimant and the accused respectively.

As outlined in the decree of 5 June 2009, the investigation surfaced information that tended to strengthen the claimant's credibility.

Not presented in the same decree are the results of the investigation which tended to undermine the credibility of the accused:

1. Fernando denied the truth of the accusations against him, stating that he had "absolutely obeyed his vow of celibacy." However, his tape recorded admission to the claimant that he had crossed sexual boundaries (fondling and kissing her breasts) and that he had confessed the matter in sacramental confession implies that one or more sins against the sixth commandment of the Decalogue did occur.

2. The principal purpose of Fernando's canonical interview was to try to resolve the apparent contradiction just noted. Before the formal interview ended, Fernando stated that there would have been no reason for the claimant or any other person in the United States to know the Sri Lankan familiar name that his own family used for him. Yet the claimant did know this term and used it with Fernando, as learned by the canonical auditor from the claimant.

3. Fernando's canonical advocate also listened to the tape recorded conversation, so he knows whether damaging statements were made. He refused to let his client answer questions regarding his relationship with any women, thereby bringing the formal interview to an end.

4. The fact that the advocate presented a form of plea bargain on Fernando's behalf, offering that his client would retire without archdiocesan faculties so long as no public statement was made as to why he did not have faculties, indicates that he had no reasonable hope of dispelling the accusation.

5. The advocate also effectively tried to deflect the direction of the interview by maintaining that the fact of any sacramental confession Fernando may have made and the nature of any content of such a confession were matters of the internal forum and could not be used against him. This argument ignores the fact that Fernando himself made the matters public by stating them to another person (the claimant), which conversation has been heard by a minimum of three other people (the canonical auditor, the advocate, and an unknown number of members of the LAPD).

6. In the taped conversation with the claimant, Fernando stated that he thought she was 19 and not a minor. This now seems to be a self-serving statement, and can no longer be accepted at face value as representing his true mind. In fact, the claimant started working in the parish rectory while a 16-year-old student in her junior year at the local Catholic high school. The rectory is where Fernando met and got to know her. It is unlikely that in the time he knew her (which began allegedly while he was a visitor at the parish, the year before he was assigned there), the question of her age would not have arisen.

REDACTED

Archdiocese of Los Angeles | Office of the Archbishop (213) 637-7288 | 3424 Wilshire Boulevard | Los Angeles California 90010-2202

DECREE

I, Cardinal Roger M. Mahony, Archbishop of Los Angeles, upon receiving information which had the semblance of truth, that the Reverend Walter Fernando committed the delict of Canon 1395 §2, directed that a canonical investigation be initiated in accord with Canon 1717. Pending the outcome of the investigation, Father Fernando was placed on administrative leave effective 19 February 2004, in accordance with Canon 1722.

It was determined that since the complainant, REDACTED was over the age of 16 at the time of the alleged offense, the matter fell outside the realm of a *gravius delictum*. Thus the investigation into the possibility that a delict had been committed was closed by a decree on 27 September 2004.

However, the decree closing the investigation acknowledged that "there is significant evidence that the woman, a minor at civil law, may well have suffered abuse from Father Fernando." For that reason the decree placing Father Fernando on administrative leave was not revoked pending further investigation into his suitability for return to ministry. Meanwhile, the complaint resulted in civil litigation and was settled as part of a global settlement.

Once the settlement was reached, it was determined that attempts be made at further investigation. Now that the Clergy Misconduct Oversight Board has issued its final recommendation to me, I formally revoke the earlier decree of 18 February 2004 which placed Father Fernando on administrative leave.

Furthermore:

I, Cardinal Roger M. Mahony, Archbishop of Los Angeles, do declare that, after a careful investigation, it has been established with reasonable certitude that the Reverend Walter Fernando engaged in a relationship of a sexual nature with REDACTED Father Fernando has adamantly denied ever having engaged in such behavior with her. Yet the investigation yielded indications which, taken cumulatively, argue that something of a sexual nature occurred between them.

Principally, the indications are:

1. The testimony of the complainant herself that she and Walter Fernando engaged in intimate sexual activity.

2. Our canonical auditor inspected the location where the sexual activity was alleged to have occurred and found the complainant's description of Fr. Fernando's quarters to be completely accurate. This lends credibility to the statements made by REDACTED

3. Our canonical auditor was permitted to listen to the telephone conversation between REDACTED and Father Fernando taped by the police department. The investigator concluded that the tape appeared to confirm that something of a sexual nature had transpired between them.

4. The statement of REDACTED, sister of REDACTED, to our canonical auditor that she witnessed Father Fernando coming to their home "between six and twelve times" to take her sister "out on excursions to movies and other places." Among the matters REDACTED shared with her sister was that on one occasion Fr. Fernando told REDACTED to touch his penis, and after she did this she needed to clean herself off with Kleenex.

Aggravating circumstances are:

1. The wide publicity this matter received in our Local Church.

2. The fact that REDACTED, though not a minor at canon law, was still a minor at civil law when the alleged activity occurred.

3. The fact that REDACTED prevailed in the lawsuit against the Archdiocese regardless of any determination of guilt on the part of Father Fernando.

Reverend Walter Fernando has been made aware of the evidence collected, has enjoyed the services of an ecclesiastical advocate, and has presented a defense in which he has argued that his difficulties are not of the nature or severity to render him unfit for return to ministry. His argument has been taken into account, and his rights have been protected.

I have carefully considered every aspect of this case, including the good of all involved, accused and accuser alike, and the good of our Local Church in reaching my decision to use the executive power of governance, within the parameters of the universal law of the church, through an administrative act to limit Father Fernando's exercise of priestly ministry as follows:

1. Father Fernando may not exercise any priestly public ministry. This means that he does not enjoy the faculties of this Archdiocese; he may not celebrate Mass publicly (canon 906); and he may not preach (canon 764).

2. Notice of his permanent removal from public ministry shall be given to all concerned parties, including the Bishop of his Diocese of origin in Sri Lanka.

This administrative action is taken in writing by means of this decree so that Fr. Fernando will be afforded the opportunity of recourse against it in accord with the provision of Canons 1734ff.

Given on the 5th of June 2009 at the Curia of the Archdiocese of Los Angeles.

Roger Cardinal Mahony

Cardinal Roger M. Mahony
Archbishop of Los Angeles

ARCHDIOCESAN SEAL

REDACTED

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REDACTED

Archdiocese of Los Angeles

Office of the Archbishop (213) 637-7288

3424 Wilshire Boulevard

Los Angeles California 90010-2202

4 May 2009

Prot. N. 20082209

His Eminence
Claudio Cardinal Hummes, Prefect
Congregation for the Clergy
Piazza Pio X11, 3
00120 Vatican City
EUROPE

Your Eminence:

The measures referenced in my letter to you dated September 22, 2008, deemed necessary to respond fully to the hierarchical recourse placed against me before your Congregation by Rev. Walter Fernando, are now complete. These measures included further investigation, hearing Father Fernando again on the matter, and having the formal recommendation of our Clergy Misconduct Oversight Board.

Your Eminence will have already gleaned the facts of this case both from the acts which you already have in your possession, and from the written recourse prepared by Father Fernando's procurator and advocate.

The focal point of the case is the complaint made to the Los Angeles Police Department by REDACTED that Father Fernando sexually molested her while she was still a teenager. As part of their investigation, the police monitored a telephone call between REDACTED and Father Fernando.

Father Fernando was not present when the police came to the parish rectory looking to interview him. He opined to my Vicar for Clergy that the reason the police were looking for him was that twenty years earlier he had "crossed boundaries" with a woman. The civil criminal process was closed due to the expiration of the statute of limitations. Nonetheless, a civil lawsuit was filed against our Archdiocese in 2003 by REDACTED and a settlement was reached in 2007 amounting to a sizable amount of money. Meanwhile, the matter received extensive coverage in our local media. Furthermore, in keeping with our policy to properly inform the faithful in these cases, announcements were made at two parishes at which Father Fernando served.

A canonical investigation ensued, and it was determined that since the complainant was over the age of 16 at the time of the alleged offense, the matter fell outside the realm of a *gravius*

delictum. Thus I was informed by the Congregation for the Doctrine of the Faith that I did not need authorization from that Dicastery to evaluate the merits of the case and to act accordingly.

Father Fernando has adamantly denied ever having engaged in sexual behavior with REDACTED REDACTED Yet there are indications that something of a sexual nature occurred between them. Principally, these indications are:

a) Father Fernando's statement to our Vicar for Clergy that he suspected that the reason the police wished to interview him was because he had "crossed boundaries" with a woman some twenty years earlier.

b) Our investigator inspected the location where some of the sexual activity was alleged to have occurred and found the complainant's description of Father Fernando's living quarters to be completely accurate. This would seem to lend some credibility to statements made by REDACTED

c) Our investigator was permitted to listen to the telephone conversation between REDACTED REDACTED and Father Fernando taped by the Police Department referenced above. The investigator concluded that the tape appeared to confirm that something of a sexual nature had transpired between Father Fernando and REDACTED

d) The statement of REDACTED sister of REDACTED to our canonical auditor (complete statement attached), that she witnessed Father Fernando coming to their home " between six and twelve times" to take her sister "out on excursions to movies and other places." Among the matters REDACTED shared with her sister was that on one occasion Fernando told REDACTED to touch his penis and after she did this she needed to clean herself off with a Kleenex.

An ameliorating circumstance is the fact that there is no record of an accusation of this nature against Father Fernando other than that brought by REDACTED On the other hand, aggravating circumstances are these:

a) The wide publicity this matter received in our Local Church.

b) The fact that REDACTED though not a minor at canon law, was still a minor at civil law when the alleged activity occurred.

c) Though there was no determination of guilt, the fact that REDACTED prevailed in her lawsuit against our Archdiocese.

Norm IV. of the *Essential Norms*, the particular law for the United States, provides that the Diocesan Bishop shall have a review board, precisely for cases such as this, which will function as a confidential consultative body to assist him in discharging his responsibilities. My review board, called the Clergy Misconduct Oversight Board, has advised me not to return Father Fernando to active ministry.

The numerous factors that come into play in the resolution of cases such as this render their resolution very difficult. I have carefully considered every aspect of this case, including the

good of all involved, accused and accuser alike, and the good of our Local Church in reaching my decision. I will use the executive power of governance, within the parameters of the universal law of the church, through an administrative act to limit Father Fernando's exercise of priestly ministry. This administrative action shall be taken in writing by means of a decree (Canons 47-58) so that Father Fernando will be afforded the opportunity of recourse against it in accordance with canon law (Canons 1734 ff.).

Enclosed with this letter, please find,

1. The statement of REDACTED , sister of the complainant, REDACTED (Please note that the typed statement was reviewed and expanded by REDACTED
2. Transcript of the canonical interview with Father Walter Fernando.
3. Memo and recommendations from Clergy Misconduct Oversight Board.

Thanking you for your assistance in this matter, I remain

Fraternally yours in Christ,

+ Roger Card. Mahony

His Eminence
Roger Cardinal Mahony
Archbishop of Los Angeles

Enclosures

Archdiocese of Los Angeles
Office of the Archbishop (213) 637-7288
3424 Wilshire Boulevard
Los Angeles California 90010-2202

DECREE

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Reverend Walter Fernando has been made aware of the evidence collected, has enjoyed the services of an ecclesiastical advocate, and has presented a defense in which he has argued that his difficulties are not of the nature or severity to render him unfit for return to ministry. His argument has been taken into account, and his rights have been protected.

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2. Notice of his permanent removal from public ministry shall be given to all concerned parties, including the Bishop of his Diocese of origin in Sri Lanka.

This administrative action is taken in writing by means of this decree so that Fr. Fernando will be afforded the opportunity of recourse against it in accord with the provision of Canons 1734ff.

Given on the 5th of June 2009 at the Curia of the Archdiocese of Los Angeles.

Cardinal Roger M. Mahony
Archbishop of Los Angeles

ARCHDIOCESAN SEAL

REDACTED

REDACTED

June 30, 2009

His Eminence Roger Cardinal Mahony
Archbishop of Los Angeles
555 W. Temple Street
Los Angeles, CA 90012-2202

Re: Father Walter Fernando

Dear Cardinal Mahony:

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To make any announcement to anyone that he has been "permanently removed from ministry" would be an unnecessary and unjust act publicly indicating that he has been found guilty of the only allegation ever brought against him when no such finding has ever been made. Unfortunately, the payment of a substantial sum of money by the Archdiocese to the alleged victim in the absence of any such finding, has already given such an unfair indication.

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Father Fernando wishes me to reiterate his desire and willingness to live out his priesthood in private after retirement with no exercise of any public priestly ministry, as he has been doing the past five years.

I write this letter with a sincere desire to achieve a just conclusion to this unfortunate case. It is for this reason that I submitted to you my motion for your reconsideration of the June 5th decree. If I am mistaken about any fact or ignorant of any relevant consideration I would be most anxious to be so informed.

With continuing best wishes and prayers for your ministry as Archbishop of Los Angeles, I remain

Respectfully and sincerely yours.
REDACTED

Archdiocese of Los Angeles
Clergy Misconduct Oversight Board

April 27, 2009

CONFIDENTIAL--
Personnel Matter

TO: Cardinal Roger M. Mahony
Archbishop of Los Angeles

FROM: REDACTED

Clergy Misconduct Oversight Board

SUBJECT: Father Walter Fernando (CMOB #027)

The Clergy Misconduct Oversight Board (Board) has concluded its review of the allegations against Father Walter Fernando. This report is submitted to both summarize the case and communicate the Board's findings and recommendations to you.

Father Walter Fernando was born in Sri Lanka on April 24, 1944, and ordained in Sri Lanka in 1973. He moved to Los Angeles and was assigned to St. Hilary's Parish in Pico Rivera on March 1, 1981. The Complainant was a high school senior who worked at St. Hilary's rectory after school. At that time, she was 17 years old (she turned 18 on August 7, 1981) and Fernando was 36 years old. Fernando served at St. Hilary's until his routine transfer to St. John Baptist de la Salle in Granada Hills on November 30, 1981. Fernando was incardinated in Los Angeles on February 24, 1986.

In April 2002, the Complainant told Los Angeles Police Department (LAPD) detectives that Fernando had sexually molested her when they worked together at St. Hilary's and for about a year after Fernando transferred to St. John Baptist. She alleged that she was 17 years old when their sexual relationship began. As part of their investigation, the detectives had the Complainant make a telephone call to Fernando. Without Fernando's knowledge, but with the Complainant's consent, the detectives recorded the conversation. After that, the detectives went to Fernando's rectory, but he was gone on vacation. In June 2002, Fernando was at a seminar with the Vicar for Clergy (VC). He told the VC that the police came to his rectory looking for him. He said that about 20 years earlier he had "crossed boundaries" with a woman when he took her to the movies and put his arm around her.

In August 2002, the Los Angeles Times published an article naming Fernando as the subject of a police investigation. Ultimately the criminal case was closed due to a court case (*Stogner*) that invalidated a lengthened statute of limitations for this type of case. In February 2003, the VC attempted to interview Fernando, but he declined to answer any questions regarding the Complainant on advice of counsel. In March and again in May of 2003, Fernando sent letters to the VC denying the allegations and claiming to have obeyed his vow of celibacy. In January 2004, the Los Angeles Times published another article detailing the case against Fernando and reporting that he was still in ministry. That same month a statement was read at St Hillary's weekend masses telling parishioners that Fernando had been named in a lawsuit accusing him of sexual abuse while assigned to that parish. Anyone with information regarding the matter was asked to contact the VC, but no contacts were made.

On January 24, 2004, the Complainant was interviewed by Archdiocesan Canonical Auditor REDACTED a retired F. B. I. agent. Complainant stated that when she was a senior in high school she worked in the rectory after school on most weekdays. Because she was working after school, she usually wore her Catholic high school uniform while at the rectory. While she was 17, Fernando took her to a movie. Toward the end of the movie he put his hand on her breast and began to rub it. Then he gave her a kiss on the lips. Another time while she was still in high school they were together in a parked car when he laid his head on her lap, pulled her head towards him and gave her a long kiss putting his tongue in her mouth. On another occasion while she was in high school, he took her to a park where he kissed her and placed his hand inside her blouse and bra to rub the skin of her breast. Another time at the same park while she was in high school she was with him in a parked car in the evening. He unzipped his pants, exhibited his erect penis and tried to force her to orally copulate him. When she refused, he took her hand, placed it around his penis and, with his hand clasped over hers, masturbated until he ejaculated. She described several more incidents of sexual activity that occurred after she turned 18 while Fernando was still assigned to St Hillary's. During one of those incidents, Fernando digitally penetrating her vagina.

She recalled that Fernando was transferred to St. John Baptist parish in about December 1981. When he left St. Hillary's, she had turned 18. After his transfer, he drove to her house, picked her up and drove her back to his new parish. He took her to a private sitting room in the rectory from which there was a door leading to his bedroom. They remained in the sitting room awhile while she played her flute. He brought her to the rectory a second time and this time they went into his bedroom. He had her disrobe, kissed her breast, sucked her nipples and lay on top of her on the bed. He did not undress, but she could feel his erection. She asked him why he did not undress and he replied he didn't want her to become pregnant. She estimated she went to the parish in Granada Hills about ten times and that similar sexual activity occurred between them each time. When asked who could corroborate her story, she stated that her mother, brother and sister all knew that she was going out with Fernando.

In her interview, the Complainant provided a detailed description of the rectory at St. John Baptist as well as Fernando's living quarters there. REDACTED subsequently inspected the premises and found the Complainant's description to be completely accurate. In order to account

for any alterations that may have been made over the years, REDACTED interviewed the priest who was the pastor there at that time. His description of the premises also matched the Complainant's. Later, responding through his Canonical Advocate, Fernando denied that the Complainant was ever in his quarters at St. John Baptist de la Salle. Again communicating through his Canonical Advocate, Fernando claimed that he could not have driven Complainant as she described because he did not have a driver license when he arrived in the United States. He claims not to have obtained his license until the summer of 1981, but no documentation of that date has been obtained.

The Board had reviewed the case in 2002 and in 2003 recommending both times that additional information be obtained quickly. In February 2004, the month after the Complainant was interviewed, the Board considered the case again. The Board determined that the allegations were sufficiently credible to recommend that Fernando be placed on administrative leave while the investigation continued. The Cardinal concurred with that recommendation and Fernando was temporarily removed from public ministry.

During the subsequent investigation, REDACTED attempted to obtain a copy of the taped telephone conversation between the Complainant and Fernando. Though he was unable to obtain a copy, the LAPD investigators allowed REDACTED to listen to the tape. A March 21, 2007, Archdiocesan status report on this case states, "police record phone conversation between Complainant and Fernando in which Fernando appears to admit that sexual activity took place between him and Complainant when Complainant was 17 years old." The report goes on to say that, "Fernando said that he remembered kissing the victim but didn't remember showing her his penis; he stated that he thought the victim was 19 years old; he admitted feeling love for her and recalled rubbing her breast and kissing her breasts; he told her that he confessed his sins in this matter and asked her for her forgiveness; he stated he wanted to remain a priest and asked her to keep this between them. The investigator concluded that the tape appeared to confirm that something of a sexual nature had transpired between Fernando and the victim." Clearly Fernando's admissions in the taped conversation are in direct conflict with his March 7 and May 8, 2003, letters in which he denied "having had any sexual activity with (Complainant)."

In November 2004, the case was sent to Rome. The case was returned with a finding that, as the complainant was 17 at the time, she was not a minor under the 1917 Code of Canon Law. (The Church subsequently changed the age of majority from 16 to 18.) Consequently, Rome determined that the case is not under its jurisdiction and assigned responsibility for any further action to the Archdiocese. This complaint resulted in a civil suit and was eventually settled as part of the global settlement. The amount received by the Complainant was within the median settlement amount for that group of cases.

Once the civil suit was settled, the case was reviewed to determine if it was ready for disposition. It was decided that efforts should be made to contact the Complainant's mother, sister and/or brother in an effort to corroborate the number of "dates" she allegedly had with Fernando and to determine if any of them had any additional information to support or refute these allegations. The Complainant's sister was subsequently interviewed telephonically. She was about 13 years old when Fernando was first assigned to St. Hilary's. She and her older sister

(Complainant) shared a bedroom. They lived with their parents and two brothers who were 18 and 19 years old. Between work, school and friends, the brothers were usually gone and rarely interacted with their two younger sisters. She believes they had no idea what was happening with the Complainant at the time. The parents thought the relationship between the Complainant and Fernando was fine—they trusted him and to this day they refuse to discuss it.

She and her sister shared confidences including the Complainant's account of the numerous sexual encounters she had with Fernando. They would talk about those activities in very specific terms. For example, one time Complainant returned home very upset after going to the movies with Fernando. Complainant told her sister that Fernando had kissed her at the theater. On another occasion Complainant told her that Fernando took her for a ride and told her to touch his penis after which she needed to clean herself with a tissue. On another occasion, Complainant told her that she had disrobed in front of Fernando and while she was disrobed he put his Roman collar on her. (The Complainant described just such an incident in her interview.) The sister estimated that Fernando came to their house to pick up Complainant six to twelve times during that period.

On March 23, 2009, Fernando was to be interviewed by REDACTED After asking a few background questions, REDACTED began to ask a question regarding Fernando's prior relationships. REDACTED was immediately interrupted by Fernando's Canonical Advocate who instructed Fernando not to, "...answer any question that has to do with any relationship or any person of any kind." At that point, the interview was concluded. The Board understands from Fr.REDACTED who has been assigned to provide us with Canonical advice, that under Canon Law the instruction from Fernando's Canonical Advocate is imputed to Fernando and is sufficient to constitute a decision by Fernando not to answer any questions without Fernando having to personally respond that he understood and agreed to follow his Advocate's admonition and advice. We therefore conclude that Fernando declined this opportunity to make whatever response he may deem appropriate. In that regard, we recognize that Fernando is not expected to admit or deny anything and that he is entirely within his rights to remain silent. Consequently, we draw no inference whatsoever from his decision.

Following this interview, Fernando's Advocate proposed the following disposition for this case:

1. Father Fernando will retire at 65 years of age (4-24-09) and will voluntarily agree to refrain from any priestly public ministry in the Archdiocese of Los Angeles.

2. Should any letter of inquiry be received from another Bishop, the parties would collaborate on the wording of any response from the Ordinary of Los Angeles. The letter would not say that Fernando has been found unfit for ministry, but clearly communicate that Fernando has offered and the Archdiocese has agreed that he will not exercise ministry in this diocese. Any Bishop making an inquiry should be given the facts and the decision left up to him regarding any granting of faculties. The Advocate made it clear that the facts in the response should be stated without a conclusion that Fernando had been found unfit for ministry.

3. The original precept placing Fernando on leave would be revoked.

The Archdiocesan representatives informed Fernando's Advocate that, based upon their experience with the Board, we would most likely recommend to the Cardinal that Fernando should not be entitled to exercise public ministry anywhere. However, they agreed to inform the Board and ultimately the Cardinal of the proposal.

By Charter, the Board is responsible for ensuring that all allegations of sexual misconduct by a priest or deacon are investigated thoroughly. Consequently, the Board's first duty is to determine if all reasonable investigative avenues have been pursued and exhausted. We have considered that aspect of this case and find that this matter has been investigated adequately. As we noted several years ago, the Complainant's mother, brothers and sister should have been interviewed to determine what, if anything, they might know about this case. Eventually, the sister was interviewed and she largely corroborated the allegations. In view of the information the sister provided about her brothers and her parents' refusal to discuss the matter, it appears that efforts to interview additional family members would serve no constructive purpose. We were also concerned that the taped telephone conversation was not pursued through the protocol established for obtaining evidence from the Los Angeles Police Department. However, we are confident in relying on the Canonical investigator's report of that taped conversation.

With the adequacy of the investigation established, it now becomes the Board's responsibility to recommend an appropriate disposition. In cases such as this it is important to be mindful of the standards under which the Board must weigh the evidence presented to it. First is the Archdiocesan Policy on Sexual Abuse by Clergy which defines sexual abuse of a minor as an act(s) of sexual molestation, sexual exploitation or other behavior by which an adult uses a minor as an object of sexual gratification. Second is the standard of justice which requires that a sustained allegation must be supported by credible evidence leading a reasonable person to conclude that the alleged acts occurred, that the accused cleric committed those acts and that the acts constitute sexual abuse of a minor.

We have discussed this matter extensively, ever mindful of our responsibility to the people involved as well as to the Church itself. The Board's diversity including members with experience as mental health care professionals, law enforcement, the judiciary, abuse victims and their parents, religious and clergy all helped to ensure that every aspect of this case was fully explored. We are mindful of our duty as Catholics and members of this Board to review the facts of this case objectively and make a recommendation of conscience based upon the evidence that has been gathered. With those responsibilities in mind, we have come to the unanimous decision that the facts in this case clearly meet the burden of proof required to support the conclusion that Father Walter Fernando engaged in the sexual abuse of a minor. Consequently, we unanimously make the following recommendations:

Recommendation No. 1: We recommend that Fr. Fernando be removed from ministry permanently.

Recommendation No. 2: We recommend that Fr. Fernando's permanent removal from ministry be announced at all Archdiocesan parishes in which he has been assigned or maintained a priestly relationship.

Recommendation No. 3: We recommend that the settlement proposal put forth by Fr. Fernando's advocate be rejected. That proposal would require the Archdiocese to abdicate its moral responsibility to notify another diocese that a priest has been removed from ministry.

Recommendation No. 4: Because we believe that Fr. Fernando returns to Sri Lanka on occasion, we recommend that the Church in Sri Lanka be notified in writing of Fr. Fernando's permanent removal from ministry.

Recommendation No. 5: We recommend that the Complainant be notified of the Archbishop's final decision on this matter.

With these findings and recommendations, the Board concludes this case and closes this file.

Respectfully submitted,

REDACTED

c: Monsignor Gonzales, Vicar for Clergy

I concur fully in recommendations one (1) through five (5), and request that all five be implemented at once.

+ Roger Card. Mahony
6 May 2009

Archdiocese of Los Angeles
Office of the Archbishop (213) 637-7288
3424 Wilshire Boulevard
Los Angeles California 90010-2202

4 May 2009

Prot. N. 20082209

His Eminence
Claudio Cardinal Hummes, Prefect
Congregation for the Clergy
Piazza Pio X11, 3
00120 Vatican City
EUROPE

Your Eminence:

The measures referenced in my letter to you dated September 22, 2008, deemed necessary to respond fully to the hierarchical recourse placed against me before your Congregation by Rev. Walter Fernando, are now complete. These measures included further investigation, hearing Father Fernando again on the matter, and having the formal recommendation of our Clergy Misconduct Oversight Board.

Your Eminence will have already gleaned the facts of this case both from the acts which you already have in your possession, and from the written recourse prepared by Father Fernando's procurator and advocate.

The focal point of the case is the complaint made to the Los Angeles Police Department by REDACTED that Father Fernando sexually molested her while she was still a teenager. As part of their investigation, the police monitored a telephone call between REDACTED and Father Fernando.

Father Fernando was not present when the police came to the parish rectory looking to interview him. He opined to my Vicar for Clergy that the reason the police were looking for him was that twenty years earlier he had "crossed boundaries" with a woman. The civil criminal process was closed due to the expiration of the statute of limitations. Nonetheless, a civil lawsuit was filed against our Archdiocese in 2003 by REDACTED and a settlement was reached in 2007 amounting to a sizable amount of money. Meanwhile, the matter received extensive coverage in our local media. Furthermore, in keeping with our policy to properly inform the faithful in these cases, announcements were made at two parishes at which Father Fernando served.

A canonical investigation ensued, and it was determined that since the complainant was over the age of 16 at the time of the alleged offense, the matter fell outside the realm of a *gravius*

delictum. Thus I was informed by the Congregation for the Doctrine of the Faith that I did not need authorization from that Dicastery to evaluate the merits of the case and to act accordingly.

Father Fernando has adamantly denied ever having engaged in sexual behavior with REDACTED, REDACTED Yet there are indications that something of a sexual nature occurred between them. Principally, these indications are:

a) Father Fernando's statement to our Vicar for Clergy that he suspected that the reason the police wished to interview him was because he had "crossed boundaries" with a woman some twenty years earlier.

b) Our investigator inspected the location where some of the sexual activity was alleged to have occurred and found the complainant's description of Father Fernando's living quarters to be completely accurate. This would seem to lend some credibility to statements made by REDACTED

c) Our investigator was permitted to listen to the telephone conversation between REDACTED REDACTED and Father Fernando taped by the Police Department referenced above. The investigator concluded that the tape appeared to confirm that something of a sexual nature had transpired between Father Fernando and REDACTED

d) The statement of REDACTED sister of REDACTED to our canonical auditor (complete statement attached), that she witnessed Father Fernando coming to their home " between six and twelve times" to take her sister "out on excursions to movies and other places." Among the matters REDACTED shared with her sister was that on one occasion Fernando told REDACTED to touch his penis and after she did this she needed to clean herself off with a Kleenex.

An ameliorating circumstance is the fact that there is no record of an accusation of this nature against Father Fernando other than that brought by REDACTED On the other hand, aggravating circumstances are these:

a) The wide publicity this matter received in our Local Church.

b) The fact that REDACTED though not a minor at canon law, was still a minor at civil law when the alleged activity occurred.

c) Though there was no determination of guilt, the fact that REDACTED prevailed in her lawsuit against our Archdiocese.

Norm 1V. of the *Essential Norms*, the particular law for the United States, provides that the Diocesan Bishop shall have a review board, precisely for cases such as this, which will function as a confidential consultative body to assist him in discharging his responsibilities. My review board, called the Clergy Misconduct Oversight Board, has advised me not to return Father Fernando to active ministry.

The numerous factors that come into play in the resolution of cases such as this render their resolution very difficult. I have carefully considered every aspect of this case, including the

good of all involved, accused and accuser alike, and the good of our Local Church in reaching my decision. I will use the executive power of governance, within the parameters of the universal law of the church, through an administrative act to limit Father Fernando's exercise of priestly ministry. This administrative action shall be taken in writing by means of a decree (Canons 47-58) so that Father Fernando will be afforded the opportunity of recourse against it in accordance with canon law (Canons 1734 ff.).

Enclosed with this letter, please find,

1. The statement of REDACTED sister of the complainant. REDACTED (Please note that the typed statement was reviewed and expanded by REDACTED
2. Transcript of the canonical interview with Father Walter Fernando.
3. Memo and recommendations from Clergy Misconduct Oversight Board.

Thanking you for your assistance in this matter, I remain

Fraternally yours in Christ,

+ Roger Card. Mahony

His Eminence
Roger Cardinal Mahony
Archbishop of Los Angeles

Enclosures

REDACTED

June 30, 2009

His Eminence Roger Cardinal Mahony
Archbishop of Los Angeles
555 W. Temple Street
Los Angeles, CA 90012-2202

Re: Father Walter Fernando

Dear Cardinal Mahony:

I was surprised and sorry to receive your decree of June 5, 2009, coming, as it does, after Father Fernando and I met with Monsignor Gonzales, REDACTED and Father REDACTED at their request to discuss his case. At that time Father Fernando expressed his intention to petition for retirement since he reached age 65 on April 24, 2009. He also expressed his understanding of the effects of the publicity not only on him but also on you and the Archdiocese. Unfortunately you are both victims of that publicity which was purposefully caused by the alleged victim and her civil attorneys.

Understanding the effect of the publicity, Father Fernando has always remained private and obedient to the limitations you placed on him when you placed him on leave five years ago. For this reason Father Fernando also expressed his willingness to live as he has been doing, and, to voluntarily not exercise public ministry in the Archdiocese in the future. I am sure you would trust him on his promise and assurance.

To make any announcement to anyone that he has been "permanently removed from ministry" would be an unnecessary and unjust act publicly indicating that he has been found guilty of the only allegation ever brought against him when no such finding has ever been made. Unfortunately, the payment of a substantial sum of money by the Archdiocese to the alleged victim in the absence of any such finding, has already given such an unfair indication.

If Father Fernando were permitted to retire with his promise to exercise no public ministry in Los Angeles in his retirement, that promise would achieve the same result as that which your decree attempts to effect by imposing a permanent penalty. Should anyone, priest or lay person inquire, the honest and just reply would be that Father Fernando has retired and, because of the publicity of the allegation brought against him, has voluntarily agreed not to exercise public ministry in his retirement. It seems that the matter could effectively be resolved without any formal announcement to anyone wrongfully implying guilt and punishment and without any need for further decrees or canonical action of any kind, as the Code prefers and encourages.

Father Fernando wishes me to reiterate his desire and willingness to live out his priesthood in private after retirement with no exercise of any public priestly ministry, as he has been doing the past five years.

I write this letter with a sincere desire to achieve a just conclusion to this unfortunate case. It is for this reason that I submitted to you my motion for your reconsideration of the June 5th decree. If I am mistaken about any fact or ignorant of any relevant consideration I would be most anxious to be so informed.

With continuing best wishes and prayers for your ministry as Archbishop of Los Angeles, I remain

Respectfully and sincerely yours

REDACTED

FILE COPY

Archdiocese of Los Angeles
Office of the Archbishop
3424 Wilshire Boulevard
Los Angeles California 90010-2202

8 June 2009

Prot. N. 20091414

His Eminence
Claudio Cardinal Hummes, Prefect
Congregation for the Clergy
Piazza Pio X11, 3
00120 Vatican City
EUROPE

Your Eminence:

In my most recent letter dated 4 May 2009, I indicated that I would take administrative action by way of issuing a decree to limit Father Walter Fernando's exercise of priestly ministry.

On the very day of the drafting of the decree, I received Archbishop Mauro Piacenza's letter dated 25 May, in which he asks that I notify your Congregation as soon as definitive action has been taken.

Accordingly, I am pleased to send you an authentic copy of the decree, which you will find enclosed with this letter.

Please be assured that both Father Fernando and his canonical advocate will have received their own copies of the decree, if not by the date of this letter, certainly within a day or two later.

Again thanking you for your assistance in this matter, I remain

Fraternally yours in Christ,

Roger Cardinal Mahony

His Eminence
Roger Cardinal Mahony
Archbishop of Los Angeles

Enclosure

CONGREGATIO
PRO CLERICIS

Vatican City, 25 May, 2009

Prot. N. 20091414

His Eminence Roger Cardinal Mahony
Archbishop of Los Angeles
3424 Wilshire Boulevard
Los Angeles, California 90010-2202
UNITED STATES OF AMERICA.

Your Eminence,

This Congregation and received and thanks Your Eminence for your letter of 4 May, 2009 regarding the hierarchical recourse placed against Your Eminence's dispositions, expressed in your name by your Vicar for Clergy, by letter of May 17, 2008 to the Rev. Walter Fernando.

Regarding this case, we wish to inform you that it has been necessary to extend the time limits involved. This Dicastery, by virtue of article 136 of the *General Regulations of the Roman Curia*, hereby extends the time limits (CIC can. 57) for the recourse until August 20, 2009 in order to reach a studied decision in these matters.

In Your Eminence's recent missive, you stated that definite action would be taken soon in this case. Mindful of the time limits operative, it would be helpful to receive notification as soon as definitive action has been taken.

I take this opportunity to renew my sentiments of esteem and with every best wish, I remain,

Sincerely yours in Christ,

+ Mauro Piacenza

✠Mauro Piacenza
Titular Archbishop of Vittoriana
Secretary

RE: Walter Fernando

I would recommend that consideration be given to REDACTED letter to Cardinal Mahony, dated, June 30, 2009, in the course of the final disposition of this case.

REDACTED

August 18, 2009

COPY

REDACTED

MEMORANDUM

Los Angeles
California
90010-2241

3424
Wilshire
Boulevard

TO: Cardinal Mahony
FROM: REDACTED
COPY: ✓
SUBJECT: Pending Cases in Rome
DATE: 11 June 2010

The enclosed two letters should give you the information you need. In each case they are the latest correspondence from us to Rome.

For the Loomis case, the letter is the cover letter that accompanied the case acts after the first instance tribunal rendered its decision. As you will recall, both Loomis and we appealed. Loomis, of course, appealed the decision finding him guilty. We appealed that part of the penalty that would have us assign him to a residence for offending priests. We do not have such a residence, and there is nothing in the case evidence to suggest that he is presently a danger to minors.

For the Fernando case, Fernando's advocate insisted on taking recourse to Clergy regarding the limitations put on his exercise of priestly ministry. Strictly speaking, he was not appealing against your final disposition of the matter, but against the interim restrictions pending your final decision. In any case, both sets of restrictions were essentially the same.

REDACTED and I can pull out more information if you would like it.

Archdiocese of Los Angeles

REDACTED

3424 Wilshire Boulevard Los Angeles California 90010-2202

21 October 2008

His Eminence
William Cardinal Levada, Prefect
Congregation for the Doctrine of the Faith
Piazza Del S. Ufficio, 11
00120 VATICAN CITY

Causa: Rev. Msgr. Richard A. Loomis
CDF Prot. No. 868/~~2204~~-20824
2004-

Your Eminence:

At the request of the Presiding Judge, REDACTED, I am pleased to transmit the *Acta* of the above-captioned case to your Congregation for its review.

As both the defendant and theREDACTED have filed notices of appeal, and in light of Cardinal Mahony's visit to your dicastery this next week, we are doing our best to expedite the delivery of the material.

Asking God's blessing on your ministry, I am

Sincerely yours in Christ,

REDACTED

FILE COPY

Archdiocese of Los Angeles
Office of the Archbishop
3424 Wilshire Boulevard
Los Angeles California 90010-2202

8 June 2009

Prot. N. 20091414

His Eminence
Claudio Cardinal Hummes, Prefect
Congregation for the Clergy
Piazza Pio X11, 3
00120 Vatican City
EUROPE

Your Eminence:

In my most recent letter dated 4 May 2009, I indicated that I would take administrative action by way of issuing a decree to limit Father Walter Fernando's exercise of priestly ministry.

On the very day of the drafting of the decree, I received Archbishop Mauro Piacenza's letter dated 25 May, in which he asks that I notify your Congregation as soon as definitive action has been taken.

Accordingly, I am pleased to send you an authentic copy of the decree, which you will find enclosed with this letter.

Please be assured that both Father Fernando and his canonical advocate will have received their own copies of the decree, if not by the date of this letter, certainly within a day or two later.

Again thanking you for your assistance in this matter, I remain

Fraternally yours in Christ,

Roger Card. Mahony

His Eminence
Roger Cardinal Mahony
Archbishop of Los Angeles

Enclosure

REDACTED

July 14, 2009

His Eminence Claudio Cardinal Hummes, OFM
Prefect, Congregation for Clergy
Piazza Pio XII, 3
00120 Vatican City

Re: Prot. N. 20091414
Reverend Walter Fernando

RECOURSE TAKEN FROM THE DECREE ISSUED ON JUNE 5, 2009 BY HIS EMINENCE ROGER CARDINAL MAHONY, ARCHBISHOP OF LOS ANGELES

PROCEDURAL CHRONOLGY

Feb. 18, 2004 : Father Fernando placed on leave pending canon 1717 investigation.

Sept. 27,2004 : Canon 1717 investigation closed, finding no *delict* but Father Fernando kept on leave since that time to the present.[1]

July 4, 2005 : CDF confirms that Father Fernando did not commit a delict.

Feb. 25, 2008 : Father Fernando Petitions for Re-instatement after having been kept on leave since February 18, 2008. .

May 17, 2008 : Cardinal Mahony denies Father Fernando's petition for reinstatement.

May 31, 2008 : Father Fernando petitions Cardinal Mahony for Reconsideration of his denial. Cardinal Mahony denies the petition for reconsideration.

July 14, 2008 : Father Fernando takes recourse to the congregation for the Clergy against Cardinal Mahony's denial of the Petition for Reinstatement.

Aug. 4, 2008 : By letter of this date to Cardinal Mahony, the Congregation asked for his "opinion so that a studied decision in the matter could be made." This information is contained in Cardinal Mahony's letter/decree of July 2, 2009 which is Exhibit 1 to this recourse

[1] No copy of this September 27, 2004 decree was ever given to this procurator but it is mentioned in Cardinal Mahony's June 5, 2009 decree (Exhibit 5) from which this recourse is taken.

Sept. 22, 2008 : By letter of this date Cardinal Mahony informed the Congregation "that no provision as yet had been made 'not to reinstate' Father Fernando" and that the Cardinal would notify the Congregation "once that decision was reached." (see Exhibit 1) [2]

Feb. 20, 2009 : By letter of this date (Exhibit 2), the Congregation notified procurator REDACTED that it had extended the time for it to render a decision on the Recourse to May 14, 2009. It also asked to be informed of any development in this matter "always hoping that these matters can be resolved by the parties outside of a canonical context."

Mar. 23, 2009 : Meeting of Father Fernando and his Procurator/Advocate with officials of the Archdiocese of Los Angeles, Father REDACTED REDACTED and Monsignor Gabriel Gonzales, Vicar for Clergy. Father Fernando voluntarily proposed a resolution of the matter. No response was ever received on this proposal which is reflected in REDACTED letter to Cardinal Mahony dated June 30, 2009 (Exhibit 3).

May 25, 2009 : By letter of this date (Exhibit 4), this Congregation informed REDACTED REDACTED that it had extended the time for rendering its decision to August 20, 2009.

June 5, 2009 : As his reply to Father Fernando's Recourse of July 14, 2008,Cardinal Mahony issued a Decree dated June 5, 2009 (Exhibit 5 - from which this recourse is taken) revoking the February 18, 2004 decree placing Father Fernando on temporary leave but now permanently removing Father Fernando from priestly public ministry and directing that notice of this permanent removal be given "to all interested parties, including the Bishop of his diocese of origin in Sri Lanka".

June 11, 2009 : TheDecree of June 5, 2009 was received by Fernando via United States Postal Service. Procurator REDACTED received the decree on June 12, 2009.

June 19, 2009 : Father Fernando filed Petition for Revocation and Amendment of the June 5, 2009 decree within ten canonical days as provided in canon 1734(2) (Exhibit 6).

June 28, 2009: Letter of REDACTED to REDACTED (Exhibit 7) informing the Congregation for the Clergy of his receipt of the June 5, 2009 decree.

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[2] Until receipt of Cardinal Mahony's July 2, 2009 letter, this procurator/advocate had no knowledge of either the Congregation's August 4, 2008 letter to Cardinal Mahony or Cardinal Mahony's September 22, 2008 response letter to the Congregation.

July 2, 2009 : Letter/decree of Cardinal Mahony (Exhibit 1)denying Father Fernado's June 19, 2009 Petition for Revocation and Amendment of the June 5, 2009 decree. This letter/decree was received by Procurator REDACTED on July 6, 2009.

July 14, 2009 : Father Fernando files this Recourse against the Decree of June 5, 2009, within the fifteen canonical days provided in canon 1737(2).

INTRODUCTION

By its August 4, 2008 letter to Cardinal Mahony, the Congregation for Clergy asked him to submit his "opinion" on the recourse filed by Father Fernando on July 14, 2008 so that *it,* obviously the Congregation, could render a studied decision on the matter. It asked REDACTED to give his opinion on the merits of the recourse. REDACTED states that *his* "decision", his decree of June 5, 2009, is his response to the Congregation's request. A decision, however, is not an opinion on the merits of the recourse at issue. There are, in fact, two decisions made by REDACTED in his response. The first is the decision to revoke the February 18, 2004 decree which placed Father Fernando on leave five years ago.[3] The consequence of this decision would be to reinstate Father Fernando to ministry and thus remove any objection to the recourse originally submitted to this Congregation. The second decision, however, is made to prevent the necessary consequences of the first decision, i.e. restoring Father Fernando to ministry, by immediately placing Father Fernando on leave again, this time permanently. With all due respect, the tortured and strained reasoning of the decree, the lack of law and facts to support it, the absence of any canonical authority or penal procedure to impose the permanent penalty of removal and the provision to advise others that Father Fernando has been involuntarily removed from ministry so as to unjustly imply his guilt as a child abuser, all seem to evidence a prior determination never to restore Father Fernando to good standing because of the publicity connected with the accusation.

In the first section of his new decree, REDACTED *now* revokes the decree of February 18, 2004 which temporarily removed Father Fernando from public ministry. The REDACTED acknowledges that that decree was not revoked when the question for which it was issued was definitively decided by his decree of September 27, 2004 and by CDF's decree of July 4, 2005 that Father Fernando did not commit the *delict* of sexual abuse of a minor. According to canon 1722 the reasons for which Father Fernando was placed on leave ceased and all restrictions placed on him ceased by virtue of the law itself as soon as

[3] No valid canonical reason or argumentation, however, is given for not having revoked that decree on September 27, 2004 when the Ordinary issued a decree closing the canon 1717 investigation with a finding that the alleged victim was definitely not a minor at the time of the alleged offense and that no *delict* had been committed. This advocate has never seen or been given a copy of the September 27, 2004 decree mentioned on page one of the June 5, 2009 decree.

the penal process ceased. The law required those restrictions to be revoked at that time.[4] The Ordinary admits that the decree placing Father Fernando on administrative leave was not revoked. He was kept on leave for four years and nine months after September 27, 2004 when the penal process ended.[5] No new decree placing him on leave was issued nor any new reason given for keeping him on leave for the past 4-5 years..

This 3-page Decree consists of two decrees in one. The first decree revokes the earlier decree of 18 February 2004 which had placed Father Fernando on administrative leave. This revocation, given in response to the Congregation's request from REDACTED for his opinion on the initial recourse, seems to remove any objection to that recourse. The rest of the June 5, 2009 decree, however, seeks to prevent the necessary effect of the revocation, i.e. the reinstatement to ministry since all restrictions on ministry would be removed by that revocation. Petitioner has always maintained that the 18 February 2004 decree should have been revoked immediately after receipt of the decision of the Congregation for the Doctrine of the Faith of 4 July, 2005 at the latest, and was, in fact, revoked by operation of law (canon 1722) on September 27, 2004 when the canon 1717 investigation was closed.

Though not objecting to the revocation of the February 18, 2004 decree, this recourse, however, does object to the language of that revocation.

Nowhere in the June 5, 2009 decree is there any mention of any decree justifying keeping Father Fernando on leave after September 27, 2004 or after July 4, 2005.

The second decree of the June 5, 2009 decree nullifies the effect of the afore-mentioned revocation by imposing a permanent penalty of removal from ministry on Father Fernando without any penal process and contrary to the norms of canon law, e.g. "Perpetual penalties cannot be imposed or declared by means of a decree". (Canon 1342 (2)) This second decree simply reinstates the restrictions revoked by the first decree and now makes those restrictions permanent without any canonical justification and in violation of Father Fernando's inherent right to exercise his priestly ministry publicly and his right to privacy and a good reputation (canons 906, 764 and 220)

This recourse does seek revocation of this second decree permanently removing Father Fernando from any public priestly ministry.

THE OBJECTIONABLE WORDING OF THE JUNE 5, 2009 DECREE REVOKING THE DECREE OF FEBRUARY 18, 2004

The first paragraph admits that the canon 1717 investigation concerned only whether there was evidence that Father Fernando may have committed a specific *delict,*

[4] Also: "When an accusation has been shown to be unfounded, every step possible will be taken to restore the good name of the person falsely accused". Norm 13 of the *Essential Norms.* Certainly the first step would be to reinstate the priest.

[5] June 5, 2009 decree, page 1

the sexual abuse of a minor by a cleric as defined in canon 1395 (2).

The second paragraph states: "It was *determined*" that the complainant was over 16 at the time of the alleged abuse so that "the matter fell outside the realm"of the *delict* at issue. "Thus the investigation into the possibility that a delict had been committed was closed by a decree on September 27, 2004." If, indeed, the investigation determined that the alleged *delict* was not committed, then the canon 1722 restrictions placed on Father Fernando "pending the outcome of the investigation", should have been revoked at the close of the investigation, i.e. on September 27, 2004 and not almost five years later on June 5, 2009. Furthermore, if the investigation definitely precluded the possibility of the *delict* having been committed, why was the case sent to the Congregation for the Doctrine of the Faith?

Paragraph 3 states: "However, the decree closing the investigation acknowledged that 'there is significant evidence that the woman, a minor *at civil law*, *may well have* suffered abuse from Father Fernando...for that reason the decree placing him of administrative leave was not revoked pending further investigation into his suitability for return to ministry." Since the matter was one of whether a canonical crime had been committed and a canonical penalty should be imposed, and since canon law specifically stipulated that, at the time, a minor was one under 16, civil law did not enter into this matter (canon 21).[6] No authority is given for keeping Father Fernando on leave after the determination that he did not commit the 1395 (d) *delict.* There was nothing more to investigate and I have never been advised of any new investigation being conducted over these past five years into any other matter involving Father Fernando's suitability for ministry.

If there was valid reason for keeping Father Fernando on leave, it should have been done by a new decree specifying the authority by which it is issued, the reasons for its issuance, the proofs and information upon which it is issued. Father Fernando should have been advised and heard before the issuance of any new decree. The authority and reason for which Father Fernando was first placed on leave no longer existed.

"*Meanwhile,*" reads the June 5, 2009 decree, "the accuser's complaint resulted in civil litigation and was settled as part of a global settlement."(paragraph 3). In fact, it was the accuser's civil attorney who, on February 6, 2003, first advised the Archdiocese of the allegation. Her civil law suit was filed that same year, taking advantage of California's one year (2003) suspension of the statute of limitations. The accuser signed her Mediation

[6] On the issue of the accuser's age, she herself is vague and Father Fernando asserts that the social activity which the accuser says included sexual conduct occurred in November 1981. The accuser turned 18 on REDACTED Furthermore, if any sexual activity were to have occurred twenty five years ago when both were of majority age, the conduct may have been sinful but not criminal. It would have been a matter of the internal forum and not subject to investigation in the external forum. The only issue that brought the allegation into the external forum was that of *canonical* minority age and that issue was definitively disposed of in the canon 1717 investigation.

Questionnaire in the civil suit on April 15, 2004. The global settlement was effected late last year, 2008, four years later, without any determination of guilt.

"Once the settlement was reached", says the decree, "it was determined that attempts be made at further investigation" (paragraph 4) Further investigation into what? The investigation into the REDACTED allegation had been closed for four years. By whom, how, why and on what authority was it determined that four years later, "once the settlement had been reached", "attempts " should be made "at further investigation? What "attempts" were made and what further investigation was or could be done? I am unaware of any further investigation and the decree does not spell out what investigation was done and what it is alleged to have uncovered that was new.

The civil settlement had nothing to do with the canonical disposition of the allegation which had been concluded on September 27, 2004 by the Archdiocese and definitely confirmed by CDF on July 4, 2005. No canonical justification is given for having kept Father Fernando on leave for these intervening four years.

The June 5, 2009 decree continues: "Now that the Clergy Misconduct Oversight Board has issued its final recommendation to me, I formally revoke the earlier decree of 18 February 2004 which placed Father Fernando on administrative leave." (paragraph 4) Whatever the Board considered and recommended, it is beyond dispute that, in the absence of any authorized finding of guilt for the canonical *delict* in question, no one had the right to recommend, much less to impose, the permanent penalty contained in the second part of the June 5, 2009 decree. That the charged *delict* was not committed was known with certitude almost five years ago. It was then that the decree of February 18, 2004 should have been revoked as a matter of law and justice. It needed no recommendation from the Board.

THE JUNE 5, 2009 DECREE PERMANENTLY REMOVING FATHER WALTER FERNANDO FROM PUBLIC PRIESTLY MINISTRY IS UNJUST, UNLAWFUL AND SHOULD BE REVOKED.

1) A permanent penalty cannot be imposed or declared by a decree (canon 1342 (2).

2) Sexual contact between a cleric and a woman may be sinful but, without any of the circumstances given in the code making such a relationship a crime (canon 1395), it remains a matter of the internal forum, something which cannot be investigated or tried.

3) The Ordinary's power of governance (canon 223) does not confer on him the power to impose a permanent penalty or to take away the very right of a priest to publicly exercise his priesthood and to fulfill his obligations to do so. I attach to this recourse as Exhibit 8 the relevant parts of a decision of the Congregation for Clergy issued on this very

point on April 28, 2007 (Jus Ecclesiae, Vol. 19, 2007, 611-626 at 619-610). REDACTED in that case invoked canon 223 to prove the legitimacy of his decision in restricting the use of certain rights in order to protect the common good. The Congregation stated that canon 223 sets forth a general principle whose concrete determination is made exclusively in accord with, first and foremost, the norms of canon law "from which norms bishops cannot derogate, otherwise their act would be outside the principle of legality and open the gate to arbitrariness. Therefore, the power to govern ("moderari") the exercise of those obligations and rights can in no way be equated with the power to take away the very exercise itself." The June 5, 2009 decree unlawfully attempts to make that equation and to do exactly that.

e) Canonical penalties, especially permanent penalties, can be imposed only after a finding, to a moral certitude, beyond every reasonable doubt, that the accused has committed a canonical crime. Moral certitude is required, not just "reasonable certitude", whatever that term might mean (p.1, last paragraph of the June 5, 2009 decree). It is not enough that "the investigation yielded *indications which* taken cumulatively, *argue* that something of a sexual nature occurred between them" (idem). Indications and arguments of something happening are far from proofs and moral certitude.

The decree lists the four "indications" :

1. "The testimony of the complainant herself that she and Walter Fernando engaged in intimate sexual activity." Her saying they engaged in sexual activity may be an "indication" that they *may have* sinned twenty five years ago.[7] It is, without more, not even an indication of a canonical crime.

2. The fact that REDACTED was able to describe Father Fernando's quarters at his new rectory *might* indicate that she had actually been there. It does not mean that she *had been* there, or that anything sexual occurred there. She could have obtained the description in other ways. Father Fernando' recalls her telephoning him at his new rectory, asking about what car he was now driving, how he liked his new parish and the priests there and what his quarters were like – all of which he told her.

3. Of the "sting tape" the June 5, 2009 decree says:: "... (it) *appeared* to confirm that *something* of a sexual nature had transpired between them". Again, had any sexual activity occurred between Father Fernando and REDACTED twenty five years ago it was sinful but not a canonical crime, and alone is not an "indication" that Father Fernando is unfit for ministry twenty eight years later. Nor is it reason to impose a permanent canonical penalty on Father Fernando twenty eight years later. Perfection and sinlessness are neither requirements nor effects of ordination.

4. The statement of REDACTED sister is entirely hearsay. Defendant and his advocate have never heard of this witness or been advised of this testimony before. Father

[7] Father Fernando's subsequent twenty five years of unblemished priestly ministry, on the other hand, is not merely an indication but tangible proof of his suitability for ministry.

Fernando, however, tells me that he had never been to the home of REDACTED at any time and has never known her mother or her sister.

The paucity of the above 'indications" speaks for itself.

The decree lists 3 "aggravating circumstances":

1. "The wide publicity this matter received in the local church". (page 2) This publicity was not caused by Father Fernando but by the accuser, her civil attorneys and SNAP who publicized the allegation to the press.8

This is not an aggravation of Father Fernando's alleged conduct. An aggravating circumstance to a crime is a circumstance which existed at the time of the commission of the crime and which is considered to have rendered the crime more serious or heinous. The "publicity" in this case arose twenty eight years after the alleged crime. It was not present at the time of the alleged conduct. The publicity is, in fact, an aggravation now caused by others to Father Fernando and the Church's, to the detriment of Father Fernando's reputation and good name.

2. "The fact that REDACTED, though not a minor at canon law, was still a minor at civil law when the alleged activity occurred" (page 2 of the June 5, 2009 decree).

This may be an "aggravation" for the Archdiocese in dealing with the publicity the accuser has chosen to give her allegation but it is not an aggravation of Father Fernando's alleged conduct. The accuser caused this aggravation to the Archdiocese and to Father Fernando by making this allegation public after twenty five year.

Although there is evidence that the accuser was not a minor *even at civil law* at the time, something that the accuser had the burden of proving but was never made to do so, this so- called "aggravation" is irrelevant to the question of whether Father Fernando should suffer any canonical penalty. A canonical penalty is a question of canon law alone. Since the age of sixteen was stipulated by canon law in defining a minor, whatever the age stipulated in civil law was, is irrelevant to the issue of whether a canonical crime was committed (canon 22). Any practical difficulty with publicity or public relations cannot interfere with carrying out the law as justice demands. Practical difficulties may make the administration of justice more difficult but those difficulties can never trump justice or justify the failure to administer justice according to law. Father Fernando's rights under the law cannot be sacrificed for reasons of public relations or for any reason.

3. "The fact that REDACTED prevailed in the lawsuit against the Archdiocese *regardless of any determination of guilt* on the part of Father Fernando" (p.2, June 5, 2009 decree). This is, indeed, an extraordinary statement.

[8] Unfortunately this publicity was further enhanced by the Church who referred to the accuser as a "victim", met with her and ultimately paid her a substantial sum of money before any determination of guilt was made.

REDACTED did not "prevail" in the civil lawsuit against the Archdiocese since no determination of guilt was ever made in that suit. The Archdiocese simply waived its right to have REDACTED prove her allegation (of being a minor as well as of sexual activity) by agreeing to voluntarily give REDACTED a substantial sum of money in exchange for her dismissing her civil suit *against the Archdiocese*.[9] That civil action which was never tried has no relevance to any canonical action against Father Fernando

THE DECREE PERMANENTLY REMOVING FATHER FERNANDO FROM PUBLIC MINISTRY OF HIS PRIESTHHOOD WAS ISSUED IN CONTRAVENTION OF THE PROVISIONS OF CANON 50 AND VIOLATED FATHER FERNANDO'S RIGHT OF DEFENSE.

The June 5, 2009 decree states: " Reverend Walter Fernando has been made aware of the evidence collected, has enjoyed the services of an ecclesiastical advocate, and has presented a defense in which he has argued that *his difficulties* are not of the nature or severity to render him unfit for return to ministry. His argument has been taken into account and his rights have been protected" (p.2)

In fact, Father Fernando has never presented a defense for or argued that "his difficulties" render him unfit for return to ministry because no such "difficulties" have ever been charged to him, made known to him, or described anywhere in any document or decree.

Beside the one issue raised by Ms. REDACTED allegation, there has never been any issue raised of Father Fernando's fitness for public priestly ministry in all the years of his priesthood. He has never been advised that there was any other issue and no investigation was ever made into any other issue. There has never been any "difficulty" for which "information and proof "was presented to him and whose "nature and severity" was ever investigated because no such "difficulties ever existed or were ever alleged. Despite the publicity given the one allegation against Father Fernando, no other allegation has arisen. The assertion that Father Fernando has had other difficulties bearing on his fitness for priestly ministry is gratuitous and defamatory.

The Decree imposing a permanent penalty is vague and uncertain because it has not laid out any justifiable proofs and reasons, or the precise issues on which it is based. The decree is wrong, illegal and arbitrary and should be revoked.

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[9] Father Fernando was not a named defendant in the civil suit and, thus, had no standing to object to the settlement.

FATHER FERNANDO HAS UNSUCCESSFULLY ATTEMTED
TO RESOLVE THIS MATTER OUTSIDE OF A CANONICAL CON TEXT

In a meeting with Diocesan officials on March 23, 2009, Father Fernando offered to petition for retirement after he reached the retirement age of 65 on April 24, 2009. Cognizant of the publicity given the sole allegation against him, he offered not only to retire but also to voluntarily forego any public priestly ministry in the Archdiocese of Los Angeles. The response to this offer is apparently the decree of June 5, 2009

CONCLUSION

Given Father Fernando's continued patience and cooperation in all that His Archbishop has asked of him from the beginning of this case and his assurance of cooperation in the future, it is difficult to understand why this unlawful attempt to impose a permanent penalty on Father Fernando is being made now. It seems on its face to be an arbitrary act unsupported and unauthorized by any canonical norm or principle.

For all the reasons and arguments stated above it is respectfully submitted that the June 5, 2009, Decree permanently removing Father Walter Fernando from priestly public ministry cannot be justified in law or in fact. It is unjust and violative of Father Fernando's canonical and natural rights. Father Fernando should be allowed to live his life privately as a retired priest.

Justice requires that the decree be revoked and set aside. Father Fernando asks this Congregation to do so in this recourse

Given at San Francisco, California
on this 14th day of July, 2009

Respectfully submitted,

REDACTED

cc: His Eminence Roger Cardinal Mahony
Archbishop of Los Angeles

Archdiocese of Los Angeles
Office of the Archbishop
3424 Wilshire Boulevard
Los Angeles California 90010-2202

2 July 2009

Received July 6 2009

REDACTED

REDACTED

In re: Reverend Father Walter Fernando
Prot. No. 20091414

Dear Mr. REDACTED

I am writing in reply to your letter of 19 June 2009, in which you seek, in accordance with canon 1734 §1, the revocation and emendation of my decree of 5 June 2009 regarding Father Walter Fernando.

Given that the 1983 Code of Canon Law does not afford a priest an inherent right to the faculties required for the exercise of priestly ministry, and given that canons 906 and 764 allow the diocesan bishop for a just and reasonable cause to restrict or forbid the public exercise of the priest's right to say Mass and to preach, for the reasons set forth therein the decree is a legitimate exercise of my executive power of governance as Archbishop of Los Angeles.

Accordingly, your petition is hereby denied.

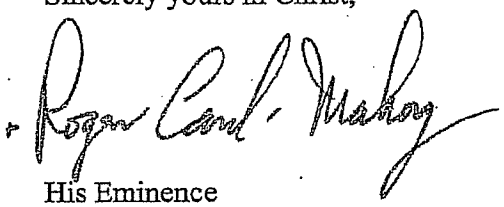
As to your remarks in the "conclusion" of your letter regarding the timing of the decree, please know that by letter dated 4 August 2008, I was notified by the Congregation for the Clergy about hierarchical recourse from Father Fernando against apparent provisions of the Archdiocese not to reinstate him to ministry. The letter also asked for my opinion, so that a studied decision in the matter could be made.

By letter dated 22 September 2008, I informed the Congregation that no provision as yet had been made "not to reinstate" Father Fernando, and that I would give a decision upon the completion of further necessary steps and would notify the Congregation once that decision was reached.

The decree of 5 June 2009 represents my decision, a copy of which has been sent to the Congregation for the Clergy within the time limit of 20 August 2009 set by the Congregation for the recourse.

Praying that God's own justice enlighten and strengthen all of our efforts to proclaim Christ to all people, I remain

Sincerely yours in Christ,



His Eminence
Cardinal Roger M. Mahony
Archbishop of Los Angeles

Copies: Rev. Walter Fernando
His Eminence Cardinal Claudio Hummes, Prefect, Congregation for the Clergy
REDACTED
Rev. Msgr. Michael W. Meyers, Vicar for Clergy

CONGREGATIO
PRO CLERICIS

Vatican City, 20 February, 2009

Prot. N. 20090282

REDACTED

Dear Mr. REDACTED,

In reference to the hierarchical recourse placed before this Congregation against the dispositions of His Eminence Roger Cardinal Mahony, by letter of May 17, 2008, concerning the Rev. Walter Fernando, we wish to inform you that it has been necessary to extend the time limits involved.

This Dicastery, by virtue of article 136 of the *General Regulations of the Roman Curia*, hereby extends the time limits (CIC can. 57) for the recourse until May 14th, 2009 in order to reach a studied decision in these matters.

In the meantime, please inform this Congregation if some development should have taken place in this matter, always hoping that these matters can be resolved by the parities outside of a canonical context.

I take this opportunity to renew my sentiments of esteem and with every best wish, I remain,

Sincerely yours in Christ,

REDACTED

REDACTED

June 30, 2009

His Eminence Roger Cardinal Mahony
Archbishop of Los Angeles
555 W. Temple Street
Los Angeles, CA 90012-2202

Re: Father Walter Fernando

Dear Cardinal Mahony:

I was surprised and sorry to receive your decree of June 5, 2009, coming, as it does, after Father Fernando and I met with Monsignor Gonzales, REDACTED and Father REDACTED at their request to discuss his case. At that time Father Fernando expressed his intention to petition for retirement since he reached age 65 on April 24, 2009. He also expressed his understanding of the effects of the publicity not only on him but also on you and the Archdiocese. Unfortunately you are both victims of that publicity which was purposefully caused by the alleged victim and her civil attorneys.

Understanding the effect of the publicity, Father Fernando has always remained private and obedient to the limitations you placed on him when you placed him on leave five years ago. For this reason Father Fernando also expressed his willingness to live as he has been doing, and, to voluntarily not exercise public ministry in the Archdiocese in the future. I am sure you would trust him on his promise and assurance.

To make any announcement to anyone that he has been "permanently removed from ministry" would be an unnecessary and unjust act publicly indicating that he has been found guilty of the only allegation ever brought against him when no such finding has ever been made. Unfortunately, the payment of a substantial sum of money by the Archdiocese to the alleged victim in the absence of any such finding, has already given such an unfair indication.

If Father Fernando were permitted to retire with his promise to exercise no public ministry in Los Angeles in his retirement, that promise would achieve the same result as that which your decree attempts to effect by imposing a permanent penalty. Should anyone, priest or lay person inquire, the honest and just reply would be that Father Fernando has retired and, because of the publicity of the allegation brought against him, has voluntarily agreed not to exercise public ministry in his retirement. It seems that the matter could effectively be resolved without any formal announcement to anyone wrongfully implying guilt and punishment and without any need for further decrees or canonical action of any kind, as the Code prefers and encourages.

Roger Cardinal Mahony, June 30, 2009, page two

Father Fernando wishes me to reiterate his desire and willingness to live out his priesthood in private after retirement with no exercise of any public priestly ministry, as he has been doing the past five years.

I write this letter with a sincere desire to achieve a just conclusion to this unfortunate case. It is for this reason that I submitted to you my motion for your reconsideration of the June 5th decree. If I am mistaken about any fact or ignorant of any relevant consideration I would be most anxious to be so informed.

With continuing best wishes and prayers for your ministry as Archbishop of Los Angeles, I remain

Respectfully and sincerely yours,

REDACTED

CONGREGATIO
PRO CLERICIS

Vatican City, 25 May, 2009

Prot. N. 20091414

REDACTED

Dear Mr. REDACTED

In reference to the hierarchical recourse placed before this Congregation against the dispositions of His Eminence Roger Cardinal Mahony, by letter of May 17, 2008, concerning the Rev. Walter Fernando, we wish to inform you that it has been necessary to extend the time limits involved.

This Dicastery, by virtue of article 136 of the *General Regulations of the Roman Curia*, hereby extends the time limits (CIC can. 57) for the recourse until August 20th, 2009 in order to reach a studied decision in these matters.

I take this opportunity to renew my sentiments of esteem and with every best wish, I remain,

Sincerely yours in Christ,

Monsignor Giovanni Carrù
Under-Secretary

COPY

Archdiocese of Los Angeles
Office of the Archbishop (213) 637-7288
3424 Wilshire Boulevard
Los Angeles California 90010-2202

REDACTED

6/11
6/12

DECREE

REDACTED

I, Cardinal Roger M. Mahony, Archbishop of Los Angeles, upon receiving information which had the semblance of truth, that the Reverend Walter Fernando committed the delict of Canon 1395 §2, directed that a canonical investigation be initiated in accord with Canon 1717. Pending the outcome of the investigation, Father Fernando was placed on administrative leave effective 19 February 2004, in accordance with Canon 1722.

It was determined that since the complainant, REDACTED was over the age of 16 at the time of the alleged offense, the matter fell outside the realm of a *gravius delictum*. Thus the investigation into the possibility that a delict had been committed was closed by a decree on 27 September 2004.

However, the decree closing the investigation acknowledged that "there is significant evidence that the woman, a minor at civil law, may well have suffered abuse from Father Fernando." For that reason the decree placing Father Fernando on administrative leave was not revoked pending further investigation into his suitability for return to ministry. Meanwhile, the complaint resulted in civil litigation and was settled as part of a global settlement.

Once the settlement was reached, it was determined that attempts be made at further investigation. Now that the Clergy Misconduct Oversight Board has issued its final recommendation to me, I formally revoke the earlier decree of 18 February 2004 which placed Father Fernando on administrative leave.

Furthermore:

I, Cardinal Roger M. Mahony, Archbishop of Los Angeles, do declare that, after a careful investigation, it has been established with reasonable certitude that the Reverend Walter Fernando engaged in a relationship of a sexual nature with REDACTED Father Fernando has adamantly denied ever having engaged in such behavior with her. Yet the investigation yielded indications which, taken cumulatively, argue that something of a sexual nature occurred between them.

Principally, the indications are:

1. The testimony of the complainant herself that she and Walter Fernando engaged in intimate sexual activity.

2. Our canonical auditor inspected the location where the sexual activity was alleged to have occurred and found the complainant's description of Fr. Fernando's quarters to be completely accurate. This lends credibility to the statements made by REDACTED

3. Our canonical auditor was permitted to listen to the telephone conversation between REDACTED and Father Fernando taped by the police department. The investigator concluded that the tape appeared to confirm that something of a sexual nature had transpired between them.

4. The statement of REDACTED sister of REDACTED, to our canonical auditor that she witnessed Father Fernando coming to their home "between six and twelve times" to take her sister "out on excursions to movies and other places." Among the matters REDACTED shared with her sister was that on one occasion Fr. Fernando told REDACTED to touch his penis, and after she did this she needed to clean herself off with Kleenex.

Aggravating circumstances are:

1. The wide publicity this matter received in our Local Church.

2. The fact that REDACTED though not a minor at canon law, was still a minor at civil law when the alleged activity occurred.

3. The fact that REDACTED prevailed in the lawsuit against the Archdiocese regardless of any determination of guilt on the part of Father Fernando.

Reverend Walter Fernando has been made aware of the evidence collected, has enjoyed the services of an ecclesiastical advocate, and has presented a defense in which he has argued that his difficulties are not of the nature or severity to render him unfit for return to ministry. His argument has been taken into account, and his rights have been protected.

I have carefully considered every aspect of this case, including the good of all involved, accused and accuser alike, and the good of our Local Church in reaching my decision to use the executive power of governance, within the parameters of the universal law of the church, through an administrative act to limit Father Fernando's exercise of priestly ministry as follows:

1. Father Fernando may not exercise any priestly public ministry. This means that he does not enjoy the faculties of this Archdiocese; he may not celebrate Mass publicly (canon 906); and he may not preach (canon 764).

2. Notice of his permanent removal from public ministry shall be given to all concerned parties, including the Bishop of his Diocese of origin in Sri Lanka.

This administrative action is taken in writing by means of this decree so that Fr. Fernando will be afforded the opportunity of recourse against it in accord with the provision of Canons 1734ff.

Given on the 5th of June 2009 at the Curia of the Archdiocese of Los Angeles.

Cardinal Roger M. Mahony
Archbishop of Los Angeles

ARCHDIOCESAN SEAL

REDACTED

REDACTED

June 19, 2009

His Eminence Roger Cardinal Mahony
Archbishop of Los Angeles
3424 Wilshire Boulevard
Los Angeles, California 90010-2202

Re: Reverend Walter Fernando
(related to Prot. N. 20091414, Congregation for the Clergy)

PETITION FOR REVOCATION AND AMENDMENT OF THE DECREE ISSUED BY YOUR EMINENCE ON JUNE 5, 2009 CONCERNING REVEREND WALTER FERNANDO.

Introduction

1. The subject decree dated June 5, 2009 was mailed on June 10, 2009 and was received by Father Fernando in Los Angeles on June 11 and by his procurator/advocate in San Francisco on June 12, 2009. This petition is therefore presented within the peremptory time-limit of ten canonical days from the time the decree was lawfully notified, that is by or on June 22, 2009. (canons 1734(2) and 201(2).

2. This 3-page Decree actually consists of two decrees in one. The first decree is a revocation of an earlier decree of 18 February 2004 which had placed Father Fernando on administrative leave. Petitioner does not object to this part of the present decree, having always maintained that the 18 February 2004 decree should have been revoked immediately after receipt of the decision of the Congregation for the Doctrine of the Faith of 4 July, 2005 and was, in fact, revoked by operation of law (canon 1722).

The petitioner, however, petitions for amendment of the language in the section of this decree dealing with this revocation of the February 18, 2004 decree.

3. The second decree imposes a permanent penalty on Father Fernando without any penal process and contrary to the norms of canon law, e.g. "Perpetual penalties cannot be imposed or declared by means of a decree". (Canon 1342 (2)) This second decree simply reinstates the restrictions revoked by the first decree and now seeks to make those restrictions permanent without any canonical justification and in violation of Father Fernando's inherent right to exercise his priestly ministry publicly and his right to privacy and a good reputation (canons 906, 764 and 220)

This petition does seek revocation of this second decree permanently removing Father Fernando from any public priestly ministry.

I.

The Questionable Wording of the June 5, 2009 Decree
Revoking the Decree of February 18, 2004 and Questions Raised Therefrom.

The first paragraph admits that the canon 1717 investigation concerned only whether there was evidence that Father Fernando may have committed a specific delict, the sexual abuse of a minor by a cleric as defined in canon 1395 (2).

The second paragraph states: "It was determined ", it states, that the complainant was over 16 at the time of the alleged abuse so that "the matter fell outside the realm"of the delict at issue. "Thus the investigation into the possibility that a delict had been committed was closed by a decree on September 27, 2004."1 If, indeed, the investigation determined that the alleged delict was not committed, then the canon 1722 restrictions placed on Father Fernando "pending the outcome of the investigation, the decree of February 18 2004 placing him on administrative leave should have been revoked at the close of the investigation, i.e. on September 27, 2004 and not almost five years later on June 5, 2009. 2 Furthermore, if the investigation definitely precluded the possibility of the delict having been committed, why was the case sent to CDF?

Paragraph 3 states: "However, the decree closing the investigated acknowledged that 'there is significant evidence that the woman, a minor at civil law, may well have suffered abuse from Father Fernando...for that reason the decree placing him of administrative leave was not revoked pending further investigation into his suitability for return to ministry." Since the matter was one of whether a canonical crime had been committed and a canonical penalty should be imposed, and since canon law specifically stipulated that, at the time, a minor was one under 16, civil law did not enter into this matter (canon 21).3 No authority is given for keeping Father Fernando on leave after the determination that he did not commit the 1395 (d) delict. There was nothing more to investigate and I have never been advised of any new investigation being conducted over these past five years into any matter involving Father Fernando's suitability for ministry.

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[1] I have never been given a copy of or ever been seen or heard of this September 27, 2004 decree. Nor have I ever been permitted to review the entire Archdiocesan file of this investigation.

[2] Again, by virtue of canon 1722 the restrictions of the February 18, 2009 decree automatically ceased on September 27, 2004 with the admitted finding of the investigation that no delict was committed.

[3] On the issue of the accuser's age, she herself is vague and Father Fernando asserts that the social activity which the accuser says included sexual contact occurred in November 1981, after August 7, 1981 when she turned eighteen. Furthermore, if any sexual activity were to have occurred between the two over twenty years ago when both were of majority age, the investigation showed no evidence that the conduct was forced or abusive. Private sinful activity, especially that of twenty some years ago would be a matter of the internal forum and not subject to investigation in the external forum. The only issue which brought the allegation into the external forum was that of minority age and that issue was definitively disposed of in the 1717 investigation itself.

If there was valid reason for keeping Father Fernando on leave, it should have been done by a new decree specifying the authority by which it is issued, the reasons for its issuance, the proofs and information upon which it is issued and Father Fernando should have been advised and heard before the issuance of a new decree. The authority and reason for which Father Fernando was first placed on leave no longer existed.

"Meanwhile, the accuser's complaint resulted in civil litigation and was settled as part of a global settlement." (paragraph 3). In fact, the accuser's civil attorney had advised the Archdiocese of the alleged abuse on February 6, 2003. Her civil law suit was filed that same year, taking advantage of California's one year (2003) suspension of the statute of limitations. The Accuser signed her Mediation Questionnaire in the civil suit on April 15, 2004. The global settlement was effected late last year, 2008 without any determination of quilt.

"Once the settlement was reached, it was determined that attempts be made at further investigation" (paragraph 4) Further investigation into what? The investigation into the REDACTED allegation had been closed for four years. By whom, how, why and on what authority was it determined that four years later, "once the settlement had been reached", "attempts " should be made "at further investigation? What "attempts" were made and what further investigation was or could be done?.I am unaware of any further investigation. The civil settlement had nothing to do with the canonical disposition of the allegation which had been concluded on September 27, 2004 by the Archdiocese and definitely confirmed by CDF on July 4, 2005. No canonical justification is given for having kept Father Fernando on leave for those intervening four years.

"Now that the Clergy Misconduct Oversight Board has issued its final recommendation to me, I formally revoke the earlier decree of 18 February 2004 which placed Father Fernando on administrative leave." (paragraph 4) Whatever the Board considered and recommended, it is beyond dispute that, in the absence of any authorized finding of guilt for the canonical delict in question, no one had the right to recommend, much less to impose the permanent penalty contained in the second part of the June 5, 2009 decree. That the charged delict was not committed was known with certitude five years ago. It was then that the decree of February 18, 2004 should have been revoked as a matter of law and justice. It needed no recommendation from the Board.

II

The June 5, 2009 Decree Permanently Removing Father Walter Fernando from Public Priestly Ministry is Unjust and Unlawful and Should be Revoked.

1. This ordinary has no power or authority to impose this permanent Penalty.

a) A permanent penalty cannot be imposed or declared by a decree (canon 1342 (2).

b) No authorization was ever given by CDF for either a formal penal trial or a canon 1720 penal administrative process regarding the accusation of REDACTED that she was sexually abused when she was a minor, a delict reserved to that Congregation. That REDACTED REDACTED was not a minor at the time of the alleged sexual contact is undisputed.

c) Sexual contact between a cleric and a woman may be sinful but, without any of the circumstances given in the code making such a relationship a crime, it remains a matter of the internal forum, so REDACTED ng which cannot be investigated or tried..

d) The Ordinary's power of governance (canon 223) does not confer on him the power to impose a permanent penalty or to take away the very right of a priest to publicly exercise his priesthood and to fulfill his obligations to do so. I attach to this Petition the relevant parts of a decision of the Congregation for Clergy issued on this very point on April 28, 2007 (Jus Ecclesiae, V REDACTED 2007, 611-626 at 619-610) The Ordinary in that case invoked canon 223 to prove the legitimacy of his decision in restricting the use of certain rights in order to protect the common good. The Congregati REDACTED l that canon 223 sets forth a general principle whose concrete determination is made exclusively in accord with, first and foremost, the norms of canon law "from which norms bishops cannot derogate, otherwise their act would be outside the principle of legality and open the gate to arbitrariness. Therefore, the power to govern[4] the exercise of those obligations and rights can in no way be equated with the power to take away the very exercise itself." The June 5, 2009 decree unlawfully attempts to make that equation and to do exactly that..

e) Canonical penalties, especially permanent penalties, can be imposed only after a finding, to a moral certitude beyond every reasonable doubt, that the accused has committed a canonical crime. Moral certitude is required, not just "reasonable certitude" (p.1, last paragraph). It is not enough that "the investigation yielded indications which taken cumulatively, argue that REDACTED hing of a sexual nature occurred between them" (idem). Indications and arguments of something happening are far from proofs and moral certitude. REDACTED

The decree lists the four "indications" :

1. The complainant herself says the she and Father Fernando engaged in intimate sexual activity. Her saying they engaged in sexual activity, that is merely and "indication" that they sinned twenty some years ago. Whether or not it occurred, Father Fernando's subsequent unblemished record of priestly ministry certainly attests, not merely indicates, his suitability for ministry.

2. The fact that REDACTED was able to describe Father Fernando's quarters at his new rectory could indicate that she had actually been there. It does not mean that she had

[4] "moderari" (canon 223)

been there, or that anything sexual occurred there. She could have obtained the description in other ways. Father Fernando' recalls her telephoning him at this new rectory, asking about what car he was now driving, how he liked his new parish and the priests there and what his quarters were like – all of which he told her.

3. Of the "sting tape": "... (it) appeared to confirm that something of a sexual nature had transpired between them". Again, had any sexual activity occurred between Father Fernando and REDACTED twenty some years ago it was sinful but not a canonical crime, and alone is not an "indication" that Father Fernando is unfit for ministry twenty eight years later. Nor certainly is it reason to impose a permanent canonical penalty on Father Fernando twenty eight years later. Perfection and sinlessness are neither requirements nor an effects of ordination.

4. The statement of REDACTED 's sister is entirely hearsay. Defendant and his advocate have never heard of this witness or been advised of this testimony before. Father Fernando, however, tells me that he had never been to the home of REDACTED at any time, had never known her mother or her sister.

The decree lists 3 "aggravating circumstances:

1. "The wide publicity this matter received in the local church". (page 2) This publicity was not caused by Father Fernando but by the accuser, her civil attorneys and SNAP who publicized the allegation to the press.5

This is not an aggravation of Father Fernando's alleged conduct. It is, in fact, an aggravation caused by others to the detriment of both Father Fernando's and the Church's reputation.

2. "The fact that REDACTED , though not a minor at canon law, was still a minor at civil law when the alleged activity occurred". (page 2)

This may be an "aggravation" in dealing publicly with REDACTED 's making this "alleged" activity. She caused the aggravation by making this twenty-plus- year-old allegation of being a minor at the time of alleged sexual activity, without ever proving or being made to prove that serious fact (as was her burden), and evidence that she was not a minor even at civil law at the time.

Ultimately, this "aggravation" is irrelevant to the question of whether Father Fernando should suffer any canonical penalty. That is a question of canon law alone. Any practical difficulty in carrying out the law as justice demands because of any publicity in this case may, indeed, exists but, as difficult as it may be, practical difficulties cannot trump justice. Father Fernando's rights under the law cannot be sacrificed.

[5] Unfortunately this publicity was further enhanced by the Church who referred to the accuser as a "victim", meeting with her and ultimately paying her a substantial sum of money before any determination of guilt was made.

3. "The fact that REDACTED prevailed in the lawsuit against the Archdiocese regardless of any determination of guilt on the part of Father Fernando". (p.2)

REDACTED did not "prevail" in the civil lawsuit against the Archdiocese since no determination of guilt was ever made in that suit. The Archdiocese simply waived its right to have REDACTED prove her allegation (of being a minor as well as of sexual activity) by agreeing to voluntarily give REDACTED a substantial sum of money in exchange for her dismissing her civil suit against the Archdiocese. That action has no relevance to any canonical action against Father Fernando

2 The Decree Permanently Removing Father Fernando From Public Ministry of His Priesthhood was Issued in Contravention of the Provisions of Canon 50 and Violated Father Fernando's Right of Defense.

" Reverend Walter Fernando has been made aware of the evidence collected, has enjoyed the services of an ecclesiastical advocate, and has presented a defense in which he has argued that his difficulties are not of the nature or severity to render him unfit for return to ministry. His argument has been taken into account and his rights have been protected" (p.2)

The only evidence collected was that obtained in the canon 1717 investigation, the sole issue of which was whether over twenty years ago Father Fernando sexually abused REDACTED when she was a minor. That evidence determined that she was not a minor and therefore that Father Fernando did not commit that canonical delict ..

Independently of that issue there was never any issue of Father Fernando's fitness for public priestly ministry. He was never advised that there was any other issue and no investigation was ever made into any other issue. Given the fact that he did not commit a canonical delict twenty eight years ago, there is no other matter which was ever alleged or investigated to support the gratuitous and defamatory conclusion that Father Fernando is not now fit for public priestly ministry.

Father Fernando was never advised of any specific charge of any other specific conduct over the twenty eight years of his priesthood, or presented with any "information and proof ", nor has he been heard on any such specific issue. Not only has there never been a question of the "nature and severity" of Father Fernando having any other "difficulties" affecting his ministry but no "difficulties" bearing on his fitness for ministry have even been alleged or proven to exist. None has been mentioned in this decree.

The Decree imposing the permanent penalty is vague and uncertain because it had not laid out any justifiable proofs and reasons, or ever the precise issues on which it is based., although it is obvious that it is really based on the initial REDACTED allegation.

The decree imposing a permanent penalty on Father Fernando is wrong, illegal and arbitrary. It is merely based on a generic conclusion (uufitness for ministry) based on no specific charge and on no evidence.

Conclusion

The twofold decree, one revoking temporary removal from ministry and the other at the same time restoring the first but making it permanent as a penalty comes at a curious time. The decree comes at a time when, on August 20, 2009 the Congregation for the Clergy is due to decide a recourse taken on a Petition by Father Fernando for reinstatement to public ministry which was denied by Cardinal Mahony on May 17, 2008. Perhaps, it is issued in attempt to effect a desired result, the public removal of Father Fernando from public ministry even though such a result in this case cannot be justified in law or in justice.

Given Father Fernando's continued patience and cooperation in all that His Eminence has asked of him from the beginning of this case and his assurance of cooperation in the future, it is difficult to understand, and one can only assume from the facts, why this unlawful attempt to impose a permanent penalty on Father Fernando is being made now. It seem on its face to be an arbitrary act unsupported and unauthorized by any canonical norm or principle.

I, therefore, respectfully, ask His Eminence, Cardinal Mahony to reconsider the second decree of his decree of June 5, 2009 and to revoke his decree permanently removing Father Walter Fernando from the public exercise of his priesthood.

I also request that wording of that part of the decree revoking the decree of February 18, 2004 be amended in accordance with the observations given above.

Given at San Francisco, California
on this 19th day of june, 2009

REDACTED

REDACTED

June 28, 2009

His Eminence Claudio Cardinal Hummes, OFM
Prefect, Congregation for Clergy
Piazza Pio XII, 3
00120 Vatican City

Re: Your Prot. N. 20091414
Reverend Walter Fernando

Your Eminence:

On June 12, 2009 I received the enclosed Decree, dated June 5, issued by His Eminence Roger Cardinal Mahony. I sent a Petition to Cardinal Mahony to Amend part and Revoke part of his decree. I enclose a copy of the petition for reconsideration as well.

Although the new decree is not now an issue before your Congregation, it could become an issue depending on the decision the Congregation renders in my above-numbered Recourse, which decision is due on or about August 20, 2009. I have delayed and debated whether you should be made aware of this new action taken by Los Angeles. Consultation with knowledgeable canonists has prompted me to advise you of the decree.

I do not know what opposition to my recourse has been filed by Los Angeles. Coming as this new decree does so close to the time that your Congregation is to decide whether Father Fernando should be re-instated, it seems that the decree is issued to anticipate and nullify the effect of a decision on the recourse that would be favorable to Father Fernando.

The Cardinal's new decree is twofold. It first revokes the February 18, 2004 decree which had placed Father Fernando on temporary restriction form public ministry pending the resolution of the allegation that he had sexually abused a minor in 1981.This temporary restriction should have been revoked and had, in fact, been revoked by operation of law when the penal process ceased on July 5, 2005, when the Congregation for the Doctrine of the Faith declared that the allegation did not constitute a canonical *delict.* (Canon 1722). Father Fernando, however, has continued to be kept on leave.

The new decree then immediately imposes a *permanent penalty* of removal from public ministry of the priesthood without any seemingly valid canonical reason, process or authority. It is based on the one same allegation of twenty eight years ago, the only complaint against Father Fernando in his entire priestly record. It is this part of the decree which I ask Cardinal Mahony to revoke.

Father Fernando has now reached the age of 65 and is petitioning for retirement. He wishes only to live out his priesthood in private as a retired priest in good standing without engaging in any public ministry. During these past four years he has remained private, has complied with Cardinal Mahony's wishes that he remain "on leave" and has avoided all publicity. He is anxious to avoid any and all future publicity for the sake of the church and the Archdiocese as well for himself and his own good name.

I look forward to the decision your Congregation will render on the recourse for re-instatement presently before it. It will affect what future actions can and should be taken relating to the new decree if said decree is not revoked.

With every best wish and prayer for you and all who work in your Congregation, I remain,

Respectfully and sincerely yours,
REDACTED

cc: His Eminence Roger Cardinal Mahony
Archbishop of Los Angeles

Decision of Apolstolic Signatura

JUS ECCLESIAE
Vol. 19, 2007,611- 626
(see 619 – 620)

The same Most Excellent Ordinary then, in a recourse to this Supreme Tribunal invoked can. 223 to prove the legitimacy of his decision relating to Reverend N.: "canon 223 authorizes an ecclesiastical superior to restrict the use of certain rights in order to protect the common good" (S.34). As regards this matter the following points are to be kept diligently in mind: a) Canon 223 conludes the title "De omnium christofidelium obligationibus et iuribus"; b) the canons of this title (can. 208-223) grow out of the schema of the *Legis Ecclesiae Fundamentalis*; c) this canon deals with governing ("*moderamine*") those obligations and fundamental rights so as to safeguard the common good; d) can. 223 only sets forth an entirely general principle whose more concrete determination is made exclusively by acts of the legislative power, first and foremost in the other norms of the Code of Canon law; e) from which norms Bishops cannot derogate, otherwise their act would be outside the principle of legality and open the gate to arbitrariness (cf. V. DeMilano 2006,351-377, see 367-377). Therefore, the power to govern the exercise of those obligations and rights can in no way be equated with the power to take way the very exercise itself (cf. F. Daneels, *"L'investigazione praevia nei casei di abuso sessuale di minori"*, in J.J. Conn – L. Sabbarese, *Iustitia in caritate*, Citta del Vaticano, 2005, 409-506, see 503).

Nonetheless, if, by some analogy, that entirely general principle were to be applied to the obligations and rights of clerics, it cannot deviate (praescind) from the more concrete laws dealing with a matter, in view of the fact that the general norms in turn must be applied to the concrete account of the particular circumstances of each case. From what has been stated, it is clear that one can in no way substitute in a matter the invocation of can. 223 or refer to article 9 of the special norms of the united States of America, for, by no means, can the danger of arbitrariness, inherent in the proposed principles of the ingenuous invocation, be sufficiently removed. Supremo Tribunale Della Segnatura Apostolico (Exc.mus Episcopus – *Congregatio pro Clericis* – 28 aprile 2007 – Port. N. 37937/05 –Grocheolewski, Ponente, Ius Ecclesiae, Vol. 19, 2007, 611-626, see 619-620.

Archdiocese of Los Angeles

REDACTED

3424 Wilshire Boulevard

Los Angeles California 90010-2202

CERTIFICATE OF AUTHENTICATION

CASE: Prot. N. 20082209
Recourse of Rev. Walter Fernando

CERTIFICATE

By this document, I certify that the following documents are exact duplicates of original reports and transcripts taken in the preliminary investigation according to canon 1717 of allegations made against Rev. Walter Fernando, a priest of the Archdiocese of Los Angeles. These materials are in addition to those already submitted to the Congregation for the Clergy in this matter.

1) Canonical Interview of Father Walter Fernando, dated 23 March 2009, professionally recorded and transcribed by REDACTED consisting of 19 pages.

2) Investigative Report, dated 24 March 2009 by REDACTED , consisting of 3 pages.

3) Memorandum, dated 27 April 2009, from REDACTED *et al.* conveying recommendations of Clergy Misconduct Oversight Board, consisting of 6 pages.

Given at Los Angeles, California this 6th day of May in the Year of Our Lord 2009.

ARCHDIOCESAN SEAL

REDACTED

REDACTED


REDACTED



REDACTED

CANONICAL INTERVIEW OF FATHER WALTER FERNANDO

Monday, March 23, 2009

Los Angeles, California

Reported by:
REDACTED
CSR No. 13373
Job No. 090323DG

Canonical Interview of Father Walter Fernando, taken on behalf of the Roman Catholic Church, at 3424 Wilshire Boulevard, 5th Floor, Los Angeles, California, beginning at 10:38 a.m. and ending at 11:45 a.m. on Monday, March 23, 2009, before REDACTED Certified Shorthand Reporter No. 13373.

APPEARANCES:

Father REDACTED

Monsignor Gabriel Gonzales, Vicar for Clergy

Monsignor REDACTED

REDACTED Advocate/Procurator

REDACTED Canonical/Auditor

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LOS ANGELES, CALIFORNIA, MONDAY, MARCH 23, 2009

10:38 A.M. - 11:45 A.M.

FATHER REDACTED: I'll begin by introducing people around the table. We've already written out our names for the stenographer.

Speaking is Father REDACTED I'm REDACTED REDACTED My role in this meeting is basically the host, to kind of coordinate the activities; see to it that things get done.

If I can start from the reporter's left hand, seated next to her is Father Walter Fernando, whose status as a priest of the Archdiocese has been affected by an accusation, which will be explained.

Next to him is Father Fernando's advocate, Mr. REDACTED . He is serving in the capacity as Canonical advisor and advocate, looking out for Father Fernando's interest in this matter.

Seated beyond Mr. REDACTED is Mr. REDACTED REDACTED . Sometimes we'll refer to him as "REDACTED," simply by reason of our relationship to him. He is here in his capacity as the canonical/auditor.

Going from the reporter's right hand, seated next to her, is Monsignor Gabriel Gonzales, who's REDACTED REDACTED -- I'm sorry -- the Vicar for Clergy --

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I'm sorry about that -- who's -- is here in the capacity of representing the Cardinal in his concern for his priests and dealing with both sides of the issues when a person needs help and when a person needs discipline.

On my right hand at the far end is REDACTED who is here in his capacity as the REDACTED That is a canonical position that sees to attending to the public interest of the church in serious matters.

Today is the 23rd of March, roughly 10:40 in the morning. And the purpose of this meeting -- well, from our standpoint, our being officials, is to offer Father Fernando the opportunity to make any reply, if he cares to do so, to the heart of the matter as we're confronted with it. At this point, I should reiterate that while this is not a formal trial process, this is not a formal penal process, the rights that Father Fernando has remains the same. He need not say anything if he cares not to. He certainly has the right to ask any questions. He will not be put under oath. He's not expected to admit or deny anything. We are hoping, however, that he could clarify, if he wishes to do so, concerns that would be expressed by the canonical auditor.

The nub of the question is generated by an accusation that was made some -- quite some time ago by

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one REDACTED of sexual misconduct with her as a minor. This was a subject of a civil lawsuit that has since been

settled and resolved.

In our own canonical investigation of the matter, we have determined that there was no canonical delict. That's a technical term. The word is spelled D-E-L-I-C-T. And for practical purposes, it is a ecclesiastical crime and there was no delict of abuse against a minor because the alleged victim at the time was over 16 years of age and the law at the time defined a minor someone who is under 16. What does remain more problematic in this case is the age of the victim at the time of the alleged activity because civilly, she may have been a minor. And at least from our point of view, there will never be any more evidence than has already been gained to determine whether or not anything had occurred before or after she turned 18. It is her claim that things did begin while she was 17.

This puts the Cardinal in the position of dealing with the question of returning someone to ministry who may have been guilty of a -- in civil law, criminal or civil or tortuous activity involving a minor, a civil minor. Needless to say, this is something that the -- the cardinal has great concern about and also the Clergy Misconduct Oversight Board, whose recommendation he is

looking for before he makes a decision on the matter. And it is at the oversight board, or it might also say the advisory board is another way of speaking of them, is to -- it is their interest to have this position put before Father Fernando for any comment he might make and it is this: On the one hand, there exists an audiotape made by the Los Angeles Police Department of a telephone

conversation that Father Fernando had with the alleged victim in which he makes certain incriminating remarks to the effect that he apologizes for what happened, although it is never said what happened. There's no detail about that. But he also makes the remark that he went to confession. He confessed the matter. In the context that we're talking about, the problem that that statement raises is that what would there be of confessional material that doesn't imply some type of violation of the Sixth commandment. So we have that on the one hand.

The other hand is a letter from May 8th, 2003 -- I forget the year -- but in which Father Fernando writes that he did nothing to violate his vow of celibacy, and so we're faced with an apparent contradiction and that is the focus of the meeting.

Is there anything Monsignor Gonzales would like to add or wants to clarify?

MONSIGNOR GONZALES: Thank you. I simply would

like to take this opportunity to emphasize what other Father REDACTED has said to Father Fernando; namely, Father Fernando, that you do have civil rights. You do have canonical rights. You have the presence of your canonical advisor and advocate here today. If at any time you wish to consult with your advocate or if your advocate would like to consult with you, we do have a separate conference room available for you for those purposes.

That's all.

MR. REDACTED: Yes. Thank you very much for the summary of what this meeting is about. It's important that I know that. As I see it, nothing has changed in what I wrote in my letter. That since the allegation is

no longer an issue as far as the canonical crime to which he should be or would be subject to any penal action, I don't -- everything else remains the internal form. There's nothing, as you said, in the audiotape that describes anything. His statement that he didn't violate the celibacy, even if were not made, is a matter of the internal form. So I don't see that there's anything that he should be questioned about concerning that incident. Furthermore, the burden of proof is not on him. He has -- if in the record there's a statement --

I know you are going to say something. Go ahead.

FATHER REDACTED: Yeah. These are materials that I think really are subsequent to the interview that needs to be conducted now by the canonical auditor. Once he has had the opportunity to explain in whatever detail he cares to, then I think we could go into those matters.

MR. REDACTED Well, except, Father, that if you -- I -- I -- I will not -- I will advise Father Fernando since because of what I have said, that any investigation of what he may or may not have done as a matter of the internal form, REDACTED , or anybody else, is not to be --

FATHER REDACTED: If that becomes relevant, we will speak about it.

MR. REDACTED: All right. I don't understand.

FATHER REDACTED: Yeah.

MR. REDACTED All right.

FATHER REDACTED I would like to see what the canonical auditor has to ask before we understand what issues have to be addressed. He is the one who is

conducting the investigation and needs to tell us what the materials are.

MR. REDACTED Well, I would just point out one more thing then, just for the record. There's no more investigation to be done about the REDACTED allegation. That investigation is over. The only --

FATHER REDACTED Could we have the statement from the investigator about that?

MR. REDACTED All right. Okay.

FATHER REDACTED I don't want to jump the gun on anything conclusive here.

MR. REDACTED Okay. Unless there's something that I have not yet been -- been made aware of as to any new allegation, I don't know. Okay.

FATHER REDACTED Yeah. Yeah, Mr. REDACTED

EXAMINATION

BY MR. REDACTED

Q Father Fernando, what -- tell me when -- your date of birth and where you were born.

A On 24 of April --

Q Okay.

A '44.

Q '44. In?

A In Sri Lanka.

Q Okay. And what city?

A The city is called "Ragama," R-A-G-A-M-A.

Q R-A-G-M-A?

A R-A-G-A-M-A.

Q -- A-M-A?

A Yeah.

Q Okay. Thank you.

And what are your parents' names?

A REDACTED

Q

A Yes.

Q Uh-huh.

A And that's Fernando.

Q Okay. And do you have siblings?

A I do. I have a sister and a brother.

Q And their names?

A REDACTED

Q

A

Q

A

Q

A Yeah.

Q Okay.

A REDACTED

Q Say it again.

A REDACTED

Q

A Yes.

Q Okay. Did you have a or do you have a Sri Lankan name as well as Walter or are they all westernized names?

A Yeah. My -- my first name, no, I don't have a

translated name, no.

Q You do not have a --

A No.

Q So -- all right. Have you ever gone by the name of Rankeen?

A Yeah. That's -- well, that's not in my birth certificate.

Q But what -- who would refer to you as Rankeen?

A My parents.

Q Okay. Would that be a name that anybody else would know of in the United States or anybody -- any of your friends, any of your Sri Lankan priest friends or anything like that would?

A No.

Q Okay. Your siblings?

A They --

Q Would they call you that?

A Well, they don't call me by name. They -- we have a -- if -- if I am the younger brother --

Q Are you the younger brother?

A -- of my sister --

Q Uh-huh.

A -- then she would call me Mali, M-A-L-I.

That's -- that's a term they use for younger brother.

Q Okay. But I guess my point is anybody -- this would all take place if you were in Sri Lanka, they would -- or if they visited you here, perhaps. But people in the United States would not refer -- you can't think of anybody in the United States that would refer to you as Mali or Rankeen?

A No.

Q Okay. Okay. What did you do prior to entering the seminary in Sri Lanka? Did you have a profession?

A No. I was -- I went from the college to the seminar.

Q Okay. And how old were you?

A I was 18, I believe.

Q Okay. So college would be our high school, then --

A Yes.

Q -- approximately?

Okay. Did you have any type of relationship with females prior to --

MR. REDACTED I: Don't answer any question that has to do with any relationship or any person of any kind.

By the way, may I ask, what Mr. REDACTED --

MR. REDACTED: Sure.

MR. REDACTED: I'm not asking you a question.

MR. REDACTED Oh, okay.

MR. REDACTED: I just mentioned your name.

By what -- he is a canonical auditor in what process right now?

FATHER REDACTED: The current interview is to assist the Clergy Misconduct Oversight Board in making its recommendation to Cardinal Mahoney in responding to the recourse which has been submitted to the Congregation for the Clergy. After that recommendation has been made to Cardinal Mahoney, it is the intention of the Cardinal to inform Father Fernando what he intends to do before then he submits his own -- Cardinal Mahoney's own response to the congregation.

MR. REDACTED: Well, then, I suggest that since the decision of the congregation and the recourse does not

depend on the initial allegation, that there's no reason to submit anything more regarding the issue of the congregation until it renders its decision. And I don't see --

FATHER REDACTED: Maybe I need to deny a major here. Just because there's no crime doesn't mean there isn't an issue and I thought I stated that at the beginning; namely, the Cardinal is in the position potentially of returning to ministry someone who --

MR. REDACTED May have.

FATHER REDACTED -- entered into criminal activity

civilly.

That is the concern that we have.

MR. REDACTED But you said "may have."

FATHER REDACTED: Yes.

MR. REDACTED: Well, it -- you.

FATHER REDACTED It is our further concern that we will never resolve that issue.

MR. REDACTED Exactly.

FATHER REDACTED And the point is what can the cardinal do in that kind of a situation.

MR. REDACTED Okay. May I suggest something? May I suggest -- excuse me a moment -- off the record.

(Discussion held off the record.)

FATHER REDACTED: Okay. In view of the conversations that we were able to have --

MONSIGNOR GONZALES: Private conversations.

FATHER REDACTED Yeah. The private conversations that we had while -- during this break in the proceedings --

MR. REDACTED Excuse me. Did we mention that

during the break the court reporter and Mr. REDACTED were excused and were not part of these conversations?

FATHER REDACTED: Okay. I think that's a very good point. Yeah. So the conversations I'm referring to were between the five of us except for Mr. REDACTED and the court

16

reporter, who stepped outside the room. And as a result of the conversations, we believe that we have been able to come to an accommodation that should resolve concerns that have led to this investigation. And we will put this on record, but we're thinking that there isn't any further point to the investigation as such and that Mr. REDACTED could be excused from this session.

MR. REDACTED: Okay.

FATHER REDACTED: Thank you.

MR. REDACTED Thank you.

(Discussion held off the record.)

FATHER REDACTED Okay. Now that Mr. REDACTED has left the room, I think maybe Monsignor Gonzales would be in the position to speak to the matter.

MONSIGNOR GONZALES: Since the proceedings now in terms of the auditor and his purpose, namely, to provide the Clergy Misconduct Oversight Board with the details of an interview, since those are now finished, we have begun a conversation about a possible agreement between Father Fernando and the Archdiocese of Los Angeles, specifically Cardinal Mahoney. The terms of that possible agreement, and I would welcome all of you to assist me with this so that we're clear for the record.

MR. REDACTED Well, Monsignor Gonzales, for the sake of disclosure for whoever is going to read this, this

private conversation was called by the advocate and the proposed solution was volunteered by Father Fernando. I think that's important for them to know.

MONSIGNOR GONZALES: I concur.

FATHER REDACTED: In that sector, yeah.

MONSIGNOR GONZALES: The terms of the offer that Father Fernando has proposed would include the following: That Father Fernando would be willing to retire upon reaching the age of 65 years of age; that Father Fernando would be willing to refrain from any priestly public ministry.

MR. REDACTED In the Archdiocese.

MONSIGNOR GONZALES: In the Archdiocese.

And I've also articulated to Father Fernando that there remain concerns on the part of the Clergy Misconduct Oversight Board in terms of its recommendation to Cardinal Mahoney. Those concerns include the stipulation that the Archdiocese would not be able to provide faculties of the Archdiocese for Father Fernando and in terms of any inquiry from another diocese in Bishop, that the Cardinal's recommendation would have to include the doubts that remain with respect to the allegation.

Any other comments?

MR. REDACTED: Yes. I think we also discussed that the question of any such letter of inquiry from another

Bishop, we would get together and determine the wording of any letter from the Cardinal or successive -- successive ordinaries of Los Angeles.

And since this is going to be reviewed by the board, my feeling would be that the fact of two things

should be in that letter. The fact that the allegation is not a canonical crime calling for canonical penalty, but the -- the realty of the difference between civil and canon law, something like this, but the fact is we -- the facts should be stated without a conclusion that he has been found unfit for ministry. That can't be in there because that just isn't a fact. And that -- so we'll work on that wording and so that it satisfies everybody. But I think it should be clear that it should be fair to the ordinary who writes it, as well as to Father Fernando, who is willing to in a sense, give up the function of his priesthood in order to accommodate this. I don't want to complicate this, but I want to make sure we state only -- when the letter, if it says we have denied him, that -- that wouldn't be worded that way. He has offered and we have agreed that he will not exercise ministry in this diocese. So that Bishop proceeding, if there ever is one will say, "Okay. That leaves it up to me, whether given all these facts, I want to do something about it."

Without complicating it, is that a fair

statement?

MONSIGNOR GONZALES: I -- it fairly summarizes and accurately, I think, the position that you have stated to us. Yes, I would say that.

MR. REDACTED Okay.

MONSIGNOR GONZALES: However, there's one other point that I would like to make and it is I think it's important for me to tell you, and its on the record, that in my experience, that the Clergy Misconduct Oversight Board would in all likelihood have difficulties accepting

that final provision that you have -- you have mentioned here.

MR. REDACTED Which one is that, Monsignor Gonzales?

MONSIGNOR GONZALES: Namely, that the Clergy Misconduct Oversight Board would recommend to the cardinal -- let me just go off the record for just a minute.

(Discussion held off the record.)

MONSIGNOR GONZALES: We're back on the record.

MR. REDACTED Oh, back on the record. Don't forget we also agree that there should be a revocation of that -- of that precept that was given when he was put on leave.

MONSIGNOR GONZALES: That is correct.

MR. REDACTED: That's a minor, but it's really important.

FATHER REDACTED: Question occurs to me, when does Father Fernando turn 65?

MR. REDACTED: April 24.

THE WITNESS: 24th of April.

FATHER REDACTED Okay.

MR. REDACTED: One day after mine and I am not going to be 65, long passed that.

MONSIGNOR GONZALES: So as part of the summary of the agreement, we would include that the Cardinal would revoke the precept for which -- for which the recourse was submitted.

And, finally, then, to summarize the last issue with regard to the Clergy Misconduct Oversight Board, it's fair to say that in my experience, it will be the position of the Clergy Misconduct Oversight Board to recommend to

the Cardinal that -- that Father Fernando would not exercise ministry -- public ministry anywhere. So that would be their position.

And, Mr. REDACTED, would you like to comment?

MR. REDACTED Well, I would just add that there would probably never have to reach that -- that issue because what would be presented to them initially would be the fact that part of Father Fernando's offer is that he voluntarily would not want faculties and would not

exercise ministry in the Archdiocese of Los Angeles.

MONSIGNOR GONZALES: These proceedings are closed.

(Whereupon, the proceedings were concluded at 11:45 a.m.)

I, the undersigned, a Certified Shorthand Reporter of the State of California, do hereby certify:

That the foregoing proceedings were taken before me at the time and place herein set forth; that a verbatim record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my direction; further, that the foregoing is an accurate transcription thereof.

I further certify that I am neither financially interested in the action nor a relative or employee of any of the parties.

IN WITNESS WHEREOF, I have this date subscribed my name.

Dated: _____

_____

REDACTED

REDACTED

Vicar for Clergy Database

Clergy Assignment Record (Detailed)



Rev Walter Fernando

REDACTED

Current Primary Assignment	Living Privately		
Birth Date	4/24/1944	*Age:*	66
Birth Place	Ragama, Sri Lanka	*Deanery:*	22
Diaconate Ordination			
Priesthood Ordination	1/25/1973		
Diocese Name	Archdiocese of Los Angeles		
Date of Incardination	2/24/1986		
Religious Community			
Ritual Ascription	Latin		
Ministry Status	Retired with No Faculties		
Voice phone	REDACTED		
Seminary	National, Ampitiya, Kandy, Sri Lanka		
Ethnicity	Sri Lankan		

Fingerprint Verification and Safeguard Training

Date Background Check

Virtus Training Date

Assignment History

Assignment	*Beginning Date*	*Completion Date*
Living Privately, Retired with No Faculties	8/1/2009	
St. Basil Catholic Church, Los Angeles Resident, Administrative Leave	2/19/2004	7/31/2009
Assumption of the Blessed Virgin Mary Catholic Church, Pasadena Associate Pastor (Parochial Vicar), Active Service	7/1/1992	2/19/2004
St. Gregory the Great Catholic Church, Whittier Associate Pro Tem, Active Service	5/3/1992	6/30/1992
Cathedral Chapel, Los Angeles Associate Pastor (Parochial Vicar), Active Service	7/2/1990	5/2/1992
St. Rose of Lima Catholic Church, Simi Valley Associate Pastor (Parochial Vicar), Active Service	8/1/1986	7/1/1990
St. John Baptist de la Salle Catholic Church, Granada Hills Associate Pastor (Parochial Vicar), Active Service	11/30/1981	7/31/1986
St. Hilary Catholic Church, Pico Rivera Associate Pastor (Parochial Vicar), Active Service	3/1/1981	11/29/1981

Background Information

Salutation	Father	*Retired in Rectory?*	☐
Social Security Number	REDACTED	*Will Filed?*	☑
Citizenship	U.S.A.	*Reference*	☑
Immigration Status	Citizen	*Power of Attorney Health Care*	☐
Green Card End Date		*Power of Attorney Finance*	☐
Payroll in lieu of stipends	☐		
Enrolled in Pension Plan	☐		
Receiving Pension?	☑		

SAMPLE

ARCHDIOCESE OF LOS ANGELES
3424 Wilshire Boulevard
LOS ANGELES, CALIFORNIA 90010-2241
(213) 637-7284

CARDINAL ROGER MICHAEL MAHONY
Archbishop of Los Angeles

We verify that REDACTED is a priest in the Archdiocese of Los Angeles and enjoys the full presbyteral faculties of the Archdiocese. He was ordained on April 10, 1984.

With our approval, he wishes to celebrate Mass and the Sacraments while participating in Steubenville West 2010, July 23-25, 2010 in Tucson, Arizona.

To the best of our knowledge he is a priest of sound moral character. I have reviewed the personnel and other records we maintain, and I can, to the best of my ability, assure you he is a man of good moral character and reputation. To the best of my knowledge, I assure you nothing in his background in any way limits or disqualifies him for this ministry. Further, I am aware of nothing that renders him unsuitable to work with minor children and I have no knowledge that he has a current untreated alcohol or substance abuse problem.

REDACTED is in compliance with a background check and completed Virtus training. He is commended to the Ordinary for permission to celebrate Mass and the Sacraments.

Given at Los Angeles this 18th day of June in the year of Our Lord 2010.

For the Cardinal Archbishop

Seal

REDACTED
Associate Vicar for Clergy
Notary

MEMORANDUM

To: Cardinal Roger Mahony

CC: REDACTED

From: Monsignor Michael Meyers mm

Date: June 28, 2010

RE: Reverend Walter Fernando

REDACTED, Father REDACTED and I met today to discuss the situation of Father Fernando and to try to bring his status with the Archdiocese to an amicable resolution.

The issue we are working with is reconciling the recommendation from CMOB, your Decree, the request of REDACTED and your recent phone call to Rome.

Father REDACTED and REDACTED are reviewing these documents to try to develop your options.

REDACTED

March 31, 2009

Reverend Monsignor Gabriel Gonzales
Vicar for Clergy
Archdiocese of Los Angeles
3424 Wilshire Boulevard
Los Angeles, California 90010

BY FAX AND MAIL

Re: Reverend Walter Fernando
Congregation for the Clergy, Prot. No. 2008-2209

Dear Monsignor Gonzales:

This is to confirm the content of our discussion, together with REDACTED and Father REDACTED, concerning Father Fernando who was also present at our meeting of March 23, 2009.

The Congregation for the Clergy has informed us that my Recourse to that Dicastery on behalf of Father Fernando will be decided by May 14, 2009. Notwithstanding our discussion and understanding yesterday, that Recourse continues and should be decided.

In answer to my question, you confirmed that, except for the allegation of REDACTED REDACTED in 2003 of an unproven event that allegedly occurred twenty eight years ago, there is nothing in Father Fernando's record that ever raised any question about his fitness for ministry since he arrived and began his continuous priestly service in the Archdiocese of Los Angeles twenty nine years ago in 1981.

Although it has been affirmatively proven that Father Fernando has not committed the canonical crime of sexual abuse of a minor,[1] Father Fernando is aware of the unfortunate publicity given to the Price allegation against him and the harm it has caused to both him and the Archdiocese. Appreciating the Cardinal's position and desiring to prevent any more adverse publicity and harassment,[2] Father Fernando is voluntarily willing to retire after he reaches his 65th birthday on April 24, 2009, and the Recourse has been decided. Even if the decision is favorable to him, he would voluntarily agree to forego exercising

[1] Ms. REDACTED herself has given vague and conflicting evidence about whether she was under 18 at the time of the alleged events, thus failing to prove that she was a minor even under civil law. CDF acknowledged this inconsistency when, after reviewing the record, it found that she was "17-18." In her taped conversation she attempts to have Fr. Fernando confirm that she was 16 at the time. This, of course, cannot be true because Ms. REDACTED turned 17 on REDACTED six months before Father Fernando arrived in this country and began work in the Archdiocese of Los Angeles on March 1, 1981. Did someone advise her that the canonical age of a minor was 16?

public ministry in the Archdiocese of Los Angeles. He would, in essence, be a retired, inactive priest of the Archdiocese of Los Angeles.

Such a voluntary signed agreement between the Cardinal and Father Fernando would obviate the need for the Cardinal to issue a new decree. A decree in any way appearing to impose a canonical penalty or to indicate guilt would again be subject to a recourse, something none of us wants, I am sure. A properly worded agreement summarizing the reason why it was entered into could also serve, without further comment, to advise any other bishop why Father Fernando does not exercise faculties in the Archdiocese of Los Angeles. I will be happy to prepare a draft of such an agreement for the Cardinal's review. A decree, however, should be issued removing the canon 1722 restrictions.[3]

However one might interpret the CDF's reply that Los Angeles is free to handle the matter administratively, any such administrative procedure cannot be *penal* since no penal action was authorized by CDF. While a priest may not have a right to an assignment, and a bishop may assign him administratively wherever the bishop wishes, a priest does have a right to the exercise of his priesthood and any deprivation of that right in its entirety would constitute an unlawful permanent penalty, as well as a right to his good reputation.

I take this opportunity to make one correction in the transcript of our meeting of March 23, 2009. On page 10 line 8: what reads "what he may or may not have done as a matter of the internal forum" should read "what he may or may not have done is a matter of the internal forum."

Respectfully and sincerely yours,
REDACTED

cc: His Eminence Roger Cardinal Mahony
REDACTED
REDACTED

[2] In explaining the Cardinal's concern in our March 23 meeting, Father REDACTED confirmed that no canonical delict was committee but adds "what does remain problematic in this case is the age of the victim ("accuser" would be more accurate) at the time of the alleged activity because civilly, she may have been a minor...this puts the Cardinal in the position of dealing with the question of returning someone to ministry who may have been guilty of (sexually abusing) a civil minor." The fact of her being a minor even in civil law has not been proven and is a fact that the accuser had the burden of proving before any penal action could be taken against Father Fernando in any forum, canonical or civil. One cannot be punished for what "may have been" or for "what may have happened". Furthermore the only issue in this case is canonical and must be resolved only by canon law. Any practical concern involved in carrying out justice according to law, as much as one may appreciate those concerns, cannot trump the obligation of a judge to administer justice according to the law and the evidence.

[3] Canon 1722 provides that restrictions cease by virtue of the law itself when the reasons for which they were placed cease. It also provides, however, that the restrictions should be revoked.

CONGREGATIO
PRO CLERICIS

Vatican City, 25 May, 2009

Prot. N. 20091414

His Eminence Roger Cardinal Mahony
Archbishop of Los Angeles
3424 Wilshire Boulevard
Los Angeles, California 90010-2202
UNITED STATES OF AMERICA.

Your Eminence,

This Congregation and received and thanks Your Eminence for your letter of 4 May, 2009 regarding the hierarchical recourse placed against Your Eminence's dispositions, expressed in your name by your Vicar for Clergy, by letter of May 17, 2008 to the Rev. Walter Fernando.

Regarding this case, we wish to inform you that it has been necessary to extend the time limits involved. This Dicastery, by virtue of article 136 of the *General Regulations of the Roman Curia*, hereby extends the time limits (CIC can. 57) for the recourse until August 20, 2009 in order to reach a studied decision in these matters.

In Your Eminence's recent missive, you stated that definite action would be taken soon in this case. Mindful of the time limits operative, it would be helpful to receive notification as soon as definitive action has been taken.

I take this opportunity to renew my sentiments of esteem and with every best wish, I remain,

Sincerely yours in Christ,

+ Mauro Piacenza

✠Mauro Piacenza
Titular Archbishop of Vittoriana
Secretary

CONGREGATIO
PRO CLERICIS

Vatican City, 20 February, 2009

Prot. N. 20090282

His Eminence Roger Cardinal Mahony
Archbishop of Los Angeles
3424 Wilshire Boulevard
Los Angeles, California 90010-2202
UNITED STATES OF AMERICA.

Your Eminence,

In reference to the hierarchical recourse placed before this Congregation against Your Eminence's dispositions, expressed in your name by your Vicar for Clergy, by letter of May 17, 2008 to the Rev. Walter Fernando, we wish to inform you that it has been necessary to extend the time limits involved.

This Dicastery, by virtue of article 136 of the *General Regulations of the Roman Curia*, hereby extends the time limits (CIC can. 57) for the recourse until May 14th, 2009 in order to reach a studied decision in these matters.

This Congregation has received, and thanks Your Eminence, for the acts of the case as well as Your Eminence's valued opinion. By letter of 22 September, 2008, this Dicastery was informed that measures toward a resolution of the matter were under way. Mindful of the time limits operative, it would be helpful to receive notification as soon as a resolution has been effected.

I take this opportunity to renew my sentiments of esteem and with every best wish, I remain,

Sincerely yours in Christ,

+ Mauro Piacenza

✠Mauro Piacenza
Titular Archbishop of Vittoriana
Secretary

Archdiocese of Los Angeles REDACTED 3424 Wilshire Boulevard Los Angeles California 90010-2202

May 27, 2009

Deputy Chief Charles Beck
Commanding Officer, Detective Bureau
150 North Los Angeles Street
Room 602
Los Angeles, California 90012

Re: ***Walter Fernando/***REDACTED

Dear Deputy Chief Beck:

I am again writing to you to request information on the above individual in accord with the protocol you have discussed with REDACTED of the Archdiocese's Clergy Misconduct Oversight Board.

In our investigation with respect to Father Walter Fernandez, your Department allowed REDACTED a retired FBI special agent, who has consulted for the Archdiocese, to listen to an audio tape recording of a telephone call between REDACTED REDACTED and Walter Fernandez. As shown in the attached correspondence, in September 2008 I requested a copy of the tape; the request was denied in October 2008.

At the suggestion of REDACTED I am writing to renew the request since, as noted in my September letter, access to the tape itself is important to conclude the canon law aspects of the case.

We will, of course, reimburse you for any expenses incurred in this matter.

If you have any questions, please feel to call me at 213 637-7562.

Yours very truly,

REDACTED

Attachments

cc: REDACTED

May 4, 2009

Prot. N. 20082209

His Eminence
Claudio Cardinal Hummes, Prefect
Congregation for the Clergy
Piazza Pio X11, 3
00120 Vatican City.

The measures referenced in my letter to you dated September 22, 2008, deemed necessary to fully respond to the hierarchical recourse placed against me before your Congregation by Rev. Walter Fernando are now complete. These measures included further investigation, hearing Father Fernando again on the matter, and having the formal recommendation of our Clergy Misconduct Oversight Board.

Your Eminence will have already gleaned the facts of this case both from the acts, which you already have in your possession, and from the written recourse prepared by Father Fernando's procurator and advocate.

The focal point of the case is the complaint made to the Los Angeles Police Department by REDACTED that Father Walter Fernando sexually molested her while she was still a teenager. As part of their investigation, the police monitored a telephone call between REDACTED and Father Fernando.

Father Fernando was not present when the police came to the parish rectory looking to interview him. He opined to my Vicar for Clergy that the reason the police were looking for him was that 20 years earlier he had "crossed boundaries" with a woman. The civil criminal process was closed due to the expiration of the statute of limitations. Nonetheless, a civil lawsuit was filed against our Archdiocese in 2003 by REDACTED and a settlement was reached in 2007 amounting to a sizable amount of money. Meanwhile, the matter received extensive coverage in our local newspaper, The Los Angeles Times. Furthermore, in keeping with our policy to properly inform the faithful in these cases, announcements were made at two parishes at which Father Fernando served.

A canonical investigation ensued, and it was determined that since the complainant was over the age of 16 at the time of the alleged offense, the matter fell outside the realm of a *gravius delictum.* Thus I was informed by the Congregation for the Doctrine of the Faith that I did not need authorization from that Dicastery to evaluate the merits of the case and to act accordingly.

Father Fernando has adamantly denied ever having engaged in sexual behavior with REDACTED . Yet, there are indications that something of a sexual nature occurred between Father Fernando and REDACTED Principally, these indications are:

a) Father Fernando's statement to our Vicar for Clergy that he suspected that the reason the police wished to interview him was because he had "crossed boundaries" with a woman some 20 years earlier.
b) Our investigator inspected the location where some of the sexual activity was alleged to have occurred and found the complainant's description of Father Fernando's quarters to be completely accurate. This would seem to lend some credibility to statements of REDACTED
c) Our investigator was permitted by the Police Department to listen to the taped conversation between REDACTED and Father Fernando referenced above. The investigator concluded that the tape appeared to confirm that something of a sexual nature had transpired between Father Fernando and REDACTED
d) The statement of REDACTED sister of REDACTED to our canonical auditor (complete statement attached), that she witnessed Father Fernando coming to their home " between six and twelve times" to take her sister "out on excursions to movies and other places". Among the matters REDACTED shared with her sister was, that on one occasion Fernando told REDACTED to touch his penis and after she did this she needed to clean herself off with a Kleenex.

An ameliorating circumstance is the fact that there is no record of an accusation of this nature against Father Fernando other that brought by REDACTED . On the other hand, the aggravating circumstances are these:

a) The wide publicity this matter received in our local church.
b) The fact that REDACTED though not a minor at canon law, was still a minor at civil law when the alleged activity occurred.
c) Though not necessarily proving guilt, the fact that REDACTED prevailed in her lawsuit against our archdiocese.

Norm 1V. of the Essential Norms, the particular law for the United States provides the diocesan bishop shall have a review board, precisely for cases such as this, which will function as a confidential consultative body to assist him in discharging his responsibilities. My review board has advised me not to return Father Fernando to active ministry.

The numerous factors that come into play in the resolution of cases such as this render their resolution very difficult. I have carefully considered every aspect of this case, including the good of all involved, accused and accuser alike, and the good of our local church in reaching my decision. I will use the executive power of governance, within the parameters of the universal law of the church, through an administrative act to limit Father Fernando's exercise of priestly ministry. This administrative action shall be taken in writing by means of a decree (Canons 47-58) so that Father Fernando will be afforded the opportunity of recourse against it in accordance canon law (Canons 1734 ff.).

Enclosed with this letter, please find,

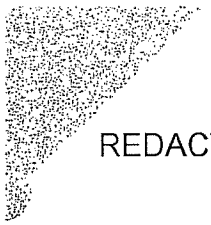
1. The statement of REDACTED sister of the complainant, REDACTED
2. Transcript of the canonical interview with Father Walter Fernando.

Thanking you for your assistance in this matter, I remain

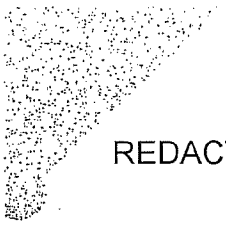
Fraternally yours in Christ,

His Eminence
Cardinal Roger M, Mahony
Archbishop of Los Angeles.

REDACTED



REDACTED



REDACTED

REDACTED



October 6, 2009

His Eminence Claudio Cardinal Hummes, OFM
Prefect, Congregation for Clergy
Piazza Pio XII, 3
00120 Vatican City

Re: Prot. N. 20091414
Reverend Walter Fernando

Your Eminence:

I refer to REDACTED letter May 25, 2009 in which he extended the Congregation's time to render a decision on this case to August 20, 2009. I also refer to Cardinal Mahony's subsequent issuance of another decree in this matter on June 5, 2009 and the Recourse I took against that decree on July 14, 2009.

Because I have received no new information or decision on this case, I write to inquire whether Cardinal Mahony's June 5, 2009 decree and my recourse from it has caused a further delay in adjudicating the case.

Thanking you for whatever information you may be able to provide at this time, I remain

Respectfully and sincerely yours,
REDACTED

cc: REDACTED
His Eminence Roger Cardinal Mahony.

REDACTED

July 15, 2009

His Eminence Claudio Cardinal Hummes
Prefect, Congregation for the Clergy
PiazzaPio XII, 3
00120 Vatican City

Re: Prot. N. 20091414
Reverend Walter Fernando

Your Eminence:

I forward a letter dated March 31, 2009 that I wrote to Monsignor Gonzales, Vicar for Clergy for the Archdiocese of Los Angeles. I ask that it be included in the exhibits which I submitted with the Recourse Father Fernando has taken against Cardinal Mahony's Decree of June 5, 2009. This letter would be numbered Exhibit 9.

Thanking you for your kindness, I remain

Respectfully and sincerely yours,
REDACTED

cc: His Eminence Roger Cardinal Mahony
Archbishop of Los Angeles

REDACTED

March 31, 2009

Reverend Monsignor Gabriel Gonzales
Vicar for Clergy
Archdiocese of Los Angeles
3424 Wilshire Boulevard
Los Angeles, California 90010

BY FAX AND MAIL

Re: Reverend Walter Fernando
Congregation for the Clergy, Prot. No. 2008-2209

Dear Monsignor Gonzales:

This is to confirm the content of our discussion, together with REDACTED and Father REDACTED, concerning Father Fernando who was also present at our meeting of March 23, 2009.

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Although it has been affirmatively proven that Father Fernando has not committed the canonical crime of sexual abuse of a minor,[1] Father Fernando is aware of the unfortunate publicity given to the REDACTED allegation against him and the harm it has caused to both him and the Archdiocese. Appreciating the Cardinal's position and desiring to prevent any more adverse publicity and harassment,[2] Father Fernando is voluntarily willing to retire after he reaches his 65th birthday on April 24, 2009, and the Recourse has been decided. Even if the decision is favorable to him, he would voluntarily agree to forego exercising

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EXH. 9

public ministry in the Archdiocese of Los Angeles. He would, in essence, be a retired, inactive priest of the Archdiocese of Los Angeles.

Such a voluntary signed agreement between the Cardinal and Father Fernando would obviate the need for the Cardinal to issue a new decree. A decree in any way appearing to impose a canonical penalty or to indicate guilt would again be subject to a recourse, something none of us wants, I am sure. A properly worded agreement summarizing the reason why it was entered into could also serve, without further comment, to advise any other bishop why Father Fernando does not exercise faculties in the Archdiocese of Los Angeles. I will be happy to prepare a draft of such an agreement for the Cardinal's review. A decree, however, should be issued removing the canon 1722 restrictions.[3]

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Respectfully and sincerely yours,
REDACTED

cc: His Eminence Roger Cardinal Mahony
REDACTED

---

[2] In explaining the Cardinal's concern in our March 23 meeting, Father REDACTED confirmed that no canonical delict was committee but adds "what does remain problematic in this case is the age of the victim ("accuser" would be more accurate) at the time of the alleged activity because civilly, she may have been a minor...this puts the Cardinal in the position of dealing with the question of returning someone to ministry who may have been guilty of (sexually abusing) a civil minor." The fact of her being a minor even in civil law has not been proven and is a fact that the accuser had the burden of proving before any penal action could be taken against Father Fernando in any forum, canonical or civil. One cannot be punished for what "may have been" or for "what may have happened". Furthermore the only issue in this case is canonical and must be resolved only by canon law. Any practical concern involved in carrying out justice according to law, as much as one may appreciate those concerns, cannot trump the obligation of a judge to administer justice according to the law and the evidence.

[3] Canon 1722 provides that restrictions cease by virtue of the law itself when the reasons for which they were placed cease. It also provides, however, that the restrictions should be revoked.

FILE COPY

Archdiocese of Los Angeles
Office of the Archbishop
3424 Wilshire Boulevard
Los Angeles California 90010-2202

DECREE

I, Cardinal Roger M. Mahony, Archbishop of Los Angeles, upon receiving information which had the semblance of truth, that the Reverend Walter Fernando committed the delict of Canon 1395 §2, directed that a canonical investigation be initiated in accord with Canon 1717. Pending the outcome of the investigation, Father Fernando was placed on administrative leave effective 19 February 2004, in accordance with Canon 1722.

It was determined that since the complainant, REDACTED, was over the age of 16 at the time of the alleged offense, the matter fell outside the realm of a *gravius delictum*. Thus the investigation into the possibility that a delict had been committed was closed by a decree on 27 September 2004.

However, the decree closing the investigation acknowledged that "there is significant evidence that the woman, a minor at civil law, may well have suffered abuse from Father Fernando." For that reason the decree placing Father Fernando on administrative leave was not revoked pending further investigation into his suitability for return to ministry. Meanwhile, the complaint resulted in civil litigation and was settled as part of a global settlement.

Once the settlement was reached, it was determined that attempts be made at further investigation. Now that the Clergy Misconduct Oversight Board has issued its final recommendation to me, I formally revoke the earlier decree of 18 February 2004 which placed Father Fernando on administrative leave.

Furthermore:

I, Cardinal Roger M. Mahony, Archbishop of Los Angeles, do declare that, after a careful investigation, it has been established with reasonable certitude that the Reverend Walter Fernando engaged in a relationship of a sexual nature with REDACTED Father Fernando has adamantly denied ever having engaged in such behavior with her. Yet the investigation yielded indications which, taken cumulatively, argue that something of a sexual nature occurred between them.

Principally, the indications are:

1. The testimony of the complainant herself that she and Walter Fernando engaged in intimate sexual activity.

2. Our canonical auditor inspected the location where the sexual activity was alleged to have occurred and found the complainant's description of Fr. Fernando's quarters to be completely accurate. This lends credibility to the statements made by REDACTED

3. Our canonical auditor was permitted to listen to the telephone conversation between REDACTED and Father Fernando taped by the police department. The investigator concluded that the tape appeared to confirm that something of a sexual nature had transpired between them.

4. The statement of REDACTED, sister of REDACTED to our canonical auditor that she witnessed Father Fernando coming to their home "between six and twelve times" to take her sister "out on excursions to movies and other places." Among the matters REDACTED shared with her sister was that on one occasion Fr. Fernando told REDACTED to touch his penis, and after she did this she needed to clean herself off with Kleenex.

Aggravating circumstances are:

1. The wide publicity this matter received in our Local Church.

2. The fact that REDACTED, though not a minor at canon law, was still a minor at civil law when the alleged activity occurred.

3. The fact that REDACTED prevailed in the lawsuit against the Archdiocese regardless of any determination of guilt on the part of Father Fernando.

Reverend Walter Fernando has been made aware of the evidence collected, has enjoyed the services of an ecclesiastical advocate, and has presented a defense in which he has argued that his difficulties are not of the nature or severity to render him unfit for return to ministry. His argument has been taken into account, and his rights have been protected.

I have carefully considered every aspect of this case, including the good of all involved, accused and accuser alike, and the good of our Local Church in reaching my decision to use the executive power of governance, within the parameters of the universal law of the church, through an administrative act to limit Father Fernando's exercise of priestly ministry as follows:

1. Father Fernando may not exercise any priestly public ministry. This means that he does not enjoy the faculties of this Archdiocese; he may not celebrate Mass publicly (canon 906); and he may not preach (canon 764).

2. Notice of his permanent removal from public ministry shall be given to all concerned parties, including the Bishop of his Diocese of origin in Sri Lanka.

This administrative action is taken in writing by means of this decree so that Fr. Fernando will be afforded the opportunity of recourse against it in accord with the provision of Canons 1734ff.

Given on the 5th of June 2009 at the Curia of the Archdiocese of Los Angeles.

Cardinal Roger M. Mahony
Archbishop of Los Angeles

ARCHDIOCESAN SEAL

REDACTED

FILE COPY

Archdiocese of Los Angeles
Office of the Archbishop
3424 Wilshire Boulevard
Los Angeles California 90010-2202

2 July 2009

REDACTED

In re: Reverend Father Walter Fernando
Prot. No. 20091414

Dear Mr. REDACTED

I am writing in reply to your letter of 19 June 2009, in which you seek, in accordance with canon 1734 §1, the revocation and emendation of my decree of 5 June 2009 regarding Father Walter Fernando.

Given that the 1983 Code of Canon Law does not afford a priest an inherent right to the faculties required for the exercise of priestly ministry, and given that canons 906 and 764 allow the diocesan bishop for a just and reasonable cause to restrict or forbid the public exercise of the priest's right to say Mass and to preach, for the reasons set forth therein the decree is a legitimate exercise of my executive power of governance as Archbishop of Los Angeles.

Accordingly, your petition is hereby denied.

As to your remarks in the "conclusion" of your letter regarding the timing of the decree, please know that by letter dated 4 August 2008, I was notified by the Congregation for the Clergy about hierarchical recourse from Father Fernando against apparent provisions of the Archdiocese not to reinstate him to ministry. The letter also asked for my opinion, so that a studied decision in the matter could be made.

By letter dated 22 September 2008, I informed the Congregation that no provision as yet had been made "not to reinstate" Father Fernando, and that I would give a decision upon the completion of further necessary steps and would notify the Congregation once that decision was reached.

The decree of 5 June 2009 represents my decision, a copy of which has been sent to the Congregation for the Clergy within the time limit of 20 August 2009 set by the Congregation for the recourse.

Praying that God's own justice enlighten and strengthen all of our efforts to proclaim Christ to all people, I remain

Sincerely yours in Christ,

+ Roger Card. Mahony

His Eminence
Cardinal Roger M. Mahony
Archbishop of Los Angeles

Copies: Rev. Walter Fernando
His Eminence Cardinal Claudio Hummes, Prefect, Congregation for the Clergy
REDACTED
Rev. Msgr. Michael W. Meyers, Vicar for Clergy

RCALA 002866

IX 000238

MAIL REFERRAL – Date: 6.22.09

To: Fr [redacted]

From: [redacted]

THE ATTACHED CORRESPONDENCE HAS BEEN REFERRED TO YOUR OFFICE:

____ To answer for the Cardinal; send a copy to this office

____ To prepare reply for the Cardinal's signature

____ To prepare draft letter for program/event

____ To review and return with comments

__X__ To handle entirely

____ For your information and files

Comments: _____

_____

Thank you for your assistance in this matter.

REDACTED

MEMORANDUM

Los Angeles
California
90010-2241

3424
Wilshire
Boulevard

TO: Cardinal Mahony
FROM: REDACTED
SUBJECT: Latest appeal in the Walter Fernando case
DATE: 30 June 2009

As you can gather from the letter I have drafted for your signature, we have received a petition from Fr. Fernando's procurator/advocate asking you to rescind and revise your decree issued earlier this month.

I have attached a copy of Mr. REDACTED letter for your review. Most of it is a rehash of the arguments he has been making all along. He continues to misconstrue the nature of our proceeding and to ignore the real issue.

The unusual part of his letter is on the last page, where he seems to imply that your decree is trying to preempt a decision by the Congregation that would favor his client. REDACTED and I think the reply we have drafted for you will say all that is needed.

If you wish, I can always send you or REDACTED an electronic version of the letter for editing.

Fine letter - thanks!

+ RMK

7-2-09

REDACTED

June 19, 2009

His Eminence Roger Cardinal Mahony
Archbishop of Los Angeles
3424 Wilshire Boulevard
Los Angeles, California 90010-2202

Re: Reverend Walter Fernando
(related to Prot. N. 20091414, Congregation for the Clergy)

PETITION FOR REVOCATION AND AMENDMENT OF THE DECREE ISSUED BY YOUR EMINENCE ON JUNE 5, 2009 CONCERNING REVEREND WALTER FERNANDO.

Introduction

1. The subject decree dated June 5, 2009 was mailed on June 10, 2009 and was received by Father Fernando in Los Angeles on June 11 and by his procurator/advocate in San Francisco on June 12, 2009. This petition is therefore presented within the peremptory time-limit of ten canonical days from the time the decree was lawfully notified, that is by or on June 22, 2009. (canons 1734(2) and 201(2).

2. This 3-page Decree actually consists of two decrees in one. The first decree is a revocation of an earlier decree of 18 February 2004 which had placed Father Fernando on administrative leave. Petitioner does not object to this part of the present decree, having always maintained that the 18 February 2004 decree should have been revoked immediately after receipt of the decision of the Congregation for the Doctrine of the Faith of 4 July, 2005 and was, in fact, revoked by operation of law (canon 1722).

The petitioner, however, petitions for amendment of the language in the section of this decree dealing with this revocation of the February 18, 2004 decree.

3. The second decree imposes a permanent penalty on Father Fernando without any penal process and contrary to the norms of canon law, e.g. "Perpetual penalties cannot be imposed or declared by means of a decree". (Canon 1342 (2)) This second decree simply reinstates the restrictions revoked by the first decree and now seeks to make those restrictions permanent without any canonical justification and in violation of Father Fernando's inherent right to exercise his priestly ministry publicly and his right to privacy and a good reputation (canons 906, 764 and 220)

This petition does seek revocation of this second decree permanently removing Father Fernando from any public priestly ministry.

I.

The Questionable Wording of the June 5, 2009 Decree
Revoking the Decree of February 18, 2004 and Questions Raised Therefrom.

The first paragraph admits that the canon 1717 investigation concerned only whether there was evidence that Father Fernando may have committed a specific delict, the sexual abuse of a minor by a cleric as defined in canon 1395 (2).

The second paragraph states: "It was determined ", it states, that the complainant was over 16 at the time of the alleged abuse so that "the matter fell outside the realm"of the delict at issue. "Thus the investigation into the possibility that a delict had been committed was closed by a decree on September 27, 2004."1 If, indeed, the investigation determined that the alleged delict was not committed, then the canon 1722 restrictions placed on Father Fernando "pending the outcome of the investigation, the decree of February 18 2004 placing him on administrative leave should have been revoked at the close of the investigation, i.e. on September 27, 2004 and not almost five years later on June 5, 2009. 2 Furthermore, if the investigation definitely precluded the possibility of the delict having been committed, why was the case sent to CDF?

Paragraph 3 states: "However, the decree closing the investigated acknowledged that 'there is significant evidence that the woman, a minor at civil law, may well have suffered abuse from Father Fernando...for that reason the decree placing him of administrative leave was not revoked pending further investigation into his suitability for return to ministry." Since the matter was one of whether a canonical crime had been committed and a canonical penalty should be imposed, and since canon law specifically stipulated that, at the time, a minor was one under 16, civil law did not enter into this matter (canon 21).3 No authority is given for keeping Father Fernando on leave after the determination that he did not commit the 1395 (d) delict. There was nothing more to investigate and I have never been advised of any new investigation being conducted over these past five years into any matter involving Father Fernando's suitability for ministry.

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[1] I have never been given a copy of or ever been seen or heard of this September 27, 2004 decree. Nor have I ever been permitted to review the entire Archdiocesan file of this investigation.

[2] Again, by virtue of canon 1722 the restrictions of the February 18, 2009 decree automatically ceased on September 27, 2004 with the admitted finding of the investigation that no delict was committed.

[3] On the issue of the accuser's age, she herself is vague and Father Fernando asserts that the social activity which the accuser says included sexual contact occurred in November 1981, after August 7, 1981 when she turned eighteen. Furthermore, if any sexual activity were to have occurred between the two over twenty years ago when both were of majority age, the investigation showed no evidence that the conduct was forced or abusive. Private sinful activity, especially that of twenty some years ago would be a matter of the internal forum and not subject to investigation in the external forum. The only issue which brought the allegation into the external forum was that of minority age and that issue was definitively disposed of in the 1717 investigation itself.

If there was valid reason for keeping Father Fernando on leave, it should have been done by a new decree specifying the authority by which it is issued, the reasons for its issuance, the proofs and information upon which it is issued and Father Fernando should have been advised and heard before the issuance of a new decree. The authority and reason for which Father Fernando was first placed on leave no longer existed.

"Meanwhile, the accuser's complaint resulted in civil litigation and was settled as part of a global settlement." (paragraph 3). In fact, the accuser's civil attorney had advised the Archdiocese of the alleged abuse on February 6, 2003. Her civil law suit was filed that same year, taking advantage of California's one year (2003) suspension of the statute of limitations. The Accuser signed her Mediation Questionnaire in the civil suit on April 15, 2004. The global settlement was effected late last year, 2008 without any determination of quilt.

"Once the settlement was reached, it was determined that attempts be made at further investigation" (paragraph 4) Further investigation into what? The investigation into the REDACTED allegation had been closed for four years. By whom, how, why and on what authority was it determined that four years later, "once the settlement had been reached", "attempts " should be made "at further investigation? What "attempts" were made and what further investigation was or could be done?.I am unaware of any further investigation. The civil settlement had nothing to do with the canonical disposition of the allegation which had been concluded on September 27, 2004 by the Archdiocese and definitely confirmed by CDF on July 4, 2005. No canonical justification is given for having kept Father Fernando on leave for those intervening four years.

"Now that the Clergy Misconduct Oversight Board has issued its final recommendation to me, I formally revoke the earlier decree of 18 February 2004 which placed Father Fernando on administrative leave." (paragraph 4) Whatever the Board considered and recommended, it is beyond dispute that, in the absence of any authorized finding of guilt for the canonical delict in question, no one had the right to recommend, much less to impose the permanent penalty contained in the second part of the June 5, 2009 decree. That the charged delict was not committed was known with certitude five years ago. It was then that the decree of February 18, 2004 should have been revoked as a matter of law and justice. It needed no recommendation from the Board.

II

The June 5, 2009 Decree Permanently Removing Father Walter Fernando from Public Priestly Ministry is Unjust and Unlawful and Should be Revoked.

1. This ordinary has no power or authority to impose this permanent Penalty.

a) A permanent penalty cannot be imposed or declared by a decree (canon 1342 (2).

b) No authorization was ever given by CDF for either a formal penal trial or a canon 1720 penal administrative process regarding the accusation of REDACTED that she was sexually abused when she was a minor, a delict reserved to that Congregation. That REDACTED REDACTED was not a minor at the time of the alleged sexual contact is undisputed.

c) Sexual contact between a cleric and a woman may be sinful but, without any of the circumstances given in the code making such a relationship a crime, it remains a matter of the internal forum, something which cannot be investigated or tried..

d) The Ordinary's power of governance (canon 223) does not confer on him the power to impose a permanent penalty or to take away the very right of a priest to publicly exercise his priesthood and to fulfill his obligations to do so. I attach to this Petition the relevant parts of a decision of the Congregation for Clergy issued on this very point on April 28, 2007 (Jus Ecclesiae, Vol. 19, 2007, 611-626 at 619-610) The Ordinary in that case invoked canon 223 to prove the legitimacy of his decision in restricting the use of certain rights in order to protect the common good. The Congregation stated that canon 223 sets forth a general principle whose concrete determination is made exclusively in accord with, first and foremost, the norms of canon law "from which norms bishops cannot derogate, otherwise their act would be outside the principle of legality and open the gate to arbitrariness. Therefore, the power to govern4 the exercise of those obligations and rights can in no way be equated with the power to take away the very exercise itself." The June 5, 2009 decree unlawfully attempts to make that equation and to do exactly that..

e) Canonical penalties, especially permanent penalties, can be imposed only after a finding, to a moral certitude beyond every reasonable doubt, that the accused has committed a canonical crime. Moral certitude is required, not just "reasonable certitude" (p.1, last paragraph). It is not enough that "the investigation yielded indications which taken cumulatively, argue that something of a sexual nature occurred between them" (idem). Indications and arguments of something happening are far from proofs and moral certitude.

The decree lists the four "indications" :

1. The complainant herself says the she and Father Fernando engaged in intimate sexual activity. Her saying they engaged in sexual activity, that is merely and "indication" that they sinned twenty some years ago. Whether or not it occurred, Father Fernando's subsequent unblemished record of priestly ministry certainly attests, not merely indicates, his suitability for ministry.

2. The fact that REDACTED was able to describe Father Fernando's quarters at his new rectory could indicate that she had actually been there. It does not mean that she had

[4] "moderari" (canon 223)

been there, or that anything sexual occurred there. She could have obtained the description in other ways. Father Fernando' recalls her telephoning him at this new rectory, asking about what car he was now driving, how he liked his new parish and the priests there and what his quarters were like – all of which he told her.

3. Of the "sting tape": "... (it) appeared to confirm that something of a sexual nature had transpired between them". Again, had any sexual activity occurred between Father Fernando and REDACTED twenty some years ago it was sinful but not a canonical crime, and alone is not an "indication" that Father Fernando is unfit for ministry twenty eight years later. Nor certainly is it reason to impose a permanent canonical penalty on Father Fernando twenty eight years later. Perfection and sinlessness are neither requirements nor an effects of ordination.

4. The statement of REDACTED sister is entirely hearsay. Defendant and his advocate have never heard of this witness or been advised of this testimony before. Father Fernando, however, tells me that he had never been to the home of REDACTED at any time, had never known her mother or her sister.

The decree lists 3 "aggravating circumstances:

1. "The wide publicity this matter received in the local church". (page 2) This publicity was not caused by Father Fernando but by the accuser, her civil attorneys and SNAP who publicized the allegation to the press.5

This is not an aggravation of Father Fernando's alleged conduct. It is, in fact, an aggravation caused by others to the detriment of both Father Fernando's and the Church's reputation.

2. "The fact that REDACTED, though not a minor at canon law, was still a minor at civil law when the alleged activity occurred". (page 2)

This may be an "aggravation" in dealing publicly with REDACTED making this "alleged" activity. She caused the aggravation by making this twenty-plus- year-old allegation of being a minor at the time of alleged sexual activity, without ever proving or being made to prove that serious fact (as was her burden), and evidence that she was not a minor even at civil law at the time.

Ultimately, this "aggravation" is irrelevant to the question of whether Father Fernando should suffer any canonical penalty. That is a question of canon law alone. Any practical difficulty in carrying out the law as justice demands because of any publicity in this case may, indeed, exists but, as difficult as it may be, practical difficulties cannot trump justice. Father Fernando's rights under the law cannot be sacrificed.

[5] Unfortunately this publicity was further enhanced by the Church who referred to the accuser as a "victim", meeting with her and ultimately paying her a substantial sum of money before any determination of guilt was made.

3. "The fact that REDACTED prevailed in the lawsuit against the Archdiocese regardless of any determination of guilt on the part of Father Fernando". (p.2)

REDACTED did not "prevail" in the civil lawsuit against the Archdiocese since no determination of guilt was ever made in that suit. The Archdiocese simply waived its right to have REDACTED prove her allegation (of being a minor as well as of sexual activity) by agreeing to voluntarily give REDACTED a substantial sum of money in exchange for her dismissing her civil suit against the Archdiocese. That action has no relevance to any canonical action against Father Fernando

2 The Decree Permanently Removing Father Fernando From Public Ministry of His Priesthhood was Issued in Contravention of the Provisions of Canon 50 and Violated Father Fernando's Right of Defense.

" Reverend Walter Fernando has been made aware of the evidence collected, has enjoyed the services of an ecclesiastical advocate, and has presented a defense in which he has argued that his difficulties are not of the nature or severity to render him unfit for return to ministry. His argument has been taken into account and his rights have been protected" (p.2)

The only evidence collected was that obtained in the canon 1717 investigation, the sole issue of which was whether over twenty years ago Father Fernando sexually abused REDACTED when she was a minor. That evidence determined that she was not a minor and therefore that Father Fernando did not commit that canonical delict ..

Independently of that issue there was never any issue of Father Fernando's fitness for public priestly ministry. He was never advised that there was any other issue and no investigation was ever made into any other issue. Given the fact that he did not commit a canonical delict twenty eight years ago, there is no other matter which was ever alleged or investigated to support the gratuitous and defamatory conclusion that Father Fernando is not now fit for public priestly ministry.

Father Fernando was never advised of any specific charge of any other specific conduct over the twenty eight years of his priesthood, or presented with any "information and proof ", nor has he been heard on any such specific issue. Not only has there never been a question of the "nature and severity" of Father Fernando having any other "difficulties" affecting his ministry but no "difficulties" bearing on his fitness for ministry have even been alleged or proven to exist. None has been mentioned in this decree.

The Decree imposing the permanent penalty is vague and uncertain because it had not laid out any justifiable proofs and reasons, or ever the precise issues on which it is based., although it is obvious that it is really based on the initial REDACTED allegation.

The decree imposing a permanent penalty on Father Fernando is wrong, illegal and arbitrary. It is merely based on a generic conclusion (uufitness for ministry) based on no specific charge and on no evidence.

Conclusion

The twofold decree, one revoking temporary removal from ministry and the other at the same time restoring the first but making it permanent as a penalty comes at a curious time. The decree comes at a time when, on August 20, 2009 the Congregation for the Clergy is due to decide a recourse taken on a Petition by Father Fernando for reinstatement to public ministry which was denied by Cardinal Mahony on May 17, 2008. Perhaps, it is issued in attempt to effect a desired result, the public removal of Father Fernando from public ministry even though such a result in this case cannot be justified in law or in justice.

Given Father Fernando's continued patience and cooperation in all that His Eminence has asked of him from the beginning of this case and his assurance of cooperation in the future, it is difficult to understand, and one can only assume from the facts, why this unlawful attempt to impose a permanent penalty on Father Fernando is being made now. It seem on its face to be an arbitrary act unsupported and unauthorized by any canonical norm or principle.

I, therefore, respectfully, ask His Eminence, Cardinal Mahony to reconsider the second decree of his decree of June 5, 2009 and to revoke his decree permanently removing Father Walter Fernando from the public exercise of his priesthood.

I also request that wording of that part of the decree revoking the decree of February 18, 2004 be amended in accordance with the observations given above.

Given at San Francisco, California
on this 19th day of june, 2009

REDACTED

COPY

REDACTED

Archdiocese of Los Angeles

3424 Wilshire Boulevard Los Angeles California 90010-2202

22 September 2008

Most Reverend Pietro Sambi
Apostolic Nuncio to the United States of America
3339 Massachusetts Avenue, N.W.
Washington, D.C. 20008-3687

RE: Report to Cardinal Cláudio Hummes, Prefect
Congregation for Clergy

Your Excellency:

Enclosed is a letter from Cardinal Mahony addressed to Cardinal Cláudio Hummes, Prefect of the *Congregation for the Clergy*, reporting matters relating to the case of Reverend Walter Fernando, and transmitting the accompanying documents.

I would respectfully request that you kindly forward the enclosed material to the Congregation.

I am very grateful for your assistance in this matter. May the Lord continue to bless you and your ministry.

Sincerely yours in Christ,

REDACTED

Enclosure

22231

REDACTED

Inv # 5876 VC
Voucher # 186103

STATEMENT OF ACCOUNT

July 31, 2008 01112-530000

Reverend Monsignor Gabriel Gonzales
Vicar for Clergy, Archdiocese of Los Angeles
3424 Wilshire Boulevard
Los Angeles, California 90010

Canonical Services for Reverend ~~Walter Fernando~~ REDACTED

Date(2008)		Activity	Hours	Minutes
Feb. 12	:	Conf. in L.A. with Msgr. Gonzales and Fr. (discussion of other LA cases included here and not billed elsewhere: no travel time or expenses to LA billed)		25
Feb. 24	:	Review file: Prepare and send Petition for Reinstatement: letter to Cardinal.	1	30
May 28	:	Review letter-decree denying Petition.		15
May 30	:	Reseach law on Recourse ; prepare and send Motion for Reconsideration to Cardinal	2	15
July 10	:	Prepare and send Recourse to Congregation for Clergy		45
			5	10

5 hours 10 minutes at $125/hr..... $ 645.83

Expenses billed:
Certified Mail
1) 2/28/08 to Card. Mahony (Petition)..... ... $ 5.38
Express Mail:
1) 6/3/08 to Card. Mahony (Reconsideration) 16.50
2) 6/3/08 to Msgr. Gonzales....."... ..... 16.50
3) 7/16/08 to Archbishop Sambi (Recourse)... 18.70
Reg, Mail to Cardinal Mahony... . 1.68
(Copy of Recourse sent to Rome)

$ 58.76..... 58.76

Total Balance..... $704.59

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← Petition for Reinstatement

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Mailer Signature

FROM: (PLEASE PRINT) PHONE (

REDACTED

REDACTED

TO: (PLEASE PRINT) PHONE (213) 637-7284

Msgr. Gabriel Gonzales
Vicar for Clery, Archdiocese of
3424 Wilshire Blvd.
LOS ANGELES, CA

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Time Accepted: 1226 ☐ AM ☒ PM	Scheduled Time of Delivery: ☒ Noon ☐ 3 PM	COD Fee: $ / Insurance Fee: $
Flat Rate ☒ or Weight: lbs. 12 ozs.	Military: ☐ 2nd Day ☐ 3rd Day	Total Postage & Fees: $ 18.50
	Int'l Alpha Country Code	Acceptance Emp. Initials

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Delivery Date: Mo. Day	Time: ☐ AM ☐ PM	Employee Signature

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☐ NO DELIVERY ☐ Weekend ☐ Holiday ☐ Mailer Signature

FROM: (PLEASE PRINT)
REDACTED

TO: (PLEASE PRINT) PHONE (
Most Reverend PIETRO SAMBI
Apostolic Nuncio
3339 MASSACHUSETTS, NW
WASHINGTON DC

ZIP + 4 (U.S. ADDRESSES ONLY. DO NOT USE FOR FOREIGN POSTAL CODES.)
20008 +

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REDACTED

Fernando 7/16/08 TO: Cong Clery (Sambi) TO: C. Mahony

FEDERAL BUILDING STATION
SAN FRANCISCO, California
941029992
0567830045 -0095
(415)487-8981
07/16/2008 12:28:42 PM

Product Description	Sales Receipt Sale Unit Qty Price	Final Price
WASHINGTON DC 20008 Zone-8 Express Mail PO-Add Flat Rate 12.00 oz. Label #: EH360072379US Next Day Noon / Normal Delivery Return Rcpt (Green Card)		$16.50
Issue PVI:		$2.20
		=======
LOS ANGELES CA 90010 Zone-4 First-Class Large Env 5.40 oz.		$18.70
		$1.68
Issue PVI:		=======
		$1.68
Total:		$20.38
Paid by:		

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REDACTED

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REDACTED

January 7, 2004

His Eminence Roger Cardinal Mahony
c/o Monsignor Craig A. Cox, J.C.D.
Vicar for Clergy
Archdiocese of Los Angeles
3424 Wilshire Boulevard
Los Angeles California 90010

Re: FATHER WALTER FERNANDO

THE ALLEGATION AGAINST FATHER FERNANDO DOES NOT CONSTITUTE A GRAVE DELICT AND DOES NOT COME UNDER THE PROVISIONS OF CANON 1717 OR OF SACRAMEMTORUM SANCTITATIS *TUTELA* OR OF THE *ESSENTIAL NORMS FOR DIOCESAN/EPARCHIAL POLICIES DEALING WITH* THE *ALLEGATIONS OF SEXUAL ABUSE OF MINORS BY PREISTS AND DEASONS.*

1. THE UNDISPUTED FACTS:

   a) The accuser, REDACTED was born on REDACTED (Exhibit 1, p.1)[1]

   b) She became sixteen years of age on REDACTED

   c) Father Fernando came to Archdiocese of Los Angeles from Sri Lanka and was assigned to St. Hilary's Church in Pico Rivera on March 1, 1981. (Exhibit 2, Proffer and Exhibit 1, p.7)

   d) Accuser claims that Father Fernando starting abusing her "when he first came to St. Hilary's (the Church records say that was in 1981). I was 17 in 1981". (Exhibit 1, p.10)

   e) No abuse could have occurred before March 1,1981 because Father Fernando was in Sri Lanka before that time.

[1] Exhibit 1 is a 29 page questionnaire filled out under penalty of perjury by REDACTED on April 15, 2004. Only cited pages and the signature page are included in Exhibit 1).

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2. APPLICABLE LAW:

a) Canon 2359 of CIC 17 and Canon 1395(2) of CIC 83 describe the delict in question as "an offense against the sixth commandment committed by a cleric...with a minor *below the age of sixteen.*

b) On April 25, 1994 the Holy Father granted a five-year derogation petitioned by the National Conference of Catholic Bishops raising the age for the delict mentioned in Canon 1395(2) to eighteen years for the United States. This derogation had no retroactive effect and specified that it applied to acts committed after April 25, 1994. On November 30,1998, This derogation was extended for ten more years.

c) On April 30, 2001, however, the Motu Proprio Sacramentorum *Sanctitatis Tutela* raised the age to eighteen for the universal Church and reserved to the Congregation for the Doctrine of the Faith . "an offense against the sixth commandment committed by a cleric with a minor *below the age of eighteen years".*

c) Canon 22: "laws deal with the future and not the past, unless specific provision is made in the laws concerning the past". No such provision is made in Article 4 of *Sacramentorum Sanctitatis Tutela.*

d) Canon 1313: "If a law is changed after an offense has been committed, the law which is more favorable to the accused is to be applied".

e) The *Essential Norms* "are complementary to the universal law of the Church" (Preamble). They must accept the definition of a minor as to age according to Canons 2359 CIC 17 and 1395(2) CIC 83 , that is, under the age of sixteen for acts committed before April 25, 1994, and according to the Derogation and Sacramentorum Sanctitatis Tutela , that is, under the age of eighteen years for acts committed after April 25, 1994.

3. APPLICATION OF LAW TO FACTS : CONCLUSIONS

a) For any alleged act of Father Fernando to constitute a "delict" REDACTED REDACTED would have had to have been under sixteen years of age at the latest in March of 1981. She had turned sixteen, however, on August 7, 1979, twenty months before that time, twenty months before she even met Father Fernando.

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b) All acts of sexual abuse are alleged to have occurred well past REDACTED REDACTED sixteenth birthday. The alleged conduct of Father Fernando, even were it true (and this is not admitted) did not constitute a "delict" in 1981 and cannot constitute one now.

c) The alleged conduct does not come under any of the provisions of Canon 1717 and following nor does it come under any provision of *Sacramentorum Sanctitatis Tutela* or of the *Essential Norms*. It cannot be the subject of any canonical penal procedure, judicial or administrative, against Father Fernando.

e) There is no other allegation aginst Father Fernando by anyone.

Respectfully submitted.
REDACTED

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REDACTED

EXH 1

REDACTED

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REDACTED

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REDACTED

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REDACTED

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PROFFER RE FATHER WALTER FERNANDO

Date	Description
04/24/44	Born in Sri Lanka.
01/25/73	Ordained in Archdiocese of Colombo, Sri Lanka.
03/01/81	Granted temporary faculties by Archdiocese of Los Angeles. Assigned as Associate at St. Hilary Church, Pico Rivera.
11/30/81	Associate at St. John the Baptist de la Salle Church, Granada Hills.
02/24/86	Incardinated into Archdiocese of Los Angeles.
08/01/86	Associate Pastor at St. Rose of Lima Parish, Simi Valley.
07/02/90	Associate Pastor at Cathedral Chapel, Los Angeles.
04/03/92	Associate Pro Tem at St. Gregory the Great Church, Whittier.
07/01/92	Associate at Assumption Parish, Pasadena.
2/6/03	Civil plaintiffs' attorney REDACTED provides Archdiocese with a spreadsheet of plaintiffs and alleged perpetrators. Plaintiff A.P. alleges sexual abuse by Fernando in 1980-81.
2/19/04	Removed from ministry and placed on administrative leave.

NOTE: On February 6, 2003, as evidenced in this Proffer prepared by the Archdiocese of Los Angeles for the civil lawsuit, REDACTED alleged that Father Fernando sexually abused her in "1980-1981".

This cannot be true because Father Fernando was in Sri Lanka and did not come to the United States and to ST. Hilary's parish in Los Angeles until March 1, 1981.

In answers to her civil questionnaire, Ms. REDACTED changes that time allegation to "Father Fernando began abusing me when he first came to St. Hilary (the church records say that was in 1981". (Exhibit 1, p.10)

EXH. i

155

REDACTED

RECEIVED
SEP 30 2004
BY:

September 24, 2004

Monsignor Graig A. Cox, JCD
Vicar for Clergy
Archdiocese of Los Angeles
3424 Wilshire Boulevard
Los Angeles, California 90010

Re: Father Walter Fernando

Dear Monsignor Cox:

I wish to relay to you information I obtained in my interviews with Father Fernando which I believe may be important to you in your investigation.

Although I have not been privy to the factual allegations made by Ms. REDACTED in her interview with you, I have reviewed the civil mediation questionnaire filled out by her and her lawyer.

REDACTED

The spring of her last year in high school would have been , March, April, May of 1981. Father Fernando, however, arrived at St. Hilary's on March 1,1981: he had no car and no driver's license. It was a couple of months before he was given the old ,large, green Impala of the Sister when the pastor bought a new car for them. He had Sri Lankan priest friends with him when he practiced driving. He did not obtain his driver's license till the summertime. The exact date of issuance of his license can presumably be obtained from DMV. He could not then have been driving her around "in the spring when she was still in high school", and still 17. He had no car and no license in the spring when she was still in high school. She turned 18 on August 7, 1981.

2) Regarding playing musical instruments together: Father Fernando says that he once saw her with an instrument box in her hand and asked what it was for. She told him she played the flute. He asked if she could read music and she answered "yes". He gave her a piece of sheet music and asked if she would like to play it with him since he played the violin. They played musically one time only together and that was in the parish hall.

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3) In the Questionnaire she states "Also my mother brother, and sister all knew that I was going on outings with Father Fernando" (page 10 of 29). Did her mother , brother or sisters confirm this? Did anyone else? Father Fernando denies these alleged "outings".

4) Contacts with her after he left St. Hilarys and went to Granada Hills:

a) Father Fernando recalls going back to St. Hilary's rectory only once after having left there on November 30, 1981. She worked at the rectory. He wanted to buy some gifts to send home for Christmas and so went to the mall. She went with him and while there they decided to see a movie playing there. Going to the movie was not planned. Father Fernando does not recall seeing her again after that time.

b) After his move to Granada Hills, she telephoned him once. She asked if he had a decent car, referring to the big, old, green Impala. He told her he had a smaller, white car. She asked about his living quarters and he told her he had comfortable quarters consisting of a bedroon and a small sitting room. She was never at his quarters at Granada Hills.

c) He next heard from her when she wrote him a letter in early 1983 telling him that she had left the Convent. She was disappointed and down on herself because she had left. He encouraged her stating that it takes courage to enter the convent and even more courage to leave. He wrote her a follow up letter of encouragement and support. (Does she still have the letter?)

Father Fernando says that he never went out with her except for the shopping trip to the mall and he does not recall how it was that she came with him that time..

At St Hilary's at some occasion surrounding her birthday or shortly thereafter when he was told of her 18th birthday, he remembers Ms. REDACTED remarking to him "you're cold - how come no hug?

Father Fernando says that when the chapel for victims of priest abuse was dedicated at the Cathedral, Ms. REDACTED was part of the group (SNAP?) which showed up there.

I hope this information is helpful to your investigation. I did not have the opportunity before both Father Fernando and I left for month-long vacations to have him review and sign this letter but will do so upon our return if you so wish.

Sincerely yours

REDACTED

cc: Father Walter Fernando

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REDACTED

RECEIVED
NOV 1 4 2005
BY:

November 9, 2005

Monsignor Craig A. Cox, J.C.D.
Vicar for Clergy, Archdiocese of Los Angeles
3424 Wilshire Boulevard
Los Angeles, California 90010

PERSONAL AND CONFIDENTIAL

Re: Reverend Walter Fernando

Dear Monsignor Cox:

I have been studying Father Fernando's case and considering the various courses of action you proposed when we met at your office on October 28, 2005. I have discussed the matter extensively with Father Fernando, whom I know you consider to be a good priest.

Because the priesthood means everything to Father Fernando and he wishes to live and die a priest, he would never voluntarily petition for laicization. As CDF has determined, Father Fernando has not committed any delicta gravius and could not, therefore, be involuntarily dismissed from the clerical state.

I am concerned about your suggestion of a "fact-finding procedure". Father Fernando's accuser has filed a civil lawsuit in which the fact of whether he abused a minor under the provisions of civil law is to be determined. I think it would not be wise to have the church engage in any fact-finding procedure on the same civil issue, especially while the civil suit is ongoing. The records of the church fact-finding procedure would be subject to subpoena by civil lawyers to the detriment not only of Father Fernando who would probably receive more adverse publicity on this one allegation, no matter what the outcome, but also to the Archdiocese and the church. I do not believe that this suggestion should be considered before the termination of the civil suit.

I believe that the best course of action at this time would be to preserve the status quo, leaving Father Fernando where he is at St. Basil's on administrative leave until the civil suit is concluded. It has been thus for several years now and a little more time should make no difference. Only when the civil action is complete can one really make a calm and fair assessment of what action should be taken, always in accord with Canon Law.

You mentioned that you looked into the question of whether REDACTED was over eighteen at the time of the alleged abuse and that if you had found that to be true, Father Fernando would still be working as a priest in Pasadena. If you or others in the Archdiocese have determined that she was under eighteen at the time of any alleged abuse please forward me all the evidence on which this determination is based, including the

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statement you took of Ms. REDACTED which you said you would send me. You can appreciate that I cannot properly advise Father Fernando unless I know the proofs against him. Ms REDACTED states that she told her mother of the alleged abuse in 1982 ("e" on page 14 of her civil law statement). Did anyone question the mother about this?. Throughout her statement REDACTED has trouble knowing whether something happened before or after she was eighteen. Her repetition of whether she was or was not eighteen is not something a witness would constantly volunteer especially since the questions she is answering is often not asking this. The entire statement was obviously written by her civil attorneys building up her case for money and then signed by her. She does not give any fact or event to support her general statement that she was under eighteen or exactly when the first act of alleged abuse took place - except to say she "was in high school". Her self-serving word alone does not constitute proof. As you admit, if she was eighteen it would be dispositive of the entire case. From facts which Father Fernando specifically remembers it is more believable to me that she was, indeed, over eighteen at the time anything could have happened. But again I am anxious to see what you based you opinion on. I cannot make an objective final judgment unless I have all the information you have. Please supply me with all your investigative material. All remains confidential of course.

It seems that the "evaluation of the merits of the case and appropriate action in accordance" therewith can be properly accomplished only after the pressure of the ongoing civil suit is removed by the termination of that suit. Once again, I ask, on behalf of Father Fernando that, until that suit is resolved, he be allowed to remain where he is on administrative leave. After that time there would be several options for Father Fernando.

I look forward to your thoughts on this matter and, hopefully to a favorable reply to this request. Thank you

Thank you once again and please forward to me the promised documents as soon as convenient.

Respectfully,
REDACTED

cc: Reverend Walter Fernando

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REDACTED

RECEIVED
APR 15 2005
BY:

Monsignor Craig A. Cox, J.C.D.
Vicar for Clergy, Archdiocese of Los Angeles
3424 Wilshire Boulevard
Los Angeles, California 90010

April 12, 2005

Re: Father Walter Fernando

Dear Monsignor Cox:

Thank you for your letter of April 2, 2005.

I believe we have a fundamental difference of opinion with respect to what is required or provided for in Canon Law and in the *Essential Norms*. In this circumstance, with no ecclesiastical appellate court to tell us which legal opinion is correct, I am bound by your interpretation in representing Father Fernando.

Norm 6 of the *Essential Norms* states that a preliminary investigation is to be conducted in harmony with canon law, that is, with canon 1717. The object of the 1717 investigation is to inquire about the fact of the allegation, that is "Did it happen?" and the imputability to the accused, "Is the one who committed the abuse the named accused?" The Ordinary is required to make a finding on these two issues *before* he sends the case to the Congregation for the Doctrine of the Faith. "When there is sufficient evidence that sexual abuse *has occurred*, the Congregation shall be notified". According to Norm 6 that finding is the sole pre-requisite for referring the case to the Congregation just as it was the sole pre-requisite for an Ordinary to proceed directly to canon 1718 before *Sacramentorum Sanctitatis Tutela* reserved the determination of 1718 to itself. One does not go logically to making the determination of whether or not to declare or impose penalties (1718) unless he has first determined that something in fact happened which warrants penalties.

I submit that it is not enough for the Cardinal to determine that "some sort of formal ecclesiastical process appears to be warranted" and that "he cannot close the case and simply dismiss the charges against Father Fernando"? That determination is for the Congregation to make. To refer the case to the Congregation the Cardinal had to have made the determination that there is "sufficient evidence that sexual abuse of a minor has occurred (not "could have occurred"). Did the Cardinal make such a determination? Was a Decree concluding the investigation issued. If so, may I have a copy of it?

Before the case is referred to CDF, Norm 6 states that the accused "will be encouraged to retain canonical counsel and will be promptly notified of the results of the

the investigation". Of what good is canonical counsel during the investigation if counsel cannot see the proofs against his client? Why be *promptly* notified of the results of the investigation if one is not able to exercize his right of defense. You have told me that an accused has no right of defense in the investigation. I find that position difficult to understand. Natural law and justice dictates that one involved in a process which can place him on administrative leave, damage his personal and priestly reputation and make him potentially subject to criminal canonical penalties has the right to know all the evidence against him so that he can respond to it and present exculpatory evidence.

You state that Canon 50 has been complied with. I submit that it has not. How can one "be heard" unless he knows the "information and proofs" which the ecclesiastical authority has gathered? Father Fernando was told of the accusation and its nature at the beginning of the investigation when he was placed immediately on administrative leave. He denied the allegation. He was never notified of the result of that investigation, whether or not it resulted in sufficient evidence to show that the allegation was true or not. Advising him that "the case cannot be closed" is meaningless. Why cannot it be closed?

The prerogative of the Congregation to call the case to itself refers to declaring or imposing penalties in a case in which the investigation into the fact and imputability of the delict has been completed ("praevia investigatio peracta" : *Sacramentorum Sanctitatis Tutela*, Art. 13) and the necessary determination of those issues has been made. It does not call the case to itself to conduct another investigation.

You say that "out of respect for his rights" you wanted to interview Father Fernando. Father Fernando has denied the accusation. I respectfully suggest that " respect for his rights" would entail providing him with all the proofs, if any, against him so that he might know how to respond to them. Since this was not done I felt obligated to advise Father Fernando not to agree to an interview for which he could not be prepared It is not Father Fernando's burden to prove he did not abuse the minor. It is the accuser's burden to prove that he did. (Canon 1526).

Were you to allow an advocate to have all the proofs of an investigation, he could, with his accused client, greatly assist in assuring that that investigation is as " prompt and objective" as the Norms require and that its result will be based on *all* available evidence.

Thank you for your Easter Blessings and for your continued courtesy in all our work. May the Holy Spirit enlighten us.

Sincerely yours,
REDACTED

cc:REDACTED

161

REDACTED

RECEIVED
DEC 2 2 2005
BY:

December 19, 2005

Monsignor Craig A. Cox, J.C.D.
Vicar for Clergy, Archdiocese of Los Angeles
3424 Wilshire Boulevard
Los Angeles, California 90010

Re: Father Walter Fernando

Dear Monsignor Cox:

When Father Fernando and I met with you and Father REDACTED on October 28, 2005, you stated that you had looked into the matter of REDACTED age at the time of the alleged abuse and that if you had determined that she was over eighteen Father Fernando "would still be at the parish in Pasadena". If Ms. REDACTED was over eighteen, not only would there be no canonical delicta even under the present age requirement but there would be no question of Father Fernando having ever committed any act of sexual abuse of a minor involving the Charter or the Norms. There would not even be a valid civil cause of action for child abuse.

Thus, There should be no fact-finding process to determine whether any act of sexual abuse took place unless there first has been a fact-finding process to determine whether REDACTED was 18 at the time of the first alleged abuse. No act should be investigated before the determination of that fact which is a sine qua non for pursuing any allegation of the sexual abuse of *a minor* under the Charter and the norms..

On November 14, 2005, at the Los Angeles Police Department, I had the opportunity of listening twice to the taped telephone conversation of REDACTED with Father Fernando. Three important parts of that tape are relevant to the question of Ms. REDACTED age at the time. 1) In trying to have Father admit that she was under eighteen, she states in one place, "You knew I was sixteen: I graduated when I was seventeen". She was sixteen from REDACTED to REDACTED Father Fernando was in Sri Lanka for that entire year and did not arrive in the US till 7 months after her seventeenth birthday. In her REDACTED

REDACTED

REDACTED For five months of 1981 she was also18. Both in her statement and in the taped conversation, I find no evidence that she is sure that she was under eighteen and certainly she gives no corroborating evidence

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that she was. In many places in her sworn mediation statement she repeatedly states that she does not recall whether something took place before or after she was eighteen. 3) At one point in the telephone conversation Father Fernando says: "All this happened after I left (St. Hilary's)". This was on November 30 1981 - four months after REDACTED had turned 18. Importantly, REDACTED does not challenge or deny Father's statement.

The burden of proof is on the one who brings the allegation, on REDACTED (Canon 1526). The testimony of a single witness (REDACTED) cannot constitute full proof. (Canon 1573). In evaluating testimony the judge should consider whether the witness is reliable and firmly consistent or rather inconsistent, uncertain or vacillating and whether the witness has supporting witnesses or whether there is support from other sources of proof. (Canon1572 (3)(4). REDACTED testimony is indeed uncertain and vacillating and she has no supporting proof for her blanket assertion that she was under eighteen.

Unless the Archdiocese has proof that REDACTED was over 18, an injustice is being done to Father Fernando. In order for me to competently advise Father Fernando it is necessary that I know if, on what proofs and by what canonical procedure the Archdiocese has determined that REDACTED was over eighteen. Please forward to me all this information and proofs, including any other statements REDACTED she may have made to the Archdiocese. Unless it is first *proven* that any allegation of sexual abuse against Father Fernando comes under the provisions of the Charter and the Norms, no allegation should be subject to a fact-finding procedure and, as you have said, Father Fernando should still be in, or be restored to active ministry in Pasadena..

I await you response, information and relevant documents and thank you for your anticipated attention to this matter.

Respectfully yours,

REDACTED

---

cc: His Eminence Roger Cardinal Mahonev
REDACTED
Reverend Walter Fernando

163

REDACTED

RECEIVED
JAN 3 - 2006
BY:

December 24, 2005

Monsignor Craig A. Cox, J.C.D.
Vicar for Clergy, Archdiocese of Los Angeles
3424 Wilshire Boulevard
Los Angeles, California 90010

Re: Father Walter Fernando

Sacred Congregation for the Doctrine of the Faith
Prot. N.599/2004-21318

Dear Monsignor Cox:

I have been doing some further thinking and analysis of Father Fernando's case considering CDF's finding that, because Ms. REDACTED was over the age of sixteen, no delict was committed and your suggestion for a "fact-finding" process nonetheless.

It is an established, incontrovertible fact that REDACTED was over 16 at the time she alleges sexual abuse. Although the Charter and the *Essential Norms* deal with the sexual abuse of minors by clerics, nowhere do these documents define the age of a minor. "The Norms are complimentary to the universal law of the Church" (*Norms*, Preamble). The Charter and the Norms must, therefore, accept the age of a minor to be what the universal law of the church prescribed it to be at the time of the alleged offense. The universal law of the Church in 1981 provided that a minor was one under 16 in these cases. Because REDACTED was admittedly not a minor at the time of the alleged offense according to the universal law of the Church , Fr. Fernando's case does not come under either the Charter or the *Essential Norms*. Consequently it does not come under Article 8 of the *Norms* which states that "even one act of sexual abuse" will result in the permanent removal from ecclesiastical ministry". I do not see the justification or authority for conducting the fact-finding inquiry you suggest. What fact is to be investigated? It cannot be whether Fr. Fernando sexually abused a minor. That fact has been canonically established: he did not. It is not for ecclesiastical authority to determine the matter according to civil law. That is the purview of civil courts. The Charter and the *Norms* are matters of canon law and not civil law.

Whether Fr. Fernando's actions be investigated as a crimen or simply to determine whether they occurred as private, sinful acts, they are the same acts, acts which can never amount to the "sexual abuse of a minor by a priest".

I await your response to this letter as well as to my letter of December 19 and am anxious to hear your thoughts on these matters.

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Monsignor Craig A. Cox, December 24, 2005, page two.

Respectfully yours,
REDACTED

CC: His Eminence Roger Cardinal Mahony
Father Walter Fernando
REDACTED

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REDACTED

January 19, 2006

Monsignor Craig A. Cox, J.C.D.
Vicar for Clergy, Archdiocese of Los Angeles
3424 Wilshire Boulevard
Los Angeles, California 90010

Sacred Congregation for the Doctrine of the Faith
Prot. N.599/2004-21318

Re: Father Walter Fernando

Dear Monsignor Cox:

In the midst of both office and Christmas season activities, it would be understandable for you to overlook a small task or two.

I write to bring to your attention that I have not yet received a transcript of the canonical interview conducted by the Archdiocese with REDACTED . Would you kindly forward it to me at your earliest convenience. Thank you.

Respectfully yours,
REDACTED

RECEIVED
JAN 2 4 2006
BY:

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REDACTED

RECEIVED
NOV 8 - 2006
BY:

November 6, 2006

Reverend Monsignor Gabriel Gonzales
Vicar for Clergy
Archdiocese of Los Angeles
3424 Wilshire Blvd.
Los Angeles, CA 90010

Re: Reverend Walter Fernando
CDF Prot. # 599/2004-21318

Dear Monsignor Gonzales:

On September 19, 2006, seven weeks ago, I met with you and Father REDACTED REDACTED, to inquire about the status of Father Walter Fernando. I was given no definite information and am at a loss to know what is delaying any action in his case.

I discussed this matter with Monsignor Cox in a meeting of October 28, 2005 and again before he left the office of Vicar for Clergy in July 2006. There are always assurances that something will be done soon but nothing seems to be done.

It has been since July 4, 2005, sixteen months ago, that the Congregation for the Doctrine of the Faith issued its decision that Father Fernando did not commit a *delictum gravius*. Although no further action of any kind has been initiated against Father Fernando, he has been left on administrative leave, removed from public ministry. Both in justice and in canon law, this inaction is unjustifiable and detrimental to Father Fernando's good name as well as to the efficacy of his future priestly ministry.

Given the Congregation's decision that Father Fernando has not committed a canonical crime, why is he still out of ministry? Article 13 of the *Essential Norms* Provides that "When an allegation has proved to be unfounded, every step possible will be taken to restore the good name of the person falsely accused". Ms. REDACTED allegation that Father Fernando sexually abused her when she was a minor has been proved to be unfounded but no step has been taken to restore Father Fernando's good name.

If the Archdiocese contemplates any further action in this matter please advise me what that action is and on what provision of canon law it is based. In justice I ask that this

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be done without further delay or that Father Fernando be restored to active ministry. Keeping him on leave after the decision of CDF without undertaking any further action is to impose upon him a penalty without any process and is contrary to canon law.

Hoping that you will give some urgency to this matter, I am

Sincerely and respectfully yours,
REDACTED

cc: REDACTED

Reverend Walter Fernando
William Cardinal Levada
Prefect, Congregation for the Doctrine of The Faith

P.S. Although I have repeatedly asked for a copy of the Archdiocese's interview with the accuser, REDACTED I have yet to receive it. Would you kindly send me a copy?

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Archdiocese of Los Angeles

Office of Vicar for Clergy (213) 637-7284

3424 Wilshire Boulevard

Los Angeles California 90010-2202

December 15, 2006

REDACTED

RE: Father Walter Fernando

Dear Mr. REDACTED

I write in reply to your letters of November 6 and 29, 2006 concerning the case of the above-named priest.

First of all, allow me to correct what appears to be a misunderstanding on your part with regard to the decision rendered by the Congregation for the Doctrine of the Faith when it examined the case on June 25 of last year. The Congregation found that the matter at issue, i.e. the sexual abuse of which Father Fernando is accused, is not a *gravius declictum*, since the girl in question was not a minor under the age of 16 at the time the alleged crime occurred. Consequently, the matter is not reserved to the Congregation and, as per the Congregation's letter of July 4, 2005, the Archbishop "does not need any authorization from this Dicastery to evaluate the merits of the case and act accordingly." The Congregation therefore leaves the judgment of this matter where it rightly belongs – in the hands of the diocesan Bishop – and its decision in this regard is in no way a resolution of the case and even less is it a declaration that the *reus* has been found innocent of the crime alleged.

Secondly, your conclusion that "Father Fernando has not committed a canonical crime" is not exact: the crime of which he is accused, although not a *gravius delictum*, does remain a serious violation of the "perfect and perpetual continence" to which clerics are obliged (canon 277 §1). The Church's universal law requires "diocesan bishops … to pass judgment in particular cases concerning the observance of this obligation" (*ibid.*, §3). It is this judgment that the Archbishop is called to exercise in the present case, as the Congregation also makes clear in its above-cited letter.

Thirdly, your statement that "the allegation [against Father Fernando] has been proved to be unfounded" is simply incorrect: no such determination has been made, not by the Archbishop and certainly not by the Congregation for the Doctrine of the Faith. Quite the contrary, the allegation is serious and an initial investigation of the matter established that the claims of the accuser – far from being unfounded – had the

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semblance of truth, which is why the matter was reported to the Congregation for the Doctrine of the Faith. And once more, the Congregation's decision in the matter is that it falls wholly under the competence of the Archbishop to adjudicate.
Hoping to have shed some light on what appeared to me as erroneous perceptions on your part, I now turn to your question of "what is delaying any action in the case" (your letter of November 6, 2006, p. 1).

As you are undoubtedly aware, the civil action involving the allegation against Father Fernando is still pending, together with many other lawsuits. As you yourself observed a year ago in a letter to my predecessor, "it would not be wise" to undertake any further action in this case before the civil suit is resolved, as this would be "to the detriment not only of Father Fernando ... but also to the Archdiocese and the Church" (Letter from you to Msgr. Cox, November 9, 2005, p. 1). You summed up the situation well when you wrote, "I believe the best course of action at this time would be to preserve the status quo, leaving Father Fernando where he is at St. Basil's on administrative leave until the civil suit is concluded. It has been thus for several years now and a little more time should make no difference. Only when the civil action is complete can one really make a calm and fair assessment of what action should be taken" (*ibid.*).

It may be that you have now changed your position, but the fact remains that the situation on the civil front is unaltered and it appears still to be in the best interest of all concerned to maintain the status quo with regard to Father Fernando (i.e., administrative leave, with full benefits and residence provided by the Archdiocese). The allegation against him raises serious questions as to his suitability for ministry, wherefore he simply cannot engage in any kind of public ministry until the situation is properly resolved. When civil litigation involving his case is completed it will be appropriate for the Church to proceed in the matter. Rest assured, therefore, that when the time is opportune, the case will be properly adjudicated according to the norms of law.

Trusting that the foregoing has served to clarify the situation, and pleased to enclose a copy of the canonical auditor's report of his interview with the accuser, I remain

Sincerely yours in Christ,

Monsignor Gabriel Gonzales
Vicar for Clergy

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cc: REDACTED
enclosure

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RECEIVED
JAN 2 2007
BY:

REDACTED

December 23, 2006

Reverend Monsignor Gabriel Gonzales
Vicar for Clergy
Archdiocese of Los Angeles
3424 Wilshire Blvd.
Los Angeles, CA 90010

Re: Reverend Walter Fernando
CDF Prot. # 599/2004-21318

Dear Monsignor Gonzales:

Thank you for your letter of December 15 and for enclosing the long-sought interview of REDACTED by the Archdiocesan investigator dated February 8, 2004. Iit is only when an advocate knows exactly what an accuser specifically alleges that he can properly investigate the matter with his client and make other relevant inquiries. My hope is that I may be timely provided with evidence in the future so that we may work together in arriving at the truth of a matter.

Your letter contains inaccuracies which stem from the failure to distinguish between the sexual activity alleged and the sexual crime alleged. Canon 277, obliging clerics to perfect and perpetual continence does not make the violation of that obligation a canonical crime punishable with canonical penalties. It is only when a sexual activity is accompanied by a specific circumstance stated in canon 1395 that the violation is a canonical crime subject to canonical penalties. Otherwise, any failure to observe continence is strictly a matter of the internal forum. Sinful conduct, without more, is not subject to canonical investigation or procedure against a cleric.

Canon 1395 specifies what other conditions must be present in the commission of sexual acts by a cleric in order for those acts to be punishable in the external forum as canonical crimes. The specific allegation against Father Fernando was that he sexually abused *a minor*, a canonical crime as defined in canon 1395(2). It is for this alleged crime that the Cardinal brought the allegation to the Congregation for the Doctrine of the Faith (hereafter CDF) to whom *this crime* is reserved. Only *this crime* could come under the provisions of *Sacramentorum Sanctitatis Tutela* and the *Essential Norms.* Only this crime

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warranted reporting to CDF. You are correct when you state that this case is not reserved to CDF but incorrect when you imply that this conclusion is based on CDF's July 4, 2005 response (you state "consequently..."). This conclusion was known or should have been known before the wrongful referral of this case to CDF. The facts and admissions of the case proved that the accuser was not a minor at the time of the alleged abuse, that the allegation did not constitute a canonical crime under canon 1395(2) and therefore should not have been reported to CDF.

Contrary to your assertion, CDF's reply is, indeed a "resolution of the case" referred to it and does constitute "a declaration that the *reus* has been found innocent of the *crime alleged*". CDF's finding that the "matter cannot be considered a *delictum gravius*" is, *a fortiori,* a declarationt that the *reus* is "i*innocent of the crime alleged*". My statement that "the allegation (sexual abuse of a minor) has been proved to be unfounded would, therefore, seem to be "exact".

You state that the initial investigation established that the accuser's claims had the *semblance* of truth. Far from having any semblance of truth, the accuser's claim that she was a minor when allegedly sexually abused was proven false in your investigation by her own admissions and the factual evidence which proved that Father Fernando was not even in America when she was a minor.

The Archdiocese can no longer proceed against Father Fernando on the contention that he committed a canonical crime under canon 1395(2). You state that the "the case will be properly adjudicated according to the norms of law". Please advise me what is now the precise issue that is to be adjudicated and by what norms of law.

Although I had suggested the status quo be maintained till the civil case is concluded, it has been more than a year since then and I am now concerned about this open-ended delay, especially because the disposition of the civil case may have no bearing on the canonical issues.

Thank you once again and every best wish for the new year,

Sincerely and respectfully and yours,

REDACTED

Cc: REDACTED

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REDACTED

February 25, 2008

His Eminence Roger Cardinal Mahony
Archbishop of Los Angeles
555 West Temple Street
Los Angeles, CA 90012

Re: Reverend Walter Fernando

Dear Cardinal Mahony:

I am sending you a Petition for Reinstatement of Father Walter Fernando. The reasons for the Petition are explained therein. As his canonical advocate I would be remiss did I not present it since it has now been two and half years since CDF's reply and some three months since the global settlement of civil claims has been finalized.

Canon 57 gives a period of three months for a response to the Petition and also provides that if no response is given within that three month period it will be considered a negative response, at which time recourse, if necessary, can be taken. Since the case no longer belongs to CDF, I believe that that the Congregation for Clergy would be the competent Congregation.

Given that there is no longer a canon 1395(2) penal process, I do not know on what basis Father Fernando is still on administrative leave. Has any other process been initiated against him which would authorize and justify administrative leave? Please advise me of the basis for his still being restricted in his priestly ministry.

Father Fernando and I would be willing to meet at any time to discuss your thoughts and intentions on the matter.

With continued kind regards,

Sincerely and respectfully,

REDACTED

Cc: Reverend Monsignor Gabriel Gonzales
Vicar for Clergy

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REDACTED

February 25, 2008

His Eminence Roger Cardinal Mahony
Archbishop of Los Angeles
555 West Temple
Los Angeles, CA 90012

Re: Reverend Walter Fernando
CDF Prot. No. 599-21318

PETITION FOR REINSTATEMENT
OF
FATHER WALTER FERNANDO

This Petition is made under the provisions of Canons 57 and 1722 of the Code of Canon Law, Article 13 of *Sacramentorum Sanctitatis Tutela,* and Norms 6 and 13 of the *Essential Norms for Diocesan/Eparchial Policies Dealing With Allegations of Sexual Abuse of Minors by Priests or Deacons.*

This Petition is for a Decree declaring the termination of Father Walter Fernando's administrative leave and of the canon 1722 restrictions on priestly ministry imposed upon him on February 19, 2008, and reinstating him to active ministry.

Facts and Law

1. In 2003, a woman named REDACTED accused Father Fernando of having sexually abused her when she was a minor in 1981.

2. In accordance with the provisions of Part IV, *The Penal Process,* beginning with canon 1717, Article 13 of *SST* and Norm 6 of the *Essential Norms,* REDACTED Cardinal Mahony, commenced a penal process by initiating the preliminary investigation,

3. On February 19, 2004, REDACTED placed Father Fernando on administrative leave and prohibited him from exercising sacred priestly ministry. REDACTED did so under the provisions of canon 1722 which empowers him to do so "at any stage of the process" for the reasons specified in that canon.

4. Because the allegation against Father Fernando involved a canonical *delict*

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under canon 1395(2) which is reserved to the Congregation for the Doctrine of the Faith, Cardinal Mahony submitted the case to that Congregation as prescribed by Article 13 of *SST* and Norm 6 of the *Essential Norms*, on November 16, 2004.

5. The Congregation responded to the Cardinal on July 4, 2005 stating that the woman (Ms. REDACTED) "by her own admission was 17-18 years of age at the time of the alleged incidents in 1981." She was not, therefore a "minor" in 1981 according to the prevailing law.[1] Thus, the Congregation rightly concluded that "the matter cannot be considered as a *delictum gravius*" and, consequently was not a matter reserved to or referable to CDF. CDF's statement effectively decided that whatever Father Fernando is alleged to have done, he did not commit the *delict* of sexual abuse of a minor.[2]

6. This determination of CDF ended the penal process which had been initiated against Father Fernando based on Ms. REDACTED allegation. The allegation could no longer be considered the a *delict* subject to the provision of SST or the Essential Norms which alone justified the initiation of the penal process.[3]

7. Consequently, the reason for which canon 1722 restrictions on ministry were imposed ceased and were revoked by operation of law upon receipt of CDF's response, which effectively ended the penal process.

"If, however, the reason ceases, all these restrictions are to be revoked: they cease by virtue of the law itself as soon as the penal process ceases". Canon 1722.

The restrictions were temporary measures which could be imposed and maintained only "pending the outcome of the process". Norm 6, *Essential Norms*.

8. Norm 13 of the *Essential Norms* states that "When an accusation (of sexual abuse of minor) has been shown to be unfounded, every step possible will be taken to restore the good name of the person falsely accused". The fact that Ms. REDACTED was not a minor at the time of the alleged abuse, renders her allegation – that she was sexually abused *when a minor* - unfounded and required the implementation of Norm 13. Accordingly administrative leave should have ended and Father Fernando returned to ministry as the very first step necessary to restore his good name.

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[1] In 1981, Canon Law defined a minor as under sixteen years of age. There is, in fact, no proof that Ms REDACTED was even under the age of eighteen at the time. Ms. REDACTED herself cannot say for certain that she was: (Mediation Document, p. 10 , "To the best that I can recall0..."
Ms. REDACTED turned eighteen on August 7, 1981.

[2] The reinstatement of Father Fernando would not be contrary to the Cardinal's position that no priest who has committed even one act of sexual abuse *of a minor* is in active ministry.

[3] All offenses against the sixth commandment may be sins but not all of them constitute canonical crimes subject to a penal process and the imposition of canonical penalties. Only those sins committed in circumstances specifically described in the Code and *SST*, and declared to be canonical crimes, are subject to a penal process, administrative or judicial. Other offenses remain sins confined to the internal forum and not subject to inquiry or any manifestation of conscience. The essential circumstance in Ms. REDACTED allegation which would make the alleged sexual conduct a crime was that she was a minor. CDF confirmed that she was not.

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PETITION FOR REINSTATEMENT, February 25, 2008, page three.

9. In the twenty seven-plus years during which Father Fernando has served the Archdiocese of Los Angeles as a priest, there has been no other allegation of sexual misconduct of any kind on his part except the 22- year-old allegation of REDACTED

From all that has been written above it is respectfully submitted the this Petition should be granted.

REDACTED

Given on this 25th day of February, 2008
at San Francisco, California

cc: Reverend Monsignor Gabriel Gonzales
Vicar for Clergy

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COPY

Archdiocese of Los Angeles

Office of
Vicar for Clergy
(213) 637-7284

3424
Wilshire
Boulevard

Los Angeles
California
90010-2202

May 17, 2008

REDACTED

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RE: Reverend Walter Fernando,
Petition for Reinstatement

Dear Mr. REDACTED

I am writing in the name of Cardinal Mahony in reply to your Petition of February 25 last seeking the termination of Father Walter Fernando's administrative leave and his reinstatement to active ministry.

Your request cannot be granted at this time. Father Fernando's case is currently pending before our Clergy Misconduct Oversight Board (CMOB), which, based on the facts of the case, will make a recommendation to Cardinal Mahony as to whether Father Fernando should be returned to active ministry. CMOB should be ready to review the case at its June meeting, after which it will make its recommendation. His Eminence will then make his decision as to whether Father Fernando can be reinstated to active ministry, and that decision, complete with motivation, will be duly communicated.

I would remind you that, in accordance with the instructions received from the Congregation for the Doctrine of the Faith, the question at issue is not a reserved *gravius delictum* and Cardinal Mahony therefore "does not need any authorization from this Dicastery to evaluate the merits of the case and act accordingly" (letter from CDF, July 4, 2005). The CMOB review of the matter and its subsequent recommendation is a necessary part of His Eminence's evaluation of the merits of the case, which, although not a *gravius delictum*, nonetheless involves serious accusations of a priest abusing his office and committing offences against the Sixth Commandment with a girl who at the time was 17-18 years of age. The good of the Church and the public good as well require that the steps outlined above be taken in order that the case be properly resolved.

Trusting that the above information is useful, and with every good wish, I remain

Sincerely yours in Christ,

Monsignor Gabriel Gonzales
Vicar for Clergy

REDACTED

November 29, 2006

Reverend Monsignor Gabriel Gonzales
Vicar for Clergy
Archdiocese of Los Angeles
3424 Wilshire Blvd.
Los Angeles, CA 90010

Re: Reverend Walter Fernando
CDF Prot. # 599/2004-21318

Dear Monsignor Gonzales:

I refer you to my letter of November 6, 2006 to which I have not yet received acknowledgment or response.

I kindly ask you to favor me with the courtesy of a response to this urgent matter.

I also repeat my request for the long-promised copy of the Archdiocesan investigator's interview with the accuser, REDACTED

Sincerely and respectfully yours,
REDACTED

cc: REDACTED
Reverend Walter Fernando

RECEIVED
NOV 30 2006
BY:

REDACTED

DEC 05 2005
BY:

December 3, 2005

Monsignor Graig A. Cox, J.D.
Vicar for Clergy
Archdiocese of Los Angeles
3424 Wilshire Boulevard
Los Angeles, California 90010

Re: 1. Father Walter Fernando
REDACTED

4. Monsignor Richard Loomis

Dear Monsignor Cox:

I am writing to follow up on documents and information which you stated you would provide to me.

1) Regarding Father Walter Fernando:
A copy of the canonical interview with REDACTED (Accuser)

REDACTED

As you are assured, all documents given to me will, of course, be kept in confidence. I really cannot do my job properly without them.

I will be in Los Angeles on Tuesday, December 13 and Wednesday, December 24. Could you kindly have this material available for me to pick up on either of those days? Please let me know.

With every good wish,

Respectfully yours,

REDACTED

FILE

Archdiocese of Los Angeles

Office of
Vicar for Clergy
(213) 637-7284

3424
Wilshire
Boulevard

Los Angeles
California
90010-2202

November 22, 2004

Personal and Confidential

Reverend Walter Fernando
St. Basil Parish
637 South Kingsley Drive
Los Angeles, CA 90005-2392

Dear Father Fernando:

Please know that you continue to be in my prayers. I can only dimly imagine how difficult it is to be accused and to be in a state of uncertainty for such a long time. I trust that your visit with family and friends back home was a source of strength for you.

I am writing to inform you that, in accord with the requirements of *Sacramentorum sanctitatis tutela*, Cardinal Roger Mahony made a report to the Congregation of the Doctrine of the Faith concerning your situation. That letter was dated November 9, 2004 and it was sent November 16, 2004.

We have asked the Congregation for direction in how to proceed in your case. I will inform you when we hear back from the Congregation.

May God bless you!

Yours in Christ,

Monsignor Craig A. Cox, J.C.D.
Vicar for Clergy

cc: REDACTED

FILE

Archdiocese of Los Angeles
Office of Vicar for Clergy (213) 637-7284
3424 Wilshire Boulevard
Los Angeles California 90010-2202

November 16, 2004

Archbishop Gabriel Montalvo, J.C.D.
Apostolic Nunciature
3339 Massachusetts Avenue, N.W.
Washington, DC 20008

RE: Reverend Walter Fernando

Your Excellency:

Enclosed, please find a letter from Cardinal Roger M. Mahony to Cardinal Joseph Ratzinger at the Congregation of the Doctrine of the Faith, regarding Reverend Walter Fernando. With his letter are copies of relevant documentation. All materials are submitted in triplicate.

Cardinal Mahony is seeking the assistance of the Congregation for the Doctrine of the Faith in this matter.

Would you please be so kind as to forward this to the Congregation on our behalf?

Also enclosed is a check made out to the Congregation of the Doctrine of the Faith to cover the usual *taxa* in such matters.

Thank you very much for your kind attention to this matter. May God continue to bless you!

Yours in Christ,

Monsignor Craig A. Cox, J.C.D.
Vicar for Clergy

enclosures

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Check Date: 09.Nov.2004 ACCLA Check No.

Invoice Number	Invoice Date	Voucher ID	Gross Amount	Discount Available	Paid Amount
500 VC	29.Oct.2004	00118211	500.00	0.00	500.00

Vendor Number	Name		Total Discounts	
0000002838	REDACTED		$0.00	
Check Number	**Date**	**Total Amount**	**Discounts Taken**	**Total Paid Amount**
	09.Nov.2004	$500.00	$0.00	$500.00

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176086

The Roman Catholic Archbishop of Los Angeles
(A Corporation Sole)
3424 Wilshire Blvd.
Los Angeles, California 90010-2241
(213) 637-7691

Wachovia Bank, N.A.
Greenville, South Carolina
In Cooperation with & Payable If Desired at
Wells Fargo Bank, N.A.
4759-613201 67-1/532

Date
November 9, 2004

Pay Amount
$ 500.00***

Pay ****FIVE HUNDRED AND XX / 100 US DOLLAR****

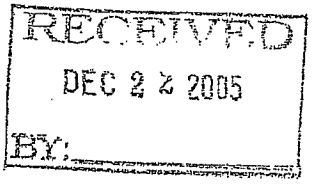
To The
Order Of

REDACTED

REDACTED

REDACTED

REDACTED



December 19, 2005

Monsignor Craig A. Cox, J.C.D.
Vicar for Clergy, Archdiocese of Los Angeles
3424 Wilshire Boulevard
Los Angeles, California 90010

Re: Father Walter Fernando

Dear Monsignor Cox:

When Father Fernando and I met with you and Father REDACTED on October 28, 2005, you stated that you had looked into the matter of REDACTED age at the time of the alleged abuse and that if you had determined that she was over eighteen Father Fernando "would still be at the parish in Pasadena". If Ms. REDACTED was over eighteen, not only would there be no canonical delicta even under the present age requirement but there would be no question of Father Fernando having ever committed any act of sexual abuse of a minor involving the Charter or the Norms. There would not even be a valid civil cause of action for child abuse.

Thus, There should be no fact-finding process to determine whether any act of sexual abuse took place unless there first has been a fact-finding process to determine whether REDACTED was 18 at the time of the first alleged abuse. No act should be investigated before the determination of that fact which is a sine qua non for pursuing any allegation of the sexual abuse of *a minor* under the Charter and the norms..

On November 14, 2005, at the Los Angeles Police Department, I had the opportunity of listening twice to the taped telephone conversation of REDACTED with Father Fernando. Three important parts of that tape are relevant to the question of Ms. REDACTED age at the time. 1) In trying to have Father admit that she was under eighteen, she states in one place, "You knew I was sixteen: I graduated when I was seventeen". She was sixteen from REDACTED Father Fernando was in Sri Lanka for that entire year and did not arrive in the US till 7 months after her seventeenth birthday. In her lawyer-prepared mediation statement she states: "*To the best that I can recall*, Father Fernando began abusing me when he first came to St. Hilary's church (the church's records say that was in 1981) I was 17 in 1981". For five months of 1981 she was also18. Both in her statement and in the taped conversation, I find no evidence that she is sure that she was under eighteen and certainly she gives no corroborating evidence

that she was. REDACTED
REDACTED 3) At one point in the telephone conversation Father Fernando says: "All this happened after I left (St. Hilary's)". This was on November 30 1981 - four months after REDACTED had turned 18. Importantly, REDACTED does not challenge or deny Father's statement.

The burden of proof is on the one who brings the allegation, on REDACTED (Canon 1526). The testimony of a single witness (REDACTED) cannot constitute full proof. (Canon 1573). In evaluating testimony the judge should consider whether the witness is reliable and firmly consistent or rather inconsistent, uncertain or vacillating and whether the witness has supporting witnesses or whether there is support from other sources of proof. (Canon1572 (3)(4). REDACTED testimony is indeed uncertain and vacillating and she has no supporting proof for her blanket assertion that she was under eighteen.

Unless the Archdiocese has proof that REDACTED was over 18, an injustice is being done to Father Fernando. In order for me to competently advise Father Fernando it is necessary that I know if, on what proofs and by what canonical procedure the Archdiocese has determined that REDACTED was over eighteen. Please forward to me all this information and proofs, including any other statements REDACTED she may have made to the Archdiocese. Unless it is first *proven* that any allegation of sexual abuse against Father Fernando comes under the provisions of the Charter and the Norms, no allegation should be subject to a fact-finding procedure and, as you have said, Father Fernando should still be in, or be restored to active ministry in Pasadena..

I await you response, information and relevant documents and thank you for your anticipated attention to this matter.

Respectfully yours,
REDACTED

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cc: His Eminence Roger Cardinal Mahoney
REDACTED
Reverend Walter Fernando

CONFIDENTIAL & PRIVILEGED
INVESTIGATIVE REPORT
ATTORNEY-CLIENT WORK PRODUCT

February 8, 2004

Canonical Investigation of Father Walter Fernando
CMOB-027

Supplemental Report of REDACTED canonical auditor

Reference Report Dated January 23, 2004

The morning of January 29th REDACTED telephonically advised that he had spoken with REDACTED the counsel for REDACTED and that REDACTED would be available for an interview that evening. I telephonically contacted REDACTED, who advised that REDACTED would meet with me at the Marie Callender's Bakery and Restaurant located at REDACTED at 6:00 p. m. that evening. She also said that an associate of hers REDACTED would be there to make REDACTED more comfortable. She put no restrictions on the interview and only asked it not drag on for several hours. She was assured it would not.

At 5:45 p. m. I identified myself to REDACTED and we exchanged business cards. He was sitting in a relatively private booth in the restaurant and REDACTED had gone to the rest room. Shortly thereafter she returned and REDACTED introduced me to her. At that point he requested no questions be asked regarding damages in the suit REDACTED had filed. He was assured that was not the intent of the interview. REDACTED then provided the following information:

She met Father Walter Fernando in either late 1980 or early 1981 at Saint Hilary's Catholic Church in Pico Rivera. She was 17, a senior at Saint Paul's High School and working at Saint Hilary's as a junior secretary in the rectory. She was very active in the parish at that time. She taught a Confraternity of Christian Doctrine (CCD) class in her junior and senior year in high school and was in the junior choir where she sang and played the flute. She characterized herself as an unattractive nerd while in high school who had few, if any, friends and was the subject of verbal abuse. She had a 4.0 grade point average and some of the students may have resented her for that. Her home life was also troubled and she enjoyed being at the parish, as it was a refuge for her. She began volunteer work in the rectory during her junior year and between her junior and senior year she was hired as a junior secretary and began to receive a salary.

The priests at Saint Hilary's at that time were the pastor REDACTED who is now deceased; REDACTED a Nigerian; and Fernando. She could not be certain if a Vietnamese priest named REDACTED was there at that time or came shortly after Fernando left. She thought he might have been there a short time while Fernando was there as she recalled REDACTED and REDACTED had rooms downstairs in the rectory and REDACTED

REDACTED and Fernando were upstairs. As a junior secretary she came to the rectory directly from school. The school bus had a stop at the church making it convenient for her and she reported to work wearing her school uniform. She would work as late as 9:30 p. m. at times on week nights and also on weekends. She was restricted to working not more than 25 hours a week. REDACTED who was attending California State University at Los Angeles, was also working there and trained REDACTED but other than the training they were not there together as one would normally relieve the other. There was another junior secretary for a short time but she was fired due to talking to her boyfriend on the telephone at work. REDACTED not only did not have a boyfriend but did not date until years later after leaving the convent. Her duties included doing parish clerical work and answering the telephone and door. She placed the priests' messages in boxes that were next to where she sat. She normally ate her dinner in the kitchen but on occasion was invited to eat in the dining room with the priests.

The rectory was quiet in the evening and normally only she and the priests were there. It was not uncommon for them to come by to check their mailboxes for messages. Fernando began to strike up conversations with her in the evening when they were alone. These talks became increasingly longer and friendlier. The first thing she recalls that was a bit unusual was one evening he began to shoot rubber bands at her. Late one Sunday afternoon in perhaps April 1981 Fernando suggested they go to the parish hall behind the church and he would play his violin and she her flute. They were there alone with a piano near the stage and she played her flute and sang. Then he played the violin and brought out music and sang a love song entitled, "Drink To Me Only With Thine Eyes". She felt this was a strange selection for him to pick since it was a love song. They were there about an hour.

Shortly after the parish hall incident she was alone at her desk one evening wearing her high school uniform. Fernando showed her a book and suggested that she read it. She turned the book over and read a synopsis of the story on the rear cover. It was about a priest who was having an affair and she gave it back to him. He inquired as to why she did not want to read it and she told him that she did not think that priests should do that sort of thing. He then explained to her there was a difference between celibacy and chastity. According to him celibacy meant simply that priests were precluded from marriage. Chastity was a vow that only priests that were in a religious order took along with poverty and obedience. Since he was a diocesan priest chastity did not pertain to him and he only had to remain celibate that is not marrying. Nobody had ever explained this to her and she was confused but since he was a priest she accepted what he said. Nevertheless she did not read the book and cannot remember the title.

Not long after the book incident, while still in high school, either on his day off or on the weekend he mentioned that he wanted to see a movie and asked her to accompany him. She rarely went to movies and since he was a priest and was showing her attention she readily accepted. He drove to her house, honked the horn and she came out. This is the procedure he used whenever he came to pick her up in the future. He never came into the house to talk to her parents or siblings. Her parents did not object to her going and she believes they felt good about it since they thought she was in the safe care of a priest.

They drove down Rosemead Boulevard to Downey the city that adjoins Pico Rivera to the south. They went to the Showcase Theatre located next to a Farrell's Ice Cream Parlor. Neither structure is any longer there as it is now a shopping center. He sat to her left during the movie and during the movie reached over and initially patted her hand. He then reached his arm around her shoulder and put his hand on her breast and began to rub it. She stared straight ahead and not knowing what to do she did not do or say anything. The movie was near its conclusion when this happened and when it finished she asked him to hand her a sweater she placed on the seat next to him. When she did this he abruptly leaned down and gave her a hard kiss on the lips. She had never been kissed on the lips before and she was shocked and emotional. She told him she had to go to the ladies' room and excused herself. When she returned to him she was still in shock and they proceeded back to the car. She cannot recall the name of the movie. The vehicle was a white parish car that Fernando used and she does not know if it was assigned to him or not. As he was leaving the parking lot he backed into another car and continued to drive away. She called his attention to it since it was very apparent but he told her not to worry about it and left. He was quiet after the movie and little if anything was said on the drive home. He did not come into her house when he brought her home either.

Not long after the movie incident, while she was still in high school, they returned to the same parking lot. She cannot recall the reason they were there but he parked in front of Farrell's and laid his head in her lap. While in this position he pulled her head down and kissed her. This was a longer kiss than the one in the movie and he put his tongue in her mouth. After the kiss he took her home.

On another occasion while she was still in high school, probably on a Saturday, he took her to the Los Angeles County Arboretum. She wore her hair in bangs and she recalled that she had braces on her teeth then. It was a warm day and she wore a white dress that she made and white sandals. As in the other described incidents he did not wear his clerical clothes. He brought a camera and took about five photographs during the day which he later showed to her. He did not give her any of them and she has no idea where they are now. He did not feel comfortable driving on freeways and so he drove home on Rosemead Boulevard. This route passed through the Whittier Narrows and a large park at Legg Lake. He pulled into the parking lot at Legg Lake and parked. He wanted to take a walk and so they did for a while and then they stopped at a picnic table and sat down. He began to kiss and fondle her. It was dark and they were there for about an hour. This time he put his hand inside her blouse and bra so he was rubbing the skin of her breast. They then returned to the car and drove home.

After the first Legg Lake incident they returned there and once again he was not in clerical garb. This time it was in the evening and the light was very dim. He was sitting in the driver's seat and she was in the front passenger seat when he unzipped his pants and exhibited his erect penis outside of his pants. She had never seen a penis before and did not want to look but did see it as she glanced over. He then told her to kiss his penis and when she said, "No Father", he tried to force her and instructed her to do it. When she did not he took her left hand in his, put in on his penis and began to masturbate. He was breathing hard and kept repeating, "Do it! Do it!" This continued until he ejaculated

and her hand was covered with fluid. He then gave her a napkin or something similar to clean up with.

It was sometime after the second Legg Lake incident she remembers being on the school bus approaching the Saint Hilary's rectory when some of the girls noticed Fernando walking on the street. He was dressed in black wearing white shoes and they thought he resembled a penguin and giggling commented to that effect. At that time she felt a great deal of shame and fear wondering if anyone could tell by looking at her what she had done with him. She did not know of anyone who had ever observed them, either from the parish or anywhere else, during one of these incidents but she had these thoughts nonetheless. She remembers being confused with her emotions because most of the time he was kind to her, paid attention to her and showed her affection. Nobody else did this.

Sometime after these incidents Fernando was transferred to Saint John Baptist de la Salle in Granada Hills. She had never been to Granada Hills and it sounded very affluent to her and she thought he had done very well. Once he was there he called her and said he was happy there and wanted her to visit. He drove to her house and took her back to the Saint John's rectory. This first trip she brought her flute. He parked in the rear of the rectory in an area that appeared to be for the priests. They then entered what she thought was a back door and immediately to the left was a sitting room. From this room was a door that entered into his room. The first trip there she played her flute in the sitting room.

The second time he brought her there they went into his room. As they entered his room there was a bed to the left of the door. At the foot of the bed was a dresser with a mirror above it. The room was carpeted and to the left of the dresser was a chair. There was a window on the left wall entering his room. He had her disrobe when they were in his room but she kept her slip on. He pulled down her slip and bra and kissed her breasts and sucked on her nipples. They laid on the bed on top of each other and side-by-side and she could feel his erection but she did not know if he ejaculated during their activity. She asked him why he did not undress and he responded that he did not want her to become pregnant.

During one of these episodes she asked him why he did not leave the priesthood and he said that was the only thing he knew and that he could do nothing else. He mentioned that in the seminary in Sri Lanka the seminarians were discouraged from touching themselves and were given some type of implement to tuck their shirts in so they would not touch themselves in that area of the body. He told her that his Sri Lankan first name is Rangith and that the name Fernando came from the Portuguese that settled that area of Sri Lanka. He never mentioned his family or why he came to America. She met some of the other Sri Lankan priests who were his friends but never had a conversation with them.

She estimated that she traveled to Granada Hills on perhaps ten occasions and similar things happened that were previously described. Only one time, during her last visit, did he have her take all of her clothes off including her undergarments. They laid on the bed that time and he "spooned" her. She described that as lying closely side-by-side. He

would always do the touching and she neither wanted to nor did touch him. She was always in a passive state during these encounters and is unaware if he ejaculated since he was wearing his clothes.

After he instructed her to dress he always went to the kitchen and brought her back ice cream. He knew she liked ice cream and she would sit in the chair in his room and eat it and then he drove her home. One time as they both stood in front of his mirror he took a roman collar from a dresser drawer and put it on her. After they both looked at it for a few moments in the mirror he took it off and put it back. Neither one of them said anything. During these visits she met the housekeeper once, who she could only describe as an Anglo female. This woman knew that she and Fernando were in his room together behind closed doors. Another time she met a priest at the doorway of the sitting room and he had several lay people with him. She was simply introduced as a friend by Fernando.

He sent her two letters while he was at Saint John's. The first one mentioned that he went to an outdoor play and after that had a sore throat. He said that one kiss from her would cure it. The second letter was just before she entered the convent and he told her how brave she was to do that. She had not seen him in quite awhile and believes she probably told him about her plans for the convent during her last visit with him. She entered the convent on January 9, 1983. She does not have either letter or any other document from that era with the exception of an old address book with Fernando's telephone number in Granada Hills. She did not have that with her.

She was never in Fernando's room at Saint Hilary's while he was there. At times she would assist the housekeeper delivering laundry to the priests' room. She could not recall seeing any type of unusual marks or scars on Fernando's private parts but said he was very dark skinned and had hairy arms. Another recollection was that he frequently wore mismatched clothes.

Due to the confused state of mind she was in and lack of close friends she did not confide in anybody at the time these events happened and not until 2002 did she reveal it. It was while she was reading an article in one of the weekly news publications, perhaps Time or Newsweek, about a Catholic priest abuse victim that was a musician and had thought about entering the seminary that all of these memories came flooding back to her. She was at work and became very distraught. Driving home that is all that she thought of and when she arrived her brother immediately noticed there was something wrong. When he inquired as to what was bothering her she blurted out what occurred. He told her that she needed some help. They then searched Fernando's name on the internet and determined he was still an active priest. On learning this she was horrified and concerned that he might have preyed on others and was continuing to do so. Shortly after that she approached an attorney acquaintance and confided in her. She gave her the telephone number of the appropriate unit in the Los Angeles Police Department (LAPD) and about one week later she filed a complaint with them.

Regarding the consensually monitored telephone call she made to Fernando at the behest of the LAPD she does not have a copy or a transcript of it. She has never listened to the recording or seen a transcript. She not only has no problem with the Archdiocese listening to the conservation she desires that this be done. She and REDACTED advised that REDACTED would be told of this and it was requested they ask REDACTED to call Detective James Brown or Lieutenant Dennis Shirey to facilitate the Archdiocese obtaining a copy. In the call Fernando immediately acknowledged remembering her and did not seem surprised that she was calling him. She told him she was upset at the news coming out of Boston regarding the clerical sexual abuse cases. She asked him if he remembered what happened between them and mentioned specific acts and places they happened. He responded that he did although as she recalls there were a couple of things he claimed not to remember. He acknowledged thinking about it over the years and when she mentioned specific sexual activity between them he agreed that it occurred. The letters were also mentioned and he recalled them. He continually asked for her forgiveness, said he was sorry and told her that he went to confession and received absolution. He also said that he thought she was older and that it was in the heat of passion. She pointed out to him that she was in high school and he regularly saw her in her high school uniform and that since it happened on a number of times it could not have been a momentary passionate impulse. He mentioned that he was young but she pointed out he was 37 years old in 1981. He also said that she treated him nicely, was helpful to him and that he loved her. She asked if he loved her why he had hurt her so badly. He also told her he had not done anything like that to anyone else. She finally said that she forgave him and he felt relieved at that. He asked her if she had told anyone else about what he had done and she said that she had not. He asked her to pray for him and to call him again in the future. The call was then terminated.

On reflection she now feels his behavior was predatory and calculated and emphasized her fear that he might have done this to someone else and her desire that he be relieved of his ministry. It tormented her to know that he was in a position that allows him to this again.

REDACTED became emotional at times when recounting the details set forth above. She advised early in the interview that there was one incident she had a particular hard time with and that it might upset her enough when she described it that she would not be able to continue. It was suggested that she relate that at the end of the interview. This was acceptable to her and this is what she recounted. She could not give a time frame for when this happened, before or after his transfer to Saint John's, but remembered they parked in the parking lot at REDACTED REDACTED This is the street her parents live on and did then also. There were a line of skinny trees that blocked the view of the parking lot from the street and these trees have since been removed. After he parked there, without any foreplay, he put his finger into her vagina. This was very painful and she told him that and kept repeating, "Father, Father, ..." It was very traumatic to her and that is all she remembers.

She reiterated that she was always taught to be permissive, passive and respectful of adults especially priests and she never thought of saying no to his abusive activities.

Even now she finds it very difficult to talk about. She never saw him do anything like this to anyone else and she is not aware of him abusing anyone else.

REDACTED business manager of Saint John Baptist de la Salle Church, was contacted on February 2, 2004, and conducted a tour of the rectory and surrounding area.

She pointed out that the area behind the rectory was made into a gathering area, or plaza, in 1991. Prior to that it was a parking lot and if a priest did not park in the garage he could have easily parked there and it would have been convenient to the priests' private entrance into the rectory.

Leaving this area is a walkway between the church and the rectory that leads to the private entrance on the west side of the rectory. Entering this door a hallway goes about ten feet and then there is left turn and an immediate left turn into a sitting room. This is a private sitting room and a door from it leads directly into a bedroom. Entering the bedroom looking at the wall to the left is a window. Currently the head of the bed is under the window but REDACTED advised the previous occupant had the head of the bed immediately to the left as one entered the room. If the bed was configured in that manner the chest of drawers and mirror on the far wall would be at the foot of the bed. REDACTED stated that particular piece of furniture has been positioned that way as long as she has been at Saint John's, which is the early 1990s.

She was not working at the parish when Father Walter Fernando was there but believes this room was more than likely his. The other associate pastor suite is across the hall.

REDACTED provided blue prints for the rectory.

Father REDACTED was telephonically interviewed on February 5, 2004, and provided the following information:

When Father Walter Fernando came to Saint John Baptist de la Salle Church in Granada Hills in 1981 as an associate pastor he was assigned a room in the rectory. REDACTED was the other associate at that time and described that on entering the rectory from the priests' entrance off of the walkway between the rectory and church there is a hallway. Straight ahead a few feet is another hallway to the left and then immediately to the left a door into the sitting room that is part of the suite in which Fernando lived. There is also a bedroom and bathroom in that suite.

There was parking in the rear of the rectory at that time and no door existed into the rear of the rectory from that parking area.

The name REDACTED means nothing to him.

REDACTED superintendent of secondary schools, Department of Catholic Schools, Archdiocese of Los Angeles was interviewed on February 2, 2004, and provided the following information:

She contacted REDACTED at Saint Paul High School in Santa Fe Springs regarding REDACTED He advised that REDACTED was an outstanding student and very active in the music program when she attended Saint Paul's. She won several scholastic awards when she graduated.

REDACTED (protect identity upon request) was telephonically interviewed on January 29, 2004, and provided the following information:

She met REDACTED when they sang in the junior choir at Saint Hilary's in 1979-1980. She REDACTED was in the seventh grade and REDACTED was about four years older. In her sophomore year she began work at the parish as a junior secretary and REDACTED was leaving to enter the convent. REDACTED trained her and their tenure at the rectory overlapped briefly. While REDACTED was in the convent she only saw her once when REDACTED was home on vacation and she came by the rectory to say hello.

REDACTED left the convent in about 1985 and when she came home began to sing in the choir again and they became reacquainted. They became fairly close friends as her husband (boy friend at that time) was a friend of REDACTED who REDACTED was dating and later married. She thought REDACTED was a nice person and she does not know the reason for their divorce. She and her husband are the godparents of REDACTED's oldest daughter REDACTED

REDACTED was a priest at Saint Hilary's who they both knew. When it became public that he had abused REDACTED who they both knew also, they discussed it. On one of these occasions REDACTED asked her if she remembered Father Walter Fernando and she told REDACTED that her memory of him was very faint. REDACTED then told her that he had abused their relationship when REDACTED worked in the rectory. She asked REDACTED what she meant by that but REDACTED refused to detail what had happened and was clearly embarrassed by it. This was the only time it was mentioned and she could not say with any accuracy when it happened except that it was after the REDACTED incident became public and at least a year ago. They have a mutual friend, REDACTED , who lives in Moreno Valley. About the time REDACTED mentioned Fernando to her she was talking to REDACTED and REDACTED related that REDACTED had asked her also if she remembered Fernando. She cannot recall what REDACTED's response was. It surprised her that REDACTED would say something like that about a priest.

She does not believe REDACTED would make something like this up but at the time it did not occur to her that the abuse was sexual in nature. She assumed that REDACTED had told him something in confidence and he repeated it to someone or something like that. At the time she was a fairly close friend of REDACTED and wondered why REDACTED had not told her sooner than she did.

She has not seen [REDACTED] in over a year and has lost track of her. She does not know where [REDACTED] is living or working. She described [REDACTED] as a very quiet and shy person.

CONGREGATIO
PRO DOCTRINA FIDEI

00120 Città del Vaticano,
Palazzo del S. Uffizio

4 July 2005

599/2004 - 21318
PROT. N. .....
(In responsione fiat mentio huius numeri)

CONFIDENTIAL

Your Eminence,

The Congregation for the Doctrine of the Faith received your correspondence regarding the case of the **Rev. Walter FERNANDO**, a priest incardinated in the Archdiocese of Los Angeles, who has been accused of the sexual abuse of a woman who, by her own admission, was 17-18 years of age at the time of the alleged incidents in 1981.

This Dicastery examined the case on 25 June 2005 when it was decided that, since the matter cannot be considered as a *delictum gravius*, Your Eminence does not need any authorization from this Dicastery to evaluate the merits of the case and act accordingly.

With prayerful support and fraternal best wishes, I remain

Sincerely yours in Christ,

✠ Angelo AMATO, SDB
Titular Archbishop of Sila
Secretary

His Eminence
Roger Cardinal Mahony
Archbishop of Los Angeles
3424 Wilshire Boulevard
Los Angeles, CA 90010-2202
UNITED STATES OF AMERICA

DIOCESE	Los Angeles in California
NAME OF ORDINARY	Cardinal Roger M. Mahony
CDF PROT. N. (*if available*)	
NAME OF CLERIC	Reverend Walter Fernando

PERSONAL DETAILS OF THE CLERIC	**Date of Birth**	24 April 1944	**Age**	60
	Ordination	25 January 1973	**Years of ministry**	31

ORIGINAL DIOCESE OF INCARDINATION	Colombo, Sri Lanka
MINISTRY IN/TRANSFER TO OTHER DIOCESE	Los Angeles in California, incardinated on 24 February 1986
CONTACT ADDRESS OF THE CLERIC	St. Basil Parish, 637 S. Kingsley Drive, Los Angeles, CA 90005-5883
PROCURATOR (*include original signed mandate*)	Mr. REDACTED
CONTACT ADDRESS OF THE PROCURATOR	

ASSIGNMENTS

Year	Parish	Location	Appointment
1973	St. Anthony	Kepungoda	Parochial Vicar
1974	St. Mary	Dehiwala	Parochial Vicar
1976	St. Thomas	Kotte	Parochial Vicar
1977	St. Cadjetan	Kotugoda	Parochial Vicar
1981	St. Hilary	Pico Rivera, California	Parochial Vicar
1981	St. John Baptist de la Salle	Granada Hills, California	Parochial Vicar
1986	St. Rose of Lima	Simi Valley, California	Parochial Vicar
1990	Cathedral Chapel	Los Angeles, California	Parochial Vicar
~~1992~~	~~St. Gregory the Great~~	~~Whittier, California~~	~~Parochial Vicar (Pro Tem)~~
1992	Assumption of the Blessed Virgin Mary	Pasadena, California	Parochial Vicar
2004			Leave of Absence

ACCUSATIONS AGAINST THE CLERIC				
Year	**Victim**	**Age**	**Imputable Acts**	**Denunciation**
1981	REDACTED	17		2003

CIVIL PROCEEDINGS AGAINST THE CLERIC			
Year	**Type/Case**	**Conviction**	**Sentence** (*include copies of civil documents*)
2002	Police Investigation and Grand Jury Subpoena	Dismissed	Case closed because of the expiration of criminal statute of limitations in accord with the Supreme Court Stogner case.
2003	Civil Lawsuit for Damages (BC307409)	pending	

MEASURES ADOPTED BY THE DIOCESE	
Year	
2003	Preliminary Investigation Initiated
2004	Father Fernando was placed on Administrative Leave

SUSTENANCE PROVIDED BY THE DIOCESE TO THE CLERIC

Father Fernando is living in an ecclesiastical house with his room and board provided. He continues to receive his salary and is covered by medical and other benefits. He has the same transportation provisions as a priest serving actively. He has requested and been granted loans for criminal defense.

RESPONSE/RECOURSE MADE BY THE CLERIC	
Year	

BISHOP'S *VOTUM*

In this case, the alleged sexually abusive activities occurred while the 1917 Code of Canon Law was in force. The alleged misconduct did not violate canon 2359 of that Code because Ms. REDACTED was age 17, and hence not a minor at canon law. She was a minor in the law of the State of California and the alleged activity did amount to a crime in the law of the State.

Recognizing this reality, we are nonetheless seeking an ecclesiastical trial, not to impose a penalty but to declare the juridic fact (canon 1400, §1, 1°) of whether or not the alleged abusive conduct took place. The seriousness of the matter requires an unbiased determination with moral certitude of the facts of the matter, with all the protections for the rights of the parties that a trial affords.

If the judges conclude that Father Fernando perpetrated the alleged deeds, we would forward those results to the Congregation in order to consult how to proceed, perhaps in light of the provisions of canon 223, §2.

FERNANDO, Rev. Walter EXTERN January 25, 1973
Sri Lanka

Date	Place	Assignment
3/1/81	St. Hilary, Pico Rivera	Associate
11/30/81	St. John the Baptist, Granada Hills	Associate

REDACTED

Saint Hilary Church
5465 S. Citronell Ave.
Pico Rivera, Ca. 90660

REDACTED

St. John Baptist de la Salle Church
16545 Chatsworth Street
Granada Hills, Ca. 91344

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CONFIDENTIAL & PRIVILEGED
INVESTIGATIVE REPORT
ATTORNEY CLIENT WORK PRODUCT

January 23, 2004

Canonical Investigation of Father Walter Fernando
CMOB-027

Report of REDACTED canonical auditor

REDACTED made an accusation of sexual abuse against Father Walter Fernando to the Los Angeles Police Department (LAPD) in April 2002. REDACTED has never personally lodged a complaint with the Los Angeles Archdiocese but the office of her attorney REDACTED communicated it to the Archdiocese. Based on her accusation the following individuals were interviewed and records were reviewed between January 14, 2004, and January 27, 2004:

1. Monsignor John A. (Archie) Rawden (Retired), former Chancellor Los Angeles Archdiocese
2. Father REDACTED Long Beach Memorial Hospital, Long Beach, New York
3. Father REDACTED Our Lady of Lourdes Church
4. REDACTED
5. REDACTED secretary and archivist at Saint Hilary's Church
6. REDACTED Business Manager at Saint Hilary's Church
7. REDACTED former secretary at Saint Hilary's Church
8. Sister REDACTED Principal at Saint Hilary's Grammar School
9. REDACTED former housekeeper at Saint Hilary's Church rectory
10. Monsignor Timothy J. Dyer, Pastor at Nativity Church
11. REDACTED , former Pastor at Saint John Baptist de la Salle Church
12. Father REDACTED Pastor at Saint Bernardine of Siena Church
13. Father REDACTED Pastor at Our Lady of the Rosary Church
14. Lieutenant Dennis Shirey, LAPD, Officer in Charge, Juvenile Division
15. Officer James Brown, LAPD, lead detective Cleric Abuse Task Force
16. Monsignor Craig A. Cox, Vicar for Clergy

Fernando is a 59-year-old Sri Lankan-American who was ordained in Sri Lanka in 1973 and came from Sri Lanka to the Los Angeles Archdiocese in 1981. His initial assignment in the Archdiocese was at Saint Hilary's Church in Pico Rivera, reporting March 1, 1981. He served there until November 29, 1981, and was then transferred to Saint John Baptist de la Salle where he served until July 31, 1986. Since then he has served at four other parishes in the Archdiocese and has not had any complaints lodged against him other than the one that is the subject of this report. He has been an associate pastor at each of his assignments.

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The allegations made by REDACTED against Fernando are contained in a Complaint filed in Los Angeles County Superior Court on December 3, 2003. Pertinent parts of the complaint state:

1. REDACTED was a minor during the alleged acts perpetrated upon her.
2. She alleges Fernando molested minor parishioners and that the Archdiocese was aware of it.
3. The specific acts involving Fernando and her included:
    a. French kissing
    b. Hugging
    c. Fondling buttocks over clothing
    d. Rubbing and massaging breasts and body
    e. Kissing neck, face and breasts
    f. Digital vaginal penetration
    g. Forced masturbation of Fernando
    h. Attempted forced oral copulation of Fernando
    i. Sexual grooming

A request has been made to REDACTED for an interview of REDACTED by a representative of the Archdiocese, preferably one of the investigators. This is one of the recommendations of the Clergy Misconduct Oversight Board, however, despite initially indicating she might allow this REDACTED has not at this time.

REDACTED Certificate of Baptism certifies that she was born on August 7, 1963.

REDACTED was married to REDACTED on December 23, 1986, and they separated on May 31, 1991. On April 10, 1992 their divorce became final. There were three daughters as a result of this union and REDACTED was granted custody after the acrimonious divorce.

REDACTED

Fernando advised Monsignor Craig A. Cox that the LAPD wanted to talk to him (Fernando) while both were at Saint John's Seminary attending a continuing education week the first week of June 2002. He told REDACTED that about 20 years ago he crossed boundaries with a woman interested in entering the convent. They went to a movie together and he put his arm around her. She later entered the convent but left within a few years.

Sometime after this the archdiocese became aware that REDACTED was making an allegation against Fernando and based on this he was interviewed by REDACTED and Father REDACTED REDACTED on February 12, 2003. Prior to this interview Fernando retained REDACTED as his attorney and although he answered all questions pertaining to him personally and historically he acted on REDACTED advice and refused to answer questions regarding the allegations made against him by REDACTED REDACTED noted that Fernando's demeanor was cordial and cooperative and that he exhibited an appropriate level of concern. Later in letters dated March 7, 2003, and May 8, 2003, that Fernando addressed to Cox he denied "each of the specific behaviors alleged." He also wrote, "I absolutely affirm that I have obeyed my vow of celibacy".

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On January 21, 2004, Monsignor John A. (Archie) Rawden (retired) was telephonically contacted. He stated that in 1981 he was the Chancellor for the Archdiocese and responsible for the transfers of the priests. At that time he lived in the rectory of Immaculate Conception Church which was across the street from where the chancery. It was a large rectory and often priests coming into the Archdiocese stayed there prior to being assigned to a parish. He could not recall Fernando.

On January 16 and 17, 2004, Father REDACTED (not related to REDACTED was telephonically interviewed. He is currently Associate Pastor at Our Lady of Lourdes Church and advised that he has known Father REDACTED for about 35 years, since their days in the seminary in Sri Lanka. He has always known him to be an honorable man both in Sri Lanka and in the United States. He (REDACTED preceded Walter in coming to America and when Walter arrived they spent a good deal of time together. He and his brother Father REDACTED would spend each Wednesday with Walter, as that was their day off then. Walter did not have a California driver's license for several months after he arrived and they drove him to various locations around Southern California. They often visited and had dinner at other Sri Lankan homes in the area. Walter was initially assigned to Saint Hilary's in Pico Rivera but as he recalls he did not stay there as long as it was originally intended. The reason for this might have been because of his surname he was believed to be a Spanish speaker and he was not. He was then transferred to Saint John Baptist de la Salle in Granada Hills. He does not recall any parishioners at Saint Hilary's that Walter was close to or spoke about and the name REDACTED means nothing to him. Nor does he recall Walter mentioning any Saint Hilary parishioner visiting him at Saint John's. He described Walter as a reserved soft-spoken person that in his opinion would not force himself on anybody or in any way violate his vows. He was very surprised to hear that Walter was accused of any impropriety. He believes that the first summer Walter was in America another Sri Lankan priest, REDACTED, visited this country and they traveled together. REDACTED is now a bishop in Sri Lanka and he has a cousin that lives in the Torrance area named REDACTED whom they visited her on occasion back then. He advised his brother is now in ministry in New York.

REDACTED

On January 20, 2004, Father REDACTED (not related to Walter) was telephonically interviewed. He is currently the hospital chaplain at Long Beach Memorial Hospital, Long Beach, New York, and resides in the rectory at Saint Ignatius Church in Long Beach, New York. He stated that he was assigned to Saint Michael's Church in Los Angeles in 1981 when Father Walter Fernando arrived from Sri Lanka. He knew Walter in Sri Lanka and knows that he had a good reputation there. He knows this because there is only one seminary in the country and relatively few priests and if someone does something untoward it becomes known throughout the religious community. Also the Bishop would not have written a letter of recommendation for him, which was required. He (REDACTED) came to the U.S.A. in 1976 for a change and a more challenging ministry. He explained that Sri Lanka is a small country with few opportunities and he came here to broaden his experiences within the Church. He believes Walter came for the same reasons but probably with a bit of apprehension since he was leaving all of his family and most of his friends. When Walter arrived in Los

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REDACTED

REDACTED

Angeles he stayed at the Immaculate Conception rectory with Monsignor Archie Rawden. He was then sent to Saint Hilary's. He remembers that Walter did not drive at that time since he did not have a California driver's license and he and his brother, Father REDACTED would drive to Walter's church and pick him up each Wednesday their day off. They would visit other Sri Lankans that resided in the area and frequently have dinner in their homes. One of these was REDACTED whose cousin, REDACTED is now a Bishop in Sri Lanka. In 1981 he was a priest from the same diocese as them in Sri Lanka and he visited the United States. REDACTED and Walter traveled to the Grand Canyon that summer as well as other places but he could not recall exact times and places. He was very surprised when he heard of the allegations made against Walter as he has always been a quiet gentleman and has a reputation for that. He never did anything indiscreet while they were together and he reiterated they spent a good deal of time together in 1981. He cannot remember Walter ever mentioning REDACTED or any other parishioner from Saint Hilary's nor does he recall him ever mentioning a former parishioner visiting him after he was transferred to Saint John's.

REDACTED

On January 21, 2004, REDACTED was telephonically interviewed and advised she knows Father Walter Fernando and recalls that he and her cousin REDACTED took a vacation together in 1981 when REDACTED visited the United States. She cannot remember the dates they traveled but believes they visited the Grand Canyon and Las Vegas. Back then she frequently saw the Sri Lankan priests that lived in the Los Angeles area, including Fernando, and they were all good men. She could offer no other information of value.

REDACTED

On January 17, 2004, REDACTED was telephonically interviewed and on January 20 was personally contacted at Saint Hilary's. She is currently teaching at Saint Benedict's Grammar School in Montebello but has been employed at Saint Hilary's in some capacity, part time or full time since 1985. In the mid-1980s she worked in the office and now does some secretarial work and maintains the archived records of the parish. Although she was not working in the parish when Walter Fernando was an Associate Pastor at Saint Hilary's she was a parishioner and remembers him. She also knew REDACTED as they both were in the parish youth choir. REDACTED played the flute in the choir. This was after REDACTED graduated from high school and before she went into the convent. After she left the convent REDACTED re-joined the group. Before REDACTED graduated from high school and joined the choir she worked in the rectory part-time answering the telephones and the door. This was on the weekends and in the early evenings. A search of pay records failed to locate any for REDACTED, which make REDACTED believe that since she was part-time she was paid in cash and no records were maintained. REDACTED described REDACTED as a needy person who had a troubled family life. She seemed lonely and REDACTED's family was uninvolved with her activities. REDACTED also said that REDACTED has had financial problems for years. Less than two years after leaving the convent REDACTED was married and it might have been to the first person she dated. REDACTED did not believe the marriage lasted four years and REDACTED had three daughters as a result of it. REDACTED told REDACTED that her husband was having an affair and that after the divorce she felt like a failure again and questioned where to go from there. REDACTED never mentioned Fernando to her or anyone else as far as she knows. She remembered Fernando as a gentle, reserved, docile person

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REDACTED and felt if anything did occur between REDACTED and him she probably instigated it. If he made any advances on her REDACTED feels REDACTED would have told someone. She cannot recall any birthday or any other type party for REDACTED in the rectory. She has not seen REDACTED in over a year and does not know where she is living or if she is employed. She does know one of her daughters has a serious health problem. Her daughters went to Saint Hilary's school at one time. REDACTED was the parish secretary in 1981 but she is now very elderly and feeble. In 1985 REDACTED became the parish secretary and REDACTED later met her when both had children in school at Saint Hilary's. REDACTED is the current parish business manager and does not know REDACTED personally but requested REDACTED locate old pay roll records for her. She does not know who asked REDACTED to provide them. She also checked parish records dating back to 1981 for vehicles, expenses, retreats, training or anything else regarding Fernando with negative results. The only thing she could locate from that time period were Sunday parish bulletins. The full time rectory employee at that time was REDACTED who is now deceased. REDACTED REDACTED also worked as a junior, or part-time, secretary the same time that REDACTED did and she also played guitar in the youth choir. She might be able to provide some information. REDACTED mother REDACTED was the housekeeper in 1981 and is now 84 years old and residing at Nazareth House. She might remember something, as she knew both REDACTED and Fernando. She frequently talked to REDACTED and was fond of her and never mentioned to REDACTED that REDACTED had a relationship with a priest. Her mother was the only person other than the priests that was allowed in their private quarters and she would not allow anyone else to violate their space.

On January 20, 2004, the Saint Hilary's Sunday Parish Bulletins for 1981 were reviewed. The March 8th one welcomed Fernando to the parish. On April 26 his name is listed on the cover as a parish priest. On November 29th it announces he is being transferred to Saint John's. On December 13th he is no longer named on the cover as a parish priest. The bulletins for that year indicate that Father REDACTED was the pastor and that associate pastors were Father REDACTED and Father REDACTED is deceased and REDACTED left the Archdiocese May 23, 1985, apparently to return to his Diocese in Enugu, Nigeria. Parish records reflect REDACTED married REDACTED on February 21, 1987, and the marriage was declared null and void on April 12, 1994.

On January 16, 2004, Father REDACTED at Our Lady of the Rosary Church, was telephonically contacted. He advised that he was an associate pastor at Saint Hilary's in 1981 and remembers Father Walter Fernando there. He recalled Fernando as a hard working priest that was very gentle and quiet and definitely never saw him do anything of a suspicious nature. He could not remember anyone in the parish that Fernando was particularly close to. He had recently come from Sri Lanka and he socialized with other Sri Lankan priests on his day off. He recalls that they came to pick him up and that they would go to various places in the area. He cannot recall if Fernando was assigned a vehicle but believes that he probably was. He did not recall when Fernando's vacation was or if he took a parish car when he went. He did not remember REDACTED

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On January 21, 2004, Sister REDACTED principal of Saint Hilary's School was telephonically contacted. She advised that REDACTED did not attend Saint Hilary's School but that her children did for a period of time. She knew her as a parent of a student and nothing more. Her children were withdrawn from the school she believes for financial reasons.

On January 21, 2004, REDACTED business manager, Saint Hilary's Church, was telephonically contacted. She advised she does not know Father Walter Fernando or REDACTED She learned of REDACTED name in this matter from her pastor and advised that a state agency had requested payroll records for REDACTED in July 2003 but there were no records.

On January 21, 2004, REDACTED was interviewed at Nazareth House. She advised that she was the housekeeper at the rectory of Saint Hilary's Church when Father Walter Fernando was assigned there. He was a very quiet nice man who she liked a lot. He related well to the parishioners and they liked him. REDACTED was a junior secretary in the rectory and answered the telephone and the front door. She was in high school and worked part-time. She was a hard worker and helped to support her family. Before she entered the convent she discussed it with Father REDACTED d he later told REDACTED that he did not think she would make it in religious life. REDACTED s now an interpreter in the court system in Los Angeles and she believes that REDACTED continues to help support her parents. She knew of no connection between Fernando and REDACTED Nobody was allowed in the priests' quarters but her, not even the parish secretary. She did not remember any type party for REDACTED in the rectory.

REDACTED

On January 21, 2004, REDACTED EDACTED (retired), was interviewed at the Nazareth House. He remembered Father Walter Fernando as one of his associate pastors at Saint John's and that he was an excellent, obedient young man. He was given the hospital ministry and worked very hard at it. He has no recollection of anything that would reflect poorly upon Fernando. The only female he remembers visiting Fernando was another Sri Lankan. He characterized him as "one of my prized young men."

On January 21, 2004, Father REDACTED was telephonically interviewed. He is currently pastor of Saint Bernardine of Siena Church and was an associate pastor at Saint John's in 1981 when Father Walter Fernando arrived. He was a very reserved gentleman and he was never suspicious of Fernando for any reason. He has called appropriate people for the activities of others over the years but not Fernando. He cannot recall any parishioners from Saint Hilary's visiting Fernando at Saint John's.

On January 21, 2004, Monsignor Timothy J. Dyer, Pastor of Nativity Church, was telephonically interviewed and advised he was the Vicar for Clergy in 1990 and 1992 when Father Walter Fernando was transferred from Cathedral Chapel and Saint Gregory the Great Churches after what appears to be abbreviated stays. He could not recall why these transfers were made but is certain that if there was a serious problem behind them it would be noted in Fernando's file.

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REDACTED

On January 22, 2004, a meeting was held with LAPD Lieutenant Dennis Shirey, Officer in Charge of the Juvenile Division and LAPD Officer James Brown senior detective of the cleric abuse task force. They advised they were not at liberty to release any portions of their case relating to Father Walter Fernando including the transcript of the monitored telephone call between Fernando and REDACTED . This would be against their policy and could be harmful to a future case if another victim comes forward since the REDACTED case can be used for corroboration. Due to the Stogner Decision Fernando will not be prosecuted in this matter but Brown opined that the telephone call corroborated REDACTED 's claims. Brown will contact Deputy District Attorney William Hodgeman to obtain his opinion on allowing the transcript of the call to be viewed by the Archdiocese and advise once this decision is made.

On January 15, 2004, Sister REDACTED for Women Religious, advised in a memo that REDACTED entered the Daughters of Saint Paul in January 1983. After her postulancy she became a novice and then left the community on March 27, 1985.

On January 17 and 18, 2004, a statement was read at all week end Masses at Saint Hillary's that Father Walter Fernando was named in a law suit accusing him of sexual abuse while assigned to that parish. It requested any parishioner with information regarding this matter to contact the Archdiocese and left Monsignor Craig A. Cox's telephone number. No contact has been made.

On January 21, 2004, REDACTED parish secretary at Saint Hilary's from 1983 until 1998 advised that she had no information of value relating to this matter.

The February 2003 issue of the Los Angeles Lay Catholic Mission contains an article stating that the January 2nd Los Angeles Times named REDACTED as a sexual abuse victim handing out leaflets at the Sherman Oaks Galleria. The pamphlets informed victims of sexual abuse by priests that they could bring suit against perpetrators for the duration of 2003 and urged them to contact the Church.

On January 27, 2004, REDACTED the Auxiliary Bishop of Colombo, Sri Lanka, e-mailed Cox the following information. He has known Fernando since 1964 and they attended the seminary together. Between roughly September 5th and 18th 1981 he and Fernando traveled by car to the Grand Canyon. They also spent time in Flagstaff, Arizona, and Las Vegas, Nevada, on the trip which took four or five days. Fernando was assigned to Saint John Baptist de la Salle at the time.

A public records database search was done on REDACTED and provided no information of value in this matter.

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Analysis and Observations

This allegation was made 21 years after the act supposedly took place.

There are no independent witnesses named by REDACTED as having ever observed any of the alleged activities. Therefore much of the investigation set forth above revolves around character evaluation of the parties by those that knew them at that time as well as now.

REDACTED had a difficult childhood and as a young woman left religious life and had a failed acrimonious marriage.

She is raising three daughters at least one of which has a serious health problem.

She has had financial difficulties throughout her life.

REDACTED

Fernando was assigned to Saint Hilary's on March 1, 1981, and remained there until November 30, 1981.

Fernando did not drive for a couple of months after arriving at Saint Hilary's due to a lack of a valid driver's license. REDACTED

Although the LAPD advised that in their opinion Fernando corroborated REDACTED allegations in the recorded telephone call Officer Brown on another occasion said the call "seemed to corroborate her account."

REDACTED 's 18th birthday was August 7, 1981.

No other complaints have been lodged against Fernando.

These issues have a bearing on this analysis but without more information it cannot be determined at this time, with any level of certainty, whether the alleged activities took place or not.

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Timeline Regarding Father Walter Fernando

April 24, 1944...Walter Fernando born in Ragama, Sri Lanka

January 1, 1973...Fernando ordained for Diocese of Colombo, Sri Lanka

March 1, 1981...Fernando assigned to Saint Hilary's Parish, Pico Rivera

REDACTED REDACTED REDACTED 18th birthday

November 29, 1981...Fernando leaves Saint Hilary's

November 30, 1981...Fernando assigned to Saint John Baptist de la Salle, Granada Hills

January 1983... REDACTED enters convent

March 27, 1985... REDACTED leaves convent

February 24, 1986...Fernando incardinated in Los Angeles

July 31, 1986...Fernando leaves Saint John's

August 1, 1986...Fernando assigned to Saint Rose of Lima, Simi Valley

December 23, 1987.. REDACTED marries REDACTED at Saint Hilary's

July 1, 1990...Fernando leaves Saint Rose

July 2, 1990...Fernando assigned Cathedral Chapel, Los Angeles

June 12, 1991... REDACTED and REDACTED file for divorce

May 2, 1992...Fernando leaves Cathedral Chapel

May 3, 1992...Fernando assigned Saint Gregory the Great, Whittier

June 30, 1992...Fernando leaves Saint Gregory

July 1, 1992...Fernando assigned Assumption of the Blessed Virgin Mary, Pasadena

April 12, 1994 REDACTED marriage declared null and void by Catholic Church

April 2002... REDACTED reports molestation to LAPD

May 2002.. REDACTED makes monitored telephone call to Fernando

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June 13, 2002...Fernando advises Monsignor Craig A. Cox LAPD wants to talk to him

August 18, 2002...Los Angeles Times article names Fernando as being under investigation

August 30, 2002...Officer Dale Barraclough advises Sister REDACTED LAPD has open case on Fernando

January 1, 2003..REDACTED identified in Los Angeles Times as abuse victim per February edition of the Los Angeles Lay Catholic Mission

January 1, 2003..REDACTED appears on list of plaintiffs

January 22, 2003...CMOB discusses matter but has few facts and takes no action

February 12, 2003...Fernando interviewed by Cox and Father REDACTED

March 7, 2003...Fernando sends Cox letter denying most serious charges

March 26, 2003...CMOB discusses matter and requests more information be obtained

May 8, 2003...Fernando sends second letter to Cox denying all allegations

January 14, 2004...L.A. Times article details case against Fernando and that he is still in ministry

January 14, 2004...CMOB discusses matter and requests expedited investigation

FERNANDO CASE

Promotoris Iustitiae Notes/Analysis/Recommendations

REDACTED — 21 Mar 07

ESSENTIAL TIMELINE

07 Aug 63: birthdate of REDACTED ; she turned 16 on REDACTED, after which time she is no longer a minor in canon law; she turned 18 on 7 Aug 81, after which time she is no longer a minor in civil law.

01 Feb 81: Father Walter Fernando (WF) arrives in Los Angeles from Sri Lanka and receives hospitality at Immaculate Conception parish in Los Angeles.

01 Mar 81: WF begins assignment at St. Hilary's in Pico Rivera, serving there nine months, through 29 Nov 81.

24 May 02: police record phone conv. betw. REDACTED and WF in which WF appears to admit that sexual activity took place betw. him and REDACTED wher REDACTED was 17 years old (cf. documentation sent to CDF [d/CDF], pp. 102-103).

13 Jun 02: having learned that police detectives wished to talk with him, WF contacts Vicar for Clergy (V/C) seeking advice, as he thinks the matter might involve a situation from some 20 years earlier when he "crossed boundaries" with a young female parishioner (d/CDF, 1).

07 Mar 03: WF puts into writing categorical denial of REDACTED's claims that he put his "finger in her vagina, masturbated her, and attempted to force her into oral sex" (d/CDF, 16).

25 Apr 03: CMOB reports class-action lawsuit listing WF as having sexually abused a young girl in 1980-1981; WF denied allegations in writing, CMOB instructed V/C to obtain further info., incl. girl's age at time of alleged abuse (d/CDF, 17).

08 May 03: WF puts into writing denial of "having had any sexual activity with Ms. REDACTED Although I do not know what allegations she might allege in the future, I absolutely affirm that I have obeyed my vow of celibacy" (d/CDF, 18).

09 Dec 03: lawsuit filed by REDACTED claiming sexual abuse by WF when REDACTED was a minor (d/CDF, 19-40).

14 Jan 04: CMOB seeks further info.; reports that it will not hesitate to recommend adm. leave if credible info. warranting such action is presented (d/CDF, 44-45).

16 and 17 Jan 04: canonical auditor (c/aud) interviews Father REDACTED (no relation to WF) who has known WF for about 35 years, since their seminary days in Sri Lanka. Fr. REDACTED reported that he spent a good deal of time w/WF after WF's arrival in Los Angeles; he and his brother, Fr. REDACTED would spend each Wed., their day off, with WF. He reports that WF did not have a driver's license for several months after arriving in L.A. and so he and his brother drove WF around. Fr. REDACTED does not recall any parishioners at St. Hilary's to whom WF may have been close, nor does the name REDACTED mean anything to him, nor does he recall WF ever mentioning St. Hilary parishioners visiting WF while WF was at St. John Baptist De La Salle in Granada Hills. He was very surprised to learn of the accusations against WF, as he does not believe WF would force himself on anyone or violate his vows.

20 Jan 04: c/aud interviews Father REDACTED brother to Father REDACTED immediately above but no relation to WF, who remembers that WF stayed at Immaculate Conception when he first arrived in L.A., he was then assigned to St. Hilary's. He reports that WF did not drive at that time, since he didn't have a CA driver's license, and so Fr. REDACTED nd his brother would pick WF up each Wed. and the three would spend their day off together. He has no recollection of WF ever mentioning REDACTED or any other parishioner from St. Hilary's, nor does he recall WF ever mention-

ing a St. Hilary's parishioner visiting him after he was transferred from St. Hilary's. He was surprised to learn of the allegations against WF, as he believes WF to be a gentleman with a good reputation who would not commit indiscretions.

23 Jan 04: report of c/aud that REDACTED was born on 7 Aug 1963, that WF was at St. Hilary's 1 Mar 81 – 29 Nov 81, that there are no indepndt witnesses to corroborate REDACTED s allegations, that police recorded a telephone conversation betw. REDACTED and WF which, according to police, corroborates REDACTED 's account, (d/CDF, 63).

29 Jan 04: report of c/aud that sometime betw. 2000 and 2002 REDACTED confided to a friend that WF "had abused their relationship"; this friend does not think that REDACTED would lie about such a thing, nor, however, did it occur to this friend that the "abuse" was sexual, she presumed it to be something like betraying a confidence (d/CDF, 73-74).

08 Feb 04: c/aud's report of interview with REDACTED states that she was 17 at time of relationship w/WF (d/CDF, 80-86); report submitted to REDACTED and her lawyer for final corrections (d/CDF, 91-94).

17 Feb 04: CMOB recommends adm. leave for WF; REDACTED s account of events appears credible, despite WF's denials (d/CDF, 95-96).

19 Feb 04: WF is placed on adm. leave (d/CDF, 97).

22 Sep 04: c/aud listens to police recording of phone conversation betw REDACTED and WF, made on 24 May 02; on tape, WF says he remembers kissing REDACTED but doesn't remember showing her his penis; WF states that he thought REDACTED was 19 years old; he admitted feeling love for her; he recalled rubbing her breast and admitted to kissing her breasts; he told her that he confessed his sins in this matter and asked her for her forgiveness; he stated that he wanted to remain a priest and asked her to keep this betw. them; tape appears to confirm that something of a sexual nature transpired betw. them (d/CDF, 102-103).

24 Sep 04: WF's canonical advisor (c/adv) writes to REDACTED raising substantive doubt as to whether any of the behavior alleged by REDACTED took place before she was 18; basis of doubt hinges on when WF obtained his REDACTED CA driver's license and began to drive, since virtually all of alleged abuse involved WF driving REDACTED to some location.

09 Nov 04: Card. Mahony sends documentation regarding WF case to CDF seeking advice, since the prelim. investigation established the semblance of truth in REDACTED allegations that, when she was 17 years old, she was sexually abused by WF; the difficulties of the case include the fact that, if the accusations are true, REDACTED would not have been a minor in canon law, although she would have been a minor in civil law.

04 Jul 05: CDF responds to Card. Mahony advising him that since the case does not involve a reserved *gravius delictum*, no special authorization is needed for him to evaluate the merits of the case and act accordingly.

✓ **09 Nov 05**: WF's c/adv writes to V/C expressing concern at V/C's proposal to engage in further "fact-finding" investigation while the civil lawsuit by REDACTED is pending; he suggests that the status quo — i.e. WF's continuing adm. leave w/residence at St. Basil's and no further action on the part of the Archdiocese — should be preserved until the conclusion of the civil suit.

✓ **19 Dec 05**: WF's c/adv writes to V/C expressing concern that doubt exists as to whether REDACTED was under 18 years of age when the alleged abuse took place and objects to any "fact-finding" on the part of the Archdiocese until it is proven that REDACTED was in fact under 18.

✓ **06 Nov 06**: WF's c/adv writes to V/C complaining of delay in acting on case and asks why WF is still out of ministry; c/adv also asks what action the Archdiocese intends to take in the case.

15 Dec 06: V/C writes to WF's c/adv explaining that, in agreement with what the c/adv had written in his letter of 9 Nov 05, the Archdiocese also felt that it was in the best interest of all concerned to preserve the status quo w/regard to WF (i.e. adm. leave and residence at St. Basil's) until the civil suit

REDACTED

should be concluded; at the opportune time, the serious question of WF's suitability for ministry will be properly dealt with.

QUESTION OF [REDACTED] AGE AT TIME OF ALLEGED ABUSE

The only direct testimony in this regard comes from [REDACTED] and is consistent in the assertion that she was under 18 at the time the alleged abuse began; rebuttal testimony comes from WF through his c/adv.

[REDACTED]**'s civil complaint**, filed on 9 Dec 03: [REDACTED] claims that "when she was a minor" she suffered "acts of sexual abuse and molestation" from WF, which included "French kissing, hugging, fondling of Plaintiff's buttocks over her clothes, rubbing and massaging Plaintiff's breasts and body, kissing Plaintiff's neck, face and breasts, digital vaginal penetration, forced masturbation of the Perpetrator, attempted forced oral copulation" (lawsuit, section 8.1).

mediation documentation, signed and sworn by [REDACTED] on 15 Apr 04: [REDACTED] states that she was 17 when abuse began, and to the best of her recollection it began when WF "first came to St. Hilary"; she states unequivocally that WF "sexually abused me on multiple occasions, up to and beyond my 18th birthday" (mediation document, section 4,a,v); [REDACTED] does state that the digital penetration of her vagina by WF may have occurred after she turned 18 (*ibid.*, section 4,c), and that the touching of her breasts skin-to-skin, kissing them and touching other parts of her body skin-to-skin did occur after she was 18 (*ibid.*); [REDACTED] s clear recollection is that the other acts alleged occurred when she was under the age of 18.

interview of [REDACTED] by c/aud, 30 Jan 04, revised report w/changes made by [REDACTED] and her lawyer: [REDACTED] states that while she "was still in high school" WF took her to a movie, towards the end of which he "put his hand on her breast and began to rub it"; at the movie's conclusion, he gave her a kiss on the lips; following the incident at the movie theater, and again while [REDACTED] "was still in high school," she was with WF in a parked car and he laid his head in her lap, pulled her head down towards him and gave her a long kiss, putting "his tongue in her mouth"; on another occasion, once more while [REDACTED] "was still in high school," WF took her to Legg Park where he kissed her and fondled her, placing his hand inside her blouse and bra "so he was rubbing the skin of her breast"; another time at Legg Park, while [REDACTED] was still in high school, she was with WF in his parked car, it was evening and WF unzipped his pants, exhibited his erect penis and tried to force [REDACTED] to orally copulate him, but she would not and so he took her hand, placed it around his penis and, with his hand clasped over hers, masturbated until he ejaculated; during this interview, [REDACTED] also related sexual behavior that occurred betw. her and WF after she had turned 18, and recounted, w/great difficulty, the account of WF digitally penetrating her vagina — she was unable to recall whether this occurred before or after she had turned 18.

letter from WF's c/adv, 24 Sep 04: the c/adv claims that [REDACTED] s statements that WF would take her driving "in the spring, while I was still in high school" cannot be true, as WF had no car and no driver's license in the spring while [REDACTED] was still in high school; the c/adv states that WF went out with [REDACTED] only once, on a shopping trip to a mall, during which outing they also went to a movie — this outing took place after WF had left St. Hilary's and hence after [REDACTED] had turned 18; the c/adv states that [REDACTED] was never in WF's quarters at St. John Baptist De La Salle, Granada Hills

ALLEGATIONS OF ABUSIVE BEHAVIOR AFTER [REDACTED] WAS 18 YEARS OLD

In her 30 Jan 04 interview with c/aud [REDACTED] stated that after WF had been transferred to St. John the Baptist De La Salle in Granada Hills, and hence after she had turned 18, he picked her up at her house and drove her out to his new parish. He brought her into a private sitting room in the rectory, from which there was a door leading to his bedroom; they remained in the sitting room and she played her flute. He brought her to the rectory a second time and this time they entered WF's bedroom, where he had her disrobe, kissed her breasts, sucked her nipples and lay on top of her on the bed and side-by-side; he did not undress but she could feel his erection; she asked him why he did not undress and he replied that he didn't want her to become pregnant. She also met some of his Sri Lankan priest friends but never spoke with

them. She estimated that she traveled to Granada Hills a total of about ten times and that similar activity took place betw. herself and WF each time. She also described her recollection of the rectory layout (the rear entrance and WF's quarters).

WF, through his c/adv, denies that REDACTED was ever in his quarters at the rectory of St. John Baptist De La Salle in Granada Hills.

The c/aud performed an on-grounds inspection of the rectory area described by REDACTED with the Business Manager at St. John Baptist De La Salle parish; the description given by REDACTED is very accurate.

On 5 Feb 04 Father REDACTED at St. John Baptist De La Salle parish when WF arrived there in 1981, was contacted by the c/aud and described the quarters that had been assigned to WF — his description matches that given by REDACTED s name held no meaning for Fr. REDACTED REDACTED

ADMISSIONS MADE BY WF

The only admission made by WF of any inappropriate behavior w/ REDACTED is purportedly found on the recorded telephone conversation that took place betw. him and REDACTED on 24 May 02. The c/aud listened to this tape and reported that WF says he remembers kissing REDACTED admits feeling love for her, recalls rubbing and kissing her breasts. The c/aud portrays REDACTED attitude during the call as that of someone who was hurt and troubled by indiscretions committed by WF, and WF's attitude as that of someone who was repentant and wanted forgiveness from the person he had wronged; this forgiveness was given and WF was relieved. WF told REDACTED that he wanted to be a priest and asked her to keep this betw. them. The c/aud observes that WF admits certain of the behavior alleged by REDACTED and that while he does not recall other behavior, e.g. showing REDACTED his penis and forced masturbation, he does not deny this behavior.

FURTHER QUESTIONS

When did WF obtain his driver's license?

The significance of this question arises in light of c/adv's remarks that WF "had no car and no license in spring [1981] when she REDACTED *was still in high school"; that WF "did not obtain his driver's license till the summertime," hence he could not then have been driving her* REDACTED *around 'in the spring when she was still in high school', and still 17";* REDACTED *turned 18 on 7 Aug 81 (ltr,* REDACTED *to Cox, 24 Sep 04).*

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(3) whether this is a particular case calling for the ordinary to pass judgment regarding the obligation to observe perfect and perpetual continence (canon 277 §3);

(4) whether an act of sexual abuse of a minor (in civil law) has been committed, wherefore the *reus* is to be removed permanently from ecclesiastical ministry (US Essential Norms, article 8; **NB**: the expiration of prescription, as in nos. 1 and 2 above, probably needs to be taken into account here as well);

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Since WF's case does not involve a *gravius delictum*, and since any delict he may have committed is no longer subject to criminal action because of the expiration of prescription, there can be no penal process initiated against him. He therefore will not need the services of a canonical advocate, and authorization for bills from his current c/adv to be sent directly to V/C for payment may be withdrawn. Should WF wish to continue to avail himself of the services of his present c/adv, he is free to make such arrangements personally; otherwise, the Archdiocese can arrange for a qualified canonist to provide him with the counsel he might need as his case is brought to a conclusion.

RECOMMENDATIONS

With a view to moving WF's case to a definitive resolution while upholding the public good, the following recommendations are made:

(1) WF should be interviewed *quam primum* with regard to every aspect of his case, since direct statements from him will prove invaluable for resolving many of the issues and questions that remain, and will also prove useful in properly evaluating the claims advanced by [REDACTED];

(2) WF should be advised that, whereas the V/C has up till now paid the bills for consultation submitted by his c/adv (a total of $12,836.64 as of 25 Jan 07; cf. APPENDIX below, "C/Adv Bills in WF Case"), future costs will be his responsibility; if he cannot afford the fees charged by the c/adv he has engaged, he may consult the V/C so that arrangements may be made for him to receive the canonical counsel suited to his needs;

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(4) all c/aud reports should be carefully reviewed to determine whether possible follow-up may be useful.

APPENDIX: bills paid by Archdiocese to [REDACTED] in Fernando case

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TOTAL:	**12,836.64**

FERNANDO CASE

Promotoris Iustitiae Notes/Analysis/Recommendations

REDACTED – 21 Mar 07

ESSENTIAL TIMELINE

07 Aug 63: birthdate of REDACTED ; she turned 16 on 7 Aug 79, after which time she is no longer a minor in canon law; she turned 18 on 7 Aug 81, after which time she is no longer a minor in civil law.

01 Feb 81: Father Walter Fernando (WF) arrives in Los Angeles from Sri Lanka and receives hospitality at Immaculate Conception parish in Los Angeles.

01 Mar 81: WF begins assignment at St. Hilary's in Pico Rivera, serving there nine months, through 29 Nov 81.

24 May 02: police record phone conv. betw. and WF in which WF appears to admit that sexual activity took place betw. him and when was 17 years old (cf. documentation sent to CDF [d/CDF], pp. 102-103).

13 Jun 02: having learned that police detectives wished to talk with him, WF contacts Vicar for Clergy (V/C) seeking advice, as he thinks the matter might involve a situation from some 20 years earlier when he "crossed boundaries" with a young female parishioner (d/CDF, 1).

07 Mar 03: WF puts into writing categorical denial of ; claims that he put his "finger in her vagina, masturbated her, and attempted to force her into oral sex" (d/CDF, 16).

25 Apr 03: CMOB reports class-action lawsuit listing WF as having sexually abused a young girl in 1980-1981; WF denied allegations in writing, CMOB instructed V/C to obtain further info., incl. girl's age at time of alleged abuse (d/CDF, 17).

08 May 03: WF puts into writing denial of "having had any sexual activity with Ms. . Although I do not know what allegations she might allege in the future, I absolutely affirm that I have obeyed my vow of celibacy" (d/CDF, 18).

09 Dec 03: lawsuit filed by claiming sexual abuse by WF when was a minor (d/CDF, 19-40).

14 Jan 04: CMOB seeks further info.; reports that it will not hesitate to recommend adm. leave if credible info. warranting such action is presented (d/CDF, 44-45).

16 and 17 Jan 04: canonical auditor (c/aud) interviews Father REDACTED (no relation to WF) who has known WF for about 35 years, since their seminary days in Sri Lanka. Fr. REDACTED reported that he spent a good deal of time w/WF after WF's arrival in Los Angeles; he and his brother, Fr. REDACTED would spend each Wed., their day off, with WF. He reports that WF did not have a driver's license for several months after arriving in L.A. and so he and his brother drove WF around. Fr. REDACTED does not recall any parishioners at St. Hilary's to whom WF may have been close, nor does the name AP mean anything to him, nor does he recall WF ever mentioning St. Hilary parishioners visiting WF while WF was at St. John Baptist De La Salle in Granada Hills. He was very surprised to learn of the accusations against WF, as he does not believe WF would force himself on anyone or violate his vows.

20 Jan 04: c/aud interviews Father REDACTED brother to Father REDACTED immediately above but no relation to WF, who remembers that WF stayed at Immaculate Conception when he first arrived in L.A., he was then assigned to St. Hilary's. He reports that WF did not drive at that time, since he didn't have a CA driver's license, and so Fr. REDACTED and his brother would pick WF up each Wed. and the three would spend their day off together. He has no recollection of WF ever mentioning or any other parishioner from St. Hilary's, nor does he recall WF ever mention-

ing a St. Hilary's parishioner visiting him after he was transferred from St. Hilary's. He was surprised to learn of the allegations against WF, as he believes WF to be a gentleman with a good reputation who would not commit indiscretions.

23 Jan 04: report of c/aud that REDACTED was born on REDACTED that WF was at St. Hilary's 1 Mar 81 – 29 Nov 81, that there are no indepndt witnesses to corroborate REDACTED's allegations, that police recorded a telephone conversation betw. REDACTED and WF which, according to police, corroborates REDACTED's account, (d/CDF, 63).

29 Jan 04: report of c/aud that sometime betw. 2000 and 2002 REDACTED confided to a friend that WF "had abused their relationship"; this friend does not think that REDACTED would lie about such a thing, nor, however, did it occur to this friend that the "abuse" was sexual, she presumed it to be something like betraying a confidence (d/CDF, 73-74).

08 Feb 04: c/aud's report of interview with REDACTED states that she was 17 at time of relationship w/WF (d/CDF, 80-86); report submitted to REDACTED and her lawyer for final corrections (d/CDF, 91-94).

17 Feb 04: CMOB recommends adm. leave for WF; REDACTED's account of events appears credible, despite WF's denials (d/CDF, 95-96).

19 Feb 04: WF is placed on adm. leave (d/CDF, 97).

22 Sep 04: c/aud listens to police recording of phone conversation betw. REDACTED and WF, made on 24 May 02; on tape, WF says he remembers kissing REDACTED but doesn't remember showing her his penis; WF states that he thought REDACTED was 19 years old; he admitted feeling love for her; he recalled rubbing her breast and admitted to kissing her breasts; he told her that he confessed his sins in this matter and asked her for her forgiveness; he stated that he wanted to remain a priest and asked her to keep this betw. them; tape appears to confirm that something of a sexual nature transpired betw. them (d/CDF, 102-103).

24 Sep 04: WF's canonical advisor (c/adv) writes to V/C raising substantive doubt as to whether any of the behavior alleged by REDACTED took place before she was 18; basis of doubt hinges on when WF obtained his CA driver's license and began to drive, since virtually all of alleged abuse involved WF driving REDACTED to some location.

09 Nov 04: Card. Mahony sends documentation regarding WF case to CDF seeking advice, since the prelim. investigation established the semblance of truth in REDACTED's allegations that, when she was 17 years old, she was sexually abused by WF; the difficulties of the case include the fact that, if the accusations are true, AP would not have been a minor in canon law, although she would have been a minor in civil law.

04 Jul 05: CDF responds to Card. Mahony advising him that since the case does not involve a reserved *gravius delictum*, no special authorization is needed for him to evaluate the merits of the case and act accordingly.

09 Nov 05: WF's c/adv writes to V/C expressing concern at V/C's proposal to engage in further "fact-finding" investigation while the civil lawsuit by REDACTED is pending; he suggests that the status quo — i.e. WF's continuing adm. leave w/residence at St. Basil's and no further action on the part of the Archdiocese — should be preserved until the conclusion of the civil suit.

19 Dec 05: WF's c/adv writes to V/C expressing concern that doubt exists as to whether REDACTED was under 18 years of age when the alleged abuse took place and objects to any "fact-finding" on the part of the Archdiocese until it is proven that REDACTED was in fact under 18.

06 Nov 06: WF's c/adv writes to V/C complaining of delay in acting on case and asks why WF is still out of ministry; c/adv also asks what action the Archdiocese intends to take in the case.

15 Dec 06: V/C writes to WF's c/adv explaining that, in agreement with what the c/adv had written in his letter of 9 Nov 05, the Archdiocese also felt that it was in the best interest of all concerned to preserve the status quo w/regard to WF (i.e. adm. leave and residence at St. Basil's) until the civil suit

should be concluded; at the opportune time, the serious question of WF's suitability for ministry will be properly dealt with.

QUESTION OF [redacted]'S AGE AT TIME OF ALLEGED ABUSE

The only direct testimony in this regard comes from [redacted] and is consistent in the assertion that she was under 18 at the time the alleged abuse began; rebuttal testimony comes from WF through his c/adv.

[redacted]**'s civil complaint**, filed on 9 Dec 03: [redacted] claims that "when she was a minor" she suffered "acts of sexual abuse and molestation" from WF, which included "French kissing, hugging, fondling of Plaintiff's buttocks over her clothes, rubbing and massaging Plaintiff's breasts and body, kissing Plaintiff's neck, face and breasts, digital vaginal penetration, forced masturbation of the Perpetrator, attempted forced oral copulation" (lawsuit, section 8.1).

mediation documentation, signed and sworn by [redacted] on 15 Apr 04: [redacted] states that she was 17 when abuse began, and to the best of her recollection it began when WF "first came to St. Hilary"; she states unequivocally that WF "sexually abused me on multiple occasions, up to and beyond my 18th birthday" (mediation document, section 4,a,v); [redacted] does state that the digital penetration of her vagina by WF may have occurred after she turned 18 (*ibid.*, section 4,c), and that the touching of her breasts skin-to-skin, kissing them and touching other parts of her body skin-to-skin did occur after she was 18 (*ibid.*); [redacted] clear recollection is that the other acts alleged occurred when she was under the age of 18.

interview of [redacted] by c/aud, 30 Jan 04, revised report w/changes made by [redacted] nd her lawyer: [redacted] states that while she "was still in high school" WF took her to a movie, towards the end of which he "put his hand on her breast and began to rub it"; at the movie's conclusion, he gave her a kiss on the lips; following the incident at the movie theater, and again while [redacted] "was still in high school," she was with WF in a parked car and he laid his head in her lap, pulled her head down towards him and gave her a long kiss, putting "his tongue in her mouth"; on another occasion, once more while [redacted] "was still in high school," WF took her to Legg Park where he kissed her and fondled her, placing his hand inside her blouse and bra "so he was rubbing the skin of her breast"; another time at Legg Park, while [redacted] was still in high school, she was with WF in his parked car, it was evening and WF unzipped his pants, exhibited his erect penis and tried to force [redacted] to orally copulate him, but she would not and so he took her hand, placed it around his penis and, with his hand clasped over hers, masturbated until he ejaculated; during this interview, [redacted] also related sexual behavior that occurred betw. her and WF after she had turned 18, and recounted, w/great difficulty, the account of WF digitally penetrating her vagina — she was unable to recall whether this occurred before or after she had turned 18.

letter from WF's c/adv, 24 Sep 04: the c/adv claims that [redacted] s statements that WF would take her driving "in the spring, while I was still in high school" cannot be true, as WF had no car and no driver's license in the spring while [redacted] was still in high school; the c/adv states that WF went out with [redacted] only once, on a shopping trip to a mall, during which outing they also went to a movie — this outing took place after WF had left St. Hilary's and hence after [redacted] had turned 18; the c/adv states that [redacted] was never in WF's quarters at St. John Baptist De La Salle, Granada Hills

ALLEGATIONS OF ABUSIVE BEHAVIOR AFTER [redacted] WAS 18 YEARS OLD

In her 30 Jan 04 interview with c/aud [redacted] stated that after WF had been transferred to St. John the Baptist De La Salle in Granada Hills, and hence after she had turned 18, he picked her up at her house and drove her out to his new parish. He brought her into a private sitting room in the rectory, from which there was a door leading to his bedroom; they remained in the sitting room and she played her flute. He brought her to the rectory a second time and this time they entered WF's bedroom, where he had her disrobe, kissed her breasts, sucked her nipples and lay on top of her on the bed and side-by-side; he did not undress but she could feel his erection; she asked him why he did not undress and he replied that he didn't want her to become pregnant. She also met some of his Sri Lankan priest friends but never spoke with

them. She estimated that she traveled to Granada Hills a total of about ten times and that similar activity took place betw. herself and WF each time. She also described her recollection of the rectory layout (the rear entrance and WF's quarters).

WF, through his c/adv, denies that REDACTED was ever in his quarters at the rectory of St. John Baptist De La Salle in Granada Hills.

The c/aud performed an on-grounds inspection of the rectory area described by REDACTED with the Business Manager at St. John Baptist De La Salle parish; the description given by REDACTED s very accurate.

On 5 Feb 04 Father REDACTED at St. John Baptist De La Salle parish when WF arrived there in 1981, was contacted by the c/aud and described the quarters that had been assigned to WF — his description matches that given by REDACTED 's name held no meaning for Fr. REDACTED REDACTED

ADMISSIONS MADE BY WF

The only admission made by WF of any inappropriate behavior w/ REDACTED is purportedly found on the recorded telephone conversation that took place betw. him and REDACTED on 24 May 02. The c/aud listened to this tape and reported that WF says he remembers kissing REDACTED , admits feeling love for her, recalls rubbing and kissing her breasts. The c/aud portrays REDACTED s attitude during the call as that of someone who was hurt and troubled by indiscretions committed by WF, and WF's attitude as that of someone who was repentant and wanted forgiveness from the person he had wronged; this forgiveness was given and WF was relieved. WF told REDACTED that he wanted to be a priest and asked her to keep this betw. them. The c/aud observes that WF admits certain of the behavior alleged by REDACTED , and that while he does not recall other behavior, e.g. showing REDACTED his penis and forced masturbation, he does not deny this behavior.

FURTHER QUESTIONS

When did WF obtain his driver's license?

The significance of this question arises in light of c/adv's remarks that WF "had no car and no license in spring [1981] when she [REDACTED] was still in high school"; that WF "did not obtain his driver's license till the summertime," hence he "could not then have been driving her REDACTED around 'in the spring when she was still in high school', and still 17"; REDACTED turned 18 on REDACTED (ltr, REDACTED 24 Sep 04).

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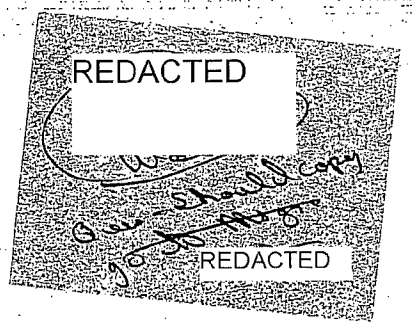

REDACTED

COPY

July 16, 2008

His Eminence Roger Cardinal Mahony
Archbisbop of Los Angeles
3424 Wilshire Boulevard
Los Angeles, CA 90010

Re: Father Walter Fernando

Dear Cardinal Mahony:

I am enclosing a copy of the Recourse I have today submitted to the Congregation for the Clergy on behalf of Father Fernando.

With continuing best wishes, remain

Yours, sincerely and respectfully,

REDACTED

REDACTED

July 14, 2008

His Eminence Claudio Cardinal Hummes, OFM
Prefect, Congregation for the Clergy
Piazza Pio XII, 3
000120 Vatican City

Re: Reverend Walter Fernando
Archdiocese of Los Angeles

RECOURSE/APPEAL TAKEN FROM ROGER CARDINAL MAHONY'S DENIAL OF THE PETITION FOR REINSTATEMENT OF FATHER WALTER FERNANDO

This Recourse is within the competence of the Congregation for the Clergy because it involves the rights of a priest and it has been determined by the Congregation for the Doctrine of the Faith that the case does not involve the delict of sexual abuse of a minor by a cleric.

Procedural History of the Case

Apr. 24, 1944 : Walter Fernando born in Sri Lanka

Jan. 25, 1973 : Father Fernanado ordained in Archdiocese of Colombo, Sri Lanka

Mar. 01, 1981 : Fr. Fernando given faculties and assigned as associate at St. Hilary's Church, Pico Rivera, California, Archdiocese of Los Angeles.

Feb. 24, 1986 : Incardinated into the Archdiocese of Los Angeles

Feb. 06, 2003 : Through her civil attorney, a woman named REDACTED , born on REDACTED accused Father Fernando of having sexually abused her in 1981 when she was a minor.

Feb. 19, 2004 : Father Fernando was removed from ministry and placed on Administrative leave.

Sept 1, 2004 : Father Fernando appoints REDACTED as his advocate/procurator

Nov. 16, 2004 : Fr. Fernando"s case sent to congregation for the Doctrine of the Faith

July 4, 2005 : Reply Decision of Congregation for the Doctrine of the Faith.

Jan.25, 2008 : Petition for Reinstatement of Father Fernando made to Cardinal Mahony, two and one half years after CDF's decidion and repeated requests, both verbal and written, for a disposition of the case according to CDF's decision and direction.

May 17, 2008: Cardinal Mahony denies the Petition for Reinstatement. Letter Decree Received by Procurator/Advocate on May 27, 2008.

May 31, 2008: Request for Reconsideration of his Denial made to Cardinal Mahony within ten canonical days prescribed by canon 1734. Mailed on June 3, 2008 by overnight mail.

July 03, 2008: Last day for Response to Request for Reconsideration. No response received. Request deemed denied by operation of law (canon 1735).

July 14, 2008: This Recourse from Denial of Petition for Restatement is taken to this Congregation for the Clergy in accordance with canon 1737 within the fifteen canonical days prescribed in canon 1737(2).

Documents Submitted With This Recourse

The following documents are incorporated in this Recourse to the Congregation for the Clergy. The information and arguments contained therein constitute the legal and factual reasons for which this Recourse should be granted and Father Fernando reinstated as an active priest in good standing.

1. The Petition for Reinstatement of Father Walter Fernando, dated February 25, 2008.

2. Cardinal Mahony's Denial of the Petition through the letter of Monsignor Gonzales, dated May 17, 2008.

3. Request dated May 31, 2008 for Reconsideration of Cardinal Mahony's Denial of Request for Reinstatement..

4. Statement for Weekend Masses regarding Father Fernando and the allegation against him, for weekend of January17-18, 2004.

   This statement announced in part that:

   a) "Fr. Fernando has denied any sexually abusive conduct with the person, and

   b) "Prior to this (allegation) there has never been any complaint about Father Fernando" – that is, in the twenty three years that he has served as a priest

in the Archdiocese of Los Angeles.

5. Letter/Decree placing Father Fernando on Administrative leave, dated Feb. 18, 2004.

6. Letter of Monsignor Cox confirming that the case was sent to CDF on Dec.16, 2004

7. Response for CDF dated July 4, 2005.

8. Letter of REDACTED to Monsignor Gonzales dated November 6, 2006.

9. Letter of Monsignor Gonzales to Mr. REDACTED dated December 15, 2006.

10. Letter of REDACTED to Monsignor Gonzales dated December 23, 2006.

11. Proofs of Archdiocesan receipt of Petition for Reinstatement and Petition for Reconsideration.

12. Mandate of Father Fernando.

Should the Congregation need or desire any other information or document which I can provide, I will be happy to supply it immediately.

Given on this 14th day of July, 2008
in San Francisco, California

Respectfully submitted,
REDACTED

A copy of this Recourse with all its attachments has been sent to
His Eminence Roger Cardinal Mahony
Archbishop of Los Angeles
3424 Wilshire Boulevard
Los Angeles, California 90010

REDACTED

February 25, 2008

His Eminence Roger Cardinal Mahony
Archbishop of Los Angeles
555 West Temple
Los Angeles, CA 90012

Re: Reverend Walter Fernando
CDF Prot. No. 599-21318

PETITION FOR REINSTATEMENT
OF
FATHER WALTER FERNANDO

This Petition is made under the provisions of Canons 57 and 1722 of the Code of Canon Law, Article 13 of *Sacramentorum Sanctitatis Tutela,* and Norms 6 and 13 of the *Essential Norms for Diocesan/Eparchial Policies Dealing With Allegations of Sexual Abuse of Minors by Priests or Deacons.*

This Petition is for a Decree declaring the termination of Father Walter Fernando's administrative leave and of the canon 1722 restrictions on priestly ministry imposed upon him on February 19, 2008, and reinstating him to active ministry.

Facts and Law

1. In 2003, a woman named REDACTED accused Father Fernando of having sexually abused her when she was a minor in 1981.

2. In accordance with the provisions of Part IV, *The Penal Process,* beginning with canon 1717, Article 13 of *SST* and Norm 6 of the *Essential Norms,* REDACTED Cardinal Mahony, commenced a penal process by initiating the preliminary investigation,

3. On February 19, 2004 REDACTED placed Father Fernando on administrative leave and prohibited him from exercising sacred priestly ministry. The Ordinary did so under the provisions of canon 1722 which empowers him to do so "at any stage of the process" for the reasons specified in that canon.

4. Because the allegation against Father Fernando involved a canonical *delict*

under canon 1395(2) which is reserved to the Congregation for the Doctrine of the Faith, Cardinal Mahony submitted the case to that Congregation as prescribed by Article 13 of *SST* and Norm 6 of the *Essential Norms*, on November 16, 2004.

5. The Congregation responded to the Cardinal on July 4, 2005 stating that the woman (Ms. REDACTED) "by her own admission was 17-18 years of age at the time of the alleged incidents in 1981." She was not, therefore a "minor" in 1981 according to the prevailing law.[1] Thus, the Congregation rightly concluded that "the matter cannot be considered as a *delictum gravius*" and, consequently was not a matter reserved to or referable to CDF. CDF's statement effectively decided that whatever Father Fernando is alleged to have done, he did not commit the *delict* of sexual abuse of a minor.[2]

6. This determination of CDF ended the penal process which had been initiated against Father Fernando based on Ms. REDACTED allegation. The allegation could no longer be considered the a *delict* subject to the provision of SST or the Essential Norms which alone justified the initiation of the penal process.[3]

7. Consequently, the reason for which canon 1722 restrictions on ministry were imposed ceased and were revoked by operation of law upon receipt of CDF's response, which effectively ended the penal process.

"If, however, the reason ceases, all these restrictions are to be revoked: they cease by virtue of the law itself as soon as the penal process ceases". Canon 1722.

The restrictions were temporary measures which could be imposed and maintained only "pending the outcome of the process". Norm 6, *Essential Norms*.

8. Norm 13 of the *Essential Norms* states that "When an accusation (of sexual abuse of minor) has been shown to be unfounded, every step possible will be taken to restore the good name of the person falsely accused". The fact that Ms. REDACTED was not a minor at the time of the alleged abuse, renders her allegation – that she was sexually abused *when a minor* - unfounded and required the implementation of Norm 13. Accordingly administrative leave should have ended and Father Fernando returned to ministry as the very first step necessary to restore his good name.

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[1] In 1981, Canon Law defined a minor as under sixteen years of age. There is, in fact, no proof that Ms REDACTED was even under the age of eighteen at the time. Ms. REDACTED herself cannot say for certain that she was: (Mediation Document, p. 10 , "To the best that I can recall0..." Ms. REDACTED turned eighteen on REDACTED

[2] The reinstatement of Father Fernando would not be contrary to the Cardinal's position that no priest who has committed even one act of sexual abuse *of a minor* is in active ministry.

[3] All offenses against the sixth commandment may be sins but not all of them constitute canonical crimes subject to a penal process and the imposition of canonical penalties. Only those sins committed in circumstances specifically described in the Code and *SST*, and declared to be canonical crimes, are subject to a penal process, administrative or judicial. Other offenses remain sins confined to the internal forum and not subject to inquiry or any manifestation of conscience. The essential circumstance in Ms. REDACTED allegation which would make the alleged sexual conduct a crime was that she was a minor. CDF confirmed that she was not.

PETITION FOR REINSTATEMENT, February 25, 2008, page three.

9. In the twenty seven-plus years during which Father Fernando has served the Archdiocese of Los Angeles as a priest, there has been no other allegation of sexual misconduct of any kind on his part except the 22- year-old allegation of REDACTED

From all that has been written above it is respectfully submitted the this Petition should be granted.

REDACTED

Given on this 25th day of February, 2008
at San Francisco, California

cc: Reverend Monsignor Gabriel Gonzales
Vicar for Clergy

Received May 27, 2008

Archdiocese of Los Angeles

Office of
Vicar for Clergy
(213) 637-7284

3424
Wilshire
Boulevard

Los Angeles
California
90010-2202

May 17, 2008

REDACTED

RE: Reverend Walter Fernando,
Petition for Reinstatement

Dear Mr. REDACTED

I am writing in the name of Cardinal Mahony in reply to your Petition of February 25 last seeking the termination of Father Walter Fernando's administrative leave and his reinstatement to active ministry.

Your request cannot be granted at this time. Father Fernando's case is currently pending before our Clergy Misconduct Oversight Board (CMOB), which, based on the facts of the case, will make a recommendation to Cardinal Mahony as to whether Father Fernando should be returned to active ministry. CMOB should be ready to review the case at its June meeting, after which it will make its recommendation. His Eminence will then make his decision as to whether Father Fernando can be reinstated to active ministry, and that decision, complete with motivation, will be duly communicated.

I would remind you that, in accordance with the instructions received from the Congregation for the Doctrine of the Faith, the question at issue is not a reserved *gravius delictum* and Cardinal Mahony therefore "does not need any authorization from this Dicastery to evaluate the merits of the case and act accordingly" (letter from CDF, July 4, 2005). The CMOB review of the matter and its subsequent recommendation is a necessary part of His Eminence's evaluation of the merits of the case, which, although not a *gravius delictum*, nonetheless involves serious accusations of a priest abusing his office and committing offences against the Sixth Commandment with a girl who at the time was 17-18 years of age. The good of the Church and the public good as well require that the steps outlined above be taken in order that the case be properly resolved.

Trusting that the above information is useful, and with every good wish, I remain

Sincerely yours in Christ,

Monsignor Gabriel Gonzales
Vicar for Clergy

REDACTED

May 31, 2008

His Eminence Roger Cardinal Mahony
Archbishop of Los Angeles
3424 Wilshire Boulevard
Los Angeles, California 90010

Re: Father Walter Fernando

REQUEST FOR RECONSIDERATION

Your Eminence:

I write in response to Monsignor Gonzales', Vicar of Clergy's ,May 17, 2008 response in your name denying my February 25, 2008 Petition for Reinstatement of Father Fernando and informing me that CMOB will review the facts of the case at its June meeting after which time you will make your decision and duly communicate it.

Pursuant to Canon 1734, I request that you kindly reconsider your denial of my Petition for Reinstatement of Father Walter Fernando dated February 25, 2008 and revoke or amend your letter decree. I received the letter decree on May 27, 2008 and submit this Request for reconsideration within the ten canonical days prescribed by canon 1724.

Father Fernando was placed on administrative leave "effective February 19, 2004."[1] This was done in accordance with Canon 1722 and Norm 6 of the Essential Norms when Father Fernando" was named as someone who allegedly engaged in the sexual abuse of a minor."[2] On July 4, 2005, The Congregation for the doctrine of the Faith informed you of its decision that the charge against Father Fernando did not constitute a *delictum gravius*, namely, the sexual abuse of a minor by a cleric. With that decision the penal process for determining whether Father Fernando sexually abused a minor was concluded. The reason for which Father Fernando was placed on leave ceased to exist and all the restrictions placed upon him were to be revoked, as required by canon 1722. In fact, they "ceased by virtue of the law itself" as soon as that decision was announced to you.[3]

[1] Letter of Monsignor Cox to Father Fernando dated February 18, 2004.
[2] *Statement for weekend Masses at Assumption of the Blessed Virgin Mary Parish, Pasedena,* Wenesday, January 17-18, 2004 signed by Monsignor Cox, Vicar for Clergy.
[3] Can. 1722: "quae omnia, cause cessante, sunt revocanda, eaque ipso iure finem habent ..."

No legally valid reason has been given why Father Fernando has been kept on leave and subject to those restrictions almost three years after CDF communicated its decision to you. Since the reason for putting Father Fernando on administrative leave has ceased, continuing to restrict the exercise of his priesthood now seems to constitute the unlawful imposition of a canonical penalty without any canonical cause or process.

Monsignor Gonzales letter rightly states that you do not need any authorization from CDF to evaluate the merits of the case and to act accordingly. But what exactly is the case that is to be evaluated? Monsignor Gonzalez states that it "involves serious accusations of a priest (Father Fernando) abusing his office". The offense of "abusing an ecclesiastical power or office" is itself a *delict*, a canonical crime, which can be punished with a penalty.[4] This crime, however, is subject to a prescription period of three years after which time it ceases to exist as a matter of law (canon 1362 (1)). Furthermore, there is no provision in law which empowers any ecclesiastical authority to dispense from prescription for the *delict* of abuse of office.[5] No such dispensation can be either sought or granted. Because any alleged "abuse of office" in this matter would necessarily have taken place in 1981, that canonical crime would have been extinguished in 1984 and can never thereafter be the subject of any adjudication or evaluation, whether judicial or administrative or, a fortiori, be the reason for the imposition of any penalty. There is no "case" for CMOB to evaluate or to recommend any canonical penalty such as removal from ministry.

Monsignor Gonzales' letter/decree cites the "good of the Church and the public good" but does not explain that "good" or why it necessitates or justifies the proposed "steps outlined" in his letter. On the contrary, once the reason for which Father Fernando was placed on leave, to his detriment and that of the Church, the good of the Church would seem to require the implementation of its own laws and the removal of the canonical restrictions imposed on Father Fernando.

Canon 223 (2), indeed, allows an Ecclesiastical authority to regulate the exercise of rights for the "common good".[6] Regulating the exercise of a right does not mean deprivation of that right. It does not mean or justify depriving a priest of his essential rights as a priest to act as a priest, with the faculties of a priest. Because it is argued that a priest has no right to an office or an assignment, a Bishop may decide that the common good may be served by not giving Father Fernando an assignment. The common good, however, does not and cannot ever justify the imposition of an ecclesiastical penalty without cause and process.

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[4] Can. 1389

[5] The only faculty to dispense from prescription for any *delict* was given to CDF for the crime of sexual abuse of a minor, a *delict* reserved to that Congregation.

[6] "Ecclesiasticae auctoritati competit, intuitu boni communis, exercitium iurium, quae christifidelibus sunt propria moderari."

Because any decision you make concerning Father Fernando's future will have to be by a singular decree, Canon 50 of the Code of Canon Law requires that before such a decree is given, the person in authority must first a) seek out the information *and proofs* and b) hear from the person whose rights can be harmed by the decree.[7]

The right to be heard cannot be exercised by Father Fernando unless he is first advised of the *exact* issue to be determined[8] and has had the opportunity to review *all* the "notitias et probationes" of the issue and to present a defense. "Probationes" means *all* available evidence in this matter, all the evidence of Father Fernando's twenty two years as an active priest (twenty six years as a priest) in the Archdiocese and not solely on one twenty-two-year-old unproven allegation made only after twenty two years.

I, therefore request that, pending your response to this request for reconsideration any discussion and recommendation on Father Fernando by CMOB be postponed until I, together with Father Fernando, have had the opportunity to review the entire file on this matter *as well as his entire personnel file* and to prepare a defense. To this date we have not been allowed to review these files.

Furthermore, if the Clergy Oversight Misconduct Board, is to review the matter and make a recommendation to you, in effect acting like a consultative jury, I ask that I be allowed to present Father Fernando's defense to that body in person. In no other way could it be said that Father Fernando "has been heard". This becomes even more necessary if you intend to accept CMOB's recommendation as your decision.

Father Fernando and I would be happy to discuss any proposal you may have for his future at any time.

Given at San Francisco, California
on this 31st day of May, 2008

Respectfully submitted,

REDACTED
REDACTED

cc: Reverend Monsignor Gabriel Gonzales
Vicar for Clergy, Archdiocese of Los Angeles

[7] Can.50 – "Antequam decretum ingulare ferat, auctoritas necessaries notitias *et probationes* exquirat, *atque,* quantum fieri potest, eos *audiat* quorum iura laedi possint."
[8] CDF's Instruction to you admits that the issue is not one of sexual abuse of a minor.

REDACTED

February 25, 2008

His Eminence Roger Cardinal Mahony
Archbishop of Los Angeles
555 West Temple Street
Los Angeles, CA 90012

Re: Reverend Walter Fernando

Dear Cardinal Mahony:

I am sending you a Petition for Reinstatement of Father Walter Fernando. The reasons for the Petition are explained therein. As his canonical advocate I would be remiss did I not present it since it has now been two and half years since CDF's reply and some three months since the global settlement of civil claims has been finalized.

Canon 57 gives a period of three months for a response to the Petition and also provides that if no response is given within that three month period it will be considered a negative response, at which time recourse, if necessary, can be taken. Since the case no longer belongs to CDF, I believe that that the Congregation for Clergy would be the competent Congregation.

Given that there is no longer a canon 1395(2) penal process, I do not know on what basis Father Fernando is still on administrative leave. Has any other process been initiated against him which would authorize and justify administrative leave? Please advise me of the basis for his still being restricted in his priestly ministry.

Father Fernando and I would be willing to meet at any time to discuss your thoughts and intentions on the matter.

With continued kind regards,

Sincerely and respectfully,
REDACTED

Cc: Reverend Monsignor Gabriel Gonzales
Vicar for Clergy

Fernando

Statement for Weekend Masses at Assumption of the Blessed Virgin Mary Parish, Pasadena
Wednesday, January 17-18, 2004
Regarding Reverend Walter Fernando

As you know, in August of 2002, the *Los Angeles Times* published an article on sexual misconduct by Catholic priests and, among many others, named your Associate Pastor, Father Walter Fernando, as someone who allegedly engaged in the sexual abuse of a minor. On that occasion, REDACTED made an announcement in the parish indicating that while officials of the Archdiocese were aware that an investigation was being conducted, we had not received any complaint of misconduct by Father Fernando at that time.

Earlier this week, on Wednesday, January 14, 2004, *The Times* published another article focusing specifically on Father Fernando. Additionally, a lawsuit was filed in December charging Father Fernando with abusive behavior.

Prior to this, there had never been any complaint about Father Fernando. He has denied any sexually abusive conduct with the person who filed the lawsuit or, for that matter, with anyone else. There is only one person who has made any claim against Father Fernando. Only on this past Wednesday has she consented to being interviewed by an investigator of the Archdiocese. Up to this point, she has not submitted written responses to a questionnaire as part of the court-ordered mediation process. We have asked to see the results of the police investigation so that we can know and assess any evidence the police may have obtained. We still hope that the police and District Attorney will release this information to us.

Our Clergy Misconduct Oversight Board has considered the case of Father Fernando on several occasions. Up to the present, the information available to us has been hearsay in nature and without the kind of detail that would enable the Archdiocese to investigate more fully, or enable Father Fernando to present a reasonable defense. As a result, the Board has not recommended that Father Fernando be placed on administrative leave. It has recommended a number of steps that either have been or are being pursued.

Cardinal Mahony is committed to assuring that children and young people are safe. He has pledged that when it is determined that a priest has engaged in sexual misconduct with a minor, that he will be permanently removed from ministry. That pledge has been implemented. The fact that a lawsuit has been filed or a complaint made to the police does not mean that Father Fernando has acted in an abusive fashion. All people, priests included, must be presumed innocent until there is proof to the contrary. At the same time, the Church takes allegations of this sort seriously -- precisely because we want to uncover the full truth and then act in accord with the truth. Therefore, we will continue to seek all available information.

We will continue to keep you informed of developments. We ask that you please pray for everyone involved -- people who have been harmed by sexual abuse, priests, and those conducting the investigations. Thank you.

Monsignor Craig A. Cox

Archdiocese of Los Angeles

Office of
Vicar for Clergy
(213) 637-7284

3424
Wilshire
Boulevard

Los Angeles
California
90010-2202

February 18, 2004

Personal and Confidential

Reverend Walter Fernando
Assumption of the Blessed Virgin Mary Church
2640 E. Orange Grove Boulevard
Pasadena, CA 91107-2632

Dear Father Fernando:

This is to provide written confirmation of the decision communicated to you in person that, effective February 19, 2004, you will begin an administrative leave of absence.

The parish should pay you for the month of February. I also ask that the parish make the contribution for your pension account for the January through March quarter. Beginning in March, my office will assume responsibility for your salary and benefits, and beginning with the April quarter we will be paying into your pension account.

At this point, please continue to use the parish car. The Vicar's office will pay for any maintenance that needs to be done on the car during this period of leave.

I am assigning you in residence at St. Basil's Parish. During this time of leave, you are to engage in no public ministry, though you are free to celebrate Mass in your own room or the rectory chapel. If you wish, please do take advantage of the opportunity to spend some time on retreat, and you continue to be welcome at the day of recollection scheduled for Manning House. Also, let me renew my invitation to avail yourself of the counseling you need at this very difficult time. Since you already met with Doctor REDACTED you may wish to see him. But I can make arrangements with other counselors if you wish.

You are in my prayers at this time of tremendous trial. As we soon will enter the season of Lent, I know you will experience the Passion in a totally new and profound way. I pray for you, and for the truth to emerge. Thank you for being so gracious and understanding in these last two years. May the peace of Christ be with you!

Your brother in Christ,

Monsignor Craig A. Cox, J.C.D.
Vicar for Clergy

cc: REDACTED

COPY

Archdiocese of Los Angeles
Office of Vicar for Clergy (213) 637-7284
3424 Wilshire Boulevard
Los Angeles California 90010-2202

November 22, 2004

Personal and Confidential

Reverend Walter Fernando
St. Basil Parish
637 South Kingsley Drive
Los Angeles, CA 90005-2392

Dear Father Fernando:

Please know that you continue to be in my prayers. I can only dimly imagine how difficult it is to be accused and to be in a state of uncertainty for such a long time. I trust that your visit with family and friends back home was a source of strength for you.

I am writing to inform you that, in accord with the requirements of *Sacramentorum sanctitatis tutela*, Cardinal Roger Mahony made a report to the Congregation of the Doctrine of the Faith concerning your situation. That letter was dated November 9, 2004 and it was sent November 16, 2004.

We have asked the Congregation for direction in how to proceed in your case. I will inform you when we hear back from the Congregation.

May God bless you!

Yours in Christ,

Monsignor Craig A. Cox, J.C.D.
Vicar for Clergy

REDACTED

CONGREGATIO
PRO DOCTRINA FIDEI

00120 Città del Vaticano,
Palazzo del S. Uffizio

4 July 2005

599/2004 - 21318
PROT. N. .....
(In responsione fiat mentio huius numeri)

CONFIDENTIAL

Your Eminence,

The Congregation for the Doctrine of the Faith received your correspondence regarding the case of the **Rev. Walter FERNANDO**, a priest incardinated in the Archdiocese of Los Angeles, who has been accused of the sexual abuse of a woman who, by her own admission, was 17-18 years of age at the time of the alleged incidents in 1981.

This Dicastery examined the case on 25 June 2005 when it was decided that, since the matter cannot be considered as a *delictum gravius*, Your Eminence does not need any authorization from this Dicastery to evaluate the merits of the case and act accordingly.

With prayerful support and fraternal best wishes, I remain

Sincerely yours in Christ,

✠ Angelo AMATO, SDB
Titular Archbishop of Sila
Secretary

His Eminence
Roger Cardinal Mahony
Archbishop of Los Angeles
3424 Wilshire Boulevard
Los Angeles, CA 90010-2202
UNITED STATES OF AMERICA

REDACTED

November 6, 2006

Reverend Monsignor Gabriel Gonzales
Vicar for Clergy
Archdiocese of Los Angeles
3424 Wilshire Blvd.
Los Angeles, CA 90010

Re: Reverend Walter Fernando
CDF Prot. # 599/2004-21318

Dear Monsignor Gonzales:

On September 19, 2006, seven weeks ago, I met with you and Father REDACTED REDACTED to inquire about the status of Father Walter Fernando. I was given no definite information and am at a loss to know what is delaying any action in his case.

I discussed this matter with Monsignor Cox in a meeting of October 28, 2005 and again before he left the office of Vicar for Clergy in July 2006. There are always assurances that something will be done soon but nothing seems to be done.

It has been since July 4, 2005, sixteen months ago, that the Congregation for the Doctrine of the Faith issued its decision that Father Fernando did not commit a *delictum gravius.* Although no further action of any kind has been initiated against Father Fernando, he has been left on administrative leave, removed from public ministry. Both in justice and in canon law, this inaction is unjustifiable and detrimental to Father Fernando's good name as well as to the efficacy of his future priestly ministry.

Given the Congregation's decision that Father Fernando has not committed a canonical crime, why is he still out of ministry? Article 13 of the *Essential Norms* Provides that "When an allegation has proved to be unfounded, every step possible will be taken to restore the good name of the person falsely accused". Ms. REDACTED allegation that Father Fernando sexually abused her when she was a minor has been proved to be unfounded but no step has been taken to restore Father Fernando's good name.

If the Archdiocese contemplates any further action in this matter please advise me what that action is and on what provision of canon law it is based. In justice I ask that this

be done without further delay or that Father Fernando be restored to active ministry. Keeping him on leave after the decision of CDF without undertaking any further action is to impose upon him a penalty without any process and is contrary to canon law.

Hoping that you will give some urgency to this matter, I am

Sincerely and respectfully yours,
REDACTED

cc: REDACTED

Reverend Walter Fernando
William Cardinal Levada
Prefect, Congregation for the Doctrine of The Faith

P.S. Although I have repeatedly asked for a copy of the Archdiocese's interview with the accuser, REDACTED I have yet to receive it. Would you kindly send me a copy?

Archdiocese of Los Angeles | Office of Vicar for Clergy (213) 637-7284 | 3424 Wilshire Boulevard | Los Angeles California 90010-2202

December 15, 2006

REDACTED

RE: Father Walter Fernando

Dear Mr. REDACTED

I write in reply to your letters of November 6 and 29, 2006 concerning the case of the above-named priest.

First of all, allow me to correct what appears to be a misunderstanding on your part with regard to the decision rendered by the Congregation for the Doctrine of the Faith when it examined the case on June 25 of last year. The Congregation found that the matter at issue, i.e. the sexual abuse of which Father Fernando is accused, is not a *gravius declictum*, since the girl in question was not a minor under the age of 16 at the time the alleged crime occurred. Consequently, the matter is not reserved to the Congregation and, as per the Congregation's letter of July 4, 2005, the Archbishop "does not need any authorization from this Dicastery to evaluate the merits of the case and act accordingly." The Congregation therefore leaves the judgment of this matter where it rightly belongs – in the hands of the REDACTED – and its decision in this regard is in no way a resolution of the case and even less is it a declaration that the *reus* has been found innocent of the crime alleged.

Secondly, your conclusion that "Father Fernando has not committed a canonical crime" is not exact: the crime of which he is accused, although not a *gravius delictum*, does remain a serious violation of the "perfect and perpetual continence" to which clerics are obliged (canon 277 §1). The Church's universal law requires "diocesan bishops … to pass judgment in particular cases concerning the observance of this obligation" (*ibid.*, §3). It is this judgment that the Archbishop is called to exercise in the present case, as the Congregation also makes clear in its above-cited letter.

Thirdly, your statement that "the allegation [against Father Fernando] has been proved to be unfounded" is simply incorrect: no such determination has been made, not by the Archbishop and certainly not by the Congregation for the Doctrine of the Faith. Quite the contrary, the allegation is serious and an initial investigation of the matter established that the claims of the accuser – far from being unfounded – had the

semblance of truth, which is why the matter was reported to the Congregation for the Doctrine of the Faith. And once more, the Congregation's decision in the matter is that it falls wholly under the competence of the Archbishop to adjudicate.
Hoping to have shed some light on what appeared to me as erroneous perceptions on your part, I now turn to your question of "what is delaying any action in the case" (your letter of November 6, 2006, p. 1).

As you are undoubtedly aware, the civil action involving the allegation against Father Fernando is still pending, together with many other lawsuits. As you yourself observed a year ago in a letter to my predecessor, "it would not be wise" to undertake any further action in this case before the civil suit is resolved, as this would be "to the detriment not only of Father Fernando ... but also to the Archdiocese and the Church" (Letter from you to Msgr. Cox, November 9, 2005, p. 1). You summed up the situation well when you wrote, "I believe the best course of action at this time would be to preserve the status quo, leaving Father Fernando where he is at St. Basil's on administrative leave until the civil suit is concluded. It has been thus for several years now and a little more time should make no difference. Only when the civil action is complete can one really make a calm and fair assessment of what action should be taken" (*ibid.*).

It may be that you have now changed your position, but the fact remains that the situation on the civil front is unaltered and it appears still to be in the best interest of all concerned to maintain the status quo with regard to Father Fernando (i.e., administrative leave, with full benefits and residence provided by the Archdiocese). The allegation against him raises serious questions as to his suitability for ministry, wherefore he simply cannot engage in any kind of public ministry until the situation is properly resolved. When civil litigation involving his case is completed it will be appropriate for the Church to proceed in the matter. Rest assured, therefore, that when the time is opportune, the case will be properly adjudicated according to the norms of law.

Trusting that the foregoing has served to clarify the situation, and pleased to enclose a copy of the canonical auditor's report of his interview with the accuser, I remain

Sincerely yours in Christ,

Monsignor Gabriel Gonzales
Vicar for Clergy

---

cc: REDACTED
enclosure

REDACTED

December 23, 2006

Reverend Monsignor Gabriel Gonzales
Vicar for Clergy
Archdiocese of Los Angeles
3424 Wilshire Blvd.
Los Angeles, CA 90010

Re: Reverend Walter Fernando
CDF Prot. # 599/2004-21318

Dear Monsignor Gonzales:

Thank you for your letter of December 15 and for enclosing the long-sought interview of REDACTED by the Archdiocesan investigator dated February 8, 2004. It is only when an advocate knows exactly what an accuser specifically alleges that he can properly investigate the matter with his client and make other relevant inquiries. My hope is that I may be timely provided with evidence in the future so that we may work together in arriving at the truth of a matter.

Your letter contains inaccuracies which stem from the failure to distinguish between the sexual activity alleged and the sexual crime alleged. Canon 277, obliging clerics to perfect and perpetual continence does not make the violation of that obligation a canonical crime punishable with canonical penalties. It is only when a sexual activity is accompanied by a specific circumstance stated in canon 1395 that the violation is a canonical crime subject to canonical penalties. Otherwise, any failure to observe continence is strictly a matter of the internal forum. Sinful conduct, without more, is not subject to canonical investigation or procedure against a cleric.

Canon 1395 specifies what other conditions must be present in the commission of sexual acts by a cleric in order for those acts to be punishable in the external forum as canonical crimes. The specific allegation against Father Fernando was that he sexually abused *a minor*, a canonical crime as defined in canon 1395(2). It is for this alleged crime that the Cardinal brought the allegation to the Congregation for the Doctrine of the Faith (hereafter CDF) to whom *this crime* is reserved. Only *this crime* could come under the provisions of *Sacramentorum Sanctitatis Tutela* and the *Essential Norms.* Only this crime

warranted reporting to CDF. You are correct when you state that this case is not reserved to CDF but incorrect when you imply that this conclusion is based on CDF's July 4, 2005 response (you state "consequently..."). This conclusion was known or should have been known before the wrongful referral of this case to CDF. The facts and admissions of the case proved that the accuser was not a minor at the time of the alleged abuse, that the allegation did not constitute a canonical crime under canon 1395(2) and therefore should not have been reported to CDF.

Contrary to your assertion, CDF's reply is, indeed a "resolution of the case" referred to it and does constitute "a declaration that the *reus* has been found innocent of the *crime alleged*". CDF's finding that the "matter cannot be considered a *delictum gravius*" is, *a fortiori,* a declarationt that the *reus* is "i*innocent of the crime alleged*". My statement that "the allegation (sexual abuse of a minor) has been proved to be unfounded would, therefore, seem to be "exact".

You state that the initial investigation established that the accuser's claims had the *semblance* of truth. Far from having any semblance of truth, the accuser's claim that she was a minor when allegedly sexually abused was proven false in your investigation by her own admissions and the factual evidence which proved that Father Fernando was not even in America when she was a minor.

The Archdiocese can no longer proceed against Father Fernando on the contention that he committed a canonical crime under canon 1395(2). You state that the "the case will be properly adjudicated according to the norms of law". Please advise me what is now the precise issue that is to be adjudicated and by what norms of law.

Although I had suggested the status quo be maintained till the civil case is concluded, it has been more than a year since then and I am now concerned about this open-ended delay, especially because the disposition of the civil case may have no bearing on the canonical issues.

Thank you once again and every best wish for the new year,

Sincerely and respectfully and yours,

REDACTED

Cc: REDACTED

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Archbishop of Los Angeles
3424 Wilshire Blvd
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PETITION FOR RECONSIDERATION

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1. Article Addressed to:

ROGER CARDINAL MAHONY
555 W. Temple ST.
Los Angeles CA 90012

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MANDATE

This Mandate reconfirms my Mandate of September 1, 2004 by which, pursuant to canon 1481 of the Code of Canon Law, I, Reverend Walter Fernando, appointed REDACTED to act as my canonical advocate and procurator in all matters and processes concerning my clerical status and position in the Archdiocese of Los Angeles. I hereby specifically express what is contained implicitly in that Mandate, that is, that, pursuant to canon 1738, I appointed and appoint REDACTED to act as my procurator and advocate in any Recourse that I may have a right to take from any sentence or decree issued against me.

Given in Los Angeles, California
On this 10th day of July, 2008

Reverend Walter Fernando

REDACTED

February 25, 2008

His Eminence Roger Cardinal Mahony
Archbishop of Los Angeles
555 West Temple Street
Los Angeles, CA 90012

Re: Reverend Walter Fernando

Dear Cardinal Mahony:

I am sending you a Petition for Reinstatement of Father Walter Fernando. The reasons for the Petition are explained therein. As his canonical advocate I would be remiss did I not present it since it has now been two and half years since CDF's reply and some three months since the global settlement of civil claims has been finalized.

Canon 57 gives a period of three months for a response to the Petition and also provides that if no response is given within that three month period it will be considered a negative response, at which time recourse, if necessary, can be taken. Since the case no longer belongs to CDF, I believe that that the Congregation for Clergy would be the competent Congregation.

Given that there is no longer a canon 1395(2) penal process, I do not know on what basis Father Fernando is still on administrative leave. Has any other process been initiated against him which would authorize and justify administrative leave? Please advise me of the basis for his still being restricted in his priestly ministry.

Father Fernando and I would be willing to meet at any time to discuss your thoughts and intentions on the matter.

With continued kind regards,

Sincerely and respectfully,

REDACTED

Cc: Reverend Monsignor Gabriel Gonzales
Vicar for Clergy

REDACTED

February 25, 2008

His Eminence Roger Cardinal Mahony
Archbishop of Los Angeles
555 West Temple
Los Angeles, CA 90012

Re: Reverend Walter Fernando
CDF Prot. No. 599-21318

PETITION FOR REINSTATEMENT
OF
FATHER WALTER FERNANDO

This Petition is made under the provisions of Canons 57 and 1722 of the Code of Canon Law, Article 13 of *Sacramentorum Sanctitatis Tutela,* and Norms 6 and 13 of the *Essential Norms for Diocesan/Eparchial Policies Dealing With Allegations of Sexual Abuse of Minors by Priests or Deacons.*

This Petition is for a Decree declaring the termination of Father Walter Fernando's administrative leave and of the canon 1722 restrictions on priestly ministry imposed upon him on February 19, 2008, and reinstating him to active ministry.

Facts and Law

1. In 2003, a woman named REDACTED accused Father Fernando of having sexually abused her when she was a minor in 1981.

2. In accordance with the provisions of Part IV, *The Penal Process,* beginning with canon 1717, Article 13 of *SST* and Norm 6 of the *Essential Norms,* REDACTED, Cardinal Mahony, commenced a penal process by initiating the preliminary investigation,

3. On February 19, 2004, REDACTED placed Father Fernando on administrative leave and prohibited him from exercising sacred priestly ministry. The Ordinary did so under the provisions of canon 1722 which empowers him to do so "at any stage of the process" for the reasons specified in that canon.

4. Because the allegation against Father Fernando involved a canonical *delict*

under canon 1395(2) which is reserved to the Congregation for the Doctrine of the Faith, Cardinal Mahony submitted the case to that Congregation as prescribed by Article 13 of *SST* and Norm 6 of the *Essential Norms*, on November 16, 2004.

5. The Congregation responded to the Cardinal on July 4, 2005 stating that the woman (Ms. REDACTED "by her own admission was 17-18 years of age at the time of the alleged incidents in 1981." She was not, therefore a "minor" in 1981 according to the prevailing law.[1] Thus, the Congregation rightly concluded that "the matter cannot be considered as a *delictum gravius*" and, consequently was not a matter reserved to or referable to CDF. CDF's statement effectively decided that whatever Father Fernando is alleged to have done, he did not commit the *delict* of sexual abuse of a minor.[2]

6. This determination of CDF ended the penal process which had been initiated against Father Fernando based on Ms. REDACTED allegation. The allegation could no longer be considered the a *delict* subject to the provision of SST or the Essential Norms which alone justified the initiation of the penal process.[3]

7. Consequently, the reason for which canon 1722 restrictions on ministry were imposed ceased and were revoked by operation of law upon receipt of CDF's response, which effectively ended the penal process.

"If, however, the reason ceases, all these restrictions are to be revoked: they cease by virtue of the law itself as soon as the penal process ceases". Canon 1722.

The restrictions were temporary measures which could be imposed and maintained only "pending the outcome of the process". Norm 6, *Essential Norms*.

8. Norm 13 of the *Essential Norms* states that "When an accusation (of sexual abuse of minor) has been shown to be unfounded, every step possible will be taken to restore the good name of the person falsely accused". The fact that Ms. REDACTED was not a minor at the time of the alleged abuse, renders her allegation – that she was sexually abused *when a minor* - unfounded and required the implementation of Norm 13. Accordingly administrative leave should have ended and Father Fernando returned to ministry as the very first step necessary to restore his good name.

---

[1] In 1981, Canon Law defined a minor as under sixteen years of age. There is, in fact, no proof that Ms REDACTED was even under the age of eighteen at the time. Ms. REDACTED herself cannot say for certain that she was: (Mediation Document, p. 10 . "To the best that I can recall0..." Ms. REDACTED turned eighteen on REDACTED

[2] The reinstatement of Father Fernando would not be contrary to the Cardinal's position that no priest who has committed even one act of sexual abuse *of a minor* is in active ministry.

[3] All offenses against the sixth commandment may be sins but not all of them constitute canonical crimes subject to a penal process and the imposition of canonical penalties. Only those sins committed in circumstances specifically described in the Code and *SST*, and declared to be canonical crimes, are subject to a penal process, administrative or judicial. Other offenses remain sins confined to the internal forum and not subject to inquiry or any manifestation of conscience. The essential circumstance in Ms. REDACTED allegation which would make the alleged sexual conduct a crime was that she was a minor. CDF confirmed that she was not.

PETITION FOR REINSTATEMENT, February 25, 2008, page three.

9. In the twenty seven-plus years during which Father Fernando has served the Archdiocese of Los Angeles as a priest, there has been no other allegation of sexual misconduct of any kind on his part except the 22- year-old allegation of REDACTED

From all that has been written above it is respectfully submitted the this Petition should be granted.

REDACTED

Given on this 25th day of February, 2008
at San Francisco, California

cc: Reverend Monsignor Gabriel Gonzales
Vicar for Clergy

FERNANDO CASE

Promotoris Iustitiae Notes/Analysis/Recommendations

REDACTED — 21 Mar 07

ESSENTIAL TIMELINE

07 Aug 63: birthdate of REDACTED she turned 16 on 7 Aug 79, after which time she is no longer a minor in canon law; she turned 18 on 7 Aug 81, after which time she is no longer a minor in civil law.

01 Feb 81: Father Walter Fernando (WF) arrives in Los Angeles from Sri Lanka and receives hospitality at Immaculate Conception parish in Los Angeles.

01 Mar 81: WF begins assignment at St. Hilary's in Pico Rivera, serving there nine months, through 29 Nov 81.

24 May 02: police record phone conv. betw. REDACTED and WF in which WF appears to admit that sexual activity took place betw. him and REDACTED whe REDACTED was 17 years old (cf. documentation sent to CDF [d/CDF], pp. 102-103).

13 Jun 02: having learned that police detectives wished to talk with him, WF contacts Vicar for Clergy (V/C) seeking advice, as he thinks the matter might involve a situation from some 20 years earlier when he "crossed boundaries" with a young female parishioner (d/CDF, 1).

07 Mar 03: WF puts into writing categorical denial of REDACTED 's claims that he put his "finger in her vagina, masturbated her, and attempted to force her into oral sex" (d/CDF, 16).

25 Apr 03: CMOB reports class-action lawsuit listing WF as having sexually abused a young girl in 1980-1981; WF denied allegations in writing, CMOB instructed V/C to obtain further info., incl. girl's age at time of alleged abuse (d/CDF, 17).

08 May 03: WF puts into writing denial of "having had any sexual activity with Ms. REDACTED Although I do not know what allegations she might allege in the future, I absolutely affirm that I have obeyed my vow of celibacy" (d/CDF, 18).

09 Dec 03: lawsuit filed by REDACTED claiming sexual abuse by WF when REDACTED was a minor (d/CDF, 19-40).

14 Jan 04: CMOB seeks further info.; reports that it will not hesitate to recommend adm. leave if credible info. warranting such action is presented (d/CDF, 44-45).

16 and 17 Jan 04: canonical auditor (c/aud) interviews Father REDACTED (no relation to WF) who has known WF for about 35 years, since their seminary days in Sri Lanka. Fr. REDACTED reported that he spent a good deal of time w/WF after WF's arrival in Los Angeles; he and his brother, Fr. REDACTED would spend each Wed., their day off, with WF. He reports that WF did not have a driver's license for several months after arriving in L.A. and so he and his brother drove WF around. Fr. REDACTED does not recall any parishioners at St. Hilary's to whom WF may have been close, nor does the name REDACTED mean anything to him, nor does he recall WF ever mentioning St. Hilary parishioners visiting WF while WF was at St. John Baptist De La Salle in Granada Hills. He was very surprised to learn of the accusations against WF, as he does not believe WF would force himself on anyone or violate his vows.

20 Jan 04: c/aud interviews Father REDACTED brother to Father REDACTED immediately above but no relation to WF, who remembers that WF stayed at Immaculate Conception when he first arrived in L.A., he was then assigned to St. Hilary's. He reports that WF did not drive at that time, since he didn't have a CA driver's license, and so Fr. REDACTED and his brother would pick WF up each Wed. and the three would spend their day off together. He has no recollection of WF ever mentioning AP or any other parishioner from St. Hilary's, nor does he recall WF ever mention-

ing a St. Hilary's parishioner visiting him after he was transferred from St. Hilary's. He was surprised to learn of the allegations against WF, as he believes WF to be a gentleman with a good reputation who would not commit indiscretions.

23 Jan 04: report of c/aud tha[REDACTED] was born on 7 Aug 1963, that WF was at St. Hilary's 1 Mar 81 – 29 Nov 81, that there are no indepndt witnesses to corroborate AP's allegations, that police recorded a telephone conversation betw[REDACTED] and WF which, according to police, corroborates[REDACTED]s account, (d/CDF, 63).

29 Jan 04: report of c/aud that sometime betw. 2000 and 2[REDACTED] confided to a friend that WF "had abused their relationship"; this friend does not think th[REDACTED]would lie about such a thing, nor, however, did it occur to this friend that the "abuse" was sexual, she presumed it to be something like betraying a confidence (d/CDF, 73-74).

08 Feb 04: c/aud's report of interview with AP; AP states that she was 17 at time of relationship w/WF (d/CDF, 80-86); report submitted to AP and her lawyer for final corrections (d/CDF, 91-94).

17 Feb 04: CMOB recommends adm. leave for WF;[REDACTED]s account of events appears credible, despite WF's denials (d/CDF, 95-96).

19 Feb 04: WF is placed on adm. leave (d/CDF, 97).

22 Sep 04: c/aud listens to police recording of phone conversation betw.[REDACTED] and WF, made on 24 May 02; on tape, WF says he remembers kissing[REDACTED] but doesn't remember showing her his penis; WF states that he thou[REDACTED] was 19 years old; he admitted feeling love for her; he recalled rubbing her breast and admitted to kissing her breasts; he told her that he confessed his sins in this matter and asked her for her forgiveness; he stated that he wanted to remain a priest and asked her to keep this betw. them; tape appears to confirm that something of a sexual nature transpired betw. them (d/CDF, 102-103).

24 Sep 04: WF's canonical advisor (c/adv) writes to V/C raising substantive doubt as to whether any of the behavior alleged b[REDACTED] took place before she was 18; basis of doubt hinges on when WF obtained his CA driver's license and began to drive, since virtually all of alleged abuse involved WF drivin[REDACTED]o some location.

09 Nov 04: Card. Mahony sends documentation regarding WF case to CDF seeking advice, since the prelim. investigation established the semblance of truth in[REDACTED]s allegations that, when she was 17 years old, she was sexually abused by WF; the difficulties of the case include the fact that, if the accusations are tru[REDACTED] would not have been a minor in canon law, although she would have been a minor in civil law.

04 Jul 05: CDF responds to Card. Mahony advising him that since the case does not involve a reserved *gravius delictum*, no special authorization is needed for him to evaluate the merits of the case and act accordingly.

09 Nov 05: WF's c/adv writes to V/C expressing concern at V/C's proposal to engage in further "fact-finding" investigation while the civil lawsuit b[REDACTED] is pending; he suggests that the status quo — i.e. WF's continuing adm. leave w/residence at St. Basil's and no further action on the part of the Archdiocese — should be preserved until the conclusion of the civil suit.

19 Dec 05: WF's c/adv writes to V/C expressing concern that doubt exists as to whether[REDACTED] was under 18 years of age when the alleged abuse took place and objects to any "fact-finding" on the part of the Archdiocese until it is proven tha[REDACTED] was in fact under 18.

06 Nov 06: WF's c/adv writes to V/C complaining of delay in acting on case and asks why WF is still out of ministry; c/adv also asks what action the Archdiocese intends to take in the case.

15 Dec 06: V/C writes to WF's c/adv explaining that, in agreement with what the c/adv had written in his letter of 9 Nov 05, the Archdiocese also felt that it was in the best interest of all concerned to preserve the status quo w/regard to WF (i.e. adm. leave and residence at St. Basil's) until the civil suit

should be concluded; at the opportune time, the serious question of WF's suitability for ministry will be properly dealt with.

QUESTION OF [REDACTED]'S AGE AT TIME OF ALLEGED ABUSE

The only direct testimony in this regard comes from AP and is consistent in the assertion that she was under 18 at the time the alleged abuse began; rebuttal testimony comes from WF through his c/adv.

AP's civil complaint, filed on 9 Dec 03: [REDACTED] claims that "when she was a minor" she suffered "acts of sexual abuse and molestation" from WF, which included "French kissing, hugging, fondling of Plaintiff's buttocks over her clothes, rubbing and massaging Plaintiff's breasts and body, kissing Plaintiff's neck, face and breasts, digital vaginal penetration, forced masturbation of the Perpetrator, attempted forced oral copulation" (lawsuit, section 8.1).

mediation documentation, signed and sworn by [REDACTED] on 15 Apr 04: [REDACTED] states that she was 17 when abuse began, and to the best of her recollection it began when WF "first came to St. Hilary"; she states unequivocally that WF "sexually abused me on multiple occasions, up to and beyond my 18th birthday" (mediation document, section 4,a,v); [REDACTED] does state that the digital penetration of her vagina by WF may have occurred after she turned 18 (*ibid.*, section 4,c), and that the touching of her breasts skin-to-skin, kissing them and touching other parts of her body skin-to-skin did occur after she was 18 (*ibid.*); AP's clear recollection is that the other acts alleged occurred when she was under the age of 18.

interview of AP by c/aud, 30 Jan 04, revised report w/changes made by [REDACTED] and her lawyer: [REDACTED] states that while she "was still in high school" WF took her to a movie, towards the end of which he "put his hand on her breast and began to rub it"; at the movie's conclusion, he gave her a kiss on the lips; following the incident at the movie theater, and again while [REDACTED] "was still in high school," she was with WF in a parked car and he laid his head in her lap, pulled her head down towards him and gave her a long kiss, putting "his tongue in her mouth"; on another occasion, once more while [REDACTED] "was still in high school," WF took her to Legg Park where he kissed her and fondled her, placing his hand inside her blouse and bra "so he was rubbing the skin of her breast"; another time at Legg Park, while [REDACTED] was still in high school, she was with WF in his parked [REDACTED] car, it was evening and WF unzipped his pants, exhibited his erect penis and tried to force [REDACTED] orally copulate him, but she would not and so he took her hand, placed it around his penis and, with his hand clasped over hers, masturbated until he ejaculated; during this interview [REDACTED] also related sexual behavior that occurred betw. her and WF after she had turned 18, and recounted, w/great difficulty, the account of WF digitally penetrating her vagina — she was unable to recall whether this occurred before or after she had turned 18.

letter from WF's c/adv, 24 Sep 04: the c/adv claims that [REDACTED]'s statements that WF would take her driving "in the spring, while I was still in high school" cannot be true, as WF had no car and no driver's license in the spring while [REDACTED] was still in high school; the c/adv states that WF went out with only once, on a shopping trip to a mall, during which outing they also went to a movie — this outing took place after WF had left St. Hilary's and hence after [REDACTED] had turned 18; the c/adv states that [REDACTED] was never in WF's quarters at St. John Baptist De La Salle, Granada Hills

ALLEGATIONS OF ABUSIVE BEHAVIOR AFTER AP WAS 18 YEARS OLD

In her 30 Jan 04 interview with c/aud [REDACTED] stated that after WF had been transferred to St. John the Baptist De La Salle in Granada Hills, and hence after she had turned 18, he picked her up at her house and drove her out to his new parish. He brought her into a private sitting room in the rectory, from which there was a door leading to his bedroom; they remained in the sitting room and she played her flute. He brought her to the rectory a second time and this time they entered WF's bedroom, where he had her disrobe, kissed her breasts, sucked her nipples and lay on top of her on the bed and side-by-side; he did not undress but she could feel his erection; she asked him why he did not undress and he replied that he didn't want her to become pregnant. She also met some of his Sri Lankan priest friends but never spoke with

them. She estimated that she traveled to Granada Hills a total of about ten times and that similar activity took place betw. herself and WF each time. She also described her recollection of the rectory layout (the rear entrance and WF's quarters).

WF, through his c/adv, denies that REDACTED was ever in his quarters at the rectory of St. John Baptist De La Salle in Granada Hills.

The c/aud performed an on-grounds inspection of the rectory area described by AP with the Business Manager at St. John Baptist De La Salle parish; the description given b REDACTED is very accurate.

On 5 Feb 04 Father REDACTED at St. John Baptist De La Salle parish when WF arrived there in 1981, was contacted by the c/aud and described the quarters that had been assigned to WF — his description matches that given b REDACTED 's name held no meaning for Fr. REDACTED REDACTED

ADMISSIONS MADE BY WF

The only admission made by WF of any inappropriate behavior REDACTED is purportedly found on the recorded telephone conversation that took place betw. him an REDACTED on 24 May 02. The c/aud listened to this tape and reported that WF says he remembers kissing REDACTED, admits feeling love for her, recalls rubbing and kissing her breasts. The c/aud portray REDACTED 's attitude during the call as that of someone who was hurt and troubled by indiscretions committed by WF, and WF's attitude as that of someone who was repentant and wanted forgiveness from the person he had wronged; this forgiveness was given and WF was relieved. WF told REDACTED hat he wanted to be a priest and asked REDACTED her to keep this betw. them. The c/aud observes that WF admits certain of the behavior alleged b and that while he does not recall other behavior, e.g. showing REDACTED his penis and forced masturbation, he does not deny this behavior.

FURTHER QUESTIONS

When did WF obtain his driver's license?

The significance of this question arises in light of c/adv's remarks that WF "had no car and no license in spring [1981] when sh REDACTED was still in high school"; that WF "did not obtain his driver's license till the summertime," hence he "could not then have been driving her [AP] around 'in the spring when she was still in high school', and still 17" REDACTED turned 18 on REDACTED (ltr, REDACTED to Cox, 24 Sep 04).

Is it possible to corroborate that WF and REDACTED ent out more than once together?

Through his c/adv (letter of 24 Sep 94), WF denies ever going out REDACTED other than one time to a shopping mall, and this after he had left St. Hilary's REDACTED aims that her "mother, brother and sister all knew that I was going on outings with Father Fernando" (mediation document, 4,b). There is no record o REDACTED 's mother, brother or sister being asked about this.

Why did WF leave Sri Lanka and incardinate into L.A.?

In communications with his Archbishop in Colombo (Abp/C), WF refers to leaving his home diocese with "a great deal of pain in mind" (letter of 20 Oct 82), and Abp/C also refers to this same "great deal of pain" in his response and states, "You will, I am sure, agree that that pain was not in any way caused by me" (letter of 07 Nov 82).

CANONICAL ISSUES

The question of a reserved *gravius delictum* has already been resolved in the negative; but the entire matter is not yet resolved definitively. Some of the issues remaining include:

(1) whether the delict of an offence against the sixth commandment committed with force has been committed (canon 1395 §2; **NB**: the expiration of prescription prevents any *criminal action* w/regard to such a delict [canon 1362], but does not strictly prevent an investigation into whether such a delict was committed);

(2) whether an external violation of a law has occurred such that the special gravity of the violation demands punishment and there is an urgent need to prevent or repair scandal (canon 1399; **NB**: expiration of prescription as in no. 1 above);

(3) whether this is a particular case calling for the ordinary to pass judgment regarding the obligation to observe perfect and perpetual continence (canon 277 §3);

(4) whether an act of sexual abuse of a minor (in civil law) has been committed, wherefore the *reus* is to be removed permanently from ecclesiastical ministry (US Essential Norms, article 8; **NB**: the expiration of prescription, as in nos. 1 and 2 above, probably needs to be taken into account here as well);

(5) whether, in view of the common good, this is a particular case calling for the Archbishop to limit or otherwise direct the exercise of WF's rights as a cleric (canon 233 §2).

PAYMENT OF FEES LEVIED BY C/ADV

Since WF's case does not involve a *gravius delictum*, and since any delict he may have committed is no longer subject to criminal action because of the expiration of prescription, there can be no penal process initiated against him. He therefore will not need the services of a canonical advocate, and authorization for bills from his current c/adv to be sent directly to V/C for payment may be withdrawn. Should WF wish to continue to avail himself of the services of his present c/adv, he is free to make such arrangements personally; otherwise, the Archdiocese can arrange for a qualified canonist to provide him with the counsel he might need as his case is brought to a conclusion.

RECOMMENDATIONS

With a view to moving WF's case to a definitive resolution while upholding the public good, the following recommendations are made:

(1) WF should be interviewed *quam primum* with regard to every aspect of his case, since direct statements from him will prove invaluable for resolving many of the issues and questions that remain, and will also prove useful in properly evaluating the claims advanced by REDACTED

(2) WF should be advised that, whereas the V/C has up till now paid the bills for consultation submitted by his c/adv (a total of $12,836.64 as of 25 Jan 07; cf. APPENDIX below, "C/Adv Bills in WF Case"), future costs will be his responsibility; if he cannot afford the fees charged by the c/adv he has engaged, he may consult the V/C so that arrangements may be made for him to receive the canonical counsel suited to his needs;

(3) AP's mother, brother and sister should be interviewed to ascertain what knowledge they may have of WF an REDACTED going on outings together;

(4) all c/aud reports should be carefully reviewed to determine whether possible follow-up may be useful.

APPENDIX: bills paid by Archdiocese to REDACTED in Fernando case

25 Jan 07:	2,183.33
21 Feb 06:	2,583.33
06 Dec 05:	2,207.08
19 Jul 05:	4,529.90
29 Mar 05:	1,333.00
TOTAL:	**12,836.64**

REDACTED

Sent via email to ...

14 May 08

RE: Rev. Walter Fernando,
Petition for Reinstatement

May 14, 2008

REDACTED

Dear Mr. REDACTED

I am writing in the name of Cardinal Mahony in reply to your Petition of February 25 last seeking the termination of Father Walter Fernando's administrative leave and his reinstatement to active ministry.

Your request cannot be granted at this time. Father Fernando's case is currently pending before our Clergy Misconduct Oversight Board (CMOB), which, based on the facts of the case, will make a recommendation to Cardinal Mahony as to whether Father Fernando should be returned to active ministry. CMOB should be ready to review the case at its June meeting, after which it will make its recommendation. His Eminence will then make his decision as to whether Father Fernando can be reinstated to active ministry, and that decision, complete with motivation, will be duly communicated.

I would remind you that, in accordance with the instructions received from the Congregation for the Doctrine of the Faith, the question at issue is not a reserved *gravius delictum* and Cardinal Mahony therefore "does not need any authorization from this Dicastery to evaluate the merits of the case and act accordingly" (letter from CDF, July 4, 2005). The CMOB review of the matter and its subsequent recommendation is a necessary part of His Eminence's evaluation of the merits of the case, which, although not a *gravius delictum*, nonetheless involves serious accusations of a priest abusing his office and committing offences against the Sixth Commandment with a girl who at the time was 17-18 years of age. The good of the Church and the public good as well require that the steps outlined above be taken in order that the case be properly resolved.

Trusting that the above information is useful, and with every good wish, I remain

Sincerely yours in Christ,

Monsignor Gabriel Gonzales
Vicar for Clergy

REDACTED

REDACTED

REDACTED

November 29, 2006

Reverend Monsignor Gabriel Gonzales
Vicar for Clergy
Archdiocese of Los Angeles
3424 Wilshire Blvd.
Los Angeles, CA 90010

Re: Reverend Walter Fernando
CDF Prot. # 599/2004-21318

Dear Monsignor Gonzales:

I refer you to my letter of November 6, 2006 to which I have not yet received acknowledgment or response.

I kindly ask you to favor me with the courtesy of a response to this urgent matter.

I also repeat my request for the long-promised copy of the Archdiocesan investigator's interview with the accuser, REDACTED

Sincerely and respectfully yours,
REDACTED

cc: REDACTED
Reverend Walter Fernando

REDACTED

November 6, 2006

Reverend Monsignor Gabriel Gonzales
Vicar for Clergy
Archdiocese of Los Angeles
3424 Wilshire Blvd.
Los Angeles, CA 90010

Re: Reverend Walter Fernando
CDF Prot. # 599/2004-21318

Dear Monsignor Gonzales:

On September 19, 2006, seven weeks ago, I met with you and Father REDACTED REDACTED to inquire about the status of Father Walter Fernando. I was given no definite information and am at a loss to know what is delaying any action in his case.

I discussed this matter with Monsignor Cox in a meeting of October 28, 2005 and again before he left the office of Vicar for Clergy in July 2006. There are always assurances that something will be done soon but nothing seems to be done.

It has been since July 4, 2005, sixteen months ago, that the Congregation for the Doctrine of the Faith issued its decision that Father Fernando did not commit a *delictum gravius*. Although no further action of any kind has been initiated against Father Fernando, he has been left on administrative leave, removed from public ministry. Both in justice and in canon law, this inaction is unjustifiable and detrimental to Father Fernando's good name as well as to the efficacy of his future priestly ministry.

Given the Congregation's decision that Father Fernando has not committed a canonical crime, why is he still out of ministry? Article 13 of the *Essential Norms* Provides that "When an allegation has proved to be unfounded, every step possible will be taken to restore the good name of the person falsely accused". Ms. REDACTED allegation that Father Fernando sexually abused her when she was a minor has been proved to be unfounded but no step has been taken to restore Father Fernando's good name.

If the Archdiocese contemplates any further action in this matter please advise me what that action is and on what provision of canon law it is based. In justice I ask that this

Monsignor Gabriel Gonzales, November 6, 2006, page two,

be done without further delay or that Father Fernando be restored to active ministry. Keeping him on leave after the decision of CDF without undertaking any further action is to impose upon him a penalty without any process and is contrary to canon law.

Hoping that you will give some urgency to this matter, I am

Sincerely and respectfully yours,
REDACTED

cc: REDACTED

Reverend Walter Fernando
William Cardinal Levada
Prefect, Congregation for the Doctrine of The Faith

P.S. Although I have repeatedly asked for a copy of the Archdiocese's interview with the accuser, REDACTED , I have yet to receive it. Would you kindly send me a copy?

Archdiocese of Los Angeles

Office of
Vicar for Clergy
(213) 637-7284

3424
Wilshire
Boulevard

Los Angeles
California
90010-2202

December 15, 2006

REDACTED

RE: Father Walter Fernando

Dear Mr. -REDACTED

I write in reply to your letters of November 6 and 29, 2006 concerning the case of the above-named priest.

First of all, allow me to correct what appears to be a misunderstanding on your part with regard to the decision rendered by the Congregation for the Doctrine of the Faith when it examined the case on June 25 of last year. The Congregation found that the matter at issue, i.e. the sexual abuse of which Father Fernando is accused, is not a *gravius declictum*, since the girl in question was not a minor under the age of 16 at the time the alleged crime occurred. Consequently, the matter is not reserved to the Congregation and, as per the Congregation's letter of July 4, 2005, the Archbishop "does not need any authorization from this Dicastery to evaluate the merits of the case and act accordingly." The Congregation therefore leaves the judgment of this matter where it rightly belongs – in the hands of the diocesan Bishop – and its decision in this regard is in no way a resolution of the case and even less is it a declaration that the *reus* has been found innocent of the crime alleged.

Secondly, your conclusion that "Father Fernando has not committed a canonical crime" is not exact: the crime of which he is accused, although not a *gravius delictum*, does remain a serious violation of the "perfect and perpetual continence" to which clerics are obliged (canon 277 §1). The Church's universal law requires "diocesan bishops ... to pass judgment in particular cases concerning the observance of this obligation" (*ibid.*, §3). It is this judgment that the Archbishop is called to exercise in the present case, as the Congregation also makes clear in its above-cited letter.

Thirdly, your statement that "the allegation [against Father Fernando] has been proved to be unfounded" is simply incorrect: no such determination has been made, not by the Archbishop and certainly not by the Congregation for the Doctrine of the Faith. Quite the contrary, the allegation is serious and an initial investigation of the matter established that the claims of the accuser – far from being unfounded – had the

semblance of truth, which is why the matter was reported to the Congregation for the Doctrine of the Faith. And once more, the Congregation's decision in the matter is that it falls wholly under the competence of the Archbishop to adjudicate.
Hoping to have shed some light on what appeared to me as erroneous perceptions on your part, I now turn to your question of "what is delaying any action in the case" (your letter of November 6, 2006, p. 1).

As you are undoubtedly aware, the civil action involving the allegation against Father Fernando is still pending, together with many other lawsuits. As you yourself observed a year ago in a letter to my predecessor, "it would not be wise" to undertake any further action in this case before the civil suit is resolved, as this would be "to the detriment not only of Father Fernando ... but also to the Archdiocese and the Church" (Letter from you to Msgr. Cox, November 9, 2005, p. 1). You summed up the situation well when you wrote, "I believe the best course of action at this time would be to preserve the status quo, leaving Father Fernando where he is at St. Basil's on administrative leave until the civil suit is concluded. It has been thus for several years now and a little more time should make no difference. Only when the civil action is complete can one really make a calm and fair assessment of what action should be taken" (*ibid.*).

It may be that you have now changed your position, but the fact remains that the situation on the civil front is unaltered and it appears still to be in the best interest of all concerned to maintain the status quo with regard to Father Fernando (i.e., administrative leave, with full benefits and residence provided by the Archdiocese). The allegation against him raises serious questions as to his suitability for ministry, wherefore he simply cannot engage in any kind of public ministry until the situation is properly resolved. When civil litigation involving his case is completed it will be appropriate for the Church to proceed in the matter. Rest assured, therefore, that when the time is opportune, the case will be properly adjudicated according to the norms of law.

Trusting that the foregoing has served to clarify the situation, and pleased to enclose a copy of the canonical auditor's report of his interview with the accuser, I remain

Sincerely yours in Christ,

Monsignor Gabriel Gonzales
Vicar for Clergy

---

cc: REDACTED
enclosure

REDACTED

RECEIVED
JAN 0 3 2006

December 24, 2005

Monsignor Craig A. Cox, J.C.D.
Vicar for Clergy, Archdiocese of Los Angeles
3424 Wilshire Boulevard
Los Angeles, California 90010

Sacred Congregation for the Doctrine of the Faith
Prot. N.599/2004-21318

Re: Father Walter Fernando

Dear Monsignor Cox:

I have been doing some further thinking and analysis of Father Fernando's case considering CDF's finding that, because Ms. REDACTED was over the age of sixteen, no delict was committed and your suggestion for a "fact-finding" process nonetheless.

It is an established, incontrovertible fact that REDACTED was over 16 at the time she alleges sexual abuse. Although the Charter and the *Essential Norms* deal with the sexual abuse of minors by clerics, nowhere do these documents define the age of a minor. "The Norms are complimentary to the universal law of the Church" (*Norms*, Preamble). The Charter and the Norms must, therefore, accept the age of a minor to be what the universal law of the church prescribed it to be at the time of the alleged offense. The universal law of the Church in 1981 provided that a minor was one under 16 in these cases. Because REDACTED was admittedly not a minor at the time of the alleged offense according to the universal law of the Church , Fr. Fernando's case does not come under either the Charter or the *Essential Norms*. Consequently it does not come under Article 8 of the *Norms* which states that "even one act of sexual abuse" will result in the permanent removal from ecclesiastical ministry". I do not see the justification or authority for conducting the fact-finding inquiry you suggest. What fact is to be investigated? It cannot be whether Fr. Fernando sexually abused a minor. That fact has been canonically established: he did not. It is not for ecclesiastical authority to determine the matter according to civil law. That is the purview of civil courts. The Charter and the *Norms* are matters of canon law and not civil law.

Whether Fr. Fernando's actions be investigated as a crimen or simply to determine whether they occurred as private, sinful acts, they are the same acts, acts which can never amount to the "sexual abuse of a minor by a priest".

I await your response to this letter as well as to my letter of December 19 and am anxious to hear your thoughts on these matters.

Monsignor Craig A. Cox, December 24, 2005, page two.

Respectfully yours,

REDACTED

CC: His Eminence Roger Cardinal Mahony
Father Walter Fernando
REDACTED

REDACTED

RECEIVED
JAN 0 3 2006

December 19, 2005

Monsignor Craig A. Cox, J.C.D.
Vicar for Clergy, Archdiocese of Los Angeles
3424 Wilshire Boulevard
Los Angeles, California 90010

Re: Father Walter Fernando

Dear Monsignor Cox:

When Father Fernando and I met with you and Father REDACTED on October 28, 2005, you stated that you had looked into the matter of REDACTED age at the time of the alleged abuse and that if you had determined that she was over eighteen Father Fernando "would still be at the parish in Pasadena". If Ms. REDACTED was over eighteen, not only would there be no canonical delicta even under the present age requirement but there would be no question of Father Fernando having ever committed any act of sexual abuse of a minor involving the Charter or the Norms. There would not even be a valid civil cause of action for child abuse.

Thus, There should be no fact-finding process to determine whether any act of sexual abuse took place unless there first has been a fact-finding process to determine whether REDACTED was 18 at the time of the first alleged abuse. No act should be investigated before the determination of that fact which is a sine qua non for pursuing any allegation of the sexual abuse of *a minor* under the Charter and the norms..

On November 14, 2005, at the Los Angeles Police Department, I had the opportunity of listening twice to the taped telephone conversation of REDACTED with Father Fernando. Three important parts of that tape are relevant to the question of Ms. REDACTED age at the time. 1) In trying to have Father admit that she was under eighteen, she states in one place, "You knew I was sixteen: I graduated when I was seventeen". She was sixteen from REDACTED Father Fernando was in Sri Lanka for that entire year and did not arrive in the US till 7 months after her seventeenth birthday. In her lawyer-prepared mediation statement she states: "*To the best that I can recall*, Father Fernando began abusing me when he first came to St. Hilary's church (the church's records say that was in 1981) I was 17 in 1981". For five months of 1981 she was also18. Both in her statement and in the taped conversation, I find no evidence that she is sure that she was under eighteen and certainly she gives no corroborating evidence

that she was. In many places in her sworn mediation statement she repeatedly states that she does not recall whether something took place before or after she was eighteen. 3) At one point in the telephone conversation Father Fernando says: "All this happened after I left (St. Hilary's)". This was on November 30 1981 - four months after REDACTED had turned 18. Importantly, REDACTED does not challenge or deny Father's statement.

The burden of proof is on the one who brings the allegation, on REDACTED (Canon 1526). The testimony of a single witness (REDACTED cannot constitute full proof. (Canon 1573). In evaluating testimony the judge should consider whether the witness is reliable and firmly consistent or rather inconsistent, uncertain or vacillating and whether the witness has supporting witnesses or whether there is support from other sources of proof. (Canon1572 (3)(4). REDACTED testimony is indeed uncertain and vacillating and she has no supporting proof for her blanket assertion that she was under eighteen.

Unless the Archdiocese has proof that REDACTED was over 18, an injustice is being done to Father Fernando. In order for me to competently advise Father Fernando it is necessary that I know if, on what proofs and by what canonical procedure the Archdiocese has determined that REDACTED was over eighteen. Please forward to me all this information and proofs, including any other statements REDACTED she may have made to the Archdiocese. Unless it is first *proven* that any allegation of sexual abuse against Father Fernando comes under the provisions of the Charter and the Norms, no allegation should be subject to a fact-finding procedure and, as you have said, Father Fernando should still be in, or be restored to active ministry in Pasadena..

I await you response, information and relevant documents and thank you for your anticipated attention to this matter.

Respectfully yours,
REDACTED

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cc: His Eminence Roger Cardinal Mahoney
REDACTED
Reverend Walter Fernando

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CONGREGATIO
PRO CLERICIS

Vatican City, 4 August, 2008

Prot. N. 20082209

His Eminence Roger Cardinal Mahony
Archbishop of Los Angeles
555 West Temple
Los Angeles, California 90012
UNITED STATES OF AMERICA.

Your Eminence,

This Congregation has received a petition for hierarchical recourse from the Rev. Walter Fernando, a priest of your archdiocese, against the apparent provisions of the Archdiocese of Los Angeles not to reinstate him to ministry.

As is the practice of this Dicastery before we reply, we write to you the Ordinary and ask for the *acta* involved in this case and for your valued opinion, so that we may make a studied decision regarding this matter.

The time limit established for the response of this Congregation to the cleric in question is three months, (Canon 57and General Regulations of the Roman Curia, Article 136), I therefore would ask for a prior response from Your Excellency. Of course, as Your Eminence is aware a pastoral resolution is always preferable in such matters. The Dicastery would be happy to hear of such a resolution.

Your Eminence may find the following extract, from a recent decision of this Congregation, helpful in dealing with the issues involved. Certain recent statements by the Apostolic Signatura and the Pontifical Council for the Interpretation of Legislative Texts are cited which might have relevance for Your Eminence's study.

whereas, the Congregation for the Clergy in its evaluation of the situation has noted the jurisprudence of the Supreme Tribunal of the Apostolic Signatura (Prot. N. 37937/05CA) which indicates that can. 223 §2 does not grant an Ordinary the authority to remove a priest permanently from public ministry:

> **Idem Exc.mus Ordinarius dein in recursu ad H.S.T. invocavit can. 223 ad probandum legitimitatem suae decisionis relate ad Rev.dum N.: "canon 223 authorizes an ecclesiastical Superior to restrict the use of certain rights in order to protect the common good" (S. 34). Ad rem haec sedulo notanda sunt: a) can. 223 concludit titulum "De omnium christifidelium obligationibus et iuribus"; b) canones huius tituli (can. 208-223) proveniunt ex schemate Legis**

Congregazione per il Clero - 00120 Città del Vaticano - Tel. 06/69884151 - Fax: 06/69884845

Ecclesiae Fundamentalis; c) agitur in illo canone de moderamine illarum obligationum e iurium fundamentalium ad bonum commune tuendum; d) can. 223 tantum principium omnino generale proponit, cuius magis concreta determinatio proprie fit per actus potestatis legislativae, in primis et praeprimis in ceteris normis ipsius CIC; e) quibus Episcopi non possunt derogare, secus actum esset de principio legalitatis et ianua pateret arbitrarietati (cf. V. DE PAOLIS, "Incardinazioni anomale", in L. NAVARRO, *L'Istituto dell'incardinazione*, Milano 2006, 351-377, vide 367-377). Adde quod potestas moderandi exercitium illarum obligationum et iurium haudquaquam aequari potest cum potestate idem exercitium tollendi (cf. F. DANEELS, "L'investigazione previa nei casi di abuso sessuale di minori", in J.J. CONN – L. SABBARESE, *Iustitia in caritate*, Città del Vaticano 2005, 409-506, vide 503).

Quod si, nihilominus, ex quadam analogia illud principium omnino generale obligationibus et iuribus clericorum applicetur, utcumque praescindi nequit a legibus magis concretis ad rem pertinentibus, quae sua vice utpote normae generales applicandae sunt ratione habita circumstantiarum singularium uniuscuiusque casus concreti.

Quibus dictis, iam patet haudquaquam sufficere in re invocationem can. 223 vel remissionem ad art. 9 normarum specialium Statuum Foederatorum Americae Septentrionalis, immo non satis efferri potest periculum arbitrarietis quod ingenua invocatio principiorum ibi propositorum secumfert. SUPREMO TRIBUNALE DELLA SEGNATURA APOSTOLICO (Exc.mus Episcopus – Congregatio pro Clericis) – 28 aprile 2007 – Prot. n. 37937/05 – Grocholewski, Ponente, *Ius Ecclesiae*, Vol. 19, 2007, 611-626, vide 619-620.

whereas the Congregation for the Clergy furthermore sought a clarification from the Pontifical Council for Legislative Texts, regarding the application of canon 223,§2 **"...da alcuni Ordinari degli Stati Uniti, per 'sospendere, a tempo indeterminato, o per rimuovere dall'esercizio del sacro ministero' i sacerdoti anche nei casi in cui non hanno commesso un vero e proprio delitto o non vi è stato un processo canonico";**

whereas in a response dated 27 June 2008 (N. 11127/2008), the Pontifical Council, having studied the matter with certain experts, stated:

"...Anzitutto, è necessario ricordare che la prima e fondamentale regola di interpretazione porta a considerare il significato proprio delle parole nel testo e nel contesto (cfr. can. 17). Applicando tale regola all'espressione *'exercitium iurium...moderari'*, del can. 223, §2 se ne può dedurre il significato ampio di 'governare' nel senso di emanare norme, legiferare... Il Legislatore, quindi, riconosce la capacità dell'Autorità ecclesiastica di disciplinare, mediante leggi, l'esercizio dei diritti. Non sembra, però, che la *mens* sia stata quella di stabilire con il can. 223, §2 una norma per giustificare un intervento amministrativo del superiore...Quanto ai provvedimenti limitativi dell'esercizio del sacerdozio, come la rimozione dagli uffici pastorali o

la revoca di alcune facoltà ministeriali, quali sanzioni amministrative si ritiene che ciò è possibile, però in base ad altre norme, come ad es. il can. 1722, CIC... L'invocazione del can. 223 §2 allo scopo di legittimare gli interventi amministrativi di contenuto di fatto penale risulta, invece, del tutto fuorviante, non solo sotto il profilo tecnico, come un'analisi attenta concluderebbe senza difficoltà, ma anche e sopratutto sotto il profilo della giustizia sostanziale: significherebbe annullare praticamente la stessa legislazione codiciale e collocare il potere amministrativo (penale) al di sopra de quello normativo generale...L'ordinamento canonico ha stabilito che la dimissione dello stato clericale esige un processo giudiziale e può essere fatto solo per delitti stabiliti dalla legge universale. Un'invadenza dell'atto amministrativo in questo campo non sembra rispondere alla lettera e allo spirito dell'ordinamento canonico..."

The Dicastery hopes that the forgoing is of assistance to Your Eminence.

I take this opportunity to renew my sentiments of esteem and with every best wish, I remain,

Yours sincerely in Christ,

+ Mauro Piacenza

Sec.

RCALA 003031

IX 000403

His Eminence Roger Cardinal Mahony
Archbishop of Los Angeles
3424 Wilshire Boulevard
Los Angeles, California 90010-2202
UNITED STATES OF AMERICA.

Archdiocese of Los Angeles

Office of the Archbishop (213) 637-7288

3424 Wilshire Boulevard

Los Angeles California 90010-2202

22 September 2008

Prot. N. 20082209

mailed via Fed-ex & Archdiocese

His Eminence
Cláudio Cardinal Hummes, Prefect
Congregation for the Clergy
Piazza Pio XII, 3
00120 VATICAN CITY

Your Eminence,

Thank you for your letter dated 4 August 2008, notifying me of hierarchical recourse by Rev. Walter Fernando, a priest of our archdiocese, "against the apparent provisions of the Archdiocese of Los Angeles not to reinstate him to ministry."

On 19 February 2004, Father Fernando was placed on "administrative leave" according to the norm of canon 1722, pending the outcome of the preliminary investigation of allegations of sexual abuse of a minor brought against him. On 25 February of this year, Father Fernando, through his canonical advocate, REDACTED requested that the decree of 19 February 2004 be rescinded. My present Vicar for Clergy, Msgr. Gabriel Gonzales, on 17 May 2008, responded to REDACTED that his request cannot be granted "at this time" because his case is still pending before the review board mandated by particular law of the United States, whose recommendation I must have before I make a decision whether he can be reinstated.

Thus, no provision as yet has been made "not to reinstate" him. Rather, the temporary removal from ministry, which was required by the circumstances of the case as I will explain below, has yet to be resolved. The necessary steps toward a resolution of the matter, which for reasons outside our control had to be suspended, are again under way. I will inform you of the resolution when that occurs. In the meantime, your request necessitates this interim response.

Toward an understanding of the nature of Father Fernando's situation, please allow me to highlight the following points:

1. At every step of the way the Archdiocese has paid for competent canonical advocacy, has heard the accused, has supported and housed the accused in a safe and suitable place, and will hear the accused again before a final decision.

2. The content of a telephone conversation between Father Fernando and his accuser, recorded by the police *in tempore non suspecto*, provides the best evidence that something of a sexual nature did occur between them. This evidence stands in contradiction to Father's own explicit denial that anything sexual transpired between them.

3. Complicating the issue is the fact that the matter received extensive coverage in the local media. Furthermore, in keeping with our own policy to properly inform the faithful in these cases, announcements were made at two parishes in which Father Fernando served. In view of this publicity, for Father to be returned to ministry, the Archdiocese would have to say that he is exonerated of all charges. The Archdiocese is not in position to say that until such time as the investigation to determine the truth and circumstances of the alleged offense, necessarily suspended until the conclusion of parallel civil action, is completed and I have heard from the review board.

4. As the victim was over age 16 at the time of the offense, the matter is outside the realm of a *gravius delictum*. Nonetheless, at civil law the matter did become part of a class action lawsuit against the Archdiocese, and Father Fernando's accuser did receive a monetary settlement from the Archdiocese.

5. Even if it cannot be maintained that the alleged offense is a *gravius delictum* under canon law, matters such as the principles of loss of good reputation and *aversio in parochum* articulated in canon 1741 3° will have to be considered in the determination of Father Fernando's suitability for ministry in the future.

6. The Archdiocesan Clergy Misconduct Oversight Board has considered the matter several times and made recommendations to me three times so far. Now that the civil lawsuits against the Archdiocese have been settled, and in light of the results of further investigation, the Oversight Board needs to consider the case yet again in order to make a final recommendation to me. I ask that you bear in mind that our Oversight Board in made up of volunteers who take time from their regular work to donate to this important function. In view of the large number of cases, old and new, that they are asked to consider, it takes a great deal of time to do a thorough job. For this reason the resolution of these matters takes more time than all of us would like.

7. Any future canonical action will not be taken on the basis of canon 223 §2. I understand that expiatory penalties cannot be imposed or declared by means of a decree (c. 1342 §2). I understand that administrative decisions addressing the cleric's ministry from the perspective of the pastoral responsibility of the diocesan bishop to exercise governance by regulating ministry within the diocese, must be given in writing and in keeping with the principles of law which regulate the issuance of a singular decree. If the cleric is aggrieved, I understand that he does have the right to challenge the decision.

The numerous factors that come into play in the resolution of these cases render their just resolution time consuming and tedious. This, together with the good of the Church and the good of all involved, accused and victims alike, is of constant and great concern to me. For that reason, you can rest assured that we are trying to resolve our cases, including this one, as expeditiously as possible. I will inform you of my decision in the case at issue as soon as further needed investigation has been completed, I have a formal recommendation from the review board and have heard Father Fernando on the matter. In the meantime, as per your request, I enclose the acts of the case up to the present date.

Thanking you for your assistance and keeping you in my prayers, I remain

Fraternally yours in Christ,

+ Roger Card. Mahony

His Eminence
Cardinal Roger M. Mahony
Archbishop of Los Angeles

Enclosure

CURIA OF THE ARCHDIOCSES OF LOS ANGELES IN CALIFORNIA

RE: REVEREND WALTER FERNANDO

ACTA CAUSAE

1. November 9, 2004: Cardinal Roger Mahony's report to the Congregation for the Doctrine of the Faith regarding allegations of sexual abuse of a minor against Reverend Walter Fernando, a priest of the Archdiocese of Los Angeles.

2. Acts of the Preliminary Investigation into allegations of sexual abuse of a minor against Father Walter Fernando and other pertinent documentation forwarded to the Congregation for the Doctrine of the Faith by Cardinal Mahony.

3. Mediation Documentation for REDACTED , accuser of Rev.Walter Fernando..

4. July 4, 2005: Response to Cardinal Mahony from the Congregation for the Doctrine of the Faith.

5. January 7, 2004: Letter to Cardinal Mahony from REDACTED canonical advocate for the accused, arguing that the allegation against Walter Fernando does not constitute a grave delict.

6. September 24, 2004: Letter to Msgr. Craig Cox, Vicar for Clergy, from REDACTED REDACTED advocate for the accused, reporting the results of his own investigation into the allegation.

7. April 12, 2005: Letter to Msgr. Cox from canonical advocate questioning the manner in which the preliminary investigation was conducted and the conclusions drawn.

8. November 9, 2005: Letter to Msgr. Cox from the canonical advocate requesting that any further investigation into the allegation be suspended pending the outcome of civil litigation.

9. December 19, 2005: Letter to Msgr Cox from the canonical advocate stating that he listened twice to a telephone conversation taped by the Los Angeles Police Department between Father Fernando and his accuser. The information on this tape establishes that the accuser was 18 at the time of the alleged abuse. Therefore, there is no canonical delict and Father Fernando should be returned to active ministry.

10. December 24, 2005: Letter to Msgr. Cox from the canonical advocate with further thoughts on the nature of the case.

11. January 19, 2006: Letter to Msgr. Cox from canonical advocate requesting transcript of the canonical interview with Father Fernando's accuser.

12. November 6, 2006: Letter to Msgr. Gabriel Gonzales, Vicar for Clergy, from canonical advocate questioning why Father Fernando has not been returned to active ministry since the allegation against him is not a *gravius delictum.*

13. December 15, 2006: Response by Msgr. Gonzales to the canonical advocate's letter dated November 6, 2006, with reasons why the matter must be pursued further.

14. December 23, 2006: Letter to Msgr. Gonzales from canonical advocate arguing that the matter cannot be pursued under Canon 1395(2).

15. February 25, 2008: Letter to Cardinal Mahony from canonical advocate with arguments as to why Father Fernando should be reinstated and a request that he be returned to active ministry.

16. May 17, 2008: Letter from Msgr. Gonzales to canonical advocate explaining that Cardinal Mahony must once again hear the Clergy Misconduct Oversight Board before making a decision regarding Father Fernando's reinstatement.

17. July 14, 2008: Recourse to the Congregation for the Clergy by canonical advocate against Cardinal Mahony's denial of the request for the reinstatement of Father Fernando.

18. August 4, 2008: Letter to Cardinal Mahony from the Congregation for Clergy notifying him of a petition for hierarchial recourse from Rev. Walter Fernando against the apparent provisions of the Archdiocese not to reinstate him to ministry and requesting the *acta* involved in the case and his opinion.

REDACTED

COPY 177

July 16, 2008

His Eminence Roger Cardinal Mahony
Archbisbop of Los Angeles
3424 Wilshire Boulevard
Los Angeles, CA 90010

Re: Father Walter Fernando

Dear Cardinal Mahony:

I am enclosing a copy of the Recourse I have today submitted to the Congregation for the Clergy on behalf of Father Fernando.

With continuing best wishes, remain

Yours, sincerely and respectfully,
REDACTED

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REDACTED

July 14, 2008

His Eminence Claudio Cardinal Hummes, OFM
Prefect, Congregation for the Clergy
Piazza Pio XII, 3
000120 Vatican City

Re: Reverend Walter Fernando
Archdiocese of Los Angeles

RECOURSE/APPEAL TAKEN FROM ROGER CARDINAL MAHONY'S DENIAL OF THE PETITION FOR REINSTATEMENT OF FATHER WALTER FERNANDO

This Recourse is within the competence of the Congregation for the Clergy because it involves the rights of a priest and it has been determined by the Congregation for the Doctrine of the Faith that the case does not involve the delict of sexual abuse of a minor by a cleric.

Procedural History of the Case

Apr. 24, 1944 : Walter Fernando born in Sri Lanka

Jan. 25, 1973 : Father Fernanado ordained in Archdiocese of Colombo, Sri Lanka

Mar. 01, 1981 : Fr. Fernando given faculties and assigned as associate at St. Hilary's Church, Pico Rivera, California, Archdiocese of Los Angeles.

Feb. 24, 1986 : Incardinated into the Archdiocese of Los Angeles

Feb. 06, 2003 : Through her civil attorney, a woman named REDACTED , born on August 7, 1963, accused Father Fernando of having sexually abused her in 1981 when she was a minor.

Feb. 19, 2004 : Father Fernando was removed from ministry and placed on Administrative leave.

Sept 1, 2004 : Father Fernando appoints REDACTED as his advocate/procurator

Nov. 16, 2004 : Fr. Fernando"s case sent to congregation for the Doctrine of the Faith

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July 4, 2005 : Reply Decision of Congregation for the Doctrine of the Faith.

Jan.25, 2008 : Petition for Reinstatement of Father Fernando made to Cardinal Mahony, two and one half years after CDF's decidion and repeated requests, both verbal and written, for a disposition of the case according to CDF's decision and direction.

May 17, 2008: Cardinal Mahony denies the Petition for Reinstatement. Letter Decree Received by Procurator/Advocate on May 27, 2008.

May 31, 2008: Request for Reconsideration of his Denial made to Cardinal Mahony within ten canonical days prescribed by canon 1734. Mailed on June 3, 2008 by overnight mail.

July 03, 2008: Last day for Response to Request for Reconsideration. No response received. Request deemed denied by operation of law (canon 1735).

July 14, 2008: This Recourse from Denial of Petition for Restatement is taken to this Congregation for the Clergy in accordance with canon 1737 within the fifteen canonical days prescribed in canon 1737(2).

Documents Submitted With This Recourse

The following documents are incorporated in this Recourse to the Congregation for the Clergy. The information and arguments contained therein constitute the legal and factual reasons for which this Recourse should be granted and Father Fernando reinstated as an active priest in good standing.

1. The Petition for Reinstatement of Father Walter Fernando, dated February 25, 2008.

2. Cardinal Mahony's Denial of the Petition through the letter of Monsignor Gonzales, dated May 17, 2008.

3. Request dated May 31, 2008 for Reconsideration of Cardinal Mahony's Denial of Request for Reinstatement..

4. Statement for Weekend Masses regarding Father Fernando and the allegation against him, for weekend of January17-18, 2004.

   This statement announced in part that:

   a) "Fr. Fernando has denied any sexually abusive conduct with the person, and

   b) "Prior to this (allegation) there has never been any complaint about Father Fernando" – that is, in the twenty three years that he has served as a priest

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in the Archdiocese of Los Angeles.

5. Letter/Decree placing Father Fernando on Administrative leave, dated Feb. 18, 2004.

6. Letter of Monsignor Cox confirming that the case was sent to CDF on Dec.16, 2004

7. Response for CDF dated July 4, 2005.

8. Letter of REDACTED to Monsignor Gonzales dated November 6, 2006.

9. Letter of Monsignor Gonzales to REDACTED dated December 15, 2006.

10. Letter of REDACTED to Monsignor Gonzales dated December 23, 2006.

11. Proofs of Archdiocesan receipt of Petition for Reinstatement and Petition for Reconsideration.

12. Mandate of Father Fernando.

Should the Congregation need or desire any other information or document which I can provide, I will be happy to supply it immediately.

Given on this 14th day of July, 2008 REDACTED
in San Francisco, California

Procurator/advocate for Father Walter Fernando

A copy of this Recourse with all its attachments has been sent to
His Eminence Roger Cardinal Mahony
Archbishop of Los Angeles
3424 Wilshire Boulevard
Los Angeles, California 90010

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REDACTED

February 25, 2008

His Eminence Roger Cardinal Mahony
Archbishop of Los Angeles
555 West Temple
Los Angeles, CA 90012

Re: Reverend Walter Fernando
CDF Prot. No. 599-21318

PETITION FOR REINSTATEMENT
OF
FATHER WALTER FERNANDO

This Petition is made under the provisions of Canons 57 and 1722 of the Code of Canon Law, Article 13 of *Sacramentorum Sanctitatis Tutela,* and Norms 6 and 13 of the *Essential Norms for Diocesan/Eparchial Policies Dealing With Allegations of Sexual Abuse of Minors by Priests or Deacons.*

This Petition is for a Decree declaring the termination of Father Walter Fernando's administrative leave and of the canon 1722 restrictions on priestly ministry imposed upon him on February 19, 2008, and reinstating him to active ministry.

Facts and Law

1. In 2003, a woman named REDACTED accused Father Fernando of having sexually abused her when she was a minor in 1981.

2. In accordance with the provisions of Part IV, *The Penal Process,* beginning with canon 1717, Article 13 of *SST* and Norm 6 of the *Essential Norms,* REDACTED Cardinal Mahony, commenced a penal process by initiating the preliminary investigation,

3. On February 19, 2004, REDACTED placed Father Fernando on administrative leave and prohibited him from exercising sacred priestly ministry. REDACTED did so under the provisions of canon 1722 which empowers him to do so "at any stage of the process" for the reasons specified in that canon.

4. Because the allegation against Father Fernando involved a canonical *delict*

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under canon 1395(2) which is reserved to the Congregation for the Doctrine of the Faith, Cardinal Mahony submitted the case to that Congregation as prescribed by Article 13 of *SST* and Norm 6 of the *Essential Norms*, on November 16, 2004.

5. The Congregation responded to the Cardinal on July 4, 2005 stating that the woman REDACTED "by her own admission was 17-18 years of age at the time of the alleged incidents in 1981." She was not, therefore a "minor" in 1981 according to the prevailing law.[1] Thus, the Congregation rightly concluded that "the matter cannot be considered as a *delictum gravius*" and, consequently was not a matter reserved to or referable to CDF. CDF's statement effectively decided that whatever Father Fernando is alleged to have done, he did not commit the *delict* of sexual abuse of a minor.[2]

6. This determination of CDF ended the penal process which had been initiated against Father Fernando based on REDACTED allegation. The allegation could no longer be considered the a *delict* subject to the provision of SST or the Essential Norms which alone justified the initiation of the penal process.[3]

7. Consequently, the reason for which canon 1722 restrictions on ministry were imposed ceased and were revoked by operation of law upon receipt of CDF's response, which effectively ended the penal process.

"If, however, the reason ceases, all these restrictions are to be revoked: they cease by virtue of the law itself as soon as the penal process ceases". Canon 1722.

The restrictions were temporary measures which could be imposed and maintained only "pending the outcome of the process". Norm 6, *Essential Norms*.

8. Norm 13 of the *Essential Norms* states that "When an accusation (of sexual abuse of minor) has been shown to be unfounded, every step possible will be taken to restore the good name of the person falsely accused". The fact that REDACTED was not a minor at the time of the alleged abuse, renders her allegation – that she was sexually abused *when a minor* - unfounded and required the implementation of Norm 13. Accordingly administrative leave should have ended and Father Fernando returned to ministry as the very first step necessary to restore his good name.

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[1] In 1981, Canon Law defined a minor as under sixteen years of age. There is, in fact, no proof that REDACTED REDACTED was even under the age of eighteen at the time. REDACTED herself cannot say for certain that she was: (Mediation Document, p. 10 , "To the best that I can recall0..." REDACTED turned eighteen on August 7, 1981.

[2] The reinstatement of Father Fernando would not be contrary to the Cardinal's position that no priest who has committed even one act of sexual abuse *of a minor* is in active ministry.

[3] All offenses against the sixth commandment may be sins but not all of them constitute canonical crimes subject to a penal process and the imposition of canonical penalties. Only those sins committed in circumstances specifically described in the Code and *SST*, and declared to be canonical crimes, are subject to a penal process, administrative or judicial. Other offenses remain sins confined to the internal forum and not subject to inquiry or any manifestation of conscience. The essential circumstance in REDACTED allegation which would make the alleged sexual conduct a crime was that she was a minor. CDF confirmed that she was not.

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PETITION FOR REINSTATEMENT, February 25, 2008, page three.

9. In the twenty seven-plus years during which Father Fernando has served the Archdiocese of Los Angeles as a priest, there has been no other allegation of sexual misconduct of any kind on his part except the 22- year-old allegation of REDACTED

From all that has been written above it is respectfully submitted the this Petition should be granted.

REDACTED

Given on this 25th day of February, 2008
at San Francisco, California

cc: Reverend Monsignor Gabriel Gonzales
Vicar for Clergy

Received May 27, 2008
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Archdiocese of Los Angeles
Office of Vicar for Clergy (213) 637-7284
3424 Wilshire Boulevard
Los Angeles California 90010-2202

May 17, 2008

REDACTED

RE: Reverend Walter Fernando, Petition for Reinstatement

Dear REDACTED

I am writing in the name of Cardinal Mahony in reply to your Petition of February 25 last seeking the termination of Father Walter Fernando's administrative leave and his reinstatement to active ministry.

Your request cannot be granted at this time. Father Fernando's case is currently pending before our Clergy Misconduct Oversight Board (CMOB), which, based on the facts of the case, will make a recommendation to Cardinal Mahony as to whether Father Fernando should be returned to active ministry. CMOB should be ready to review the case at its June meeting, after which it will make its recommendation. His Eminence will then make his decision as to whether Father Fernando can be reinstated to active ministry, and that decision, complete with motivation, will be duly communicated.

I would remind you that, in accordance with the instructions received from the Congregation for the Doctrine of the Faith, the question at issue is not a reserved *gravius delictum* and Cardinal Mahony therefore "does not need any authorization from this Dicastery to evaluate the merits of the case and act accordingly" (letter from CDF, July 4, 2005). The CMOB review of the matter and its subsequent recommendation is a necessary part of His Eminence's evaluation of the merits of the case, which, although not a *gravius delictum*, nonetheless involves serious accusations of a priest abusing his office and committing offences against the Sixth Commandment with a girl who at the time was 17-18 years of age. The good of the Church and the public good as well require that the steps outlined above be taken in order that the case be properly resolved.

Trusting that the above information is useful, and with every good wish, I remain

Sincerely yours in Christ,

Monsignor Gabriel Gonzales
Vicar for Clergy

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REDACTED

May 31, 2008

His Eminence Roger Cardinal Mahony
Archbishop of Los Angeles
3424 Wilshire Boulevard
Los Angeles, California 90010

Re: Father Walter Fernando

REQUEST FOR RECONSIDERATION

Your Eminence:

I write in response to Monsignor Gonzales', Vicar of Clergy's ,May 17, 2008 response in your name denying my February 25, 2008 Petition for Reinstatement of Father Fernando and informing me that CMOB will review the facts of the case at its June meeting after which time you will make your decision and duly communicate it.

Pursuant to Canon 1734, I request that you kindly reconsider your denial of my Petition for Reinstatement of Father Walter Fernando dated February 25, 2008 and revoke or amend your letter decree. I received the letter decree on May 27, 2008 and submit this Request for reconsideration within the ten canonical days prescribed by canon 1724.

Father Fernando was placed on administrative leave "effective February 19, 2004."[1] This was done in accordance with Canon 1722 and Norm 6 of the Essential Norms when Father Fernando" was named as someone who allegedly engaged in the sexual abuse of a minor."[2] On July 4, 2005, The Congregation for the doctrine of the Faith informed you of its decision that the charge against Father Fernando did not constitute a *delictum gravius*, namely, the sexual abuse of a minor by a cleric. With that decision the penal process for determining whether Father Fernando sexually abused a minor was concluded. The reason for which Father Fernando was placed on leave ceased to exist and all the restrictions placed upon him were to be revoked, as required by canon 1722. In fact, they "ceased by virtue of the law itself" as soon as that decision was announced to you.[3]

[1] Letter of Monsignor Cox to Father Fernando dated February 18, 2004.
[2] *Statement for weekend Masses at Assumption of the Blessed Virgin Mary Parish, Pasedena,* Wenesday, January 17-18, 2004 signed by Monsignor Cox, Vicar for Clergy.
[3] Can. 1722: "quae omnia, cause cessante, sunt revocanda, eaque ipso iure finem habent ..."

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No legally valid reason has been given why Father Fernando has been kept on leave and subject to those restrictions almost three years after CDF communicated its decision to you. Since the reason for putting Father Fernando on administrative leave has ceased, continuing to restrict the exercise of his priesthood now seems to constitute the unlawful imposition of a canonical penalty without any canonical cause or process.

Monsignor Gonzales letter rightly states that you do not need any authorization from CDF to evaluate the merits of the case and to act accordingly. But what exactly is the case that is to be evaluated? Monsignor Gonzalez states that it "involves serious accusations of a priest (Father Fernando) abusing his office". The offense of "abusing an ecclesiastical power or office" is itself a *delict*, a canonical crime, which can be punished with a penalty.[4] This crime, however, is subject to a prescription period of three years after which time it ceases to exist as a matter of law (canon 1362 (1)). Furthermore, there is no provision in law which empowers any ecclesiastical authority to dispense from prescription for the *delict* of abuse of office.[5] No such dispensation can be either sought or granted. Because any alleged "abuse of office" in this matter would necessarily have taken place in 1981, that canonical crime would have been extinguished in 1984 and can never thereafter be the subject of any adjudication or evaluation, whether judicial or administrative or, a fortiori, be the reason for the imposition of any penalty. There is no "case" for CMOB to evaluate or to recommend any canonical penalty such as removal from ministry.

Monsignor Gonzales' letter/decree cites the "good of the Church and the public good" but does not explain that "good" or why it necessitates or justifies the proposed "steps outlined" in his letter. On the contrary, once the reason for which Father Fernando was placed on leave, to his detriment and that of the Church, the good of the Church would seem to require the implementation of its own laws and the removal of the canonical restrictions imposed on Father Fernando.

Canon 223 (2), indeed, allows an Ecclesiastical authority to regulate the exercise of rights for the "common good".[6] Regulating the exercise of a right does not mean deprivation of that right. It does not mean or justify depriving a priest of his essential rights as a priest to act as a priest, with the faculties of a priest. Because it is argued that a priest has no right to an office or an assignment, a Bishop may decide that the common good may be served by not giving Father Fernando an assignment. The common good, however, does not and cannot ever justify the imposition of an ecclesiastical penalty without cause and process.

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[4] Can. 1389

[5] The only faculty to dispense from prescription for any *delict* was given to CDF for the crime of sexual abuse of a minor, a *delict* reserved to that Congregation.

[6] "Ecclesiasticae auctoritati competit, intuitu boni communis, exercitium iurium, quae christifidelibus sunt propria moderari."

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Because any decision you make concerning Father Fernando's future will have to be by a singular decree, Canon 50 of the Code of Canon Law requires that before such a decree is given, the person in authority must first a) seek out the information *and proofs* and b) hear from the person whose rights can be harmed by the decree.[7]

The right to be heard cannot be exercised by Father Fernando unless he is first advised of the *exact* issue to be determined[8] and has had the opportunity to review *all* the "notitias et probationes" of the issue and to present a defense. "Probationes" means *all* available evidence in this matter, all the evidence of Father Fernando's twenty two years as an active priest (twenty six years as a priest) in the Archdiocese and not solely on one twenty-two-year-old unproven allegation made only after twenty two years.

I, therefore request that, pending your response to this request for reconsideration any discussion and recommendation on Father Fernando by CMOB be postponed until I, together with Father Fernando, have had the opportunity to review the entire file on this matter *as well as his entire personnel file* and to prepare a defense. To this date we have not been allowed to review these files.

Furthermore, if the Clergy Oversight Misconduct Board, is to review the matter and make a recommendation to you, in effect acting like a consultative jury, I ask that I be allowed to present Father Fernando's defense to that body in person. In no other way could it be said that Father Fernando "has been heard". This becomes even more necessary if you intend to accept CMOB's recommendation as your decision.

Father Fernando and I would be happy to discuss any proposal you may have for his future at any time.

Given at San Francisco, California
on this 31st day of May, 2008

Respectfully submitted,

REDACTED

Advocate/Procurator for Father Walter Fernando

cc: Reverend Monsignor Gabriel Gonzales
Vicar for Clergy, Archdiocese of Los Angeles

[7] Can.50 – "Antequam decretum ingulare ferat, auctoritas necessaries notitias *et probationes* exquirat, *atque,* quantum fieri potest, eos *audiat* quorum iura laedi possint."
[8] CDF's Instruction to you admits that the issue is not one of sexual abuse of a minor.

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REDACTED

February 25, 2008

His Eminence Roger Cardinal Mahony
Archbishop of Los Angeles
555 West Temple Street
Los Angeles, CA 90012

Re: Reverend Walter Fernando

Dear Cardinal Mahony:

I am sending you a Petition for Reinstatement of Father Walter Fernando. The reasons for the Petition are explained therein. As his canonical advocate I would be remiss did I not present it since it has now been two and half years since CDF's reply and some three months since the global settlement of civil claims has been finalized.

Canon 57 gives a period of three months for a response to the Petition and also provides that if no response is given within that three month period it will be considered a negative response, at which time recourse, if necessary, can be taken. Since the case no longer belongs to CDF, I believe that that the Congregation for Clergy would be the competent Congregation.

Given that there is no longer a canon 1395(2) penal process, I do not know on what basis Father Fernando is still on administrative leave. Has any other process been initiated against him which would authorize and justify administrative leave? Please advise me of the basis for his still being restricted in his priestly ministry.

Father Fernando and I would be willing to meet at any time to discuss your thoughts and intentions on the matter.

With continued kind regards,

REDACTED

Advocate for Father Walter Fernando

Cc: Reverend Monsignor Gabriel Gonzales
Vicar for Clergy

Fernando

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Statement for Weekend Masses at Assumption of the Blessed Virgin Mary Parish, Pasadena
Wednesday, January 17-18, 2004
Regarding Reverend Walter Fernando

As you know, in August of 2002, the *Los Angeles Times* published an article on sexual misconduct by Catholic priests and, among many others, named your Associate Pastor, Father Walter Fernando, as someone who allegedly engaged in the sexual abuse of a minor. On that occasion, REDACTED made an announcement in the parish indicating that while officials of the Archdiocese were aware that an investigation was being conducted, we had not received any complaint of misconduct by Father Fernando at that time.

Earlier this week, on Wednesday, January 14, 2004, *The Times* published another article focusing specifically on Father Fernando. Additionally, a lawsuit was filed in December charging Father Fernando with abusive behavior.

Prior to this, there had never been any complaint about Father Fernando. He has denied any sexually abusive conduct with the person who filed the lawsuit or, for that matter, with anyone else. There is only one person who has made any claim against Father Fernando. Only on this past Wednesday has she consented to being interviewed by an investigator of the Archdiocese. Up to this point, she has not submitted written responses to a questionnaire as part of the court-ordered mediation process. We have asked to see the results of the police investigation so that we can know and assess any evidence the police may have obtained. We still hope that the police and District Attorney will release this information to us.

Our Clergy Misconduct Oversight Board has considered the case of Father Fernando on several occasions. Up to the present, the information available to us has been hearsay in nature and without the kind of detail that would enable the Archdiocese to investigate more fully, or enable Father Fernando to present a reasonable defense. As a result, the Board has not recommended that Father Fernando be placed on administrative leave. It has recommended a number of steps that either have been or are being pursued.

Cardinal Mahony is committed to assuring that children and young people are safe. He has pledged that when it is determined that a priest has engaged in sexual misconduct with a minor, that he will be permanently removed from ministry. That pledge has been implemented. The fact that a lawsuit has been filed or a complaint made to the police does not mean that Father Fernando has acted in an abusive fashion. All people, priests included, must be presumed innocent until there is proof to the contrary. At the same time, the Church takes allegations of this sort seriously -- precisely because we want to uncover the full truth and then act in accord with the truth. Therefore, we will continue to seek all available information.

We will continue to keep you informed of developments. We ask that you please pray for everyone involved -- people who have been harmed by sexual abuse, priests, and those conducting the investigations. Thank you.

Monsignor Craig A. Cox

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Archdiocese of Los Angeles
Office of Vicar for Clergy (213) 637-7284
3424 Wilshire Boulevard
Los Angeles California 90010-2202

February 18, 2004

Personal and Confidential

Reverend Walter Fernando
Assumption of the Blessed Virgin Mary Church
2640 E. Orange Grove Boulevard
Pasadena, CA 91107-2632

Dear Father Fernando:

This is to provide written confirmation of the decision communicated to you in person that, effective February 19, 2004, you will begin an administrative leave of absence.

The parish should pay you for the month of February. I also ask that the parish make the contribution for your pension account for the January through March quarter. Beginning in March, my office will assume responsibility for your salary and benefits, and beginning with the April quarter we will be paying into your pension account.

At this point, please continue to use the parish car. The Vicar's office will pay for any maintenance that needs to be done on the car during this period of leave.

I am assigning you in residence at St. Basil's Parish. During this time of leave, you are to engage in no public ministry, though you are free to celebrate Mass in your own room or the rectory chapel. If you wish, please do take advantage of the opportunity to spend some time on retreat, and you continue to be welcome at the day of recollection scheduled for Manning House. Also, let me renew my invitation to avail yourself of the counseling you need at this very difficult time. Since you already met with REDACTED , you may wish to see him. But I can make arrangements with other counselors if you wish.

You are in my prayers at this time of tremendous trial. As we soon will enter the season of Lent, I know you will experience the Passion in a totally new and profound way. I pray for you, and for the truth to emerge. Thank you for being so gracious and understanding in these last two years. May the peace of Christ be with you!

Your brother in Christ,

Monsignor Craig A. Cox, J.C.D.
Vicar for Clergy

cc: REDACTED

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Archdiocese of Los Angeles | Office of Vicar for Clergy (213) 637-7284 | 3424 Wilshire Boulevard | Los Angeles California 90010-2202

November 22, 2004

Personal and Confidential

Reverend Walter Fernando
St. Basil Parish
637 South Kingsley Drive
Los Angeles, CA 90005-2392

Dear Father Fernando:

Please know that you continue to be in my prayers. I can only dimly imagine how difficult it is to be accused and to be in a state of uncertainty for such a long time. I trust that your visit with family and friends back home was a source of strength for you.

I am writing to inform you that, in accord with the requirements of *Sacramentorum sanctitatis tutela*, Cardinal Roger Mahony made a report to the Congregation of the Doctrine of the Faith concerning your situation. That letter was dated November 9, 2004 and it was sent November 16, 2004.

We have asked the Congregation for direction in how to proceed in your case. I will inform you when we hear back from the Congregation.

May God bless you!

Yours in Christ,

Monsignor Craig A. Cox, J.C.D.
Vicar for Clergy

REDACTED

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CONGREGATIO
PRO DOCTRINA FIDEI

00120 Città del Vaticano,
Palazzo del S. Uffizio

4 July 2005

599/2004 - 21318
PROT. N. .....
(In responsione fiat mentio huius numeri)

CONFIDENTIAL

Your Eminence,

The Congregation for the Doctrine of the Faith received your correspondence regarding the case of the **Rev. Walter FERNANDO**, a priest incardinated in the Archdiocese of Los Angeles, who has been accused of the sexual abuse of a woman who, by her own admission, was 17-18 years of age at the time of the alleged incidents in 1981.

This Dicastery examined the case on 25 June 2005 when it was decided that, since the matter cannot be considered as a *delictum gravius*, Your Eminence does not need any authorization from this Dicastery to evaluate the merits of the case and act accordingly.

With prayerful support and fraternal best wishes, I remain

Sincerely yours in Christ,

✠ Angelo AMATO, SDB
Titular Archbishop of Sila
Secretary

His Eminence
Roger Cardinal Mahony
Archbishop of Los Angeles
3424 Wilshire Boulevard
Los Angeles, CA 90010-2202
UNITED STATES OF AMERICA

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REDACTED

November 6, 2006

Reverend Monsignor Gabriel Gonzales
Vicar for Clergy
Archdiocese of Los Angeles
3424 Wilshire Blvd.
Los Angeles, CA 90010

Re: Reverend Walter Fernando
CDF Prot. # 599/2004-21318

Dear Monsignor Gonzales:

On September 19, 2006, seven weeks ago, I met with you and REDACTED REDACTED to inquire about the status of Father Walter Fernando. I was given no definite information and am at a loss to know what is delaying any action in his case.

I discussed this matter with Monsignor Cox in a meeting of October 28, 2005 and again before he left the office of Vicar for Clergy in July 2006. There are always assurances that something will be done soon but nothing seems to be done.

It has been since July 4, 2005, sixteen months ago, that the Congregation for the Doctrine of the Faith issued its decision that Father Fernando did not commit a *delictum gravius*. Although no further action of any kind has been initiated against Father Fernando, he has been left on administrative leave, removed from public ministry. Both in justice and in canon law, this inaction is unjustifiable and detrimental to Father Fernando's good name as well as to the efficacy of his future priestly ministry.

Given the Congregation's decision that Father Fernando has not committed a canonical crime, why is he still out of ministry? Article 13 of the *Essential Norms* Provides that "When an allegation has proved to be unfounded, every step possible will be taken to restore the good name of the person falsely accused" REDACTED allegation that Father Fernando sexually abused her when she was a minor has been proved to be unfounded but no step has been taken to restore Father Fernando's good name.

If the Archdiocese contemplates any further action in this matter please advise me what that action is and on what provision of canon law it is based. In justice I ask that this

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Monsignor Gabriel Gonzales, November 6, 2006, page two,

be done without further delay or that Father Fernando be restored to active ministry. Keeping him on leave after the decision of CDF without undertaking any further action is to impose upon him a penalty without any process and is contrary to canon law.

Hoping that you will give some urgency to this matter, I am

Sincerely and respectfully yours,
REDACTED

REDACTED
cc:

Reverend Walter Fernando
William Cardinal Levada
Prefect, Congregation for the Doctrine of The Faith

P.S. Although I have repeatedly asked for a copy of the Archdiocese's interview with the accuserREDACTED I have yet to receive it. Would you kindly send me a copy?

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Archdiocese of Los Angeles

Office of
Vicar for Clergy
(213) 637-7284

3424
Wilshire
Boulevard

Los Angeles
California
90010-2202

December 15, 2006

REDACTED

RE: Father Walter Fernando

Dear REDACTED

I write in reply to your letters of November 6 and 29, 2006 concerning the case of the above-named priest.

First of all, allow me to correct what appears to be a misunderstanding on your part with regard to the decision rendered by the Congregation for the Doctrine of the Faith when it examined the case on June 25 of last year. The Congregation found that the matter at issue, i.e. the sexual abuse of which Father Fernando is accused, is not a *gravius declictum*, since the girl in question was not a minor under the age of 16 at the time the alleged crime occurred. Consequently, the matter is not reserved to the Congregation and, as per the Congregation's letter of July 4, 2005, the Archbishop "does not need any authorization from this Dicastery to evaluate the merits of the case and act accordingly." The Congregation therefore leaves the judgment of this matter where it rightly belongs – in the hands of the diocesan Bishop – and its decision in this regard is in no way a resolution of the case and even less is it a declaration that the *reus* has been found innocent of the crime alleged.

Secondly, your conclusion that "Father Fernando has not committed a canonical crime" is not exact: the crime of which he is accused, although not a *gravius delictum*, does remain a serious violation of the "perfect and perpetual continence" to which clerics are obliged (canon 277 §1). The Church's universal law requires "diocesan bishops ... to pass judgment in particular cases concerning the observance of this obligation" (*ibid.*, §3). It is this judgment that the Archbishop is called to exercise in the present case, as the Congregation also makes clear in its above-cited letter.

Thirdly, your statement that "the allegation [against Father Fernando] has been proved to be unfounded" is simply incorrect: no such determination has been made, not by the Archbishop and certainly not by the Congregation for the Doctrine of the Faith. Quite the contrary, the allegation is serious and an initial investigation of the matter established that the claims of the accuser – far from being unfounded – had the

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semblance of truth, which is why the matter was reported to the Congregation for the Doctrine of the Faith. And once more, the Congregation's decision in the matter is that it falls wholly under the competence of the Archbishop to adjudicate.
Hoping to have shed some light on what appeared to me as erroneous perceptions on your part, I now turn to your question of "what is delaying any action in the case" (your letter of November 6, 2006, p. 1).

As you are undoubtedly aware, the civil action involving the allegation against Father Fernando is still pending, together with many other lawsuits. As you yourself observed a year ago in a letter to my predecessor, "it would not be wise" to undertake any further action in this case before the civil suit is resolved, as this would be "to the detriment not only of Father Fernando ... but also to the Archdiocese and the Church" (Letter from you to Msgr. Cox, November 9, 2005, p. 1). You summed up the situation well when you wrote, "I believe the best course of action at this time would be to preserve the status quo, leaving Father Fernando where he is at St. Basil's on administrative leave until the civil suit is concluded. It has been thus for several years now and a little more time should make no difference. Only when the civil action is complete can one really make a calm and fair assessment of what action should be taken" (*ibid.*).

It may be that you have now changed your position, but the fact remains that the situation on the civil front is unaltered and it appears still to be in the best interest of all concerned to maintain the status quo with regard to Father Fernando (i.e., administrative leave, with full benefits and residence provided by the Archdiocese). The allegation against him raises serious questions as to his suitability for ministry, wherefore he simply cannot engage in any kind of public ministry until the situation is properly resolved. When civil litigation involving his case is completed it will be appropriate for the Church to proceed in the matter. Rest assured, therefore, that when the time is opportune, the case will be properly adjudicated according to the norms of law.

Trusting that the foregoing has served to clarify the situation, and pleased to enclose a copy of the canonical auditor's report of his interview with the accuser, I remain

Sincerely yours in Christ,

Gabriel Gonzales

Monsignor Gabriel Gonzales
Vicar for Clergy

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cc: REDACTED
enclosure

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REDACTED

December 23, 2006

Reverend Monsignor Gabriel Gonzales
Vicar for Clergy
Archdiocese of Los Angeles
3424 Wilshire Blvd.
Los Angeles, CA 90010

Re: Reverend Walter Fernando
CDF Prot. # 599/2004-21318

Dear Monsignor Gonzales:

Thank you for your letter of December 15 and for enclosing the long-sought interview of REDACTED by the Archdiocesan investigator dated February 8, 2004. It is only when an advocate knows exactly what an accuser specifically alleges that he can properly investigate the matter with his client and make other relevant inquiries. My hope is that I may be timely provided with evidence in the future so that we may work together in arriving at the truth of a matter.

Your letter contains inaccuracies which stem from the failure to distinguish between the sexual activity alleged and the sexual crime alleged. Canon 277, obliging clerics to perfect and perpetual continence does not make the violation of that obligation a canonical crime punishable with canonical penalties. It is only when a sexual activity is accompanied by a specific circumstance stated in canon 1395 that the violation is a canonical crime subject to canonical penalties. Otherwise, any failure to observe continence is strictly a matter of the internal forum. Sinful conduct, without more, is not subject to canonical investigation or procedure against a cleric.

Canon 1395 specifies what other conditions must be present in the commission of sexual acts by a cleric in order for those acts to be punishable in the external forum as canonical crimes. The specific allegation against Father Fernando was that he sexually abused *a minor*, a canonical crime as defined in canon 1395(2). It is for this alleged crime that the Cardinal brought the allegation to the Congregation for the Doctrine of the Faith (hereafter CDF) to whom *this crime* is reserved. Only *this crime* could come under the provisions of *Sacramentorum Sanctitatis Tutela* and the *Essential Norms.* Only this crime

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warranted reporting to CDF. You are correct when you state that this case is not reserved to CDF but incorrect when you imply that this conclusion is based on CDF's July 4, 2005 response (you state "consequently..."). This conclusion was known or should have been known before the wrongful referral of this case to CDF. The facts and admissions of the case proved that the accuser was not a minor at the time of the alleged abuse, that the allegation did not constitute a canonical crime under canon 1395(2) and therefore should not have been reported to CDF.

Contrary to your assertion, CDF's reply is, indeed a "resolution of the case" referred to it and does constitute "a declaration that the *reus* has been found innocent of the *crime alleged*". CDF's finding that the "matter cannot be considered a *delictum gravius*" is, *a fortiori,* a declarationt that the *reus* is "i*innocent of the crime alleged*". My statement that "the allegation (sexual abuse of a minor) has been proved to be unfounded would, therefore, seem to be "exact".

You state that the initial investigation established that the accuser's claims had the *semblance* of truth. Far from having any semblance of truth, the accuser's claim that she was a minor when allegedly sexually abused was proven false in your investigation by her own admissions and the factual evidence which proved that Father Fernando was not even in America when she was a minor.

The Archdiocese can no longer proceed against Father Fernando on the contention that he committed a canonical crime under canon 1395(2). You state that the "the case will be properly adjudicated according to the norms of law". Please advise me what is now the precise issue that is to be adjudicated and by what norms of law.

Although I had suggested the status quo be maintained till the civil case is concluded, it has been more than a year since then and I am now concerned about this open-ended delay, especially because the disposition of the civil case may have no bearing on the canonical issues.

Thank you once again and every best wish for the new year,

REDACTED

REDACTED

Cc:

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PETITION FOR RECONSIDERATION

EB 663083762 US

EXPRESS MAIL
UNITED STATES POSTAL SERVICE®

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Archbishop of Los Angeles
3424 Wilshire Blvd.
LOS ANGELES, CA.

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MANDATE

This Mandate reconfirms my Mandate of September 1, 2004 by which, pursuant to canon 1481 of the Code of Canon Law, I, Reverend Walter Fernando, appointed REDACTED to act as my canonical advocate and procurator in all matters and processes concerning my clerical status and position in the Archdiocese of Los Angeles. I hereby specifically express what is contained implicitly in that Mandate, that is, that, pursuant to canon 1738, I appointed and appoint REDACTED to act as my procurator and advocate in any Recourse that I may have a right to take from any sentence or decree issued against me.

Given in Los Angeles, California
On this 10th day of July, 2008

Walter Fernando

Reverend Walter Fernando

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CURIA OF THE ARCHDIOCESE OF LOS ANGELES IN CALIFORNIA

RE: REVEREND WALTER FERNANDO

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TO: File

FROM: Monsignor Craig A. Cox

RE: Father Walter Fernando

DATE: 13 June 2002

I spoke with Father Fernando at St. John's during the continuing education week. He informed me that he had learned from the parish secretary that two police detectives stopped by the rectory wanting to speak to him. The secretary informed the dectives he was away for the week of continuing education. They left a card and asked Father Fernando to be in touch with them. The detectives did not indicate the reason for their desire to speak with Father Fernando.

In speaking with me, Father Fernando expressed a fear that perhaps he was under investigation for some form of misconduct. He stated that approximately twenty years previously, he had crossed boundaries with a woman who was interested in entering the convent. According to him, this never amounted to more than placing his arm around her while they saw a movie together. She did enter the convent for a time and later left. A couple of years ago, this woman phoned him and they spoke by telephone.

I indicated that the detectives might be seeking to speak to him about totally different matters. I suggested that he attend the workshop being given by REDACTED and chat with him afterwards to seek advice.

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REDACTED

REDACTED

REDACTED

September 3, 2002

REDACTED

Archdiocesan Catholic Center
3424 Wilshire Boulevard
Los Angeles, California 90010-2241

RE: NOTICE OF LEGAL INTEREST IN FILES RE **WALTER FERNANDO**
REDACTED

Dear

This letter will inform you that I have been retained to represent the above-named individual in all respects concerning an investigation of misconduct alleged to have occurred while he was a Priest within the Los Angeles Archdiocese.

It is possible during the course of any such investigation that government agencies, attorneys, or other people will request access to any copies of files that may be in the possession, custody, or control of the Archdiocese respecting my client, his personnel records, or any record of any discipline, investigation, or proceeding the Archdiocese conducted relative to my client.

My client has important legal interests in any such files, derived from his various Constitutional rights. PLEASE BE ADVISED THAT HE OBJECTS TO THE RELEASE OF ANY INFORMATION THAT CONCERNS HIM OR ANY INVESTIGATION ABOUT HIM. So that his legal rights may be protected, please give me prompt notice of any request for such records, whether the request is informal, written or oral, or in the nature of a subpoena, discovery, or any other legal process. I will then be able to take appropriate legal action to enforce my client's many legal rights. Thank you for your assistance in this regard.

Very truly yours
REDACTED

19936

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September 3, 2002

ATTORNEY-CLIENT COMMUNICATION

REDACTED

Archdiocese of Los Angeles
3424 Wilshire Boulevard
Los Angeles, California

RE: ASSERTION OF ATTORNEY CLIENT PRIVILEGE BY WALTER FERNANDO

Dear REDACTED

Amid the current maelstrom regarding allegations affecting the Archdiocese, I find it necessary formally to direct you to assert my legal rights regarding any files, reports, statements, or communications concerning allegations involving me. I learned with concern of the current request of District Attorney Cooley to require the Archdiocese to turn over "all documentation" concerning such allegations, since that broad request could cover matters in files in which I have an interest.

In that context, I hereby direct you to assert the rights I hold under the Attorney-Client Privilege concerning any documents relating to allegations against or involving me. I similarly direct you to assert my rights under all other privileges and rights of privacy or confidentiality affecting me, including, but not limited to, the therapist-patient and physician patient privileges, the Medical Information Act [Civil Code Section 56 *et seq.*], 42 USC 290 [dd], and the Right of Privacy enumerated in the California Constitution and contained in the United States Constitution.

Most particularly, the leading case of *Chadbourne v. Superior Court* [1964] 60 Cal.2nd 723, 36 Cal. Rptr. 468, held that where a corporation investigates a matter and prepares reports relating to potential legal claims against it or an employee, such information is protected by the Attorney-Client Privilege. It further held that, "When the employee of a defendant corporation is also a defendant in his own right (or is a person who may be charged with charged with liability), his statement regarding the facts with which he or his employer may be charged, obtained by a representative of the employer and delivered to an attorney who represents (or will represent) either or both of them, is entitled to

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the attorney-client privilege on the same basis as it would be entitled thereto if the employer-employee relationship did not exist . . ."

Clearly, I could be liable for the alleged conduct, and I therefore am a co-holder of the legal privilege. Evidence Code Section 955 *requires* that the privilege be asserted by you.

Interestingly, in the very recent case of *People v. Superior Court [Laff]* [2001] 25 Cal. 4th 703, 107 Cal. Rptr.2nd 323, the California Supreme Court ***unanimously*** rejected a claim by the District Attorney of Los Angeles that such privileges do not apply to documents seized under a search warrant, and observed that the custodian of records affected by the privilege ***must*** assert it "at every peril to himself."

I would be very happy if you will discuss this important direction with my attorney, REDACTED

Yours in Christ,

WALTER FERNANDO

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Archdiocese of Los Angeles

Office of
Vicar for Clergy
(213) 637-7284

3424
Wilshire
Boulevard

Los Angeles
California
90010-2202

DECREE

Preliminary information has come forward indicating that Reverend Walter Fernando may have committed a delict against canon 1395. Therefore, in accord with the provisions of canon 1717, in accord with my authority as Vicar for Clergy, I hereby decree the opening of a canonical preliminary investigation.

I hereby designat REDACTED as auditor to conduct the investigation. He has the authority to subdelegate this responsibility and involve other investigations to assist in this investigation.

In the course of conducting this investigation, the auditors are reminded of their duty to respect the rights and reputation of all involved and to respect the canonical requirements of secrecy attached to such an investigation.

Given this 10th day of February in the Year of Our Lord 2003 at the Curia of the Archdiocese of Los Angeles in California.

Monsignor Craig A. Cox, J.C.D.
Vicar for Clergy

REDACTED

Archdiocesan Seal

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6.

CONFIDENTIAL

Clergy Misconduct

Case: REDACTED Fernando

Canonical Auditor's Interview

Rev. Walter Fernando
Assumption of the BVM Church
REDACTED

Wednesday, 12 February 2003
Vicar for Clergy Offices

At c. 1:00 p.m., in the company of Monsignor Craig Cox, I met with and interviewed Father Walter Fernando in regard to the allegation of misconduct conveyed to the Archdiocese by the attorney(s) representing REDACTED

Before I started the formal interview, Msgr. Cox reminded Fr. Fernando of his civil and canonical rights to retain counsel and not to incriminate oneself. Fr. Fernando indicated that he had conferred with REDACTED and, acting upon his advice, was present only to listen and to take notes and not to respond to any allegations at this time.

I began by verifying some factual information – namely, that Fr. Fernando's first assignment in the Archdiocese of Los Angeles was at St. Hilary's in Pico Rivera, from 3/81 through 11/81, and that he was ordained in Sri Lanka in 1973. Father indicated that he served at three parishes in Sri Lanka, as associate pastor in two and as parish priest (pastor) in the third.

I asked him what led to his coming to the United States. He answered somewhat at length, stating first that he had always wanted to come. Another Sri Lankan priest friend of his REDACTED was already here, and also REDACTED (no relation). There was a change of leadership in his home archdiocese. He was in a kind of rural parish and did not think his talents were suitably employed. He asked for and was granted permission to come on trial to Los Angeles for two years. At the end of that period his archbishop asked him to return. Fr. Fernando was in Granada Hills at the time (St. John Baptist de la Salle) and was happy there, so he wrote home asking for an extension. When his bishop refused, he spoke with Msgr. Rawden, who advised him to write again. Msgr. Rawden added his own request to this second letter, and this time the archbishop agreed.

Father indicated that he was incardinated in the Los Angeles Archdiocese after about 5 or 6 years. His home bishop told him that he needed to stop asking for extensions, that if he was happy here, he should stay, or otherwise come back to Sri Lanka. So he filed the formal request.

He became a citizen of the U.S. roughly six years ago. His family is still in Sri Lanka.

As his arrival at St. Hilary was at an unusual time of year (March) and his stay there was rather short, he was asked why he was assigned there and why then. He replied that with his last name of Fernando, the archdiocesan authorities thought he knew Spanish, but he did not. Rather than

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CONFIDENTIAL

being assigned for a trial period, he believes it was a miscalculation on the authorities' part, which was then corrected. He had stayed at Immaculate Conception for a month before he was given his first assignment.

He indicated that including himself a total of four priests lived at St. Hilary's rectory, the pastor REDACTED (sp?), REDACTED and a student priest whose name he could not recall. There were three priests including himself at Granada Hills, the pastor REDACTED and REDACTED as associate.

Having filled in this background information, I then presented to Fr. Fernando the details, such as we knew them, of the allegation against him (see attached printout). I indicated that we do not know if the complainant's last name REDACTED is her married name or maiden name. He gave no sign of recognition when I stated the name; this includes the first name REDACTED which to me is an unusual name and so I was looking for his reaction. I also indicated that we do not know her age, only that she alleges that she was a minor when the abuse occurred. I read through the complete list of items constituting the "nature of abuse."

After presenting all the details, I asked him if he wished to make any statement or response. He repeated his opening statement, that on the advice of his attorney, he did not want to say anything at this point of the process. He did take written notes of the allegation details.

Msgr. Cox indicated that while we fully understand his decision not to say anything at this time, it is our hope that he will eventually make some response, either coming back in person or by letter. As an example, it would be helpful if he could indicate whether he even knows or knew the claimant, and how old she was.

At this point I ended the formal interview and left.

****

Fr. Fernando's demeanor was cordial and cooperative. He was quite aware of the seriousness of the allegation, but did not exhibit overt anxiety. I was not aware of significant body language reactions to any of the information I conveyed. He seemed subdued, yet he also expressed appreciation at finally being able to learn the nature of the accusation against him. I did not detect any emotional defensiveness, rather just an appropriate level of concern.

REDACTED

55199

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CONFIDENTIAL COPY

REDACTED

MEMORANDUM

Los Angeles
California
90010-2241

3424
Wilshire
Boulevard

REDACTED

TO: Cardinal Mahony
FROM: REDACTED
SUBJECT: Preliminary Investigations – W. Fernando,
DATE: 13 February 2003

Yesterday I conducted the formal interviews of Fathers Walter Fernando and . in connection with allegations of sexual abuse of a minor: The records of those interviews are enclosed.

In both cases they declined to make any response to the allegations. Father . declined even to answer factual questions about who his fellow residents were at his first assignment at . They were acting, appropriately in my opinion, on the advice of their civil legal counsel. Since they made no claims one way or the other about the allegations, there was no basis for me to formulate an opinion about their credibility.

There will be no opportunity to pursue further investigation in either case until (1) access to the complainant becomes possible and/or (2) the accused priest chooses to make further statements. Accordingly, I recommend that each preliminary investigation be suspended until either eventuality occurs.

Copy: Msgr. Craig Cox, Vicar for Clergy

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WALTER FERNANDO [CMOB-027-01]:

EXCERPTS FROM MINUTES OF CLERGY MISCONDUCT OVERSIGHT BOARD:

January 22, 2003 Minutes:

"**CMOB-027-01:** "No Complaint" – Father X is currently an associate pastor. In June 2002 Father X contacted Msgr. Cox to report that while he was on vacation two detectives had stopped by the rectory looking for him. They left a card but no information. Father X does not know what they were investigating but told Msgr. Cox that it could relate to a boundary crossing 20 years ago with a woman interested in entering the convent. It involved placing an arm around her while they were watching a movie together. The woman did enter the convent for a time and left. She telephoned Father X a couple of years ago. There have been no complaints against Father X. Upon inquiry, it was learned that the LAPD has an open investigation involving Father X. Father X's name is on the list of 124 priests compiled by the attorneys, but the victim's name and allegations are unknown. The police have been asked to have the complainant contact the Archdiocese and there has been a request to the attorney for further information.

Recommendation: The Board agreed that no action be taken until further information is obtained."

March 26, 2003 Minutes:

"**CMOB-027-01:** "No Complaint" – This matter was discussed by the Board on January 22, 2003. In June 2002 Fr. X informed Msgr. Cox that two detectives had stopped by the rectory looking for him while he was on vacation; they left a card but no information. Fr. X was concerned about a boundary crossing over 20 years ago. LAPD would only state that there was an open investigation. The Archdiocese never received a complaint, and there have been no other complaints against Fr. X. This was mentioned in the newspapers, and there has been picketing at the parish. The Board had agreed that no action be taken until further information was provided.

Recently, plaintiffs' attorneys in the class action lawsuit supplied the Archdiocese with a list of alleged perpetrators, victims, allegations and dates. Fr. X's name was included on the list. Fr. X is accused of abusing a young girl from 1980-81 including pre-grooming, French kissing, hugging in a sexual manner, fondling of minor's buttocks and rubbing/massaging of minor's breasts both over clothes and skin to skin, kissing neck, face and breasts, putting his finger in minor's vagina, masturbating perpetrator skin to skin, and attempted oral copulation by force. This allegedly occurred at a theater, in a car and at a park. After consultation with his attorney, Fr. X denied certain of these allegations in writing.

There was discussion about the lack information, i.e., the exact age of the alleged victim at the time and her personal description of what had happened. It was suggested that a letter from the Vicar for Clergy's office to the plaintiff's attorney requesting additional information might help facilitate the Board's decision about whether

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to recommend that Fr. X remain in ministry or not. The letter should be sensitive and possibly offer pastoral care. Msgr. Cox said he would also like to speak with Fr. X again.

The Board took a vote on the following two options:

1) That Fr. X be placed on immediate administrative leave; or

2) That the Vicar for Clergy's office seek further information from Fr. X and the Alleged victim, including, but not necessarily limited to, the victim's birth date, and report back as soon as possible, but in no event later than the June 11, 2003 CMOB meeting (60 days).

Of the remaining nine members present, eight members voted for Option 2 and one member abstained."

RCALA 003074

IX 000446

C.M.O.B. Number	NAME	DATE DISCUSSED – RECOMMENDATION	CARDINAL APPROVED	FOLLOW-UP
REDACTED				
CMOB-027-01 "No Complaint"	WALTER FERNANDO	January 22, 2003: The Board agreed that no action be taken until further information is provided. March 26, 2003: The Board voted on the following two options: 1) Immediate administrative leave; or 2) The V/C's office seek further information, including but not limited to the victim's birth date, from both Fr. X and the alleged victim, and report back ASAP, but in no event later than 60 days (the 6/11 CMOB meeting). Eight members voted for Option #2; one abstention.		June 11, 2003 Mtg: Report back on further information?

RCALA 003075

IX 000447

REDACTED

027-01	"No Complaint" – Age 58, born in Sri Lanka; ordained in 1973; currently an associate pastor. In June 2002 Fr. X informed V/C that two detectives had stopped by rectory looking for Fr. X while he was on vacation; they left a card but no information. Fr. X is concerned about a boundary crossing 20 yrs. ago with a woman interested in entering the convent. It involved placing an arm around her while watching a movie together. Woman entered convent for a time and left. She telephoned Fr. X a couple of years ago. There have been no complaints against Fr. X. LAPD states there is an open investigation. New Allegations: Plaintiffs' attorneys supplied details of abuse of a young girl from 1980-81 including pre-sexual grooming, French kissing, hugging in sexual manner, fondling of minor's buttocks and rubbing/massaging of minor's breasts both over clothes and skin to skin; kissing neck, face & breasts, finger in minor's vagina, masturbation of perpetrator skin to skin, and tried to force oral copulation. Abuse occurred several times at the theater, in the car and at a park. Father denies specific allegations.	January 22, 2003: The Board agreed that no action be taken until further information is provided. March 26, 2003: The Board took a vote on the following two options: 1) To recommend immediate administrative leave; or 2) that the V/C office seek further information from Fr. X and the alleged victim, including, but not necessarily limited, to the victim's birth date, and report back as soon as possible, but in no event later than 60 days (the June 11, 2003 CMOB meeting). Of the remaining 9 members present, eight voted for option #2; there was one abstention.

REDACTED

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WALTER FERNANDO – CMOB-027-01

UPDATED INFORMATION

Father was listed on list from plaintiffs' attorneys.

Abuse alleged by REDACTED as a minor from 1980 through 1981 occuring at the theatre, in the car and at a park. Abuse included French kissing, hugging in sexual manner; fondling of minor's buttocks both over clothes and skin to skin; rubbing and massaging of minor's breast both over clothes and skin to skin; kissing neck, face and breasts skin to skin; perpetrator put finger in minor's vagina; masturbation of perpetrator skin to skin; tried to force minor to oral copulation of him; pre-sexual grooming (special attention, movies, etc.)

02/12/03: Father was interviewed by Auditor REDACTED with Msgr. Cox present and the allegations stated in a print out were presented to him. Upon advice of his counsel, he stated he was present to listen and to take notes but not respond. He was cooperative and verified dates, history, etc. concerning his service as a priest.

02/13/03 Cardinal Mahony is advised.

03/07/03 Father responds to V/C in writing and denies any and all claims that he put his finger in her vagina, masturbated her and attempted to force her into oral sex. Letter does not mention other charges listed in print out.

New Allegations: Plaintiffs' attorneys supplied details of abuse of a young girl from 1980-81 including pre-sexual grooming, French kissing, hugging in sexual manner, fondling of minor's buttocks and rubbing/massaging of minor's breasts both over clothes and skin; kissing neck, face & breasts, finger in minor's vagina, masturbation of perpetrator skin to skin, and tried to force oral copulation, pre-sexual grooming. Abuse occurred several times at the theater, in the car and at a park. Father denies specific allegations.

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WALTER FERNANDO – CMOB-027-01

Age 58 – born in Sri Lanka
Ordained 1973

Active service, Assoc. Pastor, Assumption of the Blessed Virgin Mary, Pasadena

Reported in LA Times article of August 25, 2002 that he was on inactive leave. LAPD investigating a claim that he fondled a teenage girl in the 1980's while serving at St. Hilary's in Pico Rivera. Denies allegations.

V/C corrected the information at CMOB meeting: He is still an associate pastor and no complaint has ever been received. He notified the Archdiocese that two detectives had been looking for him while he was on vacation in Sri Lanka. He did get an attorney. The Archdiocese will not put him on leave.

Sequence of events per file:

06/13/02: Memo to file from V/C re conversation with Father. Father informed V/C that he had learned from the parish secretary that while he was on vacation in Sri Lanka two detectives had stopped by the rectory looking for him. Father expressed a fear that he was under investigation. He stated apprx. 20 years ago he had crossed boundaries with a woman who was interested in entering the convent. The boundary crossing involved placing an arm around her while they saw a movie together. She did enter the convent for a time and then left. A couple of years ago this woman called him and they spoke by telephone. V/C suggested Father attend a workshop being given by att[REDACTED] and chat with him afterwards to seek advice.

08/30/02 E-mail from[REDACTED] to Detective Barraclough regarding the LA Times article (8/25/02) and an announcement that will be read at the church correcting the information which stated Father was on inactive leave. The announcement will state he is in active ministry and the Archdiocese has not received any complaints about sexual misconduct.

Reply e-mail from Detective Barraclough: "We do have an open investigation on Walter Fernando."

09/03/02 Attorney-client communication – ltr from Father to[REDACTED] asserting legal rights re any files, reports, statements or communications.

09/30/02 Ltr of representation from atty[REDACTED] to[REDACTED] – objecting to release of any information.

CMOB-027-01: "No Complaint" – Age 58, born in Sri Lanka; ordained in 1973; currently an associate pastor. In June 2002 Fr. informed V/C that two detectives had stopped by rectory looking for Fr. while he was

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on vacation; they left a card but no information. Fr. is concerned about a boundary crossing 20 yrs ago with a woman interested in entering the convent. It involved placing an arm around her while watching a movie together. Woman entered convent for a time and left. She telephoned Fr. a couple of years ago. There have been no complaints against Fr. LAPD states there is an open investigation.

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March 7, 2003

Msgr. Craig Cox
Vicar for Clergy
3424 Wilshire Boulevard
Los Angeles, CA 90010-2241

Dear Msgr. Cox:

I am writing to you in regard to the charges made against me by REDACTED You indicated to me that she has claimed that I put my finger in her vagina, masturbated her, and attempted to force her into oral sex. I categorically deny any and all of those claims.

Thank you for the opportunity to be heard regarding those matters.

Yours in Christ,

Walter Fernando

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MEMORANDUM

TO: Cardinal Roger Mahony

FROM: REDACTED REDACTED
Clergy Misconduct Oversight Board

RE: ***Recommendation of the Clergy Misconduct Oversight Board Reverend Walter Fernando [CMOB-027-01]***

DATE: April 25, 2003

The case of Father Walter Fernando was first considered at the CMOB meeting on January 22, 2003. At that time Monsignor Cox reported that in June of 2002 Father Fernando informed him that two detectives from the Los Angeles Police Department had stopped by the rectory looking for him while he was on vacation. They left a business card, but no information. LAPD would only state that there was an open investigation. Father Fernando told Monsignor Cox that he didn't know what they were concerned about but that it could be an incident which occurred some 20 years ago when he placed an arm around a woman while they were watching a movie together. There had never been any complaints. The CMOB discussed the case and recommended at that time that no action be taken until further information was obtained. For some reason, this recommendation was not reported to you at that time.

We returned to Father Fernando's case on March 26, 2003. Msgr. Cox reported that Father Fernando's name recently appeared on the list of alleged perpetrators and purported victims in the class action suit currently in mediation. The information stated that Father Fernando had abused a young girl from 1980-81 by pre-sexual grooming, French kissing, hugging in a sexual manner, fondling her buttocks and rubbing/massaging of her breasts both over clothes and skin to skin, kissing her neck, face and breasts, putting a finger in her vagina, her masturbation of him skin to skin, and his trying to force oral copulation. The abuse was alleged to have occurred several times at the theater, in the car and at a park.

Father Fernando met with REDACTED and Monsignor Cox on February 12, 2003. Upon advice of counsel, he did not respond except to verify dates concerning his service as a priest. On March 7, 2003, he responded to the charges in writing and denied any and all claims that he put his finger in her vagina, masturbated her and attempted to force her into oral sex. His letter did not mention the other charges listed in the print out.

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The Board took a vote on the following two options: 1) that Father Fernando be put on administrative leave immediately, or (2) that the Vicar for Clergy's office seek further information from Father Fernando and the alleged victim, including, but not necessarily limited to, the victim's birth date, and report back as soon as possible, but in no event later than the June 11, 2003 CMOB meeting (60 days). Of the nine Board members present at the time of the vote, eight voted for Option 2 and one abstained.

I concur with the Board on Option 2 – provided that this process moves forward at once – + Rev. Card. Mahony 29 April 2003

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May 8, 2003

Msgr. Craig Cox
Vicar for Clergy
3424 Wilshire Boulevard
Los Angeles, CA 90010-2241

Dear Msgr. Cox:

I am writing at your request to clarify my position regarding specific charges of sexual misconduct.

I deny each of the specific behaviors alleged. I deny having had any sexual activity with REDACTED . Although I do not know what allegations she might allege in the future, I absolutely affirm that I have obeyed my vow of celibacy.

Thank you for the opportunity to be heard regarding those matters.

Yours in Christ,

Walter Fernando

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WALTER FERNANDEZ

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FILED
LOS ANGELES SUPERIOR COURT

DEC 0 9 2003

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BY S. GABB, DEPUTY

Richard Frain

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES, CENTRAL COURT

REDACTED

REDACTED

Plaintiff,

v.

DEFENDANT DOE 1; DEFENDANT DOE 2; DEFENDANT DOE 3; DEFENDANT DOE 4; and DOES 5 through 100, inclusive,

Defendants.

CASE NO. BC307409

COMPLAINT FOR:

1. **CHILDHOOD SEXUAL ABUSE;**
2. **NEGLIGENCE;**
3. **NEGLIGENT SUPERVISION;**
4. **NEGLIGENT HIRING/RETENTION;**
5. **FRAUD;**
6. **FIDUCIARY/CONF. RELATIONSHIP FRAUD AND CONSPIRACY;**
7. **BREACH OF FIDUCIARY DUTY;**
8. **NEGLIGENT FAILURE TO WARN, TRAIN, OR EDUCATE PLAINTIFF;**
9. **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS;**
10. **VIOLATION OF PENAL CODE § 32;**
11. **VIOLATION OF PENAL CODE § 11166;**
12. **VIOLATION OF PENAL CODE §§ 273a(a), (b);**
13. RESERVED;
14. **NEGLIGENCE PER SE FOR STATUTORY VIOLATIONS;**
15. RESERVED;
16. **FRAUD AND DECEIT;**
17. **PREMISES LIABILITY; AND**
18. RESERVED.

[Filed Concurrently With Certificates of Merit]
[Demand for Jury Trial]

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Based upon information and belief available to Plaintiff REDACTED at the time of the filing of this Complaint, Plaintiff makes the following allegations:

PARTIES

1. Plaintiff REDACTED is an adult female. Plaintiff was a minor at the time of the sexual abuse alleged herein.

2. Defendant Doe 1 ("Defendant Archdiocese 1") is a corporation sole, authorized to conduct business and conducting business in the State of California, with its principal place of business in Los Angeles, California. Defendant Archdiocese 1 has responsibility for Roman Catholic Church operations in Los Angeles, Ventura, and Santa Barbara Counties, California. Plaintiff is informed and REDACTED believes, and on that basis alleges, that the Perpetrator was under the jurisdiction and/or control of the Defendant Archdiocese 1 at the time of the abuse.

2.a. Defendant Doe 2 ("Defendant Archdiocese 2") is an Archdiocese in Sri Lanka. Plaintiff is informed and believes, and on that basis alleges, that the Perpetrator was incardinated or associated with Defendant Archdiocese 2 at the time of the abuse.

2.1 Defendant Doe 3 ("Defendant School/Parish") is a Roman Catholic school and/or parish located in Pico Rivera, California. Defendant School/Parish is the school or parish or other organization where Plaintiff was a student or member, and where Plaintiff was working as a minor, during the period of sexual abuse.

2.1.a. Defendant Doe 4 ("Defendant Archdiocese Education Corporation") is a non-profit corporation authorized to conduct business and conducting business in the State of California, with its principal place of business in Los Angeles, California. Plaintiff is informed and believes, and on that basis alleges, that Defendant Archdiocese Education Corporation owned and/or controlled the Defendant School/Parish at the time of the abuse alleged below.

2.2 RESERVED.

2.3 RESERVED.

2.4 Father Walter Fernando (the "Perpetrator") was at all times relevant an ordained priest in the Roman Catholic Church. During the dates of abuse, the Perpetrator was a practicing priest assigned to Defendant Archdiocese 1, Defendant Archdiocese 2, Defendant School/Parish, Defendant

REDACTED

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Archdiocese Education Corporation, and Does 5 through 100, and was under the direct supervision, employ and control of Defendant Archdiocese1, Defendant Archdiocese 2, Defendant School/Parish, Defendant Archdiocese Education Corporation, and Does 5 through 100.

3. Defendant Does 5 through 100, inclusive, are individuals and/or business or corporate entities incorporated in and/or doing business in California whose true names and capacities are unknown to Plaintiff who therefore sues such defendants by such fictitious names, and who will amend the Complaint to show the true names and capacities of each such Doe defendant when ascertained. Each such Defendant Doe is legally responsible in some manner for the events, happenings and/or tortious and unlawful conduct that caused the injuries and damages alleged in this Complaint. Defendant Archdiocese 1, Defendant Archdiocese 2, Defendant School/Parish, Defendant Archdiocese Education Corporation, and Does 5 through 100 are some times hereinafter referred to as the "Defendants."

REDACTED

4. Each Defendant is the agent, servant and/or employee of other Defendants, and each Defendant was acting within the course and scope of his, her or its authority as an agent, servant and/or employee of the other Defendants. Defendants, and each of them, are individuals, corporations, partnerships and other entities which engaged in, joined in and conspired with the other wrongdoers in carrying out the tortious and unlawful activities described in this Complaint, and Defendants, and each of them, ratified the acts of the other Defendants as described in this Complaint.

BACKGROUND FACTS APPLICABLE TO ALL COUNTS

5. Plaintiff is informed and believes, and on that basis alleges, that the Perpetrator, while he was an ordained archdiocesan priest, was at all times mentioned herein an agent, employee, or servant of Defendants, and/or was under the jurisdiction and control of Defendants. Specifically, Plaintiff is informed and believes, and on that basis alleges, the following:

A. That on or about March 1, 1981, the Perpetrator was assigned to Defendant School/Parish, a Catholic parish and/or school in Pico Rivera, California, owned by and under the jurisdiction and control of Defendant Archdiocese 1, while the Perpetrator was incardinated in Defendant Archdiocese 2, and under the jurisdiction and control of Defendant Archdiocese 1.

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B. That on or about November 30, 1981, the Perpetrator was transferred to St. John Baptist de la Salle, a Catholic parish and/or school in Granda Hills, California, owned by and under the jurisdiction and control of Defendant Archdiocese 1.

C. That on or about February 24, 1986, the Perpetrator was formally incardinated into Defendant Archdiocese 1.

D. That on or about August 1, 1986, the Perpetrator was transferred to St. Rose of Lima, a Catholic parish and/or school in Simi Valley, California, owned by and under the jurisdiction and control of Defendant Archdiocese 1, and while the Perpetrator was incardinated into Defendant Archdiocese 1.

REDACTED

E. That from at least July 2, 1990, the Perpetrator was transferred to Cathedral Chapel, a Catholic parish and/or school in Los Angeles, California, owned by and under the jurisdiction and control of Defendant Archdiocese 1, and while the Perpetrator was incardinated into Defendant Archdiocese 1.

F. That on or about May 3, 1992, the Perpetrator was transferred to St. Gregory the Great, a Catholic parish and/or school, in Whittier, California, owned by and under the jurisdiction and control of Defendant Archdiocese 1, and while the Perpetrator was incardinated as a priest into Defendant Archdiocese 1.

G. That on or about July 1, 1992, the Perpetrator was transferred to Assumption of the Blessed Virgin Mary, a Catholic parish and/or school, in Pasadena, California, owned by and under the jurisdiction and control of Defendant Archdiocese 1, and while the Perpetrator was incardinated as a priest into Defendant Archdiocese 1.

H. Sometime after the Perpetrator was transferred to Assumption of the Blessed Virgin Mary in Pasadena, California, the Perpetrator was placed on inactive leave from Assumption of the Blessed Virgin Mary.

6. Plaintiff is informed and believes, and on that basis alleges, the Perpetrator molested minor parishioners and/or students from parishes and/or schools owned, operated, and controlled by the Defendants. The Plaintiff is informed and believes, and on that basis alleges, that Defendants were

REDACTED

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aware of, had notice of, and should have known, of the molestations by the Perpetrator. For example, the Plaintiffs are informed and believe, and on that basis allege, the following:

A. The employees and agents of Defendants were aware that the Perpetrator had an unusual interest in young females, and had frequent unsupervised contact with young females for extended periods of time.

B. Many of the young females whom were subjected to sexual abuse by the Perpetrator reacted to the abuse in ways that should have made Defendants question the circumstances and motivation of the Perpetrator's contact with the young females. The young females abused and molested by the Perpetrator were young, impressionable and particularly vulnerable.

WHO?

REDACTED

7. Plaintiff is further informed and believes, and on that basis alleges, that even though the Defendants knew and should have known that the Perpetrator had molested and sexually abused minors, and even though the Defendants had actual and constructive knowledge of the molestations and sexual abuses, the Defendants covered up the molestations and abuses by the Perpetrator, continued to hold the Perpetrator out as a Catholic priest who could be trusted with minor parishioners and/or minor students, continued to allow the Perpetrator to work with minor parishioners and/or minor students on a daily basis, and continued to move the Perpetrator to different Catholic churches and/or schools within the Defendants, and failed to supervise and/or monitor the Perpetrator to ensure that he was not molesting minor parishioners and students again.

The Perpetrator's Molestations of Armida Price

8. Plaintiff was born on REDACTED, 1963 and is currently 40 years old. Plaintiff was raised in the Roman Catholic Church. Plaintiff's family attended Defendant School/Parish in Pico Rivera, California, and Plaintiff and her family were enrolled at that parish. Plaintiff as a minor was employed by Defendant Archdiocese 1 at the church rectory of Defendant School/Parish. Plaintiff as a minor also attended St. Paul High School for 4 years for the 9th through 12th grade, from approximately September of 1977 through approximately May of 1981. St. Paul High School was a private school, and Plaintiff's parents paid for her tuition to attend there.

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8.1. During the time that the Perpetrator was assigned by Defendants to Defendant School/Parish in Pico Rivera California, the Perpetrator sexually groomed, abused and molested Plaintiff in or about 1981 when Plaintiff was a minor. The acts of sexual abuse and molestation included, but were not limited to, French kissing, hugging, fondling of Plaintiff's buttocks over her clothes, rubbing and massaging Plaintiff's breasts and body, kissing Plaintiff's neck, face, and breasts, digital vaginal penetration, forced masturbation of the Perpetrator, attempted forced oral copulation of the Perpetrator, and other things. The Perpetrator also engaged in sexual grooming, such as taking Plaintiff to the movies and giving Plaintiff extraordinary attention.

REDACTED

9. RESERVED.

10. RESERVED.

10.1 RESERVED.

11. As a direct result of the wrongful conduct alleged herein, Plaintiff has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will continue to be prevented from performing Plaintiff's daily activities and obtaining the full enjoyment of life; has sustained and continues to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

11.1 RESERVED.

FIRST CAUSE OF ACTION
(Childhood Sexual Abuse - Cal. Civ. Proc. Code § 340.1 (West 2003))
(Against All Defendants)

12. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

13. The Perpetrator engaged in unpermitted, harmful and offensive sexual conduct and contact upon the person of Plaintiff in violation of Cal. Civ. Proc. Code § 340.1 (West 2003). Said conduct was undertaken while the Perpetrator was an employee, volunteer, representative, or agent of Defendants, while in the course and scope of employment with Defendants.

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14. Prior to or during the abuse alleged above, Defendants knew, had reason to know, or were otherwise on notice of unlawful sexual conduct by the Perpetrator. Defendants failed to take reasonable steps and failed to implement reasonable safeguards to avoid acts of unlawful sexual conduct in the future by the Perpetrator, including, but not limited to, preventing or avoiding placement of the Perpetrator in functions or environments in which contact with children was an inherent part of those functions or environments. Furthermore, at no time during the periods of time alleged did Defendants have in place a system or procedure to supervise and/or monitor employees, volunteers, representatives, or agents to insure that they did not molest or abuse minors in Defendants' care, including the Plaintiff.

REDACTED

15. As a result of the above-described conduct, Plaintiff has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will continue to be prevented from performing Plaintiff's daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

15.1 RESERVED.

SECOND CAUSE OF ACTION
(Negligence)
(Against All Defendants)

16. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

17. Defendants had a duty to protect the minor Plaintiff when she was entrusted to their care by Plaintiff's parents. Plaintiff's care, welfare, and/or physical custody was temporarily entrusted to Defendants. Defendants voluntarily accepted the entrusted care of Plaintiff. As such, Defendants owed Plaintiff, a minor child, a special duty of care, in addition to a duty of ordinary care, and owed Plaintiff the higher duty of care that adults dealing with children owe to protect them from harm.

18. Defendants, by and through their agents, servants and employees, knew or reasonably should have known of the Perpetrator's dangerous and exploitive propensities and/or that the Perpetrator was an unfit agent. It was foreseeable that if Defendants did not adequately exercise or

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provide the duty of care owed to children in their care, including but not limited to Plaintiff, the children entrusted to Defendants' care would be vulnerable to sexual abuse by the Perpetrator.

19. Defendants breached their duty of care to the minor Plaintiff by allowing the Perpetrator to come into contact with the minor Plaintiff without supervision; by failing to adequately hire, supervise, or retain the Perpetrator who they permitted and enabled to have access to Plaintiff; by failing to investigate or otherwise confirm or deny such facts about the Perpetrator; by failing to tell or concealing from Plaintiff, Plaintiff's parents, guardians, or law enforcement officials that the Perpetrator was or may have been sexually abusing minors; by failing to tell or concealing from Plaintiff's parents, guardians, or law enforcement officials that Plaintiff was or may have been sexually abused after Defendants knew or had reason to know that the Perpetrator may have sexually abused Plaintiff, thereby enabling Plaintiff to continue to be endangered and sexually abused, and/or creating the circumstance where Plaintiff was less likely to receive medical/mental health care and treatment, thus exacerbating the harm done to Plaintiff; and/or by holding out the Perpetrator to the Plaintiff and her parents or guardians as being in good standing and trustworthy. Defendants cloaked within the facade of normalcy Defendants' and/or the Perpetrator's contact and/or actions with the Plaintiff and/or with other minors who were victims of the Perpetrator, and/or disguised the nature of the sexual abuse and contact.

REDACTED

20. As a result of the above-described conduct, Plaintiff has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will continue to be prevented from performing Plaintiff's daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

THIRD CAUSE OF ACTION
(Negligent Supervision/failure to Warn)
(Against All Defendants)

21. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

REDACTED

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22. Defendants had a duty to provide reasonable supervision of the Perpetrator; to use reasonable care in investigating the Perpetrator; and to provide adequate warning to the Plaintiff, the Plaintiff's family, minor students, and minor parishioners of the Perpetrator's dangerous propensities and unfitness.

23. Defendants, by and through their agents, servants and employees, knew or reasonably should have known of the Perpetrator's dangerous and exploitive propensities and/or that the Perpetrator was an unfit agent. Despite such knowledge, Defendants negligently failed to supervise the Perpetrator in the position of trust and authority as a Roman Catholic Priest, religious instructor, counselor, school administrator, school teacher, surrogate parent, spiritual mentor, emotional mentor, and/or other authority figure, where he was able to commit the wrongful acts against the Plaintiff. Defendants failed to provide reasonable supervision of the Perpetrator, failed to use reasonable care in investigating the Perpetrator, and failed to provide adequate warning to Plaintiff and Plaintiff's family of the Perpetrator's dangerous propensities and unfitness. Defendants further failed to take reasonable measures to prevent future sexual abuse.

REDACTED

24. As a result of the above-described conduct, Plaintiff has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will continue to be prevented from performing Plaintiff's daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

FOURTH CAUSE OF ACTION
(Negligent Hiring/Retention)
(Against All Defendants)

25. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

26. Defendants had a duty to not hire and/or retain the Perpetrator, and other employees, agents, volunteers, and other representatives, given the Perpetrator's dangerous and exploitive propensities.

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27. Defendants, by and through their agents, servants and employees, knew or reasonably should have known of the Perpetrator's dangerous and exploitive propensities and/or that the Perpetrator was an unfit agent. Despite such knowledge, Defendants negligently hired and/or retained the Perpetrator in the position of trust and authority as a Roman Catholic Priest, religious instructor, counselor, school administrator, school teacher, surrogate parent, spiritual mentor, emotional mentor, and/or other authority figure, where he was able to commit the wrongful acts against the Plaintiff. Defendants failed to use reasonable care in investigating the Perpetrator and failed to provide adequate warning to Plaintiff and Plaintiff's family of the Perpetrator's dangerous propensities and unfitness. Defendants further failed to take reasonable measures to prevent future sexual abuse.

REDACTED

28. As a result of the above-described conduct, Plaintiff has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will continue to be prevented from performing Plaintiff's daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

FIFTH CAUSE OF ACTION
(Fraud)
(Against all Defendants)

29. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

30. Defendants knew and/or had reason to know of the sexual misconduct of the Perpetrator.

31. Defendants misrepresented, concealed or failed to disclose information relating to sexual misconduct of the Perpetrator as described herein, and that Defendants continued to misrepresent, conceal, and fail to disclose information relating to sexual misconduct of the Perpetrator as described herein.

32. Defendants knew that they misrepresented, concealed or failed to disclose information relating to sexual misconduct of the Perpetrator.

33. Plaintiff justifiably relied upon Defendants for information relating to sexual misconduct of the Perpetrator.

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34. Defendants, with the intent to conceal and defraud, did misrepresent, conceal or fail to disclose information relating to the sexual misconduct of the Perpetrator.

35. As a direct result of Defendants' fraud, Plaintiff has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will continue to be prevented from performing Plaintiff's daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

REDACTED

36. In addition, when Plaintiff finally discovered the fraud of Defendants, and continuing thereafter, Plaintiff experienced recurrences of the above-described injuries. In addition, when Plaintiff finally discovered the fraud of Defendants, and continuing thereafter, Plaintiff experienced extreme and severe mental and emotional distress that Plaintiff had been the victim of the Defendants' fraud; that Plaintiff had not been able to help other minors being molested because of the fraud; and that Plaintiff had not been able because of the fraud to receive timely medical treatment needed to deal with the problems Plaintiff had suffered and continues to suffer as a result of the molestations.

36.1 RESERVED.

SIXTH CAUSE OF ACTION
(Fiduciary/Confidential Relationship Fraud And Conspiracy to Commit Fraud)
(Against All Defendants)

37. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

38. Because of Plaintiff's young age, and because of the status of the Perpetrator as an authority figure to Plaintiff, Plaintiff was vulnerable to the Perpetrator. The Perpetrator sought Plaintiff out, and was empowered by and accepted Plaintiff's vulnerability. Plaintiff's vulnerability also prevented Plaintiff from effectively protecting herself.

39. By holding the Perpetrator out as a qualified Roman Catholic clergy, religious instructor, counselor, school administrator, school teacher, surrogate parent, spiritual mentor, emotional mentor, and/or other authority figure, and by undertaking the religious and/or secular instruction and spiritual

REDACTED

and emotional counseling of Plaintiff, Defendants entered into a fiduciary and/or confidential relationship with the minor Plaintiff.

40. Having a fiduciary and/or confidential relationship, Defendants had the duty to obtain and disclose information relating to sexual misconduct of the Perpetrator.

41. Defendants misrepresented, concealed or failed to disclose information relating to sexual misconduct of the Perpetrator, and that Defendants continued to misrepresent, conceal, and failed to disclose information relating to sexual misconduct of the Perpetrator as described herein.

42. Defendants knew that they misrepresented, concealed or failed to disclose information relating to sexual misconduct of the Perpetrator.

REDACTED

43. Plaintiff justifiably relied upon Defendants for information relating to sexual misconduct of the Perpetrator.

44. Defendants, in concert with each other and with the intent to conceal and defraud, conspired and came to a meeting of the minds whereby they would misrepresent, conceal or fail to disclose information relating to the sexual misconduct of the Perpetrator.

45. By so concealing, Defendants committed at least one act in furtherance of the conspiracy.

46. As a direct result of Defendants' fraud and conspiracy, Plaintiff has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will continue to be prevented from performing Plaintiff's daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

47. In addition, when Plaintiff finally discovered the fraud of Defendants, and continuing thereafter, Plaintiff experienced recurrences of the above-described injuries. In addition, when Plaintiff finally discovered the fraud of Defendants, and continuing thereafter, Plaintiff experienced extreme and severe mental and emotional distress that Plaintiff had been the victim of the Defendants' fraud; that Plaintiff had not been able to help other minors being molested because of the fraud; and

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that Plaintiff had not been able because of the fraud to receive timely medical treatment needed to deal with the problems Plaintiff had suffered and continues to suffer as a result of the molestations.

47.1 RESERVED.

SEVENTH CAUSE OF ACTION
(Breach of Fiduciary Duty And/or Confidential Relationship)
(Against All Defendants)

48. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

49. Because of Plaintiff's young age, and because of the status of the Perpetrator as an authority figure to Plaintiff, Plaintiff was vulnerable to the Perpetrator. The Perpetrator sought Plaintiff out, and was empowered by and accepted Plaintiff's vulnerability. Plaintiff's vulnerability also prevented Plaintiff from effectively protecting herself.

REDACTED

50. By holding the Perpetrator out as a qualified Roman Catholic clergy, religious, religious instructor, counselor, school administrator, school teacher, surrogate parent, spiritual mentor, emotional mentor, and/or any other authority figure, and by undertaking the religious and/or secular instruction and spiritual and/or emotional counseling of Plaintiff, Defendants entered into a fiduciary and/or confidential relationship with the minor Plaintiff.

51. Defendants and each of them breached their fiduciary duty to Plaintiff by engaging in the negligent and wrongful conduct described herein.

52. As a direct result of Defendants' breach of their fiduciary duty, Plaintiff has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will continue to be prevented from performing Plaintiff's daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

52.1 RESERVED.

EIGHTH CAUSE OF ACTION
(Negligent Failure to Warn, Train, or Educate Plaintiff)
(Against All Defendants)

53. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

REDACTED

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54. Defendants breached their duty to take reasonable protective measures to protect Plaintiff and other minor parishioners and/or students from the risk of childhood sexual abuse by the Perpetrator, such as the failure to properly warn, train, or educate Plaintiff and other minor parishioners and/or students about how to avoid such a risk, pursuant to Juarez v. Boy Scouts of America, Inc., 97 Cal. Rptr. 2d 12, 81 Cal. App. 4th 377 (2000).

55. As a result of the above-described conduct, Plaintiff has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will continue to be prevented from performing Plaintiff's daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

REDACTED

NINTH CAUSE OF ACTION
(Intentional Infliction of Emotional Distress)
(Against All Defendants)

56. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

57. Defendants' conduct was extreme and outrageous and was intentional or done recklessly.

58. As a result of Defendants' conduct, Plaintiff experienced and continues to experience severe emotional distress resulting in bodily harm.

59. As a result of the above-described conduct, Plaintiff has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will continue to be prevented from performing Plaintiff's daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

59.1 RESERVED.

REDACTED

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REDACTED

TENTH CAUSE OF ACTION
(Violation of Penal Code § 32)
(Against All Defendants)

60. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

61. Defendants' acts described herein violate California Penal Code § 32 in that Defendants harbored, concealed and/or aided the Perpetrator after the Perpetrator had committed a felony, with the intent that the Perpetrator might avoid or escape arrest, trial, conviction and/or punishment, and Defendants having knowledge that the Perpetrator had committed a felony.

62. Defendants continue to violate California Penal Code § 32 because of their continued actions in harboring, concealing, and aiding the Perpetrator.

63. Plaintiff was within the class of persons to be protected by Penal Code § 32.

64. As a result of the above-described conduct, Plaintiff has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will continue to be prevented from performing Plaintiff's daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

64.1 RESERVED.

ELEVENTH CAUSE OF ACTION
(Violation of Penal Code § 11166)
(Against All Defendants)

65. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

66. Under the Child Abuse and Neglect Reporting Act, Defendants, by and through their employees and agents, were "child care custodians" and were "clergy members" under a statutory duty to report known or suspected incidences of sexual molestation or abuse of minors to a child protective agency, pursuant to California Penal Code § 11164.

REDACTED

34 p. 16

67. Defendants knew, or should have known in the exercise of reasonable diligence, that the Perpetrator had sexually molested, abused, or caused touching, battery, harm and other injuries to Plaintiff, who was a minor, and to other minors, giving rise to a duty to report such conduct under § 11166 of the California Penal Code.

68. By failing to report the continuing molestations known by Defendants, and each of them, and by ignoring the fulfillment of the mandated compliance with the reporting requirements provided under California Penal Code § 11166, Defendants created the risk and danger contemplated by the Child Abuse and Neglect Reporting Act, and as a result, unreasonably and wrongfully exposed Plaintiff and other minors to the molestation as alleged herein, thereby breaching Defendants' duty of care to Plaintiff.

69. Plaintiff was of the class of persons for whose protection California Penal Code § 11166 was specifically adopted to protect.

70. Had Defendants adequately performed their duties under § 11166 of the California Penal Code, and reported the molestation of Plaintiff and other minors, the report would have resulted in the involvement of trained child sexual abuse case workers for the purposes of preventing harm and further harm to Plaintiff and other minors, and preventing and/or treating the injuries and damages suffered by Plaintiff as alleged herein.

71. As a proximate result of Defendants' failure to follow the mandatory reporting requirements of California Penal Code § 11166, the Defendants wrongfully denied and restricted Plaintiff and other minors from the protection of child protection agencies which would have changed the then-existing arrangements and conditions, which provided the access and opportunities for the molestation of Plaintiff.

72. The physical, mental, and emotional damages and injuries resulting from the sexual molestation of Plaintiff alleged herein, were the types of occurrences and injuries the Child Abuse and Neglect Reporting Act was designed to prevent.

73. Defendants continue to violate these statutory sections because of their continued failure to report the abuse known to them.

REDACTED

35 44 p. 17

74. As a result of the above-described conduct, Plaintiff has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will continue to be prevented from performing Plaintiff's daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

74.1 RESERVED.

REDACTED

TWELFTH CAUSE OF ACTION
(Violation of Penal Code §§ 273a(a), (b))
(Against All Defendants)

75. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

76. Under circumstances or conditions likely to produce great bodily harm or death, the Defendants willfully caused or permitted the Plaintiff to suffer, or inflicted thereon unjustifiable physical pain or mental suffering, or having the care or custody of the Plaintiff, willfully caused or permitted the person or health of the Plaintiff to be injured, or willfully caused or permitted the Plaintiff to be placed in a situation where the Plaintiff's person or health was endangered, in violation of California Penal Code § 273a(a).

77. Under circumstances or conditions other than those likely to produce great bodily harm or death, the Defendants willfully caused or permitted the Plaintiff to suffer, or inflicted thereon unjustifiable physical pain or mental suffering, or having the care or custody of the Plaintiff, willfully caused or permitted the person or health of the Plaintiff to be injured, or willfully caused or permitted the Plaintiff to be placed in a situation where the Plaintiff's person or health may be endangered, in violation of California Penal Code § 273a(b).

78. Plaintiff was within the class of persons to be protected by Penal Code §§ 273a(a), (b).

79. As a result of the above-described conduct, Plaintiff has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will continue to be prevented from performing

REDACTED

36 p. 18

Plaintiff's daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

79.1 RESERVED.

THIRTEENTH CAUSE OF ACTION
(Reserved)

80. RESERVED.

81. RESERVED.

82. RESERVED.

REDACTED

83. RESERVED.

84. RESERVED.

85. RESERVED.

86. RESERVED.

87. RESERVED.

88. RESERVED.

89. RESERVED.

90. RESERVED.

FOURTEENTH CAUSE OF ACTION
(Negligence Per Se for Statutory Violations)
(Against All Defendants)

91. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

92. At all times or sometimes herein mentioned, there was in full force and effect Penal Code §§ 32; 11166; 273a; 266j; 285; 286(b)(1) & (2); 286(c); 288(a) & (b); 288a(b)(1) & (2); 288a(c); 289(h), (i) & (j); 647.6; or any prior laws of California of similar effect at the time these acts described herein were committed. These laws made unlawful certain acts relating to the sexual abuse of minors.

93. At the times mentioned herein, Defendants were in violation of the aforesaid statutes in doing the acts set forth herein.

REDACTED

94. Plaintiff was within the class of person s to be protected by Penal Code §§ 32; 11166; 273a; 266j; 285; 286(b)(1) & (2); 286(c); 288(a) & (b); 288a(b)(1) & (2); 288a(c); 289(h), (i) & (j); 647.6; or any prior laws of California of similar effect at the time these acts described herein were committed.

95. As a result of the above-described conduct, Plaintiff has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will continue to be prevented from performing Plaintiff's daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

FIFTEENTH CAUSE OF ACTION
(Reserved)

96. RESERVED.

97. RESERVED.

98. RESERVED.

99. RESERVED.

100. RESERVED.

101. RESERVED.

102. RESERVED.

SIXTEENTH CAUSE OF ACTION
(Reserved)

103. RESERVED.

104. RESERVED.

105. RESERVED.

106. RESERVED.

107. RESERVED.

108. RESERVED.

109. RESERVED.

REDACTED

38 47 P. 20

110. RESERVED.

110.1 RESERVED.

SEVENTEENTH CAUSE OF ACTION
(Premises Liability)
(Against All Defendants)

111. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

112. At all times herein mentioned, Defendants were in possession of the property where the Plaintiff was groomed and assaulted by the Perpetrator, and had the right to manage, use and control that property.

113. At all times herein mentioned, Defendants knew that the Perpetrator had a history of committing sexual assaults against children, and that any child at, among other locations, schools and parishes owned by and under the jurisdiction and control of Defendants, was at risk to be sexually assaulted by the Perpetrator.

REDACTED

114. Defendants knew or should have known that, among other locations, schools and parishes owned by and under the jurisdiction and control of Defendants had a history of sexual assaults against children committed by the Perpetrator and that any child at, among other locations, schools and parishes owned by and under the jurisdiction and control of Defendants, was at risk to be sexually assaulted. It was foreseeable to Defendants that the Perpetrator would sexually assault children if they continued to allow the Perpetrator to teach, supervise, instruct, care for, and have custody and control of and/or contact with children.

115. At all times herein mentioned, Defendants knew or should have known the Perpetrator was repeatedly committing sexual assaults against children.

116. It was foreseeable to Defendants that the sexual assaults being committed by the Perpetrator would continue if Defendants continued to allow the Perpetrator to teach, supervise, instruct, care for, and have custody of and/or contact with young children.

117. Because it was foreseeable that the sexual assaults being committed by the Perpetrator would continue if Defendants continued to allow him to teach, supervise, instruct, care for, and have custody of and/or contact with young children, Defendants owed a duty of care to all children,

REDACTED

48
39 p. 21

including Plaintiff, exposed to the Perpetrator. Defendants also owed a heightened duty of care to all children, including Plaintiff, because of their young age.

118. By allowing the Perpetrator to teach, supervise, instruct, care for, and have custody of and/or contact with young children, and by failing to warn children and their families of the threat posed by the Perpetrator, Defendants breached their duty of care to all children, including Plaintiff.

119. Defendants negligently used and managed, among other locations, schools and parishes owned by and under the jurisdiction and control of Defendants, and created a dangerous condition and an unreasonable risk of harm to children by allowing the Perpetrator to teach, supervise, instruct, care for and have custody of and/or contact with young children at, among other locations, schools and parishes owned by and under the jurisdiction and control of Defendants.

REDACTED

120. As a result of the dangerous conditions created by Defendants, numerous children were sexually assaulted by the Perpetrator.

121. The dangerous conditions created by Defendants were the proximate cause of Plaintiff's injuries and damages.

122. As a result of these dangerous conditions, Plaintiff has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will continue to be prevented from performing Plaintiff's daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

EIGHTEENTH CAUSE OF ACTION
(Reserved)

123. RESERVED.

124. RESERVED.

125. RESERVED.

125.1 RESERVED.

REDACTED

40 49 p. 22

WHEREFORE, Plaintiff prays for damages; costs; interest; attorneys' fees; statutory/civil penalties according to law; and such other relief as the court deems appropriate and just.

JURY DEMAND

Plaintiff demands a jury trial on all issues so triable.

REDACTED

DATE: December 6, 2003

REDACTED

REDACTED

01/12/04 MON 17:28 REDACTED

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41 00

REDACTED

REDACTED

January 12, 2004

Via Facsimile and U.S. Mail
REDACTED

Re: REDACTED

Dear REDACTED

I received your message from Friday, January 9, 2004, regarding REDACTED It is my understanding that you are requesting tha REDACTED submit herself to a short interview so that the church can determine whether Father Walter Fernando should be removed from active ministry. Quite frankly, I have no idea why Father Fernando has not been removed from ministry pending an investigation.

We will agree to an interview. However, the interview will have to be conducted in the evening, sometime around 6:00 p.m. Please provide several available dates to me, and I will check with REDACTED on her availability.

I would like to also request that Father Fernando's file be produced to us.

REDACTED

REDACTED

RCALA 003105

rrice Recognized

l Ogata of Petaluma, Calif., weeps after he was presented with a Purple Heart for ls he received in the Korean War. Ogata was severely wounded when a round from a se tank exploded near him. Ogata's son had pressed for the belated honor. **B6**

lyst Says get Plan sn't Go Enough

[ALPER
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MENTO — Gov. Ar- iwarzenegger's pro- billion state budget is it step toward a bal- al plan but the state be $6 billion short by California's nonpartitive analyst reported

ive Analyst Elizabeth said the governor's plan would result in asting savings." But it ld have far-reaching ces for the scope of ces" without coming vith lawmakers' pen- spending more than receives in revenue. l lawmakers to con- r raising taxes or re- x exemptions to in- nue.

f every solution pro- the governor were nd the savings scored inistration were real- said, "we estimate d be at least a $6-bil- ural budget problem "

See Analyst, Page B8]

Priest in Sex Lawsuit Still a Parish Cleric

He denies wrongdoing and church officials say the woman didn't tell them. But she did contact police.

By RICHARD WINTON
Times Staff Writer

Despite the Roman Catholic Church's zero-tolerance policy on sexual abuse, the Archdiocese of Los Angeles has allowed a priest to continue working in a Pasadena parish nearly two years after a woman told police the pastor molested her when she was 17.



Father Walter Fernando in the L.A. Archdiocese 1999 Catholic Directory

The woman told authorities in April 2002 that she was molested by Father Walter Fernando when she attended the Pico Rivera church he was serving. She said Fernando molested her in 1981 during trips to a Downey movie theater, in his car, at the Whittier Narrows Recreation Area, and in his parish bedroom after she turned 18, according to police reports.

With detectives listening, the woman telephoned Fernando in May 2002 to confront him. Fernando, 59, made statements during the conversation that police felt corroborated her account, said Los Angeles Police Det. James Brown. He declined to specify what the priest said.

Donald Steier, attorney for Fernando — associate pastor at Assumption of the Blessed Virgin Mary Catholic Church in Pasadena — said his client denied wrongdoing.

LAPD investigators said Fernando was not charged in 2002 because the alleged molestation — which involved fondling — was not a felony in the early 1980s. For a period of years, California law allowed prosecution of felony sex crimes from past decades. But the U.S. Supreme Court ruled the law unconstitutional last summer.

Had Fernando's conduct occurred today, Brown said, "it would have been an 'egregious and serious felony sexual assault. But based upon the laws at

[*See Priest, Page B8*]

why we are asking now for the public's assistance."

Price, a divorced mother of three with a home in Corona, was shot shortly after midnight outside an alleged Crips drug house in Compton — a mile from the tennis courts where Serena and Venus Williams learned to play.

Police say a round from the AK-47 struck Price in the back of the head. A male companion who was driving Price's car was not injured.

Maxfield is the second Crips member charged in the slaying. Aaron Michael Hammer, 24, was arrested shortly after the killing. Last month, a Superior Court judge ordered him to stand trial for Price's murder.

It was unclear how or whether the issuance of the warrant for Maxfield would affect the case against Hammer. Police contend that Hammer fired a .22-caliber handgun at Price's car. An autopsy revealed that Price's wounds were not caused by a round of that caliber, police sources said.

Under California law, Hammer could be deemed criminally culpable in the slaying even if he

[*See Price, Page B7*]

An influential Los Angeles Ma Hahn quit both h and his private job manente's direct ment relations Kaiser officials sai tion showed he ha HMO's funds for poses.

Leland Wong c he had resigned fr his unpaid city p president of the that oversees the Water and Power, any wrongdoing i of Kaiser's money.

Wong, 46, is a raiser and a maj scenes player in politics. He has e cent years as one ber of civic lea tapped to serve a time city commiss ter who is mayor.

Commissioner

[*See*

RELATED ST

Money: City pane on fundraising res

'Colorblind' Appr Urged for King/Dr

County official says the hospital's crisis demands looking beyond race for new stewardship.

By MITCHELL LANDSBERG AND DAREN BRISCOE
Times Staff Writers

Built in response to the Watts riots, Martin Luther King Jr./Charles R. Drew Medical Center has a long and proud tradition as an institution run by and for African Americans. But with the hospital foundering, one of the region's most powerful black leaders suggested Tuesday that it was time for colorblind stewardship at King/Drew.

Los Angeles County Supervisor Yvonne Brathwaite Burke, whose district includes the county-run hospital, said administrators needed to be hired on the basis of their qualifications, not their race.

Burke added taken political he pervisors' decisior dominantly white team to tempora the hospital in its

"My feeling is t move beyond eth have to address tl Martin Luther Ki attracting the be ministrator, the staff, the best pos Burke said.

Her comment an unusually freev visors' meeting, members of the broached the poss ing the hospital' with the trouble Drew University o Science.

"We need to strategy," said S Yaroslavsky.

He proposed t give the medical

[*See King/I*

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oly panel OKs a mea- n lighting up by in- health measure. Crit- on't help. **B6**

Reserve Plan Postponed

State officials put off efforts to protect ocean species by restricting fishing in coastal areas. **B7**

Racehorse Owner Dies

William T. Young's horses won the Kentucky Derby and four Breeders' Cup races. **B10**

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IRFAN KHAN *Los Angeles Times*

DRIVER SHOT: *Sheriff's Det. Ron Miller investigates the scene in Upland.* **B5**

JANUARY 14, 2004

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nd Wire Reports

from road projects could result in the loss of construction jobs, project delays and create uncertainty that would make it difficult for cities and counties to plan.

The report is a prelude to a comprehensive evaluation of the governor's proposed budget that the analyst will present in mid-February.

Schwarzenegger made clear when he presented his budget on Friday that increasing taxes was out of the question. The budget instead relies on billions and to the cost of doing business can send more and more businesses to the tipping point."

But the legislative analyst's comments on taxes give a boost to Democrats, who are pushing for an income tax increase on wealthy Californians as an alternative to some of the deep cuts proposed by the governor.

"Liz Hill's findings tell me we need more options to solve this crisis," said Assembly Budget Committee Chairwoman Jenny Oropeza (D-Long Beach). "We of California's fiscal problems and "offers a solid starting point for budget deliberations."

But she noted that several measures proposed by Schwarzenegger to reduce the state's $15-billion shortfall may be based on overly optimistic projections, or may not pass muster with the courts.

Those include $400 million in unspecified savings from the state prison system and $500 million that the governor hopes to generate through negotiations with Indian casino operachieve by reducing rates paid to doctors through the Medi-Cal program. Just before Christmas, a federal judge ruled that such a rate cut appeared to violate federal Medicaid requirements that doctors be paid competitive rates.

Assembly Budget Committee Vice Chairman Rick Keene (R-Chico) said Republicans are aware that some of the savings outlined in the governor's budget may not be achieved.

"It's a necessity those be put into the budget and be worked forms being worked on. They include a host of proposals, from changes in the state pension system to increasing fraud investigations to privatizing some government functions.

The proposals will be more developed by the time the budget is approved and result in significant savings by 2006, administration officials say.

"We didn't think it was prudent to put a price tag on those savings until we fleshed out the proposals," Finance Department spokesman Palmer said.

Priest Still Working Despite Woman's Abuse Claim

[*Priest, from Page B1*]

the time, charges could not be filed against him."

The U.S. Conference of Catholic Bishops approved a zero-tolerance policy for sexually abusive priests in June 2002. Under the policy, a priest, deacon or other church employee must be temporarily removed from any ministry or function when a "credible allegation" of sexual abuse is lodged against him. The policy also requires any priest or deacon guilty of sexual abuse to be permanently removed from ministry.

The policy was amended in December 2002 to say that if "sufficient evidence" of sexual abuse was found, the priest must immediately go on administrative leave pending a church trial.

J. Michael Hennigan, the archdiocese's attorney, said that Fernando's case had been "high on the radar screen for some time," but that church officials didn't have sufficient evidence to justify placing him on leave. He said the only information the church had about the woman's accusations came "secondhand" from her attorney and that church officials had not talked to her directly.

Fernando "has vigorously denied all the charges," Hennigan said, adding that the allegations have been reviewed twice by the church's misconduct board. "What do you do when the challenge is, you only have two witnesses? It is 'he said, she said.' "

After inquiries by The Times, archdiocese spokesman Tod Tamberg said Fernando's case will be reviewed by the misconduct board again today. He said the archdiocese has asked to interview the alleged victim and requested that her attorney provide a sworn statement of the accusations.

"What we have so far, then, is a 23-year-old allegation with no firsthand sworn testimony to support it and no further allegations of abuse of any kind from anyone who has been associated with Father Fernando, past or present," he said.

Church critics say the Fernando case shows that priests accused of sexual abuse are allowed to continue serving in parishes.

"This demonstrates the dishonesty of the zero-tolerance pledge," said Father Thomas P. Doyle, who co-wrote a report to U.S. bishops in 1985 warning of problems with abusive priests. "At the very least they should have put him on an administrative hold until this is resolved."

A native of Sri Lanka, Fernando first came to the archdiocese as a visiting priest in 1981 at St. Hilary Church in Pico Rivera. Later that year he moved to St. John Baptist de la Salle Church in Granada Hills. In 1986, Fernando joined the permanent ranks of the archdiocese's priests. He served at St. Rose of Lima Church in Simi Valley, Cathedral Chapel in Los Angeles and St. Gregory the Great Church in Whittier before going to Assumption in 1992.

Fernando continues to say daily Mass at Assumption, which has an elementary school, and conduct other duties, Tamberg said.

The woman, whose identity is being withheld by The Times as a potential victim of a sexual assault, said she came forward after reading about other cases. "I wanted to do what was necessary to stop him from harming anyone else," she said in an interview.

The accusations were first made public in a Times story in August 2002.

Katherine Freberg, an attorney for the alleged victim, said she provided details of the case to an archdiocese attorney in February 2003. A few months later, a Los Angeles grand jury issued a subpoena for Fernando's personnel file from the archdiocese.

Freberg sued in December, claiming Fernando kissed the plaintiff, touched her breasts and forced her to touch him.

Tamberg said Cardinal Roger M. Mahony is a strong advocate of the zero-tolerance policy and created similar rules years before the bishops acted.

"There is no one in ministry that we know of in the Archdiocese of Los Angeles who has been found to have abused a minor," Tamberg said.

The archdiocese was not aware of the details of the police investigation, he added, and would like to review any information investigators have.

Church officials have told Fernando's parishioners about the allegations but have found no additional alleged victims, Tamberg added.

"They aren't looking to find anyone, as this case demonstrates," said Mary Grant, a spokeswoman for the Survivors Network of Those Abused by Priests. "If they were really concerned about protecting children, they would pursue this more vigorously."

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MEMORANDUM

TO: Cardinal Roger Mahony

FROM: REDACTED
Clergy Misconduct Oversight Board REDACTED

RE: ***Recommendation of the Clergy Misconduct Oversight Board***
Reverend Walter Fernando (CMOB 027-01)

DATE: 14 January 2004

The CMOB met today and continued our discussion of Father Fernando, especially in light of the lawsuit filed against him on December 9, 2003 and the article in today's *Los Angeles Times*.

Father Fernando's case was discussed by the Board on January 22, 2002 and March 26, 2003. I submitted a report summarizing the case and our discussions and conclusions on April 25, 2003. At that time we felt that we needed additional information before we could come to a conclusion and recommended that the Vicar for Clergy's office seek further information from Father Fernando an REDACTED the alleged victim. You concurred with our recommendation provided that this process proceed forward at once.

Since that memorandum, Father Fernando wrote a letter more specifically denying each of the claims made by REDACTED as stated in very summary fashion on the spreadsheet supplied by her attorneys. Those are the same behaviors alleged in the lawsuit. Father Fernando also underwent a psychological evaluation as recommended by the Board, the results of which are in his file. REDACTED , the psychologist who conducted the evaluation, concluded that while it is impossible for him to determine if the acts complained of occurred as Father Fernando described them, his profile was not consistent with an individual who would lie to an evaluator or of an individual who is capable of deceit.

Today, we had a lengthy and thoughtful discussion. The members of the Board are very concerned about protecting children and young people and will not hesitate to recommend that a priest be removed from ministry and put on administrative leave if credible information is presented to support such action. We concluded, however, that the filing of an unverified lawsuit or the publication of a newspaper article are not, in themselves, sufficient to automatically trigger removing a priest from ministry and putting him on administrative leave.

The allegations made by REDACTED in her lawsuit, if true, are very serious and describe behaviors which are abusive and which would justify permanently removing Father Fernando from all ministry. Unfortunately, up to this point, these are only allegations that have come to us indirectly and without the kind of specificity that allows an appropriate investigation to proceed.

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Therefore, because of the paucity of information, the members of the Clergy Misconduct Oversight Board recommend the following:

1. That Father Fernando not be placed on administrative leave at this time pending further and intense efforts to obtain additional information to verify the truth o[REDACTED] allegations. He may yet need to be placed on leave depending on the results of the next two recommendations.

2. Tha[REDACTED] be interviewed without delay. We were advised at our meeting that her attorney has agreed to a limited interview. We recommend that this interview be scheduled as quickly as reasonably possible and urge tha[REDACTED] or another professional investigator conduct this interview.

3. That you authorize me, in my capacity as Chair of the Clergy Misconduct Oversight Board, to write to Deputy District Attorney William Hodgeman to obtain whatever materials have been developed by the police and the District Attorney in the course of their investigation. We understand that the Archdiocese has already made a similar request but without success. However, if the Board is to act responsibly we need all the information we can get and it's unreasonable for the District Attorney or the police to withhold information that will assist us in our work.

4. That you authorize me, in my capacity as Chair of the Board, to write directly t[REDACTED] [REDACTED] attorney to request an interview wit[REDACTED] and/or to enlist her cooperation and consent to the release of the information developed by the District Attorney and the police if the interview and the request for information in Recommendation Nos. 2 and 3 are not forthcoming.

Monsignor Cox informed us that he will make an announcement to the parishioners at Father Fernando's current parish this weekend. This accords with our current policy.

The Board intends to review this matter again at our next meeting. Further recommendations may be forthcoming after that review.

Thank you.

cc: Msgr. Craig A. Cox

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JAN. 15

LOS ANGELES TIMES



FRANCINE ORR *Los Angeles Times*

Swept Away

Charles Buckley, 50, packs up his tent from below the Harbor Freeway near 8th Street in downtown Los Angeles on Wednesday. Police began a sweep of the homeless camp Saturday.

Inglewood Teachers File Unfair Labor Complaint

By ERIKA HAYASAKI
Times Staff Writer

The Inglewood teachers union filed an unfair labor practice charge Wednesday against the school district and held a rally outside the board meeting, claiming teachers have not received the pay raise they are due.

The Inglewood Unified School District's 800 teachers have not received a raise in the last three years. A tentative contract agreement reached in October would have given them a 2.5% raise retroactive to July 1, 2002, and an additional 2.5% raise retroactive to July 1, 2003. But the district, citing financial District expect to retain quality teachers if it cannot keep its word to them?" About eight teachers then served the board with the unfair labor practice papers.

Board members then went into closed session and would not comment on the matter.

Kathy Stewart, president of the Inglewood Teachers Assn., said the lack of raises "means that we'll possibly lose more of our teachers, who will go to other districts where they will make more money. It also means we cannot trust the word of the board, because we signed a legal document."

Union officials were notified

McGowens said she expected to receive her check last month, and planned to put some of the money into savings for her two children and install new carpeting in her home. Others were counting on the extra cash, which would amount to $1,000 to $2,000 annually per teacher, to help pay for Christmas gifts, she said.

"Teachers are leaving," McGowens said. "Teachers are tired of not being treated fairly, and not being put first when it comes to salary. They're getting excellent training at this district, learning how to work with all types of students. They're getting their credentials, and

Claims Against Priest Reviewed

By RICHARD WINTON
Times Staff Writer

An Archdiocese of Los Angeles' clergy misconduct board on Wednesday reviewed allegations that a Pasadena priest sexually abused a teenage girl 23 years ago, and sent a memorandum on the cleric's future to Cardinal Roger M. Mahony, who has power to remove individuals from the ministry.

Although the Roman Catholic Church has a zero-tolerance policy for sexual abuse, Father Walter Fernando has been allowed to continue working for nearly two years after a woman told police the pastor molested her as a 17-year-old in 1981, when he was serving in a Pico Rivera parish. Police detectives and prosecutors said they believed the woman's accusations but could not bring charges because the most serious allegations were not crimes at the time.

Tod Tamberg, archdiocese spokesman, said the details of the memo sent by the Clergy Misconduct Oversight Board are confidential.

He said the panel typically would make a recommendation to Mahony on what action to take against the accused priest.

"Usually, he follows their recommendation," said Tamberg.

Under church law, Mahony has the ultimate authority on whether a priest stays in ministry or is temporarily or permanently removed because of sexual abuse allegations.

The clergy misconduct board has twice before reviewed the case against Fernando, but on prior occasions it did not have enough evidence to remove him from the ministry, archdiocese officials said.

Tamberg said the allegations the archdiocese had received against Fernando were second-hand, from the alleged victim's attorney and an August 2002 Times story stating Fernando

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By ERIKA HAYASAKI
Times Staff Writer

The Inglewood teachers union filed an unfair labor practice charge Wednesday against the school district and held a rally outside the board meeting, claiming teachers have not received the pay raise they are due.

The Inglewood Unified School District's 800 teachers have not received a raise in the last three years. A tentative contract agreement reached in October would have given them a 2.5% raise retroactive to July 1, 2002, and an additional 2.5% raise retroactive to July 1, 2003. But the district, citing financial problems, has since put that agreement on hold.

The labor complaint was filed with the California Public Employee Relations Board.

Later in the day, about 300 parents, students, teachers and residents gathered outside the board meeting holding candles, blowing whistles and chanting: "No raise, no peace." Michael Marks, a representative of the National Education Assn., told the trustees: "The integrity of this school board is in question. How can the Inglewood School District expect to retain quality teachers ... cannot keep its word to ...em?" About eight teachers then served the board with the unfair labor practice papers.

Board members then went into closed session and would not comment on the matter.

Kathy Stewart, president of the Inglewood Teachers Assn., said the lack of raises "means that we'll possibly lose more of our teachers, who will go to other districts where they will make more money. It also means we cannot trust the word of the board, because we signed a legal document."

Union officials were notified Dec. 16 that the district would not honor the salary portion of the agreement, according to Doug Appel of the California Teachers Assn.

In a statement Wednesday, district officials said they "would like to give a raise to our deserving employees" but could not maintain adequate reserves and balance the budget if they did.

"The teachers' morale is really down," said Kelly McGowens, 37, who has taught in the district for five years. "The teachers are just fed up."

McGowens said she expected to receive her check last ...th, and planned to put some of the money into savings for her two children and install new carpeting in her home. Others were counting on the extra cash, which would amount to $1,000 to $2,000 annually per teacher, to help pay for Christmas gifts, she said.

"Teachers are leaving," McGowens said. "Teachers are tired of not being treated fairly, and not being put first when it comes to salary. They're getting excellent training at this district, learning how to work with all types of students. They're getting their credentials, and they're leaving."

Outside the meeting, union representative Jeff Good was surrounded by teachers who complained that they were struggling to provide for their families and pay mortgages.

"It's not about us suffering; it's about our kids suffering because so many of us have to leave," Good said. "This is not about greedy teachers. This is about the district not understanding that if they don't invest in us, they are not investing in kids."

Drugs Suspected in Triple Slaying

By RICHARD FAUSSET
Times Staff Writer

A dispute over drugs was the possible motive in the execution-style slayings of three people in a Van Nuys apartment last weekend, Los Angeles police detectives said Wednesday.

Police said the target of the attack was parolee Shane Wilson, 31, who was found Saturday bound and beaten to death in his apartment on Hayvenhurst Avenue.

The killer or killers came after Wilson in a dispute possibly over drugs, Los Angeles Police Det. Adrian Soler said Wednesday.

Also found in the apartment were the bodies of Nicole Jones, 20, who was identified by a neighbor as Wilson's live-in girlfriend, and Shelini Kashyap, 29, a fifth-grade teacher at Live Oak Elementary School in Castaic. They died of gunshot wounds to the head, coroner's officials said.

Detectives said it appeared that Kashyap was just a visitor at the apartment.

Suspect in Slaying Hurt by Police Gunfire

By JOY BUCHANAN AND CHRISTIANA SCIAUDONE
Times Staff Writers

Police shot and seriously wounded a man suspected of killing a 19-year-old in an apparently gang-related attack Tuesday night in Baldwin Village.

Officer Jason Lee, an LAPD spokesman, said two males confronted Daniel Santoyo in an alley about 10 p.m. Frank Lazos, 27, shot Santoyo in the head, then fled with a 14-year-old, Lee said. Santoyo died at the scene, near Palmyra Road and Hillcrest Drive in Southwest Los Angeles.

Three police officers responded after receiving a radio call about an armed man. They heard gunshots as they arrived, Lee said, and saw Lazos and his companion leaving the alley.

The officers pursued Lazos on foot and in a squad car. During the pursuit, Lee said, Lazos fell. While on the ground, he fired at police, police said. Lee said the officers fired back, hitting Lazos multiple times.

Police initially had reported, erroneously, that officers had fired a fatal shot at the scene.

Officers arrested the second suspect.

STEVE HARVEY
ONLY IN L.A.

That Shouldn't Make People's Eyes Glaze Over

ODLE PUPPIES!!
males. All shots.
cash. Spanish

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1 ORSNLETE 27/36 0.49

der if it has the original roof.

Unclear on the concept: David Bernhart of Burbank wrote to author Don Barrett's *laradio.com* website about a Tiger Balm radio commercial that he called "a masterpiece of

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Certificate of Baptism

Our Lady of Solitude Church

4561 Cesar E. Chavez Ave. (La Soledad) Los Angeles, Ca 90022-1187

This is to Certify

REDACTED

That _____

Child of _____

and _____

Born in LOS ANGELES, CALIFORNIA

on the 7TH day of AUGUST 19 63 was

Baptized

on the 12th day of OCTOBER, 1963

according to the

Rite of the Roman Catholic Church

by the Rev. REDACTED

the Sponsors

OUR LADY OF SOLITUDE CHURCH Los Angeles Calif.

As appears from the Baptismal Register of this Church

Dated JANUARY 16, 2004 Volume [illegible] Page 52 No. 4

Seal

Rev. _____ Pastor

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Notations

First Communion

Confirmation

ST. HILARY
PICO RIVERA, CALIFORNIA
MARCH 5, 1977

REDACTED

Marriage

ST. HILARY CHURCH
PICO RIVERA, CALIFORNIA
ANNULLED MARCH 30, 1994 CASE No. 93.615
See conditions: P. #2 vetitum. Family Life 2/8/89. Signed by REDACTED ~~Judge.~~

Subdiaconate

Religious Profession

Archdiocese to review Pasadena priest's case

Associated Press

LOS ANGELES — The Roman Catholic Archdiocese of Los Angeles' priest misconduct board is poised to review the case of a Pasadena parish priest accused of molesting a woman more than two decades ago.

Archdiocese spokesman Tod Tamberg said the board was to review charges Wednesday that the Rev. Walter Fernando sexually abused a teenage girl in 1981.

The woman told authorities about the alleged molestations in April 2002, and later confronted Fernando, 59, in a telephone conversation monitored by police.

Police Detective James Brown said Fernando made statements that seemed to corroborate her account, though Brown declined to specify what the priest said.

Fernando continues to say Mass as associate pastor at Assumption of the Blessed Virgin Mary Catholic Church in Pasadena. He "vigorously denied all the charges," according to archdiocese attorney J. Michael Hennigan.

The archdiocese's misconduct board has reviewed the allegations twice, but no archdiocese representative has yet interviewed the alleged victim, officials said.

Under a zero-tolerance policy adopted by the U.S. Conference of Catholic Bishops last year, any priest or other church employee must be temporarily removed from ministry when they are the target of a credible sex-abuse allegation.

PASADENA STAR-NEWS JAN 15, 2004

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Statement for Weekend Masses at Assumption of the Blessed Virgin Mary Parish, Pasadena
Wednesday, January 17-18, 2004
Regarding Reverend Walter Fernando

As you know, in August of 2002, the *Los Angeles Times* published an article on sexual misconduct by Catholic priests and, among many others, named your Associate Pastor, Father Walter Fernando, as someone who allegedly engaged in the sexual abuse of a minor. On that occasion REDACTED made an announcement in the parish indicating that while officials of the Archdiocese were aware that an investigation was being conducted, we had not received any complaint of misconduct by Father Fernando at that time.

Earlier this week, on Wednesday, January 14, 2004, *The Times* published another article focusing specifically on Father Fernando. Additionally, a lawsuit was filed in December charging Father Fernando with abusive behavior.

Prior to this, there had never been any complaint about Father Fernando. He has denied any sexually abusive conduct with the person who filed the lawsuit or, for that matter, with anyone else. There is only one person who has made any claim against Father Fernando. Only on this past Wednesday has she consented to being interviewed by an investigator of the Archdiocese. Up to this point, she has not submitted written responses to a questionnaire as part of the court-ordered mediation process. We have asked to see the results of the police investigation so that we can know and assess any evidence the police may have obtained. We still hope that the police and District Attorney will release this information to us.

Our Clergy Misconduct Oversight Board has considered the case of Father Fernando on several occasions. Up to the present, the information available to us has been hearsay in nature and without the kind of detail that would enable the Archdiocese to investigate more fully, or enable Father Fernando to present a reasonable defense. As a result, the Board has not recommended that Father Fernando be placed on administrative leave. It has recommended a number of steps that either have been or are being pursued.

Cardinal Mahony is committed to assuring that children and young people are safe. He has pledged that when it is determined that a priest has engaged in sexual misconduct with a minor, that he will be permanently removed from ministry. That pledge has been implemented. The fact that a lawsuit has been filed or a complaint made to the police does not mean that Father Fernando has acted in an abusive fashion. All people, priests included, must be presumed innocent until there is proof to the contrary. At the same time, the Church takes allegations of this sort seriously -- precisely because we want to uncover the full truth and then act in accord with the truth. Therefore, we will continue to seek all available information.

We will continue to keep you informed of developments. We ask that you please pray for everyone involved -- people who have been harmed by sexual abuse, priests, and those conducting the investigations. Thank you.

Monsignor Craig A. Cox

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Statement for Weekend Masses at St. Hilary Parish, Pico Rivera
January 17-18, 2004
Regarding Reverend Walter Fernando

As you may recall, in August of 2002, the *Los Angeles Times* published an article on sexual misconduct by Catholic priests and, among many others, named Father Walter Fernando, as someone who allegedly engaged in the sexual abuse of a minor. Father Fernando was an Associate Pastor at St. Hilary in March through November of 1981. When the article was published in August of 2002, officials of the Archdiocese knew only that an investigation was being conducted and had not received any complaint of misconduct by Father Fernando at that time.

Earlier this week, on Wednesday, January 14, 2004, *The Times* published another article focusing on Father Fernando. Additionally, a lawsuit was filed in December charging Father Fernando with abusive behavior. The alleged misconduct is said to have taken place during the time of his service here at St. Hilary. Only one complaint has been lodged against Father Fernando.

In keeping with our commitment to protect children and young people, Cardinal Mahony has arranged for this complaint to be investigated very thoroughly by a former FBI agent. The results of that investigation will be provided to the Cardinal and to the Clergy Misconduct Oversight Board, headed by a retired Superior Court judge and consisting of fourteen members, twelve of whom are lay persons.

If any parishioners have information to report that might assist in the investigation of this matter, we urge you to come forward. You may contact either Monsignor Craig Cox, Vicar for Clergy, or the investigator REDACTED If you forget this number, you may request it at the rectory office at any time.

The Cardinal has dedicated himself and the Archdiocese to do all that is possible to assure our children and young people are safe. Towards this end, he has pledged to remove from ministry any priest who is determined to have sexually abused a minor. We are committed to take allegations of this sort seriously -- precisely because we want to uncover the full truth and then act in accord with the truth. Again, I invite any parishioner who may have information to come forward to assist us.

Finally, I ask that you please pray for everyone involved -- people who have been harmed by sexual abuse, priests, and those conducting the investigations. Thank you.

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Declaración para las Misas del fin de semana
en la Parroquia de St. Hilary, Pico Rivera
17-18 de enero, 2004
Respecto al asunto del Reverendo Walter Fernando

Quizás recuerden que en el mes de agosto de 2002, el periódico *Los Angeles Times* publicó un artículo sobre la mala conducta sexual por parte de sacerdotes Católicos y, entre otros, nombró al Padre Walter Fernando como uno que, según las alegaciones, había participado en el abuso de una persona menor de edad. El Padre Fernando entonces servía como asociado pastor en la parroquia de St. Hilary desde marzo hasta noviembre del 1981. Cuando se publicó el artículo en el mes de agosto del 2002, los oficiales de la Arquidiócesis sabían solamente que se había iniciado una investigación pero no habían recibido de ninguna persona una queja de mala conducta por parte del Padre Fernando en aquel tiempo.

El día miércoles de esta semana, 14 de enero, 2004 el *Los Angeles Times* publicó otro artículo sobre la persona del Padre Fernando. Además, una demanda se entabló el mes de diciembre acusando al Padre Fernando de comportamiento abusivo. La mala conducta, según tal, ocurrió durante el periodo de servicio del Padre en la parroquia de St. Hilary. Fue una sola queja que fue presentada contra el Padre Fernando.

De acuerdo con nuestro compromiso de proteger a niños y jóvenes, el Cardenal Mahony ha pedido una investigación de fondo de esta acusación por un ex-agente del FBI. Los resultados de esa investigación serán presentados al Cardenal Mahony y a los miembros del Comité Arquidiocesano de Supervisión de Casos de Mala Conducta, cuyo presidente es un juez jubilado de la Corte Superior. Además, el Comité se compone de catorce personas de los cuales doce son laicos.

Si alguien tiene información que puede facilitar esta investigación, le suplicamos que la presente. Pueden comunicarse al respecto con el Monseñor Craig Cox, el Vicario para el Clero, o con el investigador, el señor C. J. Ruona, al número 213-637-7284. Si se les olvida este número, pueden conseguirlo en las oficinas de su parroquia.

Se ha comprometido el Cardenal que la Arquidiócesis haga todo lo posible para que ustedes sientan la plena confianza que sus hijos están seguros. Hacia este fin, él está totalmente comprometido a remover del ministerio cualquier sacerdote que ha abusado sexualmente a un menor de edad. Estamos comprometidos a tomar y recibir estas acusaciones muy en serio—precisamente porque queremos descubrir la plena verdad y, por consecuencia responder de acuerdo con la verdad. De nuevo, invito a cualquier parroquiano quien tenga alguna información que la presente para ayudarnos.

Por fin, les pido que recen por todas las personas involucradas – personas dañadas por el abuso, por las sacerdotes, y por las personas dirigiendo las investigaciones.
Gracias.

ADD TO WALSH 54

FERNANDO C-194

Cox, Msgr. Craig A.

From: Cox, Msgr. Craig A.
Sent: Wednesday, January 21, 2004 1:44 PM
To: REDACTED
Subject: Message for REDACTED

I found this email address in the Annuario Pontificio. I ask whoever receives this to forward it to Auxiliary BishopVincent Marius Joseph Peiris.

Dear Bishop Peiris,

I am the Vicar for Clergy of the Archdiocese of Los Angeles in California. I need to be able to either communicate with you via a private email address or arrrange to speak with you on the phone. Would you please be so kind as to contact me at your earliest possible convenience? This is a matter of some delicacy and urgency.

My telephone is REDACTED

Thank you for your kind attention to this matter. May God bless you!

Msgr. Craig A. Cox

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Cox, Msgr. Craig A.

From: Cox, Msgr. Craig A.
Sent: Friday, January 23, 2004 10:28 AM
To: REDACTED
Subject: Your Assistance

Dear Bishop,

Thank you so much for your email. I regret to have to inform you that there has been an accusation of sexual misconduct with a minor lodged against Father Walter Fernando. This charge dates back to his first year in this country, 1981.

It is our understanding that you visited the United States in 1981 and traveled with Father Fernando on a vacation that included, among other destinations, a trip to the Grand Canyon.

It is critical for our investigation to determine whether or not this vacation trip occurred and to ascertain, as closely as reasonably possible, the exact dates of the trip. Any type of documentary verification, as well as your own recollections, would be most helpful to us. For example, if you have entries in your passport verifying your presence here at that time, receipts from the trip, entries in a diary or journal, dated photographs, etc., these could be most helpful It is our understanding that you stayed in a number of parishes and with familes during this trip. Any recollection about the places and persons with whom you stayed would be most helpful.

I hate to burden you, but there is an urgency that we move forward with our investigation as promptly as possible. Therefore, I would appreciate a return email as quickly as possible. If you have documentation, could you have notarized copies made and have them sent by a fast delivery service (e.g., DHL, FedEx) to me at the following address:

Msgr. Craig A. Cox

Archdiocese of Los Angeles

3424 Wilshire Boulavard

Los Angeles, CA 90010

U.S.A.

My office will be happy to reimburse you for any expenses you incure in preparing and shipping the documents to us.

We have retained the services of a professional investigator in this matter, REDACTED He and I would also welcome an opportunity to talk with you on the phone if you believe that would be helpful in your communications with us.

I look forward to your response. May God bless you in your ministry.

Yours in Christ,

Msgr. Craig A. Cox

Vicar for Clergy

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CONFIDENTIAL & PRIVILEGED
INVESTIGATIVE REPORT
ATTORNEY CLIENT WORK PRODUCT

January 23, 2004

Canonical Investigation of Father Walter Fernando
CMOB-027

Report o REDACTED canonical auditor

REDACTED made an accusation of sexual abuse against Father Walter Fernando to the Los Angeles Police Department (LAPD) in April 2002. Price has never personally lodged a complaint with the Los Angeles Archdiocese but the office of her attorne REDACTED communicated it to the Archdiocese. Based on her accusation the following individuals were interviewed and records were reviewed between January 14, 2004, and January 27, 2004:

1. REDACTED

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Fernando is a 59-year-old Sri Lankan-American who was ordained in Sri Lanka in 1973 and came from Sri Lanka to the Los Angeles Archdiocese in 1981. His initial assignment in the Archdiocese was at Saint Hilary's Church in Pico Rivera, reporting March 1, 1981. He served there until November 29, 1981, and was then transferred to Saint John Baptist de la Salle where he served until July 31, 1986. Since then he has served at four other parishes in the Archdiocese and has not had any complaints lodged against him other than the one that is the subject of this report. He has been an associate pastor at each of his assignments.

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The allegations made by REDACTED against Fernando are contained in a Complaint filed in Los Angeles County Superior Court on December 3, 2003. Pertinent parts of the complaint state:

1. REDACTED was a minor during the alleged acts perpetrated upon her.
2. She alleges Fernando molested minor parishioners and that the Archdiocese was aware of it.
3. The specific acts involving Fernando and her included:
   a. French kissing
   b. Hugging
   c. Fondling buttocks over clothing
   d. Rubbing and massaging breasts and body
   e. Kissing neck, face and breasts
   f. Digital vaginal penetration
   g. Forced masturbation of Fernando
   h. Attempted forced oral copulation of Fernando
   i. Sexual grooming

A request has been made REDACTED for an interview of REDACTED by a representative of the Archdiocese, preferably one of the investigators. This is one of the recommendations of the Clergy Misconduct Oversight Board, however, despite initially indicating she might allow this Freberg has not at this time.

REDACTED Certificate of Baptism certifies that she was born on August 7, 1963.

REDACTED was married to REDACTED, and they separated on May REDACTED EDACTED There were three daughters as a result of this union and REDACTED was granted custody after the acrimonious divorce.

Fernando advised Monsignor Craig A. Cox that the LAPD wanted to talk to him (Fernando) while both were at Saint John's Seminary attending a continuing education week the first week of June 2002. He told Cox that about 20 years ago he crossed boundaries with a woman interested in entering the convent. They went to a movie together and he put his arm around her. She later entered the convent but left within a few years.

Sometime after this the archdiocese became aware that REDACTED was making an allegation against Fernando and based on this he was interviewed by Cox and REDACTED REDACTED on February 12, 2003. Prior to this interview Fernando retained REDACTED as his attorney and although he answered all questions pertaining to him personally and historically he acted on REDACTED advice and refused to answer questions regarding the allegations made against him by REDACTED noted that Fernando's demeanor was cordial and cooperative and that he exhibited an appropriate level of concern. Later in letters dated March 7, 2003, and May 8, 2003, that Fernando addressed to Cox he denied "each of the specific behaviors alleged." He also wrote, "I absolutely affirm that I have obeyed my vow of celibacy".

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On January 21, 2004, Monsignor John A. (Archie) Rawden (retired) was telephonically contacted. He stated that in 1981 he was the Chancellor for the Archdiocese and responsible for the transfers of the priests. At that time he lived in the rectory of Immaculate Conception Church which was across the street from where the chancery. It was a large rectory and often priests coming into the Archdiocese stayed there prior to being assigned to a parish. He could not recall Fernando.

On January 16 and 17, 2004 REDACTED was telephonically interviewed. He is currently Associate Pastor at Our Lady of Lourdes Church and advised that he has known Father Walter Fernando for about 35 years, since their days in the seminary in Sri Lanka. He has always known him to be an honorable man both in Sri Lanka and in the United States. REDACTED preceded Walter in coming to America and when Walter arrived they spent a good deal of time together. He and his brothe REDACTED would spend each Wednesday with Walter, as that was their day off then. Walter did not have a California driver's license for several months after he arrived and they drove him to various locations around Southern California. They often visited and had dinner at other Sri Lankan homes in the area. Walter was initially assigned to Saint Hilary's in Pico Rivera but as he recalls he did not stay there as long as it was originally intended. The reason for this might have been because of his surname he was believed to be a Spanish speaker and he was not. He was then transferred to Saint John Baptist de la Salle in Granada Hills. He does not recall any parishioners at Saint Hilary's that Walter was close to or spoke about and the name Armida Price means nothing to him. Nor does he recall Walter mentioning any Saint Hilary parishioner visiting him at Saint John's. He described Walter as a reserved soft-spoken person that in his opinion would not force himself on anybody or in any way violate his vows. He was very surprised to hear that Walter was accused of any impropriety. He believes that the first summer Walter was in America another Sri Lankan priest, Marius Peiris, visited this country and they traveled together. Peiris is now a bishop in Sri Lanka and he has a cousin that lives in the Torrance area named Sweenitha De Mel whom they visited her on occasion back then. He advised his brother is now in ministry in New York.

On January 20, 200 REDACTED (not related to Walter) was telephonically interviewed. He is currently the hospital chaplain at Long Beach Memorial Hospital, Long Beach, New York, and resides in the rectory at Saint Ignatius Church in Long Beach, New York. He stated that he was assigned to Saint Michael's Church in Los Angeles in 1981 when Father Walter Fernando arrived from Sri Lanka. He knew Walter in Sri Lanka and knows that he had a good reputation there. He knows this because there is only one seminary in the country and relatively few priests and if someone does something untoward it becomes known throughout the religious community. Also the Bishop would not have written a letter of recommendation for him, which was required. REDACTED came to the U.S.A. in 1976 for a change and a more challenging ministry. He explained that Sri Lanka is a small country with few opportunities and he came here to broaden his experiences within the Church. He believes Walter came for the same reasons but probably with a bit of apprehension since he was leaving all of his family and most of his friends. When Walter arrived in Los

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Angeles he stayed at the Immaculate Conception rectory with Monsignor Archie Rawden. He was then sent to Saint Hilary's. He remembers that Walter did not drive at that time since he did not have a California driver's license and he and his brother, Father Damian Fernando, would drive to Walter's church and pick him up each Wednesday their day off. They would visit other Sri Lankans that resided in the area and frequently have dinner in their homes. One of these was REDACTED whose cousin, REDACTED is now a Bishop in Sri Lanka. In 1981 he was a priest from the same diocese as them in Sri Lanka and he visited the United States. REDACTED and Walter traveled to the Grand Canyon that summer as well as other places but he could not recall exact times and places. He was very surprised when he heard of the allegations made against Walter as he has always been a quiet gentleman and has a reputation for that. He never did anything indiscreet while they were together and he reiterated they spent a good deal of time together in 1981. He cannot remember Walter ever mentioning REDACTED or any other parishioner from Saint Hilary's nor does he recall him ever mentioning a former parishioner visiting him after he was transferred to Saint John's.

On January 21, 2004, REDACTED was telephonically interviewed and advised she knows Father Walter Fernando and recalls that he and her cousin Bishop Marius Peiris took a vacation together in 1981 when Peiris visited the United States. She cannot remember the dates they traveled but believes they visited the Grand Canyon and Las Vegas. Back then she frequently saw the Sri Lankan priests that lived in the Los Angeles area, including Fernando, and they were all good men. She could offer no other information of value.

On January 17, 2004, REDACTED was telephonically interviewed and on January 20 was personally contacted at Saint Hilary's. She is currently teaching at Saint Benedict's Grammar School in Montebello but has been employed at Saint Hilary's in some capacity, part time or full time since 1985. In the mid-1980s she worked in the office and now does some secretarial work and maintains the archived records of the parish. Although she was not working in the parish when Walter Fernando was an Associate Pastor at Saint Hilary's she was a parishioner and remembers him. She also knew REDACTED as they both were in the parish youth choir. REDACTED played the flute in the choir. This was after REDACTED graduated from high school and before she REDACTED went into the convent. After she left the convent REDACTED re-joined the group. Before graduated from high school and joined the choir she worked in the rectory part-time answering the telephones and the door. This was on the weekends and in the early evenings. A search of pay records failed to locate any for REDACTED which makes REDACTED believe that since she was part-time she was paid in cash and no records were maintained. REDACTED described REDACTED as a needy person who had a troubled family life. She seemed lonely and REDACTED family was uninvolved with her activities. REDACTED also said that REDACTED has had financial problems for years. Less than two years after leaving the convent REDACTED was married and it might have been to the first person she dated REDACTED did not believe the marriage lasted four years and REDACTED had three daughters as a result of it. REDACTED told REDACTED that her husband was having an affair and that after the divorce she felt like a failure again and questioned where to go from there REDACTED never mentioned Fernando to her or anyone else as far as she knows. She remembered Fernando as a gentle, reserved, docile person

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and felt if anything did occur between REDACTED and him she probably instigated it. If he made any advances on her REDACTED fee REDACTED would have told someone. She cannot recall any birthday or any other type party f REDACTED in the rectory. She has not seen in over a year and does not know where she is living or if she is employed. She does know one of her daughters has a serious health problem. Her daughters went to Saint Hilary's school at one time. Carmen Torres was the parish secretary in 1981 but she is now very elderly and feeble. In 1985 REDACTED became the parish secretary an later met her when both had children in school at Saint Hilary's. Lillian Miraya is the current parish business manager and does not kno REDACTED personally but requested REDACTED locate old pay roll records for her. She does not know who aske REDACTED to provide them. She also checked parish records dating back to 1981 for vehicles, expenses, retreats, training or anything else regarding Fernando with negative results. The only thing she could locate from that time period were Sunday parish bulletins. The full time rectory employee at that time was REDACTED who is now deceased REDACTED REDACTED also worked as a junior, or part-time, secretary the same time tha REDACTED did and she also played guitar in the youth choir. She might be able to provide some information. REDACTED nother REDACTED was the housekeeper in 1981 and is now 84 years old and residing at Nazareth House. She might remember something, as she knew both REDACTED and Fernando. She frequently talked t REDACTED and was fond of her and never mentioned t REDACTED tha REDACTED had a relationship with a priest. Her mother was the only person other than the priests that was allowed in their private quarters and she would not allow anyone else to violate their space.

On January 20, 2004, the Saint Hilary's Sunday Parish Bulletins for 1981 were reviewed. The March 8th one welcomed Fernando to the parish. On April 26 his name is listed on the cover as a parish priest. On November 29th it announces he is being transferred to Saint John's. On December 13th he is no longer named on the cover as a parish priest. The bulletins for that year indicate that REDACTED was the pastor and that associate pastors were REDACTED is deceased an REDACTED left the Archdiocese May 23, 1985, apparently to return to his Diocese in Enugu, Nigeria. Parish records refle REDACTED marriedREDACTED on REDACTED

On January 16, 200 REDACTED ; Pastor at Our Lady of the Rosary Church, was telephonically contacted. He advised that he was an associate pastor at Saint Hilary's in 1981 and remembers Father Walter Fernando there. He recalled Fernando as a hard working priest that was very gentle and quiet and definitely never saw him do anything of a suspicious nature. He could not remember anyone in the parish that Fernando was particularly close to. He had recently come from Sri Lanka and he socialized with other Sri Lankan priests on his day off. He recalls that they came to pick him up and that they would go to various places in the area. He cannot recall if Fernando was assigned a vehicle but believes that he probably was. He did not recall when Fernando's vacation was or if he took a parish car when he went. He did not remember REDACTED

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On January 21, 2004, REDACTED principal of Saint Hilary's School was telephonically contacted. She advised that REDACTED did not attend Saint Hilary's School but that her children did for a period of time. She knew her as a parent of a student and nothing more. Her children were withdrawn from the school she believes for financial reasons.

On January 21, 2004 REDACTED , Saint Hilary's Church, was telephonically contacted. She advised she does not know Father Walter Fernando or REDACTED She learned o REDACTED name in this matter from her pastor and advised that a state agency had requested payroll records fo REDACTED in July 2003 but there were no records.

On January 21, 2004, REDACTED was interviewed at Nazareth House. She advised that she was the housekeeper at the rectory of Saint Hilary's Church when Father Walter Fernando was assigned there. He was a very quiet nice man who she liked a lot. He related well to the parishioners and they liked him. REDACTED was a junior secretary in the rectory and answered the telephone and the front door. She was in high school and worked part-time. She was a hard worker and helped to support her family. Before she entered the convent she discussed it with REDACTED and he later told REDACTED that he did not think she would make it in religious life. REDACTED is now an interpreter in the court system in Los Angeles and she believes that REDACTED continues to help support her parents. She knew of no connection between Fernando and REDACTED . Nobody was allowed in the priests' quarters but her, not even the parish secretary. She did not remember any type party for REDACTED in the rectory.

On January 21, 2004, REDACTED was interviewed at the Nazareth House. He remembered Father Walter Fernando as one of his associate pastors at Saint John's and that he was an excellent, obedient young man. He was given the hospital ministry and worked very hard at it. He has no recollection of anything that would reflect poorly upon Fernando. The only female he remembers visiting Fernando was another Sri Lankan. He characterized him as "one of my prized young men."

On January 21, 2004, REDACTED , was telephonically interviewed. He is currently pastor of Saint Bernardine of Siena Church and was an associate pastor at Saint John's in 1981 when Father Walter Fernando arrived. He was a very reserved gentleman and he was never suspicious of Fernando for any reason. He has called appropriate people for the activities of others over the years but not Fernando. He cannot recall any parishioners from Saint Hilary's visiting Fernando at Saint John's.

On January 21, 2004, Monsignor Timothy J. Dyer, Pastor of Nativity Church, was telephonically interviewed and advised he was the Vicar for Clergy in 1990 and 1992 when Father Walter Fernando was transferred from Cathedral Chapel and Saint Gregory the Great Churches after what appears to be abbreviated stays. He could not recall why these transfers were made but is certain that if there was a serious problem behind them it would be noted in Fernando's file.

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On January 22, 2004, a meeting was held with LAPD Lieutenant Dennis Shirey, Officer in Charge of the Juvenile Division and LAPD Officer James Brown senior detective of the cleric abuse task force. They advised they were not at liberty to release any portions of their case relating to Father Walter Fernando including the transcript of the monitored telephone call between Fernando and REDACTED. This would be against their policy and could be harmful to a future case if another victim comes forward since th REDACTED case can be used for corroboration. Due to the Stogner Decision Fernando will not be prosecuted in this matter but Brown opined that the telephone call corroborated REDACTED claims. Brown will contact Deputy District Attorney William Hodgeman to obtain his opinion on allowing the transcript of the call to be viewed by the Archdiocese and advise once this decision is made.

On January 15, 200 REDACTED advised in a memo that REDACTED e entered the Daughters of Saint Paul in January 1983. After her postulancy she became a novice and then left the community on March 27, 1985.

On January 17 and 18, 2004, a statement was read at all week end Masses at Saint Hillary's that Father Walter Fernando was named in a law suit accusing him of sexual abuse while assigned to that parish. It requested any parishioner with information regarding this matter to contact the Archdiocese and left Monsignor Craig A. Cox's telephone number. No contact has been made.

On January 21, 2004 REDACTED parish secretary at Saint Hilary's from 1983 until 1998 advised that she had no information of value relating to this matter.

The February 2003 issue of the Los Angeles Lay Catholic Mission contains an article stating that the January 2nd Los Angeles Times named REDACTED as a sexual abuse victim handing out leaflets at the Sherman Oaks Galleria. The pamphlets informed victims of sexual abuse by priests that they could bring suit against perpetrators for the duration of 2003 and urged them to contact the Church.

On January 27, 200 REDACTED
e-mailed Cox the following information. He has known Fernando since 1964 and they attended the seminary together. Between roughly September 5th and 18th 1981 he and Fernando traveled by car to the Grand Canyon. They also spent time in Flagstaff, Arizona, and Las Vegas, Nevada, on the trip which took four or five days. Fernando was assigned to Saint John Baptist de la Salle at the time.

A public records database search was done on REDACTED and provided no information of value in this matter.

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Analysis and Observations

This allegation was made 21 years after the act supposedly took place.

There are no independent witnesses named by REDACTED as having ever observed any of the alleged activities. Therefore much of the investigation set forth above revolves around character evaluation of the parties by those that knew them at that time as well as now.

REDACTED had a difficult childhood and as a young woman left religious life and had a failed acrimonious marriage.

REDACTED

She has had financial difficulties throughout her life.

Fernando was assigned to Saint Hilary's on March 1, 1981, and remained there until November 30, 1981.

Fernando did not drive for a couple of months after arriving at Saint Hilary's due to a lack of a valid driver's license.

Although the LAPD advised that in their opinion Fernando corroborated REDACTED allegations in the recorded telephone call Officer Brown on another occasion said the call "seemed to corroborate her account."

REDACTED 18th birthday was August 7, 1981.

No other complaints have been lodged against Fernando.

These issues have a bearing on this analysis but without more information it cannot be determined at this time, with any level of certainty, whether the alleged activities took place or not.

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Timeline Regarding Father Walter Fernando

April 24, 1944...Walter Fernando born in Ragama, Sri Lanka

January 1, 1973...Fernando ordained for Diocese of Colombo, Sri Lanka

March 1, 1981...Fernando assigned to Saint Hilary's Parish, Pico Rivera

August 7, 1981. REDACTED 's 18th birthday

November 29, 1981...Fernando leaves Saint Hilary's

November 30, 1981...Fernando assigned to Saint John Baptist de la Salle, Granada Hills

January 1983. REDACTED enters convent

March 27, 1985.. REDACTED leaves convent

February 24, 1986...Fernando incardinated in Los Angeles

July 31, 1986...Fernando leaves Saint John's

August 1, 1986...Fernando assigned to Saint Rose of Lima, Simi Valley

December 23, 1987.. REDACTED it Saint Hilary's

July 1, 1990...Fernando leaves Saint Rose

July 2, 1990...Fernando assigned Cathedral Chapel, Los Angeles

June 12, 1991. REDACTED file for divorce

May 2, 1992...Fernando leaves Cathedral Chapel

May 3, 1992...Fernando assigned Saint Gregory the Great, Whittier

June 30, 1992...Fernando leaves Saint Gregory

July 1, 1992...Fernando assigned Assumption of the Blessed Virgin Mary, Pasadena

April 12, 1994. REDACTED marriage declared null and void by Catholic Church

April 2002.. REDACTED reports molestation to LAPD

May 2002. REDACTED makes monitored telephone call to Fernando

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June 13, 2002...Fernando advises Monsignor Craig A. Cox LAPD wants to talk to him

August 18, 2002...Los Angeles Times article names Fernando as being under investigation

August 30, 2002...Officer Dale Barraclough advise REDACTED LAPD has open case on Fernando

January 1, 2003...Price identified in Los Angeles Times as abuse victim per February edition of the Los Angeles Lay Catholic Mission

January 1, 2003...Price appears on list of plaintiffs

January 22, 2003...CMOB discusses matter but has few facts and takes no action

February 12, 2003...Fernando interviewed by Cox and REDACTED

March 7, 2003...Fernando sends Cox letter denying most serious charges

March 26, 2003...CMOB discusses matter and requests more information be obtained

May 8, 2003...Fernando sends second letter to Cox denying all allegations

January 14, 2004...L.A. Times article details case against Fernando and that he is still in ministry

January 14, 2004...CMOB discusses matter and requests expedited investigation

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WALTER FERNANDO C-FILE

Cox, Msgr. Craig A.

From: Cox, Msgr. Craig A.
Sent: Tuesday, January 27, 2004 8:26 AM
To: REDACTED
Subject: RE:

REDACTED

Thank you very much for your reply. I look forward to receiving the materials you are sending. This helps us verify timelines so that we can better assess the claim being made.

May God bless you in your ministry.

Msgr. Craig A. Cox

-----Original Message-----
From REDACTED
Sent: Monday, January 26, 2004 8:52 PM
To: Cox, Msgr. Craig A.
Subject:

27.01.2004

Attn. Msgr. Craig A. Cox

Dear Msgr. Cox,

I am REDACTED

From 1978 - 1982 I was reading for a Post-Graduate Degree in London and was a resident priest at Our Lady of Lourdes, 373, Bowes Road, London N11 1AA.

On the 30th of August 1981, I travelled from Gatwick Airport to Los Angeles by Laker Sky Train an Air Plane (Refer photocopies of passport pgs 22 & 34). I was not staying in a parish nor with families during this tour. I only stayed with my 1st cousin, mother's brother's daughter REDACTED and her husband REDACTED Present address REDACTED REDACTED Telephone REDACTED I stayed with them till the 25th of September, arrival at Gatwick Airport (Refer Pg.24).

I have known Fr. Walter Fernando from 1964. From 1965 - 1967 we were seminarians at the National Seminary, Ampitiya, Sri Lanka. In 1967, I was sent to Rome by the REDACTED REDACTED . When I was at Torrance, I contacted Fr. Walter Fernando, who was an Associate Pastor in a Church dedicated to St. John the Baptist De La Salle (hope I am correct).

In September 1981, roughly between the 5th and the 18th September, we went on trip, only the two of us to the Grand Canyon by car. We stayed the night in a place called Flagstaff; saw the Grand Canyon and went to Las Vegas and stayed with a friend - REDACTED from Sri Lanka. We stayed only one day at Las Vegas. The whole trip took only 4 to 5 days maximum

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and I returned to London on 25th September 1981, arrival at Gatwick Airport (Pg. 24)

On the 5th of February 1982, I once again visited Los Angeles (Pg. 24) and stayed till 27th February 1982, embarkation and arrival from Heathrow Airport (Pgs 24 & 35). This time I paid a visit to Mexico on 14th February 1982 - 19th February 1982 (Pgs 16 & 34). During this period, I may have met Fr. Walter, but did not go on a tour with him.

I hope this information would be sufficient, I am sending the photocopies of the relevant passport pages by fax REDACTED to you and through registered express air mail. If you need to talk to me over the phone, you may contact me on one of these lines.REDACTED
REDACTED

May God bless you and your work,

Yours in the Lord,

REDACTED

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(1)

ARCHBISHOP'S HOUSE
COLOMBO 8,
SRI LANKA.

Attn. Msgr. Craig A. Cox

REDACTED

REDACTED

Rev

Name of Bearer

Maiden Name (if married)

Catholic Priest

Profession

REDACTED

Place and Date of

Residence

Distinguishing Mar

Height

National Status

REDACTED

1.

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(5)

ARCHBISHOP'S HOUSE
COLOMBO 8,
SRI LANKA.

Attn. Msgr. Craig A. Cox

REDACTED

REDACTED

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REDACTED

(8)

REDACTED

At

REDACTED

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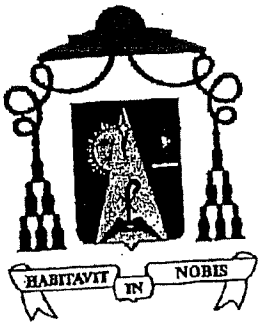
REDACTED



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REDACTED

Attn.

REDACTED

REDACTED

REDACTED

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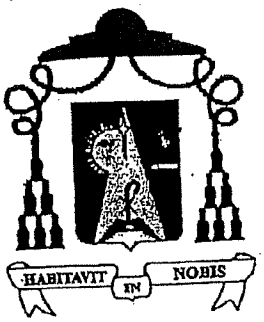
REDACTED



(5)

REDACTED

Attn.

REDACTED

REDACTED

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CONFIDENTIAL & PRIVILEGED
INVESTIGATIVE REPORT
ATTORNEY CLIENT WORK PRODUCT

February 1, 2004

Canonical Investigation of Father Walter Fernando

Interviewee: [redacted] (Protect Identity Upon Request)

Interviewer: [redacted] canonical auditor

Date of Interview: January 29, 2004

[redacted] was telephonically interviewed and provided the following information:

She first met [redacted] when they sang in the junior choir at Saint Hilary's in 1979-1980. She [redacted] was in the seventh grade and [redacted] was about four years older. In her sophomore year of high school she began work at the parish as a junior secretary and [redacted] was leaving to enter the convent. [redacted] trained her and their tenure at the rectory overlapped briefly. While [redacted] was in the convent she only saw her once when [redacted] was home on vacation and she came by the rectory to say hello.

[redacted] left the convent in about 1985 and returned to sing in the choir again and they became reacquainted. They later became fairly close friends as her husband (boy friend at that time) was a friend of [redacted] who [redacted] was dating and later married. She thought [redacted] was a nice person and she does not know the reason for the divorce. [redacted]

Mike Baker was a priest at Saint Hilary's who both she and [redacted] knew. When it became public that he had abused [redacted] who they both knew also, they discussed it. On one of these occasions [redacted] asked her if she remembered Father Walter Fernando and she told [redacted] that her memory of him was very faint. [redacted] then told her that he had abused their relationship. When she asked [redacted] what she meant by that [redacted] refused to detail what had happened and was clearly embarrassed by it. This was the only time it was mentioned and she could not say with any accuracy when it happened except that it was after the Baker incident became public and at least a year ago. They have a mutual friend, [redacted] who now lives in Moreno Valley. About the same time [redacted] mentioned Fernando to her she was talking to [redacted] and [redacted] related that [redacted] had asked her also if she remembered Fernando. She cannot recall what [redacted] response was. It surprised her that [redacted] would say something like that about a priest.

The incident with Fernando took place while [redacted] was working in the rectory. She did not believe that [redacted] would make something like this up but at the time it did not occur to her that the abuse was sexual in nature. She assumed that [redacted] had told him

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something in confidence and he repeated it to someone else or something like that. At the time she was a fairly close friend of [redacted] and she wondered why she had not told her sooner than she did.

She has not seen [redacted] in over a year and she lost track of her. She is not even certain as to where she is living or working. She described [redacted] as a very quiet and shy person.

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CONFIDENTIAL & PRIVILEGED
INVESTIGATIVE REPORT
ATTORNEY CLIENT WORK PRODUCT

February 4, 2004

Canonical Investigation of Father Walter Fernando

Interviewe REDACTED

Interviewer: REDACTED anonical auditor

Date of Interview: February 2, 2004

REDACTED was contacted at Saint John's and conducted a tour of the rectory and surrounding area.

She pointed out that the area behind the rectory was made into a gathering area, or plaza, in 1991. Prior to that it was a parking lot and if a priest did not park in the garage he could have easily parked there and it would have been convenient to the priests' private entrance into the rectory.

Leaving this area is a walkway between the church and the rectory that leads to the private entrance on the west side of the rectory. Entering this door a hallway goes about ten feet and then there is left turn and an immediate left turn into a sitting room. This is a private sitting room and a door from it leads directly into a bedroom. Entering the bedroom looking at the wall to the left is a window. Currently the head of the bed is under the window but REDACTED advised the previous occupant had the head of the bed immediately to the left as one entered the room. If the bed was configured in that manner the chest of drawers and mirror on the far wall would be at the foot of the bed. REDACTED stated that particular piece of furniture had been positioned that way as long as she had been there, which was since the early 1990s.

She was not working at the parish when Father Walter Fernando was there but believes this room was more than likely his. The other associate pastor suite is across the hall.

REDACTED provided blue prints for the rectory.

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CONFIDENTIAL & PRIVILEGED
INVESTIGATIVE REPORT
ATTORNEY CLIENT WORK PRODUCT

February 4, 2004

Canonical Investigation of Father Walter Fernando

REDACTED

Interviewe REDACTED :anonical auditor

Date of Interview: February 2, 2004

REDACTED Doonis was interviewed and provided the following information:

She contacted [redacted] Vice-Principal at Saint Paul High School in Santa Fe Springs regardir REDACTED He advised tha REDACTED was an outstanding student and very active in the music program when she attended Saint Paul's. She won several scholastic awards when she graduated.

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CONFIDENTIAL & PRIVILEGED
INVESTIGATIVE REPORT
ATTORNEY CLIENT WORK PRODUCT

February 6, 2004

Canonical Investigation of Father Walter Fernando

Interviewee: REDACTED

Interviewer: REDACTED canonical auditor

Date of Interview: February 5, 2004

REDACTED was telephonically interviewed and provided the following information:

When Father Walter Fernando came to Saint John Baptist de la Salle Church in Granada Hills in 1981 as an associate pastor he was assigned a room in the rectory. On entering the rectory from the priests' entrance off of the walkway between the rectory and church there is a hallway. Straight ahead a few feet is another hallway to the left and then immediately to the left a door into the sitting room that is part of the suite in which Fernando lived. There is also a bedroom and bathroom in that suite.

There was parking in the rear of the rectory at that time and no door in the rear of the rectory opening to that parking area. At that time there was no exit door on that end of the rectory.

The name REDACTED means nothing to him.

REDACTED

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Glendale

LOS ANGELES TIMES - February 7, 2004

10 Priests in Lawsuits Still on Job

L.A. Archdiocese says it lacks evidence of abuse. Cases test limits of the 'zero tolerance' policy.

By William Lobdell and Jean Guccione
Times Staff Writers

At least 10 priests in the Roman Catholic Archdiocese of Los Angeles remain in parish ministry despite lawsuits filed late last year that accuse them of molesting children.

Among the priests are some of the archdiocese's most prominent clerics, including Msgr. Richard A. Loomis, former head of clergy who oversaw misconduct allegations against priests; Msgr. Patrick Reilly in Burbank and Father Michael J. Carroll, who was voted Walnut's man of the year last week.

Church leaders justified their action by citing lack of evidence to support the allegations and, in some cases, their inability to interview the victims. Announcements of the accusations were made in the congregations of the priests last Sunday.

Each cleric has denied wrongdoing, and none are under criminal investigation.

The cases test the limits of the Vatican's "zero tolerance" policy against priestly miscon-

[See Church, Page A22]

Accused Priests' Status Pending Inquiries Murky

[Church, from Page A1]

duct, and point to the conflicts the church faces in policing itself.

Archdiocesan spokesman Tod Tamberg said that although many past claims of sexual abuse have been credible, "not all allegations are true or immediately credible."

"And there are those that are demonstrably false," he said. "To take someone out of ministry when allegations are false or there is a severe lack of first- or even second-hand information is not only unjust to the person accused, it also diminishes the impact of those claims which are credible and true."

The archdiocese's stance has infuriated victims' advocates, who say that once again the church has put the protection of priests over the safety of children.

"The problem is not false allegations," said John Manly, a Costa Mesa attorney whose firm represents about 80 alleged victims of sexual abuse by priests. "The problem is child rape. When are the bishops going to get that through their thick ecclesiastical heads?"

The debate over how to treat the priests named in lawsuits comes as the archdiocese is also battling prosecutors and civil litigants over access to personnel files on accused priests.

The church has argued that the files are confidential and protected from disclosure by law; prosecutors insist that the documents are necessary to investigate possible criminal wrongdoing.

The priests still in active ministry are among about 200 Los Angeles area clerics named in an avalanche of litigation in 2003.

The lawsuits were filed after California lifted for one year the statute of limitations for older cases of sexual abuse involving minors. About 500 people sued the Los Angeles Archdiocese last year out of 800 suits statewide.

Asked about the accusations, Loomis, who was vicar for clergy from 1996 to 2000, said: "I have not done anything wrong."

Speaking of his accuser, he added: "I do not recall this person and I did not molest him."

Similarly, Manuel Sanchez of Sacred Heart Church in Pomona said Friday that he did not even know his accuser. "I am completely unaware of the charges," the priest said. He said he learned of "this terrible accusation" six months ago and believed that his accuser was either looking for money or he simply confused me with another person."

Another of the priests, James M. Ford of San Roque Church in Santa Barbara, said he was shocked when I heard of the lawsuit." Ford said he was "deeply hurt by this allegation of 31 years ago. It's completely and absolutely false."

Edward Dober of Our Lady of the Rosary Church in Paramount released a statement denying the allegation. "The archdiocese did not find it credible and there is no basis for the lawsuit," the statement said.

The other priests still on active ministry each of whom denied the allegations personally or through an attorney, are Sean Cronin of Our Lady of Lourdes Church in Northridge; Walter Fernando of Assumption of the Blessed Virgin Mary Church in Pasadena; Richard Martin of Transfiguration Church in Los Angeles and Samuel Orellana of Presentation of Mary Church also in L.A.

In some cases, the status of the clerics facing allegations exposes a contentious and largely unexplored area of the church's zero-tolerance policy, which was adopted in 2002 and calls for removing priests against whom credible allegations of molestation have been made. The policy is silent about a cleric's status between the time an allegation is lodged and a church investigation is completed.

Should a priest accused of a decades-old molestation, be immediately placed on administrative leave until an inquiry is complete, or should he remain at his post until the church determines that there is sufficient evidence to remove him?

"In some cases, it is a very, very shaky allegation by someone who's not very credible," said Father Robert J. Silva, president of the National Federation of Priests' Councils. "On the other hand, we want to be very sensitive to the victims."

Nor does the policy define sufficient evidence, the standard of proof needed to remove a priest from ministry under the reformed policy.

Zero tolerance

Excerpts from the Catholic Church's Charter for the Protection of Children and Young People

ARTICLE 5. We repeat the words of our Holy Father in his address to the cardinals of the United States and conference officers: "There is no place in the priesthood or religious life for those who would harm the young."

When an allegation of sexual abuse of a minor by a priest or a deacon is received, a preliminary investigation will be initiated and conducted promptly and objectively. If this investigation substantiates, the diocesan (eparchial) bishop will both notify the Congregation for the Doctrine of the Faith and relieve the alleged offender promptly of his ministerial duties.

Source: U.S. Conference of Catholic Bishops

Los Angeles Times

IX 000513

79 88

Priests accused of abuse in lawsuits

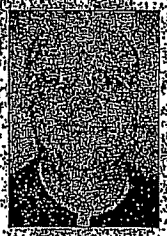
These 10 Roman Catholic priests were accused of sexual abuse in civil lawsuits filed last year. The Archdiocese of Los Angeles has reviewed the allegations, and all remain in parish ministry.



Michael J. Carroll, pastor, San Lorenzo Ruiz Church, Walnut
Accused of molesting a teenage girl from 1967-71 at St. Anselm Parish in Los Angeles.
He denied the allegation. The Clergy Misconduct Oversight Board of the Roman Catholic Archdiocese of Los Angeles recommended he remain in the ministry.



Sean Cronin, associate pastor, Our Lady of Lourdes Church, Northridge
Accused of molesting two children between 1972 and 1980 while at St. Genevieve Parish in Panorama City and St. Monica Parish in Santa Monica.
He denied the allegations. The board recommended he remain in parish ministry pending further investigation.



Edward Dober, pastor, Our Lady of the Rosary Church, Paramount
Accused of fondling a boy at Queen of the Angels Junior Seminary in Los Angeles in 1990 and 1991.
He denied the allegations. The board found "no evidence of misconduct." Parishioners were told Dober had the archdiocese's "complete confidence."



Walter Fernando, associate pastor, Assumption of the Blessed Virgin Mary Church, Pasadena
Accused of molesting a woman in 1981 at St. Hilary Parish in Pico Rivera.
He denied the allegations. Los Angeles police said he made incriminating statements during a taped conversation with the alleged victim. The board recommended he remain in parish ministry and stated it had insufficient information to investigate.



James M. Ford, pastor, San Roque Church, Santa Barbara
Accused of molesting a teenager from about 1968 to 1971 at an unspecified parish in the city of Orange.
He denied the allegation. The board found it was "not appropriate" to place him on administrative leave, based on information currently available.



Msgr. Richard A. Loomis, pastor, Sts. Felicitas and Perpetua Church, San Marino
Accused of molesting a boy between 1969 and 1971 when he taught at a Los Angeles-area Catholic high school.
He denied the allegation. The board found "no credible evidence of misconduct has been presented to us." Parishioners were told that Loomis had the archdiocese's "complete confidence."



Richard Martini, pastor, Transfiguration Church, Los Angeles
Accused of fondling a boy at Queen of the Angels Junior Seminary in Los Angeles in 1990 and 1991.
He denied the allegations, and the board found "no evidence of misconduct." Parishioners were told Martini had the archdiocese's "complete confidence."



Samuel Orellana, associate pastor, Presentation of Mary Church, Los Angeles
Accused of misconduct in 1987 at Sagrado Corazon Parish in Compton.
He denied the allegation and said he did not remember the accuser. The board recommended he remain in the ministry pending further investigation.



Msgr. Patrick Reilly, pastor emeritus, St. Robert Bellarmine Church, Burbank
Accused of misconduct between 1980 and 1984 while at Sacred Heart Parish in Covina.
He denied the allegation. The oversight board found there was "no credible evidence of misconduct."



Msgr. Manuel Sanchez, pastor emeritus, Sacred Heart Church, Pomona
Accused of molesting a child in 1981 while pastor at Sacred Heart Parish in Pomona.
The board found that "the evidence did not support the charges."

Sources: Archdiocese of Los Angeles and lawsuits. Photos from Archdiocese of Los Angeles 2002 Catholic Directory.

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CONFIDENTIAL & PRIVILEGED
INVESTIGATIVE REPORT
ATTORNEY-CLIENT WORK PRODUCT

February 8, 2004

Canonical Investigation of Father Walter Fernando
CMOB-027

Supplemental Report of REDACTED

Reference Report Dated January 23, 2004

The morning of January 29th REDACTED telephonically advised that he had spoken with REDACTED the counsel for REDACTED and that REDACTED would be available for an interview that evening. I telephonically contacted REDACTED who advised that REDACTED would meet with me at the Marie Callender's Bakery and Restaurant located at 12402 Washington Boulevard in Whittier at 6:00 p. m. that evening. She also said that an associate of her REDACTED would be there to make REDACTED more comfortable. She put no restrictions on the interview and only asked it not drag on for several hours. She was assured it would not.

At 5:45 p. m. I identified myself to REDACTED and we exchanged business cards. He was sitting in a relatively private booth in the restaurant and REDACTED had gone to the rest room. Shortly thereafter she returned and REDACTED introduced me to her. At that point he requested no questions be asked regarding damages in the suit REDACTED had filed. He was assured that was not the intent of the interview. REDACTED then provided the following information:

She met Father Walter Fernando in either late 1980 or early 1981 at Saint Hilary's Catholic Church in Pico Rivera. She was 17, a senior at Saint Paul's High School and working at Saint Hilary's as a junior secretary in the rectory. She was very active in the parish at that time. She taught a Confraternity of Christian Doctrine (CCD) class in her junior and senior year in high school and was in the junior choir where she sang and played the flute. She characterized herself as an unattractive nerd while in high school who had few, if any, friends and was the subject of verbal abuse. She had a 4.0 grade point average and some of the students may have resented her for that. Her home life was also troubled and she enjoyed being at the parish, as it was a refuge for her. She began volunteer work in the rectory during her junior year and between her junior and senior year she was hired as a junior secretary and began to receive a salary.

The priests at Saint Hilary's at that time were the pastor REDACTED who is now deceased, REDACTED and Fernando. She could not be certain if a Vietnamese priest named REDACTED was there at that time or came shortly after Fernando left. She thought he might have been there a short time while Fernando was REDACTED there as she recalled REDACTED had rooms downstairs in the rectory and

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81

REDACTED were upstairs. As a junior secretary she came to the rectory directly from school. The school bus had a stop at the church making it convenient for her and she reported to work wearing her school uniform. She would work as late as 9:30 p. m. at times on week nights and also on weekends. She was restricted to working not more than 25 hours a week. REDACTED who was attending California State University at Los Angeles, was also working there and trained REDACTED but other than the training they were not there together as one would normally relieve the other. There was another junior secretary for a short time but she was fired due to talking to her boyfriend on the telephone at work. REDACTED not only did not have a boyfriend but did not date until years later after leaving the convent. Her duties included doing parish clerical work and answering the telephone and door. She placed the priests' messages in boxes that were next to where she sat. She normally ate her dinner in the kitchen but on occasion was invited to eat in the dining room with the priests.

The rectory was quiet in the evening and normally only she and the priests were there. It was not uncommon for them to come by to check their mailboxes for messages. Fernando began to strike up conversations with her in the evening when they were alone. These talks became increasingly longer and friendlier. The first thing she recalls that was a bit unusual was one evening he began to shoot rubber bands at her. Late one Sunday afternoon in perhaps April 1981 Fernando suggested they go to the parish hall behind the church and he would play his violin and she her flute. They were there alone with a piano near the stage and she played her flute and sang. Then he played the violin and brought out music and sang a love song entitled, "Drink To Me Only With Thine Eyes". She felt this was a strange selection for him to pick since it was a love song. They were there about an hour.

Shortly after the parish hall incident she was alone at her desk one evening wearing her high school uniform. Fernando showed her a book and suggested that she read it. She turned the book over and read a synopsis of the story on the rear cover. It was about a priest who was having an affair and she gave it back to him. He inquired as to why she did not want to read it and she told him that she did not think that priests should do that sort of thing. He then explained to her there was a difference between celibacy and chastity. According to him celibacy meant simply that priests were precluded from marriage. Chastity was a vow that only priests that were in a religious order took along with poverty and obedience. Since he was a diocesan priest chastity did not pertain to him and he only had to remain celibate that is not marrying. Nobody had ever explained this to her and she was confused but since he was a priest she accepted what he said. Nevertheless she did not read the book and cannot remember the title.

Not long after the book incident, while still in high school, either on his day off or on the weekend he mentioned that he wanted to see a movie and asked her to accompany him. She rarely went to movies and since he was a priest and was showing her attention she readily accepted. He drove to her house, honked the horn and she came out. This is the procedure he used whenever he came to pick her up in the future. He never came into the house to talk to her parents or siblings. Her parents did not object to her going and she believes they felt good about it since they thought she was in the safe care of a priest.

They drove down Rosemead Boulevard to Downey the city that adjoins Pico Rivera to the south. They went to the Showcase Theatre located next to a Farrell's Ice Cream Parlor. Neither structure is any longer there as it is now a shopping center. He sat to her left during the movie and during the movie reached over and initially patted her hand. He then reached his arm around her shoulder and put his hand on her breast and began to rub it. She stared straight ahead and not knowing what to do she did not do or say anything. The movie was near its conclusion when this happened and when it finished she asked him to hand her a sweater she placed on the seat next to him. When she did this he abruptly leaned down and gave her a hard kiss on the lips. She had never been kissed on the lips before and she was shocked and emotional. She told him she had to go to the ladies' room and excused herself. When she returned to him she was still in shock and they proceeded back to the car. She cannot recall the name of the movie. The vehicle was a white parish car that Fernando used and she does not know if it was assigned to him or not. As he was leaving the parking lot he backed into another car and continued to drive away. She called his attention to it since it was very apparent but he told her not to worry about it and left. He was quiet after the movie and little if anything was said on the drive home. He did not come into her house when he brought her home either.

Not long after the movie incident, while she was still in high school, they returned to the same parking lot. She cannot recall the reason they were there but he parked in front of Farrell's and laid his head in her lap. While in this position he pulled her head down and kissed her. This was a longer kiss than the one in the movie and he put his tongue in her mouth. After the kiss he took her home.

On another occasion while she was still in high school, probably on a Saturday, he took her to the Los Angeles County Arboretum. She wore her hair in bangs and she recalled that she had braces on her teeth then. It was a warm day and she wore a white dress that she made and white sandals. As in the other described incidents he did not wear his clerical clothes. He brought a camera and took about five photographs during the day which he later showed to her. He did not give her any of them and she has no idea where they are now. He did not feel comfortable driving on freeways and so he drove home on Rosemead Boulevard. This route passed through the Whittier Narrows and a large park at Legg Lake. He pulled into the parking lot at Legg Lake and parked. He wanted to take a walk and so they did for a while and then they stopped at a picnic table and sat down. He began to kiss and fondle her. It was dark and they were there for about an hour. This time he put his hand inside her blouse and bra so he was rubbing the skin of her breast. They then returned to the car and drove home.

After the first Legg Lake incident they returned there and once again he was not in clerical garb. This time it was in the evening and the light was very dim. He was sitting in the driver's seat and she was in the front passenger seat when he unzipped his pants and exhibited his erect penis outside of his pants. She had never seen a penis before and did not want to look but did see it as she glanced over. He then told her to kiss his penis and when she said, "No Father", he tried to force her and instructed her to do it. When she did not he took her left hand in his, put in on his penis and began to masturbate. He was breathing hard and kept repeating, "Do it! Do it!" This continued until he ejaculated

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and her hand was covered with fluid. He then gave her a napkin or something similar to clean up with.

It was sometime after the second Legg Lake incident she remembers being on the school bus approaching the Saint Hilary's rectory when some of the girls noticed Fernando walking on the street. He was dressed in black wearing white shoes and they thought he resembled a penguin and giggling commented to that effect. At that time she felt a great deal of shame and fear wondering if anyone could tell by looking at her what she had done with him. She did not know of anyone who had ever observed them, either from the parish or anywhere else, during one of these incidents but she had these thoughts nonetheless. She remembers being confused with her emotions because most of the time he was kind to her, paid attention to her and showed her affection. Nobody else did this.

Sometime after these incidents Fernando was transferred to Saint John Baptist de la Salle in Granada Hills. She had never been to Granada Hills and it sounded very affluent to her and she thought he had done very well. Once he was there he called her and said he was happy there and wanted her to visit. He drove to her house and took her back to the Saint John's rectory. This first trip she brought her flute. He parked in the rear of the rectory in an area that appeared to be for the priests. They then entered what she thought was a back door and immediately to the left was a sitting room. From this room was a door that entered into his room. The first trip there she played her flute in the sitting room.

The second time he brought her there they went into his room. As they entered his room there was a bed to the left of the door. At the foot of the bed was a dresser with a mirror above it. The room was carpeted and to the left of the dresser was a chair. There was a window on the left wall entering his room. He had her disrobe when they were in his room but she kept her slip on. He pulled down her slip and bra and kissed her breasts and sucked on her nipples. They laid on the bed on top of each other and side-by-side and she could feel his erection but she did not know if he ejaculated during their activity. She asked him why he did not undress and he responded that he did not want her to become pregnant.

During one of these episodes she asked him why he did not leave the priesthood and he said that was the only thing he knew and that he could do nothing else. He mentioned that in the seminary in Sri Lanka the seminarians were discouraged from touching themselves and were given some type of implement to tuck their shirts in so they would not touch themselves in that area of the body. He told her that his Sri Lankan first name is REDACTED and that the name Fernando came from the Portuguese that settled that area of Sri Lanka. He never mentioned his family or why he came to America. She met some of the other Sri Lankan priests who were his friends but never had a conversation with them.

She estimated that she traveled to Granada Hills on perhaps ten occasions and similar things happened that were previously described. Only one time, during her last visit, did he have her take all of her clothes off including her undergarments. They laid on the bed that time and he "spooned" her. She described that as lying closely side-by-side. He

would always do the touching and she neither wanted to nor did touch him. She was always in a passive state during these encounters and is unaware if he ejaculated since he was wearing his clothes.

After he instructed her to dress he always went to the kitchen and brought her back ice cream. He knew she liked ice cream and she would sit in the chair in his room and eat it and then he drove her home. One time as they both stood in front of his mirror he took a roman collar from a dresser drawer and put it on her. After they both looked at it for a few moments in the mirror he took it off and put it back. Neither one of them said anything. During these visits she met the housekeeper once, who she could only describe as an Anglo female. This woman knew that she and Fernando were in his room together behind closed doors. Another time she met a priest at the doorway of the sitting room and he had several lay people with him. She was simply introduced as a friend by Fernando.

He sent her two letters while he was at Saint John's. The first one mentioned that he went to an outdoor play and after that had a sore throat. He said that one kiss from her would cure it. The second letter was just before she entered the convent and he told her how brave she was to do that. She had not seen him in quite awhile and believes she probably told him about her plans for the convent during her last visit with him. She entered the convent on January 9, 1983. She does not have either letter or any other document from that era with the exception of an old address book with Fernando's telephone number in Granada Hills. She did not have that with her.

She was never in Fernando's room at Saint Hilary's while he was there. At times she would assist the housekeeper delivering laundry to the priests' room. She could not recall seeing any type of unusual marks or scars on Fernando's private parts but said he was very dark skinned and had hairy arms. Another recollection was that he frequently wore mismatched clothes.

Due to the confused state of mind she was in and lack of close friends she did not confide in anybody at the time these events happened and not until 2002 did she reveal it. It was while she was reading an article in one of the weekly news publications, perhaps Time or Newsweek, about a Catholic priest abuse victim that was a musician and had thought about entering the seminary that all of these memories came flooding back to her. She was at work and became very distraught. Driving home that is all that she thought of and when she arrived her brother immediately noticed there was something wrong. When he inquired as to what was bothering her she blurted out what occurred. He told her that she needed some help. They then searched Fernando's name on the internet and determined he was still an active priest. On learning this she was horrified and concerned that he might have preyed on others and was continuing to do so. Shortly after that she approached an attorney acquaintance and confided in her. She gave her the telephone number of the appropriate unit in the Los Angeles Police Department (LAPD) and about one week later she filed a complaint with them.

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Regarding the consensually monitored telephone call she made to Fernando at the behest of the LAPD she does not have a copy or a transcript of it. She has never listened to the recording or seen a transcript. She not only has no problem with the Archdiocese listening to the conservation she desires that this be done. She and REDACTED advised that REDACTED would be told of this and it was requested they as REDACTED to call Detective James Brown or Lieutenant Dennis Shirey to facilitate the Archdiocese obtaining a copy. In the call Fernando immediately acknowledged remembering her and did not seem surprised that she was calling him. She told him she was upset at the news coming out of Boston regarding the clerical sexual abuse cases. She asked him if he remembered what happened between them and mentioned specific acts and places they happened. He responded that he did although as she recalls there were a couple of things he claimed not to remember. He acknowledged thinking about it over the years and when she mentioned specific sexual activity between them he agreed that it occurred. The letters were also mentioned and he recalled them. He continually asked for her forgiveness, said he was sorry and told her that he went to confession and received absolution. He also said that he thought she was older and that it was in the heat of passion. She pointed out to him that she was in high school and he regularly saw her in her high school uniform and that since it happened on a number of times it could not have been a momentary passionate impulse. He mentioned that he was young but she pointed out he was 37 years old in 1981. He also said that she treated him nicely, was helpful to him and that he loved her. She asked if he loved her why he had hurt her so badly. He also told her he had not done anything like that to anyone else. She finally said that she forgave him and he felt relieved at that. He asked her if she had told anyone else about what he had done and she said that she had not. He asked her to pray for him and to call him again in the future. The call was then terminated.

On reflection she now feels his behavior was predatory and calculated and emphasized her fear that he might have done this to someone else and her desire that he be relieved of his ministry. It tormented her to know that he was in a position that allows him to this again.

REDACTED became emotional at times when recounting the details set forth above. She advised early in the interview that there was one incident she had a particular hard time with and that it might upset her enough when she described it that she would not be able to continue. It was suggested that she relate that at the end of the interview. This was acceptable to her and this is what she recounted. She could not give a time frame for when this happened, before or after his transfer to Saint John's, but remembered they parked in the parking lot at Rio Vista Elementary School on Coffman-Pico Road in Pico Rivera. This is the street her parents live on and did then also. There were a line of skinny trees that blocked the view of the parking lot from the street and these trees have since been removed. After he parked there, without any foreplay, he put his finger into her vagina. This was very painful and she told him that and kept repeating, "Father, Father, ..." It was very traumatic to her and that is all she remembers.

She reiterated that she was always taught to be permissive, passive and respectful of adults especially priests and she never thought of saying no to his abusive activities.

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Even now she finds it very difficult to talk about. She never saw him do anything like this to anyone else and she is not aware of him abusing anyone else.

REDACTED business manager of Saint John Baptist de la Salle Church, was contacted on February 2, 2004, and conducted a tour of the rectory and surrounding area.

She pointed out that the area behind the rectory was made into a gathering area, or plaza, in 1991. Prior to that it was a parking lot and if a priest did not park in the garage he could have easily parked there and it would have been convenient to the priests' private entrance into the rectory.

Leaving this area is a walkway between the church and the rectory that leads to the private entrance on the west side of the rectory. Entering this door a hallway goes about ten feet and then there is left turn and an immediate left turn into a sitting room. This is a private sitting room and a door from it leads directly into a bedroom. Entering the bedroom looking at the wall to the left is a window. Currently the head of the bed is under the window but REDACTED advised the previous occupant had the head of the bed immediately to the left as one entered the room. If the bed was configured in that manner the chest of drawers and mirror on the far wall would be at the foot of the bed. REDACTED stated that particular piece of furniture has been positioned that way as long as she has been at Saint John's, which is the early 1990s.

She was not working at the parish when Father Walter Fernando was there but believes this room was more than likely his. The other associate pastor suite is across the hall.

REDACTED rovided blue prints for the rectory.

REDACTED was telephonically interviewed on February 5, 2004, and provided the following information:

When Father Walter Fernando came to Saint John Baptist de la Salle Church in Granada Hills in 1981 as an associate pastor he was assigned a room in the rectory. REDACTED was the other associate at that time and described that on entering the rectory from the priests' entrance off of the walkway between the rectory and church there is a hallway. Straight ahead a few feet is another hallway to the left and then immediately to the left a door into the sitting room that is part of the suite in which Fernando lived. There is also a bedroom and bathroom in that suite.

There was parking in the rear of the rectory at that time and no door existed into the rear of the rectory from that parking area.

The nam REDACTED means nothing to him.

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REDACTED superintendent of secondary schools, Department of Catholic Schools, Archdiocese of Los Angeles was interviewed on February 2, 2004, and provided the following information:

She contacted REDACTED Vice-Principal at Saint Paul High School in Santa Fe Springs regarding REDACTED . He advised tha REDACTED was an outstanding student and very active in the music program when she attended Saint Paul's. She won several scholastic awards when she graduated.

REDACTED was telephonically interviewed on January 29, 2004, and provided the following information:

She me REDACTED when they sang in the junior choir at Saint Hilary's in 1979-1980. She REDACTED was in the seventh grade and REDACTED as about four years older. In her sophomore year she began work at the parish as a junior secretary an REDACTED was leaving to enter the convent. REDACTED trained her and their tenure at the rectory overlapped briefly. Whil REDACTED was in the convent she only saw her once whe REDACTED was home on vacation and she came by the rectory to say hello.

REDACTED left the convent in about 1985 and when she came home began to sing in the choir again and they became reacquainted. They became fairly close friends as her husband (boy friend at that time) was a friend o REDACTED h REDACTED was dating and later married. She thought REDACTED was a nice person and she does not know the reason for their divorce. She and her husband are the godparents o REDACTED oldest daughte REDACTED

REDACTED r was a priest at Saint Hilary's who they both knew. When it became public that he had abused REDACTED who they both knew also, they discussed it. On one of these occasion REDAC asked her if she remembered Father Walter Fernando and she told REDACTED that her memory of him was very faint REDACTED ; then told her that he had abused their relationship when REDACTED worked in the rectory. She asked REDACTED what she meant by that bu REDACTED refused to detail what had happened and was clearly embarrassed by it. This was the only time it was mentioned and she could not say with any accuracy when it happened except that it was after the REDACTED incident became public and at least a year ago. They have a mutual friend REDACTED who lives in Moreno Valley. About the ti REDACTED mentioned Fernando to her she was talking to REDACTED related tha REDACTED had asked her also if she remembered Fernando. She cannot recall what REDACTED s response was. It surprised her that REDACTED would say something like that about a priest.

She does not believ REDACTED would make something like this up but at the time it did not occur to her that the abuse was sexual in nature. She assumed t REDACTED had told him something in confidence and he repeated it to someone or something like that. At the time she was a fairly close friend o REDACTED and wondered wh REDACTED had not told her sooner than she did.

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She has not seen REDACTED n over a year and has lost track of her. She does not know where REDACTED s living or working. She described REDACTED s a very quiet and shy person.

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Archdiocese of Los Angeles
Office of
Vicar for Clergy
(213) 637-7284
3424
Wilshire
Boulevard
Los Angeles
California
90010-2202

February 13, 2004

CONFIDENTIAL

REDACTED

976 Gnanartha Pradeepaya
Mawatha, Colombo 8
SRI LANKA

REDACTED

May the grace and peace of Our Lord Jesus Christ be with you, and with the people you shepherd!

I serve as the Episcopal Vicar for Clergy if His Eminence, Cardinal Roger M. Mahony, Archbishop of Los Angeles.

As you may have heard, a lawsuit has been filed alleging that Father Walter Fernando, currently incardinated in this Archdiocese, sexually abused a woman when she was a minor. This case has received significant publicity here in southern California.

Father Fernando was originally ordained for the service of the Archdiocese of Colombo on January 25, 1973. We understand that he served at a number of parishes in your Archdiocese before coming to the United States in 1981.

For the purposes of responding appropriately to this lawsuit, it would be most helpful to have a copy of all of the materials that you may have in your clergy file for Father Fernando. Would you please be so kind as to arrange, as soon as reasonably possible, for copies to me made and sent to me here at the Archdiocese? If you wish, I would be happy to reimburse you for any expenses this may entail.

Thank you for your kind attention to this matter. May God continue to bless you in your leadership of the local church of Colombo!

Yours in Christ,

Monsignor Craig A. Cox, J.C.D.
Vicar for Clergy

REDACTED

Fr Walter Fernando

REDACTED

From:
To:
Sent: Saturday, February 14, 2004 2:51 PM
Subject: Re: Report

REDACTED

Thank you for your efforts. We will continue to try as well.

---- Original Message ----
From: REDACTED
To: REDACTED
Sent: Saturday, February 14, 2004 1:34 PM
Subject: Re: Report

REDACTED

Dear
Here is the status of the tape. We have been trying to get the tape for many months, and the records department finally told us that we will need a subpoena to get the tape. We have a stay in the cases, so I cannot issue any discovery, and a subpoena will not work for now.

I then talked to Detective Brown, and he told me that he is working with the DA's office regarding the release of the tape. I am to call him back in several weeks to find out the status.

It looks like our hands are tied as of now. I will continue to work on getting the tape.
Sincerely,
REDACTED

---- Original Message ----
From: REDACTED
To: REDACTED
Sent: Monday, February 09, 2004 10:55 PM
Subject: Re: Report

REDACTED

Thank you for making the corrections. This is very helpful.

---- Original Message ----
From: REDACTED
To: REDACTED
Sent: Monday, February 09, 2004 8:37 AM
Subject: Report

REDACTED

I am relying on your word that you will look into the Sri Lanka matter.

Please find attached your report with our changes in bold and underlined:

January 30, 2004

Canonical Investigation of Father Walter Fernando

Interviewee: REDACTED

Interviewer REDACTED

9/28/2004

Date of interview: January 29, 2004

Place of interview: Marie Callender's Bakery and Restaurant, 12402 Washington Boulevard, Whittier, California

The morning of January 29th REDACTED telephonically advised me that he had spoken with REDACTED the counsel for REDACTED and that would be available for an interview that evening. I telephonically contacted REDACTED who advised that REDACTED would meet with me at the Marie Callender's noted above at 6:00 p. m. that evening. She also advised that an associate of hers REDACTED would be there to make REDACTED more comfortable. She put no restrictions on the interview and only asked it not drag on for several hours **because** REDACTED **was very emotional about this, and a long interview would be too stressful**. She was assured it would not.

At 5:45 p. m. I identified myself to REDACTED and we exchanged business cards. He was sitting in a relatively private booth in the restaurant and REDACTED had gone to the rest room. Shortly thereafter she returned and REDACTED introduced me to her. At that point he requested no questions be asked regarding damages in the suit REDACTED had filed. He was assured that was not the intent of the interview. REDACTED then provided the following information:

She met Father Walter Fernando in either late 1980 or early 1981 at Saint Hilary's Catholic Church in Pico Rivera. She was **16 or** 17, a senior at Saint Paul's High School and working at Saint Hilary's as a junior secretary in the rectory. She was very active in the parish at that time. She taught a Confraternity of Christian Doctrine (CCD) class in her junior and senior year in high school and was in the **youth** choir where she sang and played the flute. She characterized herself as an unattractive nerd in high school who had few, if any, friends and was the subject of verbal abuse. She had a 4.0 grade point average and some of the students may have resented her for that. Her home life was also troubled and she enjoyed being at the parish, as it was a refuge for her. She began volunteer work in the rectory during her junior year and between her junior and senior year she was hired as a junior secretary and began to receive a salary.

The priests at Saint Hilary's at that time were the REDACTED, who is n[illegible] REDACTED a REDACTED and Fernando. She could not be certain if a Vietnamese priest named REDACTED was there at that time or came shortly after Fernando left. She thought he might have been there a short time while Fernando was there as she recalled REDACTED and REDACTED had rooms downstairs in the rectory and REDACTED and Fernando were upstairs. As a junior secretary she came to the rectory directly from school. The school bus had a stop at the church making it convenient for her and she reported to work wearing her school uniform. She would work as late as 9:30 p. m. at times on week nights and also on weekends. She was restricted to working not more than 25 hours a week. REDACTED, who was attending **Whittier College initially and later** California State University at Los Angeles, was also working there **(strike: and trained** REDACTED **but other than the training) but** they were not there together as one would normally relieve the other. There was another junior secretary for a short time but she was fired due to talking to her boyfriend on the telephone at work. REDACTED not only did not have a boyfriend but did not date until years later after leaving the convent. Her duties included doing parish clerical work and answering the telephone and door. She placed the priests' messages in boxes that were next to where she sat. She normally ate her dinner in the kitchen but on occasion was invited to eat in the dining room with the priests.

The rectory was quiet in the evening and normally only she and the priests were there. It was not uncommon for them to come by to check their mailboxes for messages. Fernando began to strike up conversations with her in the evening when they were alone. These talks became increasingly longer and friendlier as time went on. The first thing she recalls that was a bit unusual was one evening he began to shoot rubber bands at her. Late one Sunday afternoon in perhaps **March or** April 1981 Fernando suggested they go to the parish hall behind the church and he would play his violin and she her flute. They were there alone with a piano near the stage and she played her flute and sang. Then he played the violin and brought out music and sang a love song entitled, "Drink To Me Only With Thine Eyes". She felt this was a strange selection for him to pick since it was a love song. They were there about an hour.

Shortly after the parish hall incident she was alone at her desk one evening. **She is not completely sure but she may have been** wearing her high school uniform. Fernando showed her a book and suggested that she read it. She turned the book over and read a synopsis of the story on the rear cover. It was about a priest who was having an affair and she gave it back to him. He inquired as to why she did not want to read it and she told him that she did not think that priests should do that sort of thing. He then explained to her there was a difference between celibacy and chastity. According to him celibacy meant simply that priests were precluded from marriage. Chastity was a vow that only priests that were in a religious order took along with poverty and obedience. Since he was a diocesan priest chastity did not pertain to him and he only had to remain celibate, that is not marry. Nobody had ever explained this to her and she was confused but since he was a priest accepted what he said. Nevertheless she did not read the book and cannot remember the title.

Not long after the book incident, while still in high school, either on his day off or on the weekend he mentioned that he wanted to see a movie and asked her to accompany him. She rarely went to movies and since he was a priest and was showing her attention

she readily accepted. He drove to her house, honked the horn and she came out. This is the procedure he used whenever he came to pick her up in the future. He never came into the house to talk to her parents or siblings. Her parents did not object to her going and she believes they felt good about it since they thought she was in the safe care of a priest. They drove down Rosemead Boulevard to Downey the city that adjoins Pico Rivera to the south. They went to the Showcase Theatre located next to a Farrell's Ice Cream Parlor **which were part of the Stonewood Shopping Center**. Neither of those structures is any longer there as **it has since been converted into an indoor** shopping center. He sat to her left during the movie and during the movie reached over and initially patted her hand. He then reached his arm around her shoulder and put his hand on her breast and began to rub it. She stared straight ahead and not knowing what to do she did not do or say anything. The movie was near its conclusion when this happened and when it finished she asked him to hand her a sweater she **had** placed on the seat next to him **to his left**. When she did this he abruptly leaned **forward** and gave her a hard kiss on the lips. She had never been kissed on the lips before and she was shocked and emotional. She told him she had to go to the ladies' room and excused herself. When she returned to him she was still in shock and they proceeded back to the car. She cannot recall the name of the movie. The vehicle was a white parish car that Fernando used and she does not know if it was assigned to him or not. As he was leaving the parking lot he backed into another **parked** car and continued to drive away. She called his attention to it since it was very apparent but he told her not to worry about it and left. He was quiet after the movie and little if anything was said on the drive home. He did not come into her house when he **dropped** her off either.

Not long after the movie incident, while she was still in high school, they returned to the same parking lot. She cannot recall the reason they were there but he parked in front of Farrell's and laid his head in her lap. While in this position he pulled her head down and kissed her. This was a longer kiss than the one in the movie and he put his tongue in her mouth. After the kiss he took her home.

On another occasion while she was still in high school, probably on a Saturday, he took her to the Los Angeles County Arboretum. She wore her hair in bangs and she recalled that she had braces on her teeth then. It was a warm day and she wore a white dress that she made and white sandals. As in the other described incidents he did not wear his clerical clothes. He brought a camera and took about five photographs during the day which he later showed to her. He did not give her any of them and she has no idea where they are now. He did not feel comfortable driving on freeways and so he drove home on Rosemead Boulevard. This route passed through the Whittier Narrows and a large park at Legg Lake. He pulled onto the parking lot at Legg Lake and parked. He wanted to take a walk and so they did for a while and then they stopped at a picnic table and sat down. He then began to kiss **her** and fondle her. It was dark and they were there for about an hour. This time he put his hand inside her blouse and bra so he was rubbing the skin of her breast. They then returned to the car and drove home.

After the first Legg Lake incident they returned there and once again he was not in clerical garb. This time it was in the evening and the light was very dim. He was sitting in the driver's seat and she was in the front passenger seat when he unzipped his pants and exhibited his erect penis outside of his pants. She had never seen a penis before and did not want to look but did see it as she glanced over. He then told her to kiss his penis and when she said, "No Father, **I don't want to do that**.", he tried to force her **by putting his right hand behind her neck and pulling her head downward toward his penis** and instructed her to do it. When she did not he took her left hand in his, put **it** on his penis **encircling it, and while he kept his hand clasped over hers** began to masturbate . He was breathing hard and kept repeating, "Do it! Do it!" This continued until he ejaculated and her hand was covered with fluid. He then gave her a napkin or something similar to clean up with.

It was sometime after the second Legg Lake incident she remembers being on the school bus approaching the Saint Hilary's rectory when some of the girls noticed Fernando walking on the street. He was dressed in black **clerical garb** wearing white shoes **with buckles** and they thought he **looked funny** and giggling commented to that effect. At that time she felt a great deal of shame and fear wondering if anyone could tell by looking at her what she had done with him. She did not know of anyone who had ever observed them, either from the parish or anywhere else, during one of these incidents but she had these thoughts nonetheless. She remembers being confused with her emotions because most of the time he was kind to her, paid attention to her and showed her affection. Nobody else did this.

Sometime after these incidents Fernando was transferred to Saint John Baptist de la Salle in Granada Hills. She had never been to Granada Hills and it sounded very affluent to her and she thought he had done very well. Once he was there he called her and said he was happy there and wanted her to visit. He drove to her house and took her back to the Saint John's rectory. This first trip she brought her flute. He parked in the rear of the rectory in an area that appeared to be for the priests. They then entered what she thought was a back door and immediately to the left was a sitting room. From this room was a door that entered into his room. The first trip there she played her flute in the sitting room.

Other times he brought her there, they went into his room. As they entered his room there was a bed to the left of the door. **Across from** the foot of the bed was a dresser with a mirror above it. The room was carpeted and to the left of the dresser was a chair. He had her disrobe when they were in his room but she kept her slip on. He pulled down her slip and bra and kissed her breasts and sucked on her nipples. They laid on the bed on top of each other and side-by-side and she could feel his erection but she did not know if he ejaculated during their activity. She asked him why he did not undress and he responded that he did not want her to

become pregnant.

During one of these episodes she asked him **if he had ever considered leaving** the priesthood and he said **no because** that was the only thing he knew and that he could do nothing else. He mentioned that in the seminary in Sri Lanka the seminarians were discouraged from touching themselves and were given some type of implement to tuck their shirts in so they would not touch themselves in **the groin** area of the body. He told her that his Sri Lankan first name is Rangith and that the **sur**name Fernando came from the Portuguese that settled that area of Sri Lanka. He never mentioned his family or why he came to America. She met some of the other Sri Lankan priests who were his friends but never had a conversation with them.

She estimated that she traveled to Granada Hills on **more than twice but less than** ten occasions and similar things happened that were previously described. Only one time, during her last visit, did he have her take all of her clothes off including her undergarments. They lay on the bed that time and he "spooned" her. She described that as lying closely side-by-side, **both facing the same way.** He would always do the touching and she neither wanted to nor did touch him. She was always in a passive state during these encounters and is unaware if he ejaculated since he was wearing his clothes.

After he instructed her to dress he **on more than one occasion** went to the kitchen and brought her back **vanilla** ice cream. He knew she liked ice cream and she would sit in the chair in his room and eat it and then he drove her home. One time as they both stood in front of his mirror he took a roman collar from a dresser drawer and put it on her. After they both looked at it for a few moments in the mirror he took it off and put it back. **She does not recall** either one of them **saying** anything. During these visits she met the housekeeper once, who she could only describe as an REDACTED This woman knew that she and Fernando were in his room together behind closed doors. Another time she met a priest at the doorway of the sitting room and he had several lay people with him. She was simply introduced as a friend by Fernando.

He sent her two letters while he was at Saint John's. The first one mentioned that he went to an outdoor play and after that had a sore throat. He said that one kiss from her would cure it. The second letter was just before she entered the convent and he told her how brave she was to do that. She had not seen him **for** awhile and believes she probably told him about her plans for the convent during her last visit with him. She entered the convent on January 9, 1983. She does not have either letter or any other document from that era with the exception of an old address book with Fernando's telephone number in Granada Hills. She did not have that with her.

She was never in Fernando's room at Saint Hilary's while he was there. At times she would assist the housekeeper delivering laundry to the priests' room. She could not recall seeing any type of unusual marks or scars on Fernando's private parts but said he was very dark skinned and had hairy arms. Another recollection was that he frequently wore mismatched clothes.

Due to the confused state of mind she was in and lack of close friends she did not confide in anybody at the time these events happened and not until 2002 did she reveal it. **She does however recall having mentioned to her mother just immediately before entering the convent that something bad had happened between her and Fr. Fernando. Her mother did not inquire further, but rather deflected conversation away from the subject by telling her to put that behind her and begin a brand new life in the convent.** REDACTED **dropped the subject at that point.** REDACTED **; also vaguely recalls a conversation she had with her sister, which occurred shortly after the incident in Fernando's rectory when she was fully disrobed. However, she does not recall the details of that conversation and her sister, being young at the time, did not ever bring the subject up again after that one conversation.** It was **not until April of 2002** while she was reading an article in one of the weekly news publications, perhaps Time or Newsweek, about a Catholic priest abuse victim that was a musician and had thought about entering the seminary that all of these memories came flooding back to her. She was at work and became very distraught. Driving home and when she arrived **home** her brother immediately noticed there was something wrong. When he inquired as to what was bothering her she blurted out what **had** occurred. He told her that she needed some help. They then searched Fernando's name on the internet and determined he was still an active priest. On learning this she was horrified and concerned that he might have preyed on others and was continuing to do so. Shortly after that she approached an attorney acquaintance and confided in her. She gave her the telephone number of the appropriate unit in the Los Angeles Police Department (LAPD) and about one week later she filed a complaint with them.

Regarding the consensually monitored telephone call she made to Fernando at the behest of the LAPD she does not have a copy or a transcript of it. She has never listened to the recording or seen a transcript. She not only has no problem with the Archdiocese listening to the conservation she desires that this be done. She and REDACTED advised that REDACTED would be told of this and it was requested they ask REDACTED o call Detective James Brown or Lieutenant Dennis Shirey to facilitate the Archdiocese obtaining a copy. In the call Fernando immediately acknowledged remembering her and did not seem surprised that she was calling him. She told him she was upset at the news coming out of Boston regarding the clerical sexual abuse cases. She asked him if he remembered what happened between them and mentioned specific acts and places they happened. He responded that he did although as she recalls there were a couple of things he claimed not to remember. He acknowledged thinking about it over the years and when she mentioned specific sexual activity between them he agreed that it occurred. The letters were also mentioned and he recalled them. He continually asked for her forgiveness, said he was sorry and told her that he went to confession and received absolution. He also

said that he thought she was older and that it was in **a moment of** passion. She pointed out to him that she was in high school and he regularly saw her in her high school uniform and that since it happened on a number of times it could not have been a momentary passionate impulse. He also mentioned that he was young but she pointed out he was 36 **or 37** years old in 1981. **When she asked him why he had done those things to her, he** said that **it was because he was new to the parish and that** she treated him **nicely and was** helpful to him. **She asked him whether he had loved her or had any feelings for her. He responded that yes** he loved her. She **then** asked if he loved her why he had **done this to her. When she asked him if he had done these things to anyone else he said that he had not.** . She finally said that she forgave him and he felt relieved at that. He asked her if she had told anyone else about what he had done and she said that she had not. **He said that it was good and that he was glad that she hadn't spoken about it to anyone else.** He asked her to pray for him and to call him again **from time to time** in the future **to check on him. She assured him that she would.** The call was then terminated.

On reflection she now feels his behavior was predatory and calculated and emphasized her fear that he might have done this to someone else and her desire that he be relieved of his ministry. It tormented her to know that he was in a position that allows him to this again.

REDACTED **was very** emotional at times when recounting the details set forth above. She advised early in the interview that there was one incident she had a particular hard time with and that it might upset her enough when she described it that she would not be able to continue. **She requested to be allowed to** relate that at the end of the interview. **Her request was granted and** this is what she recounted. She could not give a time frame for when this happened, before or after his transfer to Saint John's, but remembered they parked in the parking lot at Rio Vista Elementary School on Coffman-Pico Road in Pico Rivera. REDACTED REDACTED REDACTED There were a line of skinny **tall** trees that blocked the view of the parking lot from the street and these trees have since been removed. After he parked there, he put his finger into her vagina. **She does not recall what happened either before or after this incident. She recalls that this was painful and that she** kept repeating, "Father, Father, ..." It was very traumatic to her and that is all she remembers.

She reiterated that she was always taught to be **submissive,** passive and respectful of adults especially priests and she never thought of saying no to his abusive activities. Even now she finds it very difficult to talk about. She never saw him do anything like this to anyone else and she is not aware of him abusing anyone else. **However, because of the manner in which he both groomed her for and went about abusing her, she feels strongly the possibility that she was neither the first nor the last of his victims.**

REDACTED

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MEMORANDUM

TO: Cardinal Roger Mahony

FROM: REDACTED REDACTED

Clergy Misconduct Oversight Board

RE: ***Recommendation of the Clergy Misconduct Oversight Board***
Reverend Walter Fernando (CMOB 027-01)

DATE: 17 February 2004

The Board discussed the case of Father Walter Fernando at our meeting on February 11, 2004.

On January 14, 2004, we recommended (1) that Father Fernando not be placed on administrative leave at this time pending further investigation, (2) that the complainant REDACTED be interviewed without delay, (3) that I be authorized to write to Deputy District Attorney William Hodgeman to obtain whatever materials have been developed by the police and the district attorney in the course of their investigation, and (4) that I be authorized to write directly to REDACTED attorney to request an interview with REDACTED and/or to enlist her cooperation and consent to the release of the information requested in #3. You concurred in these recommendations and directed me to proceed at once.

REDACTED was successful in arranging for REDACTED who has been working on this case as canonical auditor, to meet with REDACTED on January 29, 2004. REDACTED interviewed her in person on that date and documented his interview in a lengthy written report which he shared with the Board. In substance, REDACTED told him that she met Father Fernando in either late 1980 or early 1981 when he was at St. Hilary's Catholic Church in Pico Rivera and she was a 17 year old student at St. Paul's High School and working as a junior secretary in the rectory. Their relationship was platonic at first but this changed when Father Fernando took her to a movie and put his arm around her and fondled her breast. She told REDACTED that she was a nerd and did not have a boyfriend or had not even dated until years later. She was confused and somewhat attracted by his attention. The relationship developed and, on other occasions, similar and more serious sexual activity ensued, much of which is quite egregious as set out in REDACTED report.

REDACTED turned eighteen in August, 1981. Father Fernando was transferred to St. John Baptist de la Salle in Granada Hills sometime in the fall, after her birthday. Their relationship continued and she visited him in Granada Hills on as many as ten occasions and they engaged in similar sexual activity. She said she was never in Father Fernando's private living quarters at St. Hilary's but she was at St. John Baptist and she described them with specificity. REDACTED visited St. John Baptist on February 2, 2004 and verified that REDACTED description of the premises was accurate.

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Father Fernando has consistently stated that his "indiscretion" was limited to putting his arm around REDACTED while attending a movie REDACTED ; account indicates a series of sexual encounters extending over a considerable period of time and is at odds with Father Fernando's version.

REDACTED was impressed with REDACTED and believes she and her account of what transpired are credible. Her description of Father Fernando's private living quarters at St. John Baptist supplies corroboration.

Efforts are being made to listen to or obtain a copy or transcript of a tape recording that was made by the police of a telephone conversation betwee REDACTED and Father Fernando REDACTED REDACTED does not have a copy and expressed a willingness to assist us in obtaining one. Monsignor Cox, REDACTED met with detectives from the Los Angeles Police Department on February 13, 2004 and, while they were not given the tape or a transcript or told what in contains, they believe they may have a way to either obtain a copy or find out what was said. I believe it would be best for me to defer writing to DDA Hodgeman until after they have explored this new approach.

The Board discussed Father Fernando's case and found that the statement made by REDACTED appears to be credible and is corroborated by her physical description of Father Fernando's private living quarters at St. John Baptist de la Salle, that REDACTED was seventeen years old when some of the serious allegations occurred, that the actions complained of are clearly child sexual abuse, and that the zero tolerance policy applies.

Father Fernando met with Monsignor Cox and REDACTED this afternoon and was advised by Monsignor Cox that he was being placed on administrative leave in view of what was learned by REDACTED in his interview with REDACTED however, he was not confronted with what she said because his attorney REDACTED was not present and had asked that any discussion of the allegations with Father Fernando be deferred until he was in attendance. An interview with Father Fernando and REDACTED to confront Father Fernando with the allegations against him will be arranged shortly.

Accordingly, and with regret, the Board recommends that Father Fernando be immediately placed on administrative leave pending further investigation.

cc: Monsignor Craig A. Cox

I concur in the recommendation -
+ Roger Card. Mahony
20 Febry 2004

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FILE

Archdiocese of Los Angeles
Office of Vicar for Clergy (213) 637-7284
3424 Wilshire Boulevard
Los Angeles California 90010-2202

February 18, 2004

Personal and Confidential

Reverend Walter Fernando
Assumption of the Blessed Virgin Mary Church
REDACTED

Dear Father Fernando:

This is to provide written confirmation of the decision communicated to you in person that, effective February 19, 2004, you will begin an administrative leave of absence.

The parish should pay you for the month of February. I also ask that the parish make the contribution for your pension account for the January through March quarter. Beginning in March, my office will assume responsibility for your salary and benefits, and beginning with the April quarter we will be paying into your pension account.

At this point, please continue to use the parish car. The Vicar's office will pay for any maintenance that needs to be done on the car during this period of leave.

I am assigning you in residence at St. Basil's Parish. During this time of leave, you are to engage in no public ministry, though you are free to celebrate Mass in your own room or the rectory chapel. If you wish, please do take advantage of the opportunity to spend some time on retreat, and you continue to be welcome at the day of recollection scheduled for Manning House. Also, let me renew my invitation to avail yourself of the counseling you need at this very difficult time. Since you already met with REDACTED you may wish to see him. But I can make arrangements with other counselors if you wish.

You are in my prayers at this time of tremendous trial. As we soon will enter the season of Lent, I know you will experience the Passion in a totally new and profound way. I pray for you, and for the truth to emerge. Thank you for being so gracious and understanding in these last two years. May the peace of Christ be with you!

Your brother in Christ,

Monsignor Craig A. Cox, J.C.D.
Vicar for Clergy

cc: REDACTED

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Statement for Weekend Masses at Assumption of the Blessed Virgin Mary Parish, Pasadena
February 21-22, 2004
Regarding Reverend Walter Fernando

As you may recall from my earlier visit, I am Monsignor Craig Cox, Vicar for Clergy of the Archdiocese of Los Angeles. On the weekend of January 17-18, I spoke here at your parish about your Associate Pastor, Father Walter Fernando. In that announcement, I promised to keep you informed of future developments. I am here as an initial fulfillment of that pledge to bring additional information directly to you.

As we previously announced, an investigation was launched when we learned of the report alleging misconduct on Father Fernando's part in 1981. The investigation is being conducted by a private investigator, a former Special Agent of the FBI. I had mentioned that we requested an interview with the person who made the complaint. Subsequently, that interview was conducted. We also have asked to see the results of the police investigation. We have not yet been granted access to any of those materials. Our investigation is ongoing and it is clear that it will require significant additional time.

The Clergy Misconduct Oversight Board discussed the case of Father Fernando again, and recommended that he be placed on administrative leave. Administrative leave involves time away from the parish and from all pastoral duties until the investigation is concluded. Father Fernando began that leave of absence on Thursday.

Please note that the decision to place Father Fernando on administrative leave does not reflect a judgment that he is guilty of the alleged misconduct. By our policy, administrative leave is recommended when an initial investigation raises sufficient questions to take the precaution of placing the priest on leave while further investigation continues.

I know that this announcement is surprising and distressing. Many of you expressed tremendous support for Father Fernando when I was here last month. Clearly, he has done much good during his more than eleven years of service here. He has rights as both a citizen of this country and as a priest in the Church to defend himself, and those rights will be respected.

Please know that the Cardinal is committed to implementing all of our policies fully, assuring that we thoroughly investigate all allegations, and acting in ways that protect children as well as respect the rights of all involved.

Finally, at this distressing time, I ask that you pray with special fervor for all victims of abuse, for Father Fernando, for the success of the ongoing investigation in discovering the full truth, and for your parish community and all the Church in these difficult days. May God bless you!

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CONFIDENTIAL & PRIVILEGED
INVESTIGATIVE REPORT
ATTORNEY CLIENT WORK PRODUCT

February 25, 2004

Canonical Investigation of Father Walter Fernando

Interviewee: REDACTED

Interv REDACTED na, canonical auditor

Date of Interview: February 25, 2004

REDACTED was telephonically interviewed and provided the following information:

She worked in the rectory at Saint Hillary's the same time a REDACTED never confided anything to her regarding Father Walter Fernando back then.

She had not spoken t REDACTED in perhaps 15 years when REDACTED called her about six months ago. They discussed mutual acquaintances including REDACTED if she remembered Fernando an REDACTED advised that she did. then advise REDACTED that her relationship with Fernando developed into a sexual liaison that stopped short of intercourse. REDACTED said that she and Fernando shared a certain bond and that his word was "gold" with her at that time.

REDACTED could not recall many thing REDACTED told her but does remembe REDACTED was quite specific regarding their activities. One thing REDACTED lated was that Fernando had her unclothe in his room and then put his roman collar on he REDACTED did not know if this occurred while Fernando was at Saint Hillary's or at another parish.

When asked if this relationship surprised her REDACTED dvised that nothing of this sort surprises her anymore.

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SF WEDNESDAY, MARCH 3, 2004 · B3

LOS ANGELES TIMES

Priest Put on Leave in Sex Inquiry

The L.A. Archdiocese says that until recently only secondhand allegations had surfaced.

By RICHARD WINTON
Times Staff Writer

One of the 10 priests who were ministering in the Archdiocese of Los Angeles last month despite sexual molestation allegations has been placed on leave pending a church investigation.

Cardinal Roger M. Mahony placed Father Walter Fernando on administrative leave from his duties at Assumption of the Blessed Virgin Mary Church in Pasadena.

The decision comes more than a year after church officials learned of the accusations against him. Fernando has vigorously denied the allegations through his attorney.

Mahony's decision was based on a recommendation from the Clergy Misconduct Oversight Board after church officials recently interviewed a woman who alleges that Fernando molested her in 1981 when she was 17 years old and attending a Pico Rivera parish.

The board discussed Fernando at least twice previously, but cited a lack of evidence in leaving him in parish ministry.

Tod Tamberg, archdiocese spokesman, said the allegations until recently were secondhand, made by the alleged victim's attorney in February 2003. In August 2002, The Times reported that Fernando was under police investigation. Fernando's personnel file was also subpoenaed by the Los Angeles County Grand Jury last summer.

The accuser sued the church in December, alleging that Fernando touched her breasts and forced her to touch him.

In a statement to parishioners dated Feb. 21, Vicar of the Clergy Craig Cox said the decision to remove Fernando did not reflect a judgment on his guilt. Cox said that an investigation by a private investigator who is a former FBI agent is continuing.

"By our policy, administrative leave is recommended when an initial investigation raises sufficient questions to take the precaution of placing the priest on leave while further investigation continues," he said.

The Times disclosed Jan. 14 that the LAPD listened to a telephone conversation between the accuser and the priest in May 2002 in which the cleric made statements that corroborated the alleged victim's account of molestation, according to a police detective. Fernando was not criminally charged.

Tamberg said that before that story, church officials were not aware of the content of the police investigation.

Cox told parishioners the archdiocese had yet to be granted access to the police investigation's results and said the church inquiry "will require significant additional time."

Archdiocese officials said that others among the 10 accused priests were not removed because they face allegations from a single accuser that have not been substantiated.

Last month, however, one of the 10 priests was removed from the ministry after a second alleged victim came forward.

The archdiocese has said that since 1931, 244 of its priests have been accused of molesting 656 victims.

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MANDATE

Pursuant to Canons 1481 and 1723 of the Code of Canon Law, I, FATHER WALTER FERNANDO hereby appoint REDACTED to act as my canonical counselor , advisor, canonical Advocate and Procurator in all matters pertaining to my current clerical position in the Archdiocese of Los Angeles and to any investigation, process or other action of any kind involving allegations of sexual abuse brought against me.

Date: September 1, 2004

Father Walter Fernando

I hereby accept the appointment set forth in the above Mandate of Father Walter Fernando.

Date: September 4, 2004

REDACTED

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CONFIDENTIAL & PRIVILEGED
INVESTIGATIVE REPORT
ATTORNEY CLIENT WORK PRODUCT

September 24, 2004

Canonical Investigation of Father Walter Fernando

Interviewee: Detective James Brown, Los Angeles Police Department (LAPD), Juvenile Division REDACTED

Interviewer canonical auditor

Date of Interview: September 22, 2004

Detective James Brown was contacted at his office and played a tape recording of a telephone call between REDACTED and Father Walter Fernando that took place the morning of May 24, 2002. The call lasted about 17 minutes. REDACTED had called Fernando several times in an effort to reach him and after leaving a message he returned her call. The recording was listened to only once and the following is a compilation of impressions and paraphrasing as well as quotes that were written as accurately as possible. Where quotes are cited they will be set forth in quotation marks.

REDACTED after the initial greetings almost immediately told Fernando that she had felt very guilty for years about the sexual activities the two of them had while he was assigned to Saint Hilary's Church. She mentioned specific acts such as touching, kissing her breasts and his putting her hand on his penis. He responded, "I remember kissing you. That was a moment of passion. It just happened...I don't know...it was a moment of passion. I don't remember showing my penis."

At one poi[redacted] old him she was only a child and he responded, "I thought you were 19." She countered that with she was 16 or 17 and he must have known that since he knew she was still in high school.

Fernando told her that he was new and that she was nice to him in a difficult time more than once.

REDACTED recalled a letter he sent her telling her that he loved her. He remembered the letter and that in it he told her she had courage for going to the convent. He later admitted he did feel love for her.

When she brought up his rubbing her breast he said that he did recall that.

When she asked him if there were others he did similar things to, he said there were not.

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She brought up his exhibiting his penis more than once and he said that he forgot that but did admit to kissing her breasts.

Fernando told her that he confessed his sins in this matter soon after she left and he asked for her forgiveness several times. She said she forgave him and asked him to pray for her. He agreed to do that and he in turn asked for her prayers as well. He told her it was a burden that he had carried.

At one point he said, "I have confessed it years ago. I am 50 years old now. I want to be a priest." He asked her to keep it between them and God.

The attitud[REDACTED] portrayed during the call was that of a person that was hurt and troubled by the indiscretions they had committed when he was at Saint Hillary's. She was persistent on putting these things in the open with him and wanting an explanation as to why he acted like this with her. When he indicated he was caught up in a moment of passion she responded that it was not a one-time event but a series of acts.

His attitude was one of repentance and he wanted her forgiveness very much. It seemed he was glad to have talked and relieved that she forgave him.

The contents of the tape appear to confirm that something of a sexual nature transpired between Fernando a[REDACTED]. Although he said he does not recall activities regarding his penis, i.e., masturbation and exhibiting it to [REDACTED] he did not deny it and he did admit other untoward activity as set forth.

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Archdiocese of Los Angeles | Office of Vicar for Clergy (213) 637-7284 | 3424 Wilshire Boulevard | Los Angeles California 90010-2202

DECREE

On 10 February 2003, the undersigned acting in his capacity as episcopal vicar for the clergy initiated a preliminary investigation of Reverend Walter Fernando in the face of allegations that he sexually abused a minor, and hence committed the delict specified by canon 1395, §2.

REDACTED, duly appointed canonical auditor, conducted a thorough investigation of this matter, including an interview with the complainant. The results of his inquiry have been carefully documented byREDACTED

In accord with Archdiocesan policy, the complaint and the results of the investigation were reported to the Clergy Misconduct Oversight Board. The members of the Board concluded that the allegation does have a semblance of truth and reported on its conclusions to the Archbishop, Cardinal Roger M. Mahony.

As the local ordinary who initiated the investigation, in accord with my responsibility under the provisions of canon 1718, with the assistance of the expertise provided by the Clergy Misconduct Oversight Board, and after consultation with Cardinal Mahony, I hereby decree that the preliminary investigation is to be closed.

In this case, the woman who alleges that she suffered abuse was age seventeen and hence was not a minor at canon law during the time period of the allegedly abusive activities. Thus, it is clear that Father Fernando did not commit a delict at canon law. Nonetheless, there is significant evidence that the woman, a minor at civil law, may well have suffered abuse from Father Fernando. Given this evidence, and given the provisions of the *Charter for the Protection of Children and Young People*, I hereby recommend to the Cardinal Archbishop that the Cardinal Archbishop report the matter to the Congregation for the Doctrine of the Faith for their review and advice.

Given this 27th day of September in the Year of Our Lord 2004 at the Curia of the Archdiocese of Los Angeles in California.

Monsignor Craig A. Cox, J.C.D.
Vicar for Clergy
REDACTED

Archdiocesan Seal

Received May 27, 2008

Archdiocese of Los Angeles
Office of Vicar for Clergy (213) 637-7284
3424 Wilshire Boulevard
Los Angeles California 90010-2202

May 17, 2008

REDACTED

RE: Reverend Walter Fernando, Petition for Reinstatement

REDACTED

Dear .

I am writing in the name of Cardinal Mahony in reply to your Petition of February 25 last seeking the termination of Father Walter Fernando's administrative leave and his reinstatement to active ministry.

Your request cannot be granted at this time. Father Fernando's case is currently pending before our Clergy Misconduct Oversight Board (CMOB), which, based on the facts of the case, will make a recommendation to Cardinal Mahony as to whether Father Fernando should be returned to active ministry. CMOB should be ready to review the case at its June meeting, after which it will make its recommendation. His Eminence will then make his decision as to whether Father Fernando can be reinstated to active ministry, and that decision, complete with motivation, will be duly communicated.

I would remind you that, in accordance with the instructions received from the Congregation for the Doctrine of the Faith, the question at issue is not a reserved *gravius delictum* and Cardinal Mahony therefore "does not need any authorization from this Dicastery to evaluate the merits of the case and act accordingly" (letter from CDF, July 4, 2005). The CMOB review of the matter and its subsequent recommendation is a necessary part of His Eminence's evaluation of the merits of the case, which, although not a *gravius delictum*, nonetheless involves serious accusations of a priest abusing his office and committing offences against the Sixth Commandment with a girl who at the time was 17-18 years of age. The good of the Church and the public good as well require that the steps outlined above be taken in order that the case be properly resolved.

Trusting that the above information is useful, and with every good wish, I remain

Sincerely yours in Christ,

Monsignor Gabriel Gonzales
Vicar for Clergy

CLERGY MISCONDUCT OVERSIGHT BOARD
Archdiocesan Catholic Center
Tuesday, April 21, 2009
9:30 a.m. to 12:00 Noon

AGENDA

Call to Order 9:30 a.m.

Opening Prayer

Approval of the minutes for the March 2009 meeting

REDACTED

CMOB 027 Walter Fernando

REDACTED

REDACTED

Adjournment

Consent Agenda
21 April 2009

REDACTED

REDACTED

REDACTED

May 4, 2009

Prot. N. 20082209

His Eminence
Claudio Cardinal Hummes, Prefect
Congregation for the Clergy
Piazza Pio X11, 3
00120 Vatican City.

The measures referenced in my letter to you dated September 22, 2008, deemed necessary to fully respond to the hierarchical recourse placed against me before your Congregation by Rev. Walter Fernando are now complete. These measures included further investigation, hearing Father Fernando again on the matter, and having the formal recommendation of our Clergy Misconduct Oversight Board.

Your Eminence will have already gleaned the facts of this case both from the acts, which you already have in your possession, and from the written recourse prepared by Father Fernando's procurator and advocate.

The focal point of the case is the complaint made to the Los Angeles Police Department by REDACTED that Father Walter Fernando sexually molested her while she was still a teenager. As part of their investigation, the police monitored a telephone call between REDACTED and Father Fernando.

Father Fernando was not present when the police came to the parish rectory looking to interview him. He opined to my Vicar for Clergy that the reason the police were looking for him was that 20 years earlier he had "crossed boundaries" with a woman. The civil criminal process was closed due to the expiration of the statute of limitations. Nonetheless, a civil lawsuit was filed against our Archdiocese in 2003 by REDACTED and a settlement was reached in 2007 amounting to a sizable amount of money. Meanwhile, the matter received extensive coverage in our local ~~newspaper, The Los Angeles Times~~ media. Furthermore, in keeping with our policy to properly inform the faithful in these cases, announcements were made at two parishes at which Father Fernando served.

~~A canonical investigation ensued, and it was determined that since the complainant was~~ over the age of 16 at the time of the alleged offense, the matter fell outside the realm of a *gravius delictum.* Thus I was informed by the Congregation for the Doctrine of the Faith that I did not need authorization from that Dicastery to evaluate the merits of the case and to act accordingly.

Father Fernando has adamantly denied ever having engaged in sexual behavior with REDACTED Yet, there are indications that something of a sexual nature occurred between Father Fernando and REDACTED . Principally, these indications are:

a) Father Fernando's statement to our Vicar for Clergy that he suspected that the reason the police wished to interview him was because he had "crossed boundaries" with a woman some 20 years earlier.
b) Our investigator inspected the location where some of the sexual activity was alleged to have occurred and found the complainant's description of Father Fernando's quarters to be completely accurate. This would seem to lend some credibility to statements of REDACTED
c) Our investigator was permitted by the Police Department to listen to the taped conversation between REDACTED and Father Fernando referenced above. The investigator concluded that the tape appeared to confirm that something of a sexual nature had transpired between Father Fernando and REDACTED
d) The statement of REDACTED to our canonical auditor (complete statement attached), that she witnessed Father Fernando coming to their home " between six and twelve times" to take her sister "out on excursions to movies and other places". Among the matters REDACTED shared with her sister was, that on one occasion Fernando told REDACTED to touch his penis and after she did this she needed to clean herself off with a Kleenex.

An ameliorating circumstance is the fact that there is no record of an accusation of this nature against Father Fernando other that brought by REDACTED On the other hand, the aggravating circumstances are these:

a) The wide publicity this matter received in our local church.
b) The fact that REDACTED though not a minor at canon law, was still a minor at civil law when the alleged activity occurred.
c) ~~Though not necessarily proving guilt,~~ the fact that REDACTED prevailed in her lawsuit against our archdiocese. REDACTED

Norm 1V. of the Essential Norms, the particular law for the United States provides the diocesan bishop shall have a review board, precisely for cases such as this, which will function as a confidential consultative body to assist him in discharging his responsibilities. My review board has advised me not to return Father Fernando to active ministry.

~~The numerous factors that come into play in the resolution of cases such as this render~~ their resolution very difficult. I have carefully considered every aspect of this case, including the good of all involved, accused and accuser alike, and the good of our local church in reaching my decision. I will use the executive power of governance, within the parameters of the universal law of the church, through an administrative act to limit Father Fernando's exercise of priestly ministry. This administrative action shall be taken in writing by means of a decree (Canons 47-58) so that Father Fernando will be afforded the opportunity of recourse against it in accordance canon law (Canons 1734 ff.).

Enclosed with this letter, please find,

1. The statement of REDACTED sister of the complainant, REDACTED
2. Transcript of the canonical interview with Father Walter Fernando.

Thanking you for your assistance in this matter, I remain

Fraternally yours in Christ,

His Eminence
Cardinal Roger M, Mahony
Archbishop of Los Angeles.

Your Eminence:

The measures referenced in my letter to you dated September 22, 2008, deemed necessary to respond fully to the hierarchical recourse placed against me before your Congregation by Rev. Walter Fernando are now complete. These measures included, further investigation, the formal recommendation of my Clergy Misconduct Oversight Board, and hearing Father Fernando on the matter. I am hereby informing you of my final decision in the matter.

The following is a summary of the facts of the case based on the *acta causae*:

1. Walter Fernando was born on April 24, 1944 and was ordained a priest in Sri Lanka January 25, 1973, where he ministered until 1981. In 1981 he came to Los Angeles and was incardinated in our Archdiocese in 1986. In 2002, the local police began an investigation into an allegation, that some 20 years earlier, Fr. Fernando had sexually abused a 17 year old girl. He denied all claims of abuse. A canonical investigation was undertaken, and despite Fernando's denial of the allegations, the accusation was deemed credible and decree February 19, 2004, Fernando was placed on administrative leave according to the norm of Canon 1722. Since that time Fr. Fernando has been living in an ecclesiastical house with his room and board provided. He continues to receive his salary and is covered by medical and other benefits.

2 On September 1, 2004, Father Fernando gave his mandate to REDACTED REDACTED to represent him as his procurator and advocate in all matters having to do with investigation of this case. The archdiocese has paid for all of REDACTED services.

3.On November 9, 2004, I furnished a report to the Congregation for the Doctrine of the faith in accord with the provision of *Sacramentorum sanctitatis tutela* Art. 13. On July 4, 2005, that Dicastery responded that, since by her admission, the woman was 17-18 years of age at the time of the alleged incidents in 1981, the matter cannot be considered as a *delictum gravius*, and I did not need any authorization from that Dicastery to evaluate the merits of the case and act accordingly.

The Allegation

The complainant REDACTED was interviewed at length by canonical auditor. She alleged:

a) ~~That while attending a movie together Walter Fernando put his hand on her breast~~ and began to rub it.
b) In another instance, while in a parked car, Walter Fernando gave her a long kiss, putting his tongue in her mouth.
c) On another occasion, while at a park together, he kissed and fondled her, placing his hand inside her blouse to rub her breast.
d) Another time at the same park, while in a car he unzipped his pants, exhibited his erect penis and tried to force her to orally copulate him. She refused so he took her

hand, placed it around his penis, and with his hand clasped over hers, masturbated until he ejaculated

e) He brought her to the rectory where he was living and they went to his bedroom. He had her disrobe, kissed her breast, sucked her nipples and lay on top of her on the bed. She estimated that she went to that parish about ten times and that similar sexual activity occurred between them on each occasion.

Denial:

Through his canonical advocate Walter Fernando denied tha[REDACTED] was ever in his quarters at St. John the Baptist de la Salle Rectory. His advocate points that he could not have driven an automobile as described by the complainant since he did not obtain a driver's license until 1981. In a letter to the Vicar of Clergy (March 2003) Walter Fernando denied the girl's claim that he digitally penetrated her, masturbated her and attempted to have oral sex. In a subsequent letter in the same month he denied having any sexual activity with the girl in question and affirmed that he had absolutely obeyed his promise of celibacy.

Admissions:

In 2002, Walter Fernando, upon being notified by the police that they wished to interview him, contacted the then Vicar for Clergy, Msgr. Craig Cox, asking his advice. No knowing why the police wanted to interview him, he told Msgr. Cox that it might involve a situation from some 20 years earlier when he "crossed boundaries" with a young female parishioner.

In 2004,

Given the recommendations of CMOB and [REDACTED] stance, there is no way that all of this can be resolved to everybody's satisfaction (including CMOB) before the May 15 deadline. If the Cardinal were to proceed to a final decree based on CMOB's recommendation[REDACTED] will appeal again.

Since time is of the essence I suggest:

1. A letter from the Cardinal (copy t[REDACTED] which would say that, since this matter is no longer a penal process he is issuing a decree lifting the decree based on the provision of 1722. This would have the duel purpose of satisfying the Congregation and[REDACTED] cf. letter t[REDACTED] insisting on such a decree.
2. Since it is specifically stated in the Congregation's letter: "Of course, as Your Eminence is aware a pastoral solution is always preferable in such matters. The Dicastrery would be happy to hear of such a solution", the Cardinal would say that as a result of the March 23, meeting such a solution is underway.
3. There would need to be a good faith agreement that Fernando would not attempt to exercise ministry pending the final resolution.
4. Continue toward the final resolution.

May 4, 2009

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b) Our investigator inspected the location where some of the sexual activity was alleged to have occurred and found the complainant's description of Father Fernando's living quarters to be completely accurate. This would seem to lend some credibility to statements made by REDACTED
c) Our investigator was permitted to the telephone conversation between REDACTED and Father Fernando taped by the Police Department referenced above. The investigator concluded that the tape appeared to confirm that something of a sexual nature had transpired between Father Fernando and REDACTED
d) The statement of REDACTED , sister of REDACTED to our canonical auditor (complete statement attached), that she witnessed Father Fernando coming to their home " between six and twelve times" to take her sister "out on excursions to movies and other places". Among the matters REDACTED shared with her sister was, that on one occasion Fernando told REDACTED to touch his penis and after she did this she needed to clean herself off with a Kleenex.

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c) Though there was no determination of guilt, the fact that REDACTED prevailed in her lawsuit against our archdiocese.

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~~The numerous factors that come into play in the resolution of cases such as this render~~ their resolution very difficult. I have carefully considered every aspect of this case, including the good of all involved, accused and accuser alike, and the good of our local church in reaching my decision. I will use the executive power of governance, within the parameters of the universal law of the church, through an administrative act to limit Father Fernando's exercise of priestly ministry. This administrative action shall be taken in writing by means of a decree (Canons 47-58) so that Father Fernando will be afforded the opportunity of recourse against it in accordance canon law (Canons 1734 ff.).

Enclosed with this letter, please find,

1. The statement of REDACTED REDACTED sister of the complainant,
2. Transcript of the canonical interview with Father Walter Fernando.

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Fraternally yours in Christ,

His Eminence
Cardinal Roger M, Mahony
Archbishop of Los Angeles.

Archdiocese of Los Angeles
Clergy Misconduct Oversight Board

April 27, 2009

CONFIDENTIAL--
Personnel Matter

TO: Cardinal Roger M. Mahony
Archbishop of Los Angeles

FROM: REDACTED

Clergy Misconduct Oversight Board

SUBJECT: Father Walter Fernando (CMOB #027)

The Clergy Misconduct Oversight Board (Board) has concluded its review of the allegations against Father Walter Fernando. This report is submitted to both summarize the case and communicate the Board's findings and recommendations to you.

Father Walter Fernando was born in Sri Lanka on April 24, 1944, and ordained in Sri Lanka in 1973. He moved to Los Angeles and was assigned to St. Hilary's Parish in Pico Rivera on March 1, 1981. The Complainant was a high school senior who worked at St. Hilary's rectory after school. At that time, she was 17 years old (she turned 18 on August 7, 1981) and Fernando was 36 years old. Fernando served at St. Hilary's until his routine transfer to St. John Baptist de la Salle in Granada Hills on November 30, 1981. Fernando was incardinated in Los Angeles on February 24, 1986.

In April 2002, the Complainant told Los Angeles Police Department (LAPD) detectives that Fernando had sexually molested her when they worked together at St. Hilary's and for about a year after Fernando transferred to St. John Baptist. She alleged that she was 17 years old when their sexual relationship began. As part of their investigation, the detectives had the Complainant make a telephone call to Fernando. Without Fernando's knowledge, but with the Complainant's consent, the detectives recorded the conversation. After that, the detectives went to Fernando's rectory, but he was gone on vacation. In June 2002, Fernando was at a seminar with the Vicar for Clergy (VC). He told the VC that the police came to his rectory looking for him. He said that about 20 years earlier he had "crossed boundaries" with a woman when he took her to the movies and put his arm around her.

In August 2002, the Los Angeles Times published an article naming Fernando as the subject of a police investigation. Ultimately the criminal case was closed due to a court case (*Stogner*) that invalidated a lengthened statute of limitations for this type of case. In February 2003, the VC attempted to interview Fernando, but he declined to answer any questions regarding the Complainant on advice of counsel. In March and again in May of 2003, Fernando sent letters to the VC denying the allegations and claiming to have obeyed his vow of celibacy. In January 2004, the Los Angeles Times published another article detailing the case against Fernando and reporting that he was still in ministry. That same month a statement was read at St Hillary's weekend masses telling parishioners that Fernando had been named in a lawsuit accusing him of sexual abuse while assigned to that parish. Anyone with information regarding the matter was asked to contact the VC, but no contacts were made.

On January 24, 2004, the Complainant was interviewed by REDACTED REDACTED Complainant stated that when she was a senior in high school she worked in the rectory after school on most weekdays. Because she was working after school, she usually wore her Catholic high school uniform while at the rectory. While she was 17, Fernando took her to a movie. Toward the end of the movie he put his hand on her breast and began to rub it. Then he gave her a kiss on the lips. Another time while she was still in high school they were together in a parked car when he laid his head on her lap, pulled her head towards him and gave her a long kiss putting his tongue in her mouth. On another occasion while she was in high school, he took her to a park where he kissed her and placed his hand inside her blouse and bra to rub the skin of her breast. Another time at the same park while she was in high school she was with him in a parked car in the evening. He unzipped his pants, exhibited his erect penis and tried to force her to orally copulate him. When she refused, he took her hand, placed it around his penis and, with his hand clasped over hers, masturbated until he ejaculated. She described several more incidents of sexual activity that occurred after she turned 18 while Fernando was still assigned to St Hillary's. During one of those incidents, Fernando digitally penetrating her vagina.

She recalled that Fernando was transferred to St. John Baptist parish in about December 1981. When he left St. Hillary's, she had turned 18. After his transfer, he drove to her house, picked her up and drove her back to his new parish. He took her to a private sitting room in the rectory from which there was a door leading to his bedroom. They remained in the sitting room awhile while she played her flute. He brought her to the rectory a second time and this time they went into his bedroom. He had her disrobe, kissed her breast, sucked her nipples and lay on top of her on the bed. He did not undress, but she could feel his erection. She asked him why he did not undress and he replied he didn't want her to become pregnant. She estimated she went to the parish in Granada Hills about ten times and that similar sexual activity occurred between them each time. When asked who could corroborate her story, she stated that her mother, brother and sister all knew that she was going out with Fernando.

In her interview, the Complainant provided a detailed description of the rectory at St. John Baptist as well as Fernando's living quarters there REDACTED subsequently inspected the premises and found the Complainant's description to be completely accurate. In order to account

for any alterations that may have been made over the years. REDACTED nterviewed the priest who was the pastor there at that time. His description of the premises also matched the Complainant's. Later, responding through his Canonical Advocate, Fernando denied that the Complainant was ever in his quarters at St. John Baptist de la Salle. Again communicating through his Canonical Advocate, Fernando claimed that he could not have driven Complainant as she described because he did not have a driver license when he arrived in the United States. He claims not to have obtained his license until the summer of 1981, but no documentation of that date has been obtained.

The Board had reviewed the case in 2002 and in 2003 recommending both times that additional information be obtained quickly. In February 2004, the month after the Complainant was interviewed, the Board considered the case again. The Board determined that the allegations were sufficiently credible to recommend that Fernando be placed on administrative leave while the investigation continued. The Cardinal concurred with that recommendation and Fernando was temporarily removed from public ministry.

During the subsequent investigation REDACTED attempted to obtain a copy of the taped telephone conversation between the Complainant and Fernando. Though he was unable to obtain a copy, the LAPD investigators allowed REDACTED to listen to the tape. A March 21, 2007, Archdiocesan status report on this case states, "police record phone conversation between Complainant and Fernando in which Fernando appears to admit that sexual activity took place between him and Complainant when Complainant was 17 years old." The report goes on to say that, "Fernando said that he remembered kissing the victim but didn't remember showing her his penis; he stated that he thought the victim was 19 years old; he admitted feeling love for her and recalled rubbing her breast and kissing her breasts; he told her that he confessed his sins in this matter and asked her for her forgiveness; he stated he wanted to remain a priest and asked her to keep this between them. The investigator concluded that the tape appeared to confirm that something of a sexual nature had transpired between Fernando and the victim." Clearly Fernando's admissions in the taped conversation are in direct conflict with his March 7 and May 8, 2003, letters in which he denies "having had any sexual activity with (Complainant)."

In November 2004, the case was sent to Rome. The case was returned with a finding that, as the complainant was 17 at the time, she was not a minor under the 1917 Code of Canon Law. (The Church subsequently changed the age of majority from 16 to 18.) Consequently, Rome determined that the case is not under its jurisdiction and assigned responsibility for any further action to the Archdiocese. This complaint resulted in a civil suit and was eventually settled as part of the global settlement. The amount received by the Complainant was within the median settlement amount for that group of cases.

Once the civil suit was settled, the case was reviewed to determine if it was ready for disposition. It was decided that efforts should be made to contact the Complainant's mother, sister and/or brother in an effort to corroborate the number of "dates" she allegedly had with Fernando and to determine if any of them had any additional information to support or refute these allegations. The Complainant's sister was subsequently interviewed telephonically. She was about REDACTED when Fernando was first assigned to St. Hilary's. She and her older sister

(Complainant) shared a bedroom. They lived with their parents and two brothers who were 18 and 19 years old. Between work, school and friends, the brothers were usually gone and rarely interacted with their two younger sisters. She believes they had no idea what was happening with the Complainant at the time. The parents thought the relationship between the Complainant and Fernando was fine—they trusted him and to this day they refuse to discuss it.

She and her sister shared confidences including the Complainant's account of the numerous sexual encounters she had with Fernando. They would talk about those activities in very specific terms. For example, one time Complainant returned home very upset after going to the movies with Fernando. Complainant told her sister that Fernando had kissed her at the theater. On another occasion Complainant told her that Fernando took her for a ride and told her to touch his penis after which she needed to clean herself with a tissue. On another occasion, Complainant told her that she had disrobed in front of Fernando and while she was disrobed he put his Roman collar on her. (The Complainant described just such an incident in her interview.) The sister estimated that Fernando came to their house to pick up Complainant six to twelve times during that period.

On March 23, 2009, Fernando was to be interviewed by REDACTED After asking a few background questions, REDACTED began to ask a question regarding Fernando's prior relationships. REDACTED was immediately interrupted by Fernando's Canonical Advocate who instructed Fernando not to, "...answer any question that has to do with any relationship or any person of any kind." At that point, the interview was concluded. The Board understands from REDACTED , who has been assigned to provide us with Canonical advice, that under Canon Law the instruction from Fernando's Canonical Advocate is imputed to Fernando and is sufficient to constitute a decision by Fernando not to answer any questions without Fernando having to personally respond that he understood and agreed to follow his Advocate's admonition and advice. We therefore conclude that Fernando declined this opportunity to make whatever response he may deem appropriate. In that regard, we recognize that Fernando is not expected to admit or deny anything and that he is entirely within his rights to remain silent. Consequently, we draw no inference whatsoever from his decision.

Following this interview, Fernando's Advocate proposed the following disposition for this case:

1. Father Fernando will retire at 65 years of age (4-24-09) and will voluntarily agree to refrain from any priestly public ministry in the Archdiocese of Los Angeles.

2. Should any letter of inquiry be received from another Bishop, the parties would collaborate on the wording of any response from REDACTED The letter would not say that Fernando has been found unfit for ministry, but clearly communicate that Fernando has offered and the Archdiocese has agreed that he will not exercise ministry in this diocese. Any Bishop making an inquiry should be given the facts and the decision left up to him regarding any granting of faculties. The Advocate made it clear that the facts in the response should be stated without a conclusion that Fernando had been found unfit for ministry.

3. The original precept placing Fernando on leave would be revoked.

The Archdiocesan representatives informed Fernando's Advocate that, based upon their experience with the Board, we would most likely recommend to the Cardinal that Fernando should not be entitled to exercise public ministry anywhere. However, they agreed to inform the Board and ultimately the Cardinal of the proposal.

By Charter, the Board is responsible for ensuring that all allegations of sexual misconduct by a priest or deacon are investigated thoroughly. Consequently, the Board's first duty is to determine if all reasonable investigative avenues have been pursued and exhausted. We have considered that aspect of this case and find that this matter has been investigated adequately. As we noted several years ago, the Complainant's mother, brothers and sister should have been interviewed to determine what, if anything, they might know about this case. Eventually, the sister was interviewed and she largely corroborated the allegations. In view of the information the sister provided about her brothers and her parents' refusal to discuss the matter, it appears that efforts to interview additional family members would serve no constructive purpose. We were also concerned that the taped telephone conversation was not pursued through the protocol established for obtaining evidence from the Los Angeles Police Department. However, we are confident in relying on the Canonical investigator's report of that taped conversation.

With the adequacy of the investigation established, it now becomes the Board's responsibility to recommend an appropriate disposition. In cases such as this it is important to be mindful of the standards under which the Board must weigh the evidence presented to it. First is the Archdiocesan Policy on Sexual Abuse by Clergy which defines sexual abuse of a minor as an act(s) of sexual molestation, sexual exploitation or other behavior by which an adult uses a minor as an object of sexual gratification. Second is the standard of justice which requires that a sustained allegation must be supported by credible evidence leading a reasonable person to conclude that the alleged acts occurred, that the accused cleric committed those acts and that the acts constitute sexual abuse of a minor.

We have discussed this matter extensively, ever mindful of our responsibility to the people involved as well as to the Church itself. The Board's diversity including members with experience as mental health care professionals, law enforcement, the judiciary, abuse victims and their parents, religious and clergy all helped to ensure that every aspect of this case was fully explored. We are mindful of our duty as Catholics and members of this Board to review the facts of this case objectively and make a recommendation of conscience based upon the evidence that has been gathered. With those responsibilities in mind, we have come to the unanimous decision that the facts in this case clearly meet the burden of proof required to support the conclusion that Father Walter Fernando engaged in the sexual abuse of a minor. Consequently, we unanimously make the following recommendations:

Recommendation No. 1: We recommend that Fr. Fernando be removed from ministry permanently.

Recommendation No. 2: We recommend that Fr. Fernando's permanent removal from ministry be announced at all Archdiocesan parishes in which he has been assigned or maintained a priestly relationship.

Recommendation No. 3: We recommend that the settlement proposal put forth by Fr. Fernando's advocate be rejected. That proposal would require the Archdiocese to abdicate its moral responsibility to notify another diocese that a priest has been removed from ministry.

Recommendation No. 4: Because we believe that Fr. Fernando returns to Sri Lanka on occasion, we recommend that the Church in Sri Lanka be notified in writing of Fr. Fernando's permanent removal from ministry.

Recommendation No. 5: We recommend that the Complainant be notified of the Archbishop's final decision on this matter.

With these findings and recommendations, the Board concludes this case and closes this file.

Respectfully submitted,

Original signed by:
REDACTED
Clergy Misconduct Oversight Board

Original signed by:
REDACTED
Clergy Misconduct Oversight Board

c: Monsignor Gonzales, Vicar for Clergy

DECREE

I, Cardinal Roger M. Mahony, Archbishop of Los Angeles, upon receiving information which had the semblance of truth, that the Reverend Walter Fernando committed the delict of Canon 1395 §2, directed that a canonical investigation be initiated in accord with Canon 1717. Pending the outcome of the investigation, Father Fernando was placed on administrative leave effective 19 February 2004, in accordance with Canon 1722.

It was determined that since the complainant, REDACTED, was over the age of 16 at the time of the alleged offense, the matter fell outside the realm of a *gravius delictum*. Thus the investigation into the possibility that a delict had been committed was closed by a decree on 27 September 2004.

However, the decree closing the investigation acknowledged that "there is significant evidence that the woman, a minor at civil law, may well have suffered abuse from Father Fernando." For that reason the decree placing Father Fernando on administrative leave was not revoked pending further investigation into his suitability for return to ministry. Meanwhile, the complaint resulted in civil litigation and was settled as part of a global settlement.

Once the settlement was reached, it was determined that attempts be made at further investigation. Now that the Clergy Misconduct Oversight Board has issued its final recommendation to me, I formally revoke the earlier decree of 18 February 2004 which placed Father Fernando on administrative leave.

Furthermore:

I, Cardinal Roger M. Mahony, Archbishop of Los Angeles, do declare that, after a careful investigation, it has been established with reasonable certitude that the Reverend Walter Fernando engaged in a relationship of a sexual nature with REDACTED. Father Fernando has adamantly denied ever having engaged in such behavior with her. Yet the investigation yielded indications which, taken cumulatively, argue that something of a sexual nature occurred between them.

Principally, the indications are:

1. The testimony of the complainant herself that she and Walter Fernando engaged in intimate sexual activity.

2. Our canonical auditor inspected the location where the sexual activity was alleged to have occurred and found the complainant's description of Fr. Fernando's quarters to be completely accurate. This lends credibility to the statements made by A. P.

3. Our canonical auditor was permitted to listen to the telephone conversation between REDACTED and Father Fernando taped by the police department. The investigator concluded that the tape appeared to confirm that something of a sexual nature had transpired between them.

4. The statement of REDACTED to our canonical auditor that she witnessed Father Fernando coming to their home "between six and twelve times" to take her sister "out on excursions to movies and other places." Among the matters REDACTED shared with her sister was that on one occasion Fr. Fernando told REDACTED to touch his penis, and after she did this she needed to clean herself off with Kleenex.

Aggravating circumstances are:

1. The wide publicity this matter received in our Local Church.

2. The fact that REDACTED, though not a minor at canon law, was still a minor at civil law when the alleged activity occurred.

3. The fact tha REDACTED prevailed in the lawsuit against the Archdiocese regardless of any determination of guilt on the part of Father Fernando.

Reverend Walter Fernando has been made aware of the evidence collected, has enjoyed the services of an ecclesiastical advocate, and has presented a defense in which he has argued that his difficulties are not of the nature or severity to render him unfit for return to ministry. His argument has been taken into account, and his rights have been protected.

I have carefully considered every aspect of this case, including the good of all involved, accused and accuser alike, and the good of our Local Church in reaching my decision to use the executive power of governance, within the parameters of the universal law of the church, through an administrative act to limit Father Fernando's exercise of priestly ministry as follows:

1. Father Fernando may not exercise any priestly public ministry. This means that he does not enjoy the faculties of this Archdiocese; he may not celebrate Mass publicly (canon 906); and he may not preach (canon 764).

2. Notice of his permanent removal from public ministry shall be given to all concerned parties, including the Bishop of his Diocese of origin in Sri Lanka.

This administrative action is taken in writing by means of this decree so that Fr. Fernando will be afforded the opportunity of recourse against it in accord with the provision of Canons 1734ff.

Given on the 5th of June 2009 at the Curia of the Archdiocese of Los Angeles.

Cardinal Roger M. Mahony
Archbishop of Los Angeles

ARCHDIOCESAN SEAL

REDACTED

Archdiocese of Los Angeles | Office of the Archbishop (213) 637-7288 | 3424 Wilshire Boulevard | Los Angeles California 90010-2202

4 May 2009

Prot. N. 20082209

His Eminence
Claudio Cardinal Hummes, Prefect
Congregation for the Clergy
Piazza Pio X11, 3
00120 Vatican City
EUROPE

Your Eminence:

The measures referenced in my letter to you dated September 22, 2008, deemed necessary to respond fully to the hierarchical recourse placed against me before your Congregation by Rev. Walter Fernando, are now complete. These measures included further investigation, hearing Father Fernando again on the matter, and having the formal recommendation of our Clergy Misconduct Oversight Board.

Your Eminence will have already gleaned the facts of this case both from the acts which you already have in your possession, and from the written recourse prepared by Father Fernando's procurator and advocate.

The focal point of the case is the complaint made to the Los Angeles Police Department by REDACTED that Father Fernando sexually molested her while she was still a teenager. As part of their investigation, the police monitored a telephone call between REDACTED and Father Fernando.

Father Fernando was not present when the police came to the parish rectory looking to interview him. He opined to my Vicar for Clergy that the reason the police were looking for him was that twenty years earlier he had "crossed boundaries" with a woman. The civil criminal process was closed due to the expiration of the statute of limitations. Nonetheless, a civil lawsuit was filed against our Archdiocese in 2003 by REDACTED and a settlement was reached in 2007 amounting to a sizable amount of money. Meanwhile, the matter received extensive coverage in our local media. Furthermore, in keeping with our policy to properly inform the faithful in these cases, announcements were made at two parishes at which Father Fernando served.

A canonical investigation ensued, and it was determined that since the complainant was over the age of 16 at the time of the alleged offense, the matter fell outside the realm of a *gravius*

3. Though there was no determination of guilt, the fact that REDACTED prevailed in he lawsuit against the Archdiocese.

Reverend Walter Fernando has been made aware of the evidence collected, has enjoyed the services of an ecclesiastical advocate, and has presented a defense in which he has argue that his difficulties are not of the nature or severity to render him unfit for ministry. His argument has been taken into account and his rights have been carefully protected.

I have carefully considered every aspect of this case, including the good of all involved, accused and accuse alike, and the good of our Local Church in reaching my decision to use the executive power of governance, within the parameters of the universal law of the church, through an administrative act to limit Father Fernando's exercise of priestly ministry ????.

This administrative action is taken in writing by means of this decree so that Fr. Fernando will be afforded the opportunity of recourse against it in accordance with the provision of Canons 1734 ff.

Given on in the Curia of the Archdiocese of Los Angeles.

_____

Cardinal Roger Mahony

_____

Notary

SEAL

DECREE

I, Cardinal Roger M. Mahony, Archbishop of Los Angeles, upon receiving information, which at least seemed true, that the Reverend Walter Fernando committed the delict of Canon 1395 #2. I directed that a canonical investigation be initiated in accord with Canon 1717. Pending the outcome of the investigation Father Fernando was placed on administrative leave effective February 19, 2004, in accordance with Canon 1722. It is determined that since the complainant was over the age of 16 at the time of the alleged offense, the matter fell outside the realm of a *gravius delictum.* Therefore, I formally revoke the earlier decree of February 18, 2004 placing Father Fernando on administrative leave.

Furthermore.

I, Cardinal Roger Mahony, Archbishop of Los Angeles, do declare that, after a careful investigation, it has been established (with moral certitude) that the Reverend Walter Fernando engaged in a relationship of a sexual nature witl REDACTED Fr. Fernando has adamantly denied ever having engaged in sexual behavior witl REDACTED Yet the investigation yielded indications that something of a sexual nature occurred between them.

Principally, the indications are these:

1. The testimony of the complainant herself that she and Walter Fernando engaged in an intimate sexual activity.
2. Our investigator inspected the location inspected the location where the sexual activity was alleged to have occurred and found the complainants description of Fr. Fernando's quarters to be completely accurate. This seem to lend credibility to the statements made by REDACTED
3. Our investigator was permitted to listen to the telephone conversation between REDACTED and Father Fernando taped by the police department. The investigator concluded that the tape appeared to confirm that something of a sexual nature had transpired between Father Fernando and REDACTED.
4. The statement of REDACTED , sister of REDACTED to our canonical auditor that she witnesses Father Fernando coming to their home "between six and twelve times" to take her sister "out on excursions to movies and other places". Among the matters REDACTED shared with her sister was that on one occasion Fernando tol REDACTED to touch his penis and after she did this she needed to clean herself off with Kleenex.

Aggravating circumstances are these:

1. The wide publicity this matter received in our Local Church.
2. The fact that REDACTED , though not a minor at canon law, was still a minor at civil law when the alleged activity occurred.

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Archdiocese of Los Angeles | Office of Vicar for Clergy (213) 637-7284 | 3424 Wilshire Boulevard | Los Angeles California 90010-2202

DECREE

On 10 February 2003, the undersigned acting in his capacity as episcopal vicar for the clergy initiated a preliminary investigation of Reverend Walter Fernando in the face of allegations that he sexually abused a minor, and hence committed the delict specified by canon 1395, §2.

REDACTED duly appointed canonical auditor, conducted a thorough investigation of this matter, including an interview with the complainant. The results of his inquiry have been carefully documentedREDACTED

In accord with Archdiocesan policy, the complaint and the results of the investigation were reported to the Clergy Misconduct Oversight Board. The members of the Board concluded that the allegation does have a semblance of truth and reported on its conclusions to the Archbishop, Cardinal Roger M. Mahony.

As the local ordinary who initiated the investigation, in accord with my responsibility under the provisions of canon 1718, with the assistance of the expertise provided by the Clergy Misconduct Oversight Board, and after consultation with Cardinal Mahony, I hereby decree that the preliminary investigation is to be closed.

In this case, the woman who alleges that she suffered abuse was age seventeen and hence was not a minor at canon law during the time period of the allegedly abusive activities. Thus, it is clear that Father Fernando did not commit a delict at canon law. Nonetheless, there is significant evidence that the woman, a minor at civil law, may well have suffered abuse from Father Fernando. Given this evidence, and given the provisions of the *Charter for the Protection of Children and Young People*, I hereby recommend to the Cardinal Archbishop that the Cardinal Archbishop report the matter to the Congregation for the Doctrine of the Faith for their review and advice.

Given this 27th day of September in the Year of Our Lord 2004 at the Curia of the Archdiocese of Los Angeles in California.

Monsignor Craig A. Cox, J.C.D.
Vicar for Clergy
REDACTED

Archdiocesan Seal

good of all involved, accused and accuser alike, and the good of our Local Church in reaching my decision. I will use the executive power of governance, within the parameters of the universal law of the church, through an administrative act to limit Father Fernando's exercise of priestly ministry. This administrative action shall be taken in writing by means of a decree (Canons 47-58) so that Father Fernando will be afforded the opportunity of recourse against it in accordance with canon law (Canons 1734 ff.).

Enclosed with this letter, please find,

1. The statement of REDACTED, sister of the complainant, REDACTED. (Please note that the typed statement was reviewed and expanded b REDACTED)
2. Transcript of the canonical interview with Father Walter Fernando.
3. Memo and recommendations from Clergy Misconduct Oversight Board.

Thanking you for your assistance in this matter, I remain

Fraternally yours in Christ,

+ Roger Card. Mahony

His Eminence
Roger Cardinal Mahony
Archbishop of Los Angeles

Enclosures

delictum. Thus I was informed by the Congregation for the Doctrine of the Faith that I did not need authorization from that Dicastery to evaluate the merits of the case and to act accordingly.

Father Fernando has adamantly denied ever having engaged in sexual behavior with REDACTED REDACTED Yet there are indications that something of a sexual nature occurred between them. Principally, these indications are:

a) Father Fernando's statement to our Vicar for Clergy that he suspected that the reason the police wished to interview him was because he had "crossed boundaries" with a woman some twenty years earlier.

b) Our investigator inspected the location where some of the sexual activity was alleged to have occurred and found the complainant's description of Father Fernando's living quarters to be completely accurate. This would seem to lend some credibility to statements made by REDACTED

c) Our investigator was permitted to listen to the telephone conversation between REDACTED REDACTED and Father Fernando taped by the Police Department referenced above. The investigator concluded that the tape appeared to confirm that something of a sexual nature had transpired between Father Fernando and REDACTED

d) The statement of REDACTED , sister of REDACTED to our canonical auditor (complete statement attached), that she witnessed Father Fernando coming to their home " between six and twelve times" to take her sister "out on excursions to movies and other places." Among the matters REDACTED shared with her sister was that on one occasion Fernando told REDACTED to touch his penis and after she did this she needed to clean herself off with a Kleenex.

An ameliorating circumstance is the fact that there is no record of an accusation of this nature against Father Fernando other than that brought by REDACTED On the other hand, aggravating circumstances are these:

a) The wide publicity this matter received in our Local Church.

b) The fact that REDACTED though not a minor at canon law, was still a minor at civil law when the alleged activity occurred.

c) Though there was no determination of guilt, the fact that REDACTED prevailed in her lawsuit against our Archdiocese.

Norm 1V. of the *Essential Norms*, the particular law for the United States, provides that the Diocesan Bishop shall have a review board, precisely for cases such as this, which will function as a confidential consultative body to assist him in discharging his responsibilities. My review board, called the Clergy Misconduct Oversight Board, has advised me not to return Father Fernando to active ministry.

The numerous factors that come into play in the resolution of cases such as this render their resolution very difficult. I have carefully considered every aspect of this case, including the

delictum. Thus I was informed by the Congregation for the Doctrine of the Faith that I did not need authorization from that Dicastery to evaluate the merits of the case and to act accordingly.

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Archdiocese of Los Angeles
Office of Vicar for Clergy (213) 637-7284
3424 Wilshire Boulevard
Los Angeles California 90010-2202

February 18, 2004

Personal and Confidential

Reverend Walter Fernando
Assumption of the Blessed Virgin Mary Church
2640 E. Orange Grove Boulevard
Pasadena, CA 91107-2632

Dear Father Fernando:

This is to provide written confirmation of the decision communicated to you in person that, effective February 19, 2004, you will begin an administrative leave of absence.

REDACTED

I am assigning you in residence at St. Basil's Parish. During this time of leave, you are to engage in no public ministry, though you are free to celebrate Mass in your own room or the rectory chapel. If you wish, please do take advantage of the opportunity to spend some time on retreat, and you continue to be welcome at the day of recollection scheduled for Manning House. Also, let me renew my invitation to avail yourself of the counseling you need at this very difficult time. Since you already met with REDACTED you may wish to see him. But I can make arrangements with other counselors if you wish.

You are in my prayers at this time of tremendous trial. As we soon will enter the season of Lent, I know you will experience the Passion in a totally new and profound way. I pray for you, and for the truth to emerge. Thank you for being so gracious and understanding in these last two years. May the peace of Christ be with you!

Your brother in Christ,

Monsignor Craig A. Cox, J.C.D.
Vicar for Clergy

cc: REDACTED

REDACTED

REDACTED

REDACTED

145

CONGREGATIO
PRO DOCTRINA FIDEI

00120 Città del Vaticano,
Palazzo del S. Uffizio

4 July 2005

599/2004 - 21318
PROT. N. .....
(In responsione fiat mentio huius numeri)

CONFIDENTIAL

Your Eminence,

The Congregation for the Doctrine of the Faith received your correspondence regarding the case of the **Rev. Walter FERNANDO**, a priest incardinated in the Archdiocese of Los Angeles, who has been accused of the sexual abuse of a woman who, by her own admission, was 17-18 years of age at the time of the alleged incidents in 1981.

This Dicastery examined the case on 25 June 2005 when it was decided that, since the matter cannot be considered as a *delictum gravius*, Your Eminence does not need any authorization from this Dicastery to evaluate the merits of the case and act accordingly.

With prayerful support and fraternal best wishes, I remain

Sincerely yours in Christ,

✠ Angelo AMATO, SDB
Titular Archbishop of Sila
Secretary

His Eminence
Roger Cardinal Mahony
Archbishop of Los Angeles
3424 Wilshire Boulevard
Los Angeles, CA 90010-2202
UNITED STATES OF AMERICA

Clergy Assignment Record (Detailed)

Rev Walter Fernando

REDACTED



Current Primary Assignment

Birth Date	4/24/1944	*Age:*	62
Birth Place	Ragama, Sri Lanka	*Deanery:*	22
Diaconate Ordination			
Priesthood Ordination	1/25/1973		
Diocese Name	Archdiocese of Los Angeles		
Date of Incardination	2/24/1986		
Religious Community			
Ritual Ascription	Latin		
Ministry Status	Administrative Leave		
Home phone	REDACTED		
Fax phone			
Seminary	National, Ampitiya, Kandy, Sri Lanka		
Ethnicity	Sri Lankan		

Assignment History

Assignment	*Beginning Date*	*Completion Date*
St. Hilary Catholic Church, Pico Rivera Associate Pastor (Parochial Vicar), Active Service	3/1/1981	11/29/1981
St. John Baptist de la Salle Catholic Church, Granada Hills Associate Pastor (Parochial Vicar), Active Service	11/30/1981	7/31/1986
St. Rose of Lima Catholic Church, Simi Valley Associate Pastor (Parochial Vicar), Active Service	8/1/1986	7/1/1990
Cathedral Chapel, Los Angeles Associate Pastor (Parochial Vicar), Active Service	7/2/1990	5/2/1992
St. Gregory the Great Catholic Church, Whittier Associate Pro Tem, Active Service	5/3/1992	6/30/1992
Assumption of the Blessed Virgin Mary Catholic Church, Pasadena Associate Pastor (Parochial Vicar), Active Service	7/1/1992	2/19/2004
Administrative Leave	2/19/2004	

Background Information

Salutation	Father
Social Security Number	REDACTED
Citizenship	U.S.A.
Immigration Status	Citizen
Green Card End Date	
Payroll in lieu of stipends	☐
Enrolled in Pension Plan	☑
Receiving Pension?	☐
Retired in Rectory?	☐
Will Filed?	☑
Reference	☑
Power of Attorney Health Care	☐
Power of Attorney Finance	☐

REDACTED

REDACTED

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Key letter for documentation

Parish Priest
St. Cajetan's Church

Kotugoda,
JA-ELA. 16 - 7 1980

Reverend Monsignor John. A. Rawden
Archdicese of Los Angeles
California.

Dear Reverend Monsignor,

I am a priest working in the Archdicese of Colombo, Sri-Lanka. My age is 37 years and I have been a priest for eight years. Since my country is very small opportunities are rare to gain more knowledge and experience specially in the field of Liturgy. So I thought I would go to a country where I will work for about two years so that I may gain more experience in the ministry. I met REDACTED who is working at St. Michael's Church, in your diocese, when he was here for his vacation. It was he who suggested your diocese.

I have been educated in English and I have worked in two English speaking parishes in my diocese. So I have a good working knowledge of English. I wish to come and serve in your diocese for two years. Please let me know whether you are willing to offer me chance to serve there in the ministry for two years. When your reply comes I can get the letter of release from my Bishop.

Please take my request in to your kind Consideration.

May God Bless You.

Yours Sincerelly in Christ Jesus

Fr. Walter Fernando

Fr. Walter Fernando
St. Cajetan's Church
Kotugoda
Ja-Ela.
Sri-Lanka.

REDACTED

ARCHBISHOP'S HOUSE
COLOMBO 8
SRI LANKA

'alter

22nd August 1980

Very Rev.Msgr.John A. Rawden,
The Chancellor,
Archdiocese of Los Angeles,
1531 West Ninth Street,
Los Angeles, California 90015,
U.S.A.

Dear Rev.Monsignor,

Rev.Fr.Walter R.Fernando is a priest of the archdiocese of Colombo in Sri Lanka ordained on 25.1.1973. He was bron on 24.4.1944. Since his ordination he has been in the parochial apostolate in different parts of the archdiocese.

He has expressed his desire to be out of the archdiocese of Colombo for two years and serve in a parish of the United States of America. Since he believes that this experience will be of help to him, Ihave granted him permission to do so. He hopes to return to Colombo once this assignment is over. I too hope that this change of diocese for a short time will be of benefit to him.

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In unionof prayers,

Devotedly Yours in Christ,

+ Nicholas Marcus Fdo

Nicholas Marcus Fernando
Archbishop of Colombo.

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is:

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Rev. Monsignor John A. Rawden
Chancellor

ARCHBISHOP'S HOUSE
COLOMBO 8
SRI LANKA

22nd August 1980

Very Rev.Msgr.John A. Rawden,
The Chancellor,
Archdiocese of Los Angeles,
1531 West Ninth Street,
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U.S.A.

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In unionof prayers,

Devotedly Yours in Christ,

+ Nicholas M.

Nicholas Marcus Fernando
Archbishop of Colombo.

Rev. Msgr. John A. Rawden
Chancellor

Parish Priest

HOLY ROSARY CHURCH.
DEHIYAGATHA.
JA-ELA.
SRI LANKA

16.I. 81.

Fernando, Rev Walter

REDACTED

Archdicese of Los [illegible]
California, REDACTED
Dear REDACTED

I am happy to inform you that I will be arriving in Los Angeles on the Ist of February (Sunday) by Thai International Air Lines.

Date.		Airport.	Time.	Flight No.
30 Jan.	dep:	Colombo	I3I5	TG 308
30 Jan	arr:	Bangkok	I800	
OI Feb	dep:	Bangkok	I030	TG 742
OI Feb	arr:	Los Angeles	I500	

I hope to be at the Chancery Office the same evening.

May God Bless You.

With kindest regards.

Yours sincerely in Christ,
Walter Fernando
Fr. Walter Fernando.

Rev. Walter FERNANDO

St. John Baptist de la Salle Church
16545 CHATSWORTH STREET
GRANADA HILLS, CALIFORNIA 91344
Phone: 363-2535

20th Oct '82

Dear Your Grace,

Thank you very much for your letter of 4th Oct '82. I quite understand your position regarding the giving of a letter for me to obtain a scholarship from the Loyola University.So I had to give up that idea of doing that particular course mentioned in my earlier letter.

I am writing this again to inform you that I have decided to continu my work here for another peridd of two years.I have personally spoken to the Chancellor on this matter and he advised me to write to you again for an extension.

As you would probably remember I left the diocese with a great deal of pain in mind.I need more time to adjust myself otherwise I feel coming back to the diocese at this point will make me more unhappy than ever before.

I am happy here with the work I am doing and with the people with whom I work. I have no doubt that as a Bishop you would always wish your priests to be happy where ever they are.

I would appreciate it very much if you could send me a letter extending my time here by another two years.I appeal to your kindnes and make this request for the good of my soul.

Thanking you in anticipation for an early reply, I remain.

May God Bless You.

Sincerely Yours in Christ,

---

20 OCTOBER 1982

DEAR BISHOP FERNANDO:

WE RECOMMEND FAVORABLE CONSIDERATION TO THIS REQUEST FOR AN EXTENSION OF FATHER WALTER'S STAY IN LOS ANGELES ARCHDIOCESE.

MOST RESPECTFULLY,
John A. Rawden
REV. MSGR. JOHN A. RAWDEN
CHANCELLOR

ARCHBISHOP'S HOUSE
COLOMBO 8.
SRI LANKA

Tel. No. 95471 - 2 - 3

COPY

7th November 1982

Dear Fr.Walter,

I delayed with my reply since I needed time to think over your request.

In your letter you say that you left"the diocese with a great deal of pain of mind". You will, I am sure, agree that that pain was not in any way caused by me.

Two years ago, at your request, I allowed you to go to the States. Not only did I allow you but gave you all the papers and recommendations needed both for the way and the destination; and that is how you came to be accepted in the archdiocese of Los Angeles.

Now you are asking for a further extension when you know quite well the need of priests here in a diocese like ours which is still in a missionary situation and every priest doing more than what he normally could do.

All the same specially because of the recommendation of Very Rev.Msgr.John A.Rawden, who has been so kind to you and also to me at different times, I am allowing a further extension of one year ending in February 1984.

I hope and pray that you will serve the Archdiocese of Los Angeles well and come back in 1984 and serve your diocese too.

God be with you.

Devotedly Yours in Christ,

+ Nicholas Fernando

Archbishop of Colombo.

Copy to Very Rev.Msgr.John A Rawden.

ARCHBISHOP'S HOUSE.
COLOMBO 8.
SRI LANKA.

Tel. No. 95471 - 2 - 3

27th October 1983

Reverend Fr.Walter Fernando,
St.John Baptist de La Salle Church,
16545 Chatworth Street,
Granada Hills,
California 91344,
U.S.A.

Dear Fr.Walter,

Since by your letter dated 18th Oct.1983, you have requested permission to join a diocese in the U.S.A., in spite of the shortage of priests in the archdiocese of Colombo, I am herewith granting you the requested permission.

Originally you went out for two years. Then at your request I extended the permission for one more year and I find that all these three years you have been working in the same parish, in the same archdiocese. Hence I believe that you will be granted incardination in the same archdiocese. But my permission is for any diocese that will accept you.

Let me take this opportunity to thank you for your services in the archdiocese of Colombo since your ordination in 1973. In all sincerity I should say that you did not seem to like the apostolate in the parishes here. If you have found fulfilment in the States, I am happy about it and I pray that the good Lord will guide you always so that you may remain happy and make others happy too. May God bless you.

When you have definitely decided on the diocese you wish to join, and if any official papers are needed from here, besides this present, you may write to me.

With kind regards,

Devotedly Yours in Christ,
+ Nicholas Fernando

Nicholas M.Fernando,
Archbishop of Colombo.

Cc:Very Rev.Msgr.John A.Rawden,Chancellor, Archdiocese of Los Angeles.

ROGER MICHAEL MAHONY

By the Grace of God and Favor of the Apostolic See

ARCHBISHOP OF LOS ANGELES IN CALIFORNIA

Beloved in Christ REVEREND WALTER FERNANDO

You have expressed to us, affirming it by oath before us (or before a priest delegated by us), your request and will to serve perpetually in our Archdiocese of Los Angeles.

We have considered carefully the needs of our Archdiocese and, attending to the Canonical prescriptions of your title of Ordination, have obtained your Canonical Excardination from

REDACTED

this being done after a prudent examination of your life, morals and studies.

Now, therefore, in accord with the Sacred Canons, we incardinate you into our Archdiocese of Los Angeles and declare you so incardinated, in the Name of the Father and of the Son and of the Holy Spirit, Amen.

Given at Los Angeles, under our sign and seal, and by signature of our Notary, this 18th day of February, in the year of Our Lord 1986.

REDACTED

+ Roger Mahony
Archbishop of Los Angeles

Most Reverend Archbishop:

I, REV. WALTER FERNANDO affirm under oath my will to serve under the jurisdiction of the Archdiocese of Los Angeles permanently.

So help me God, and these Holy Gospels.

Given at Los Angeles, the 24th day of February in the year of Our Lord 1986.

REDACTED

Walter Fernando

ard. (Rev:10/85)

CURIA OF THE ARCHDIOCSES OF LOS ANGELES IN CALIFORNIA

RE: REVEREND WALTER FERNANDO

ACTA CAUSAE

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FERNANDO

REDACTED

From: REDACTED
Sent: Wednesday, April 02, 2008 7:04 PM
To: CMOB
Cc: Gonzales, Msgr. Gabriel; REDACTED
Subject: FERNANDO CASE

REDACTED

Per our conversation at this morning's meeting, here are the follow up items on the Fernando case:

1. Was this case part of the recent civil settlement and, if so, how much was paid to his victim?
2. Does the victim's attorney have any information we need to consider?
3. Does the Archdiocese attorney have any information we need to consider?
4. Can the complainant's mother, sister or brother corroborate the number of "dates" she had with Fernando?

When these questions have been answered, please forward the investigative report to REDACTED and he will agendize the matter for CMOB's consideration.

Thanks,

REDACTED

CONFIDENTIAL & PRIVILEGED
INVESTIGATIVE REPORT
ATTORNEY CLIENT WORK PRODUCT

REDACTED

Matters to be considered in deciding how the REDACTED should respond

1. Should there be an interim letter to the Congregation, or should there be a resolution and then a response?

2. At every step of the way the archdiocese has paid for competent advocacy, has heard the accused, has supported and housed the accused in a safe and suitable place, and will hear the accused again before a final resolution.

3. There seems to be little doubt that something of a sexual nature did occur between Walter Fernando and REDACTED The police tape seems to be the best objective evidence of this

4. Complicating the issue is the fact that the matter received extensive press coverage in the local papers and announcements were made at two parishes. If Walter is placed in ministry, the archdiocese would not be in a position to announce that he is completely exonerated. Given the public nature of the case, any parish to which Walter would be assigned would have to be set straight on the facts. This would put Walter in a very awkward position; how would he be received by the parishioners? Would his ministry be effective? An important factor in all of this would be whether or not REDACTED a received a settlement. Parishioners might want to know that.

5. A REDACTED was over 18, the matter is outside the realm of a *gravius delictum.* Yet, something of a sexual nature did take place that cannot be ignored. The architects of the Essential Norms had this very situation in mind when they included Norm 9. When a delict is admitted or proven, the diocesan bishop does not need a Review Board; he has no option but to remove the accused from ministry.

6. The cardinal has not taken this matter lightly as evidenced by the fact that the matter has been taken to the Review Board at least three times and at least two recommendations have been given. The letter to the advocate dated May 17, 2008, clearly states that the matter is pending before the Review Board yet one more time, this in the wake of the settlement of the law suits. His Eminence' decision will be duly communicated with motivation. **(It should be noted that CMOB is made up of volunteers who donate time from their regular work to serve on this board. In view of the large number cases, old and new, that are in need of review, it takes a great deal of time to do a thorough job. For that reason, the resolution of these matters takes more time that we would like)**

7. The legal action will not be taken on the basis of c.223.2. His Eminence understands that any determinations that are made cannot include the imposition of expiatory penalties but must address the cleric's ministry from the perspective of the pastoral responsibility of the diocesan bishop to exercise governance by regulating ministry within the diocese. Furthermore, he understands that any administrative decisions which he makes must be done in writing in keeping with

the principles of law which regulate the issuance of a singular decree, and if the cleric is aggrieved, he does have the right to challenge the decision.

8. **As he exercises his responsibility in this matter, he will keep in mind the good of the cleric himself, the good of the church and the supreme law, the salvation of souls.**

In Facto:

May 24, 2002: The police record a telephone conversation between Walter Fernando and REDACTED in which Walter Fernando appears to admit that sexual activity took place between himself and REDACTED when REDACTED was 17 years old.

June 13, 2002: Walter Fernando learns that police detectives wish to speak with him. Believing that the matter might involve a situation from some 20 years earlier when he "crossed boundaries" with a young female parishioner, Walter Fernando seeks advice from the Vicar for Clergy.

January 22, 2003: The Vicar for Clergy brought the matter to CMOB. No recommendation pending further information.

February 10, 2003: Decree issued opening the preliminary investigation in accord with C. 1717.

March 7, 2003: Walter Fernando denies all claims made by REDACTED as part of a class action suit in which Walter Fernando is named.

March 26, 2003: The Vicar for Clergy reports to CMOB that Walter Fernando has been named in a class action suit. The information stated that Walter Fernando had abuse a young girl from 1980-1981 by pre-sexual grooming, French kissing, fondling buttocks, rubbing/massaging breasts, placing finger in vagina, etc. CMOB recommended that further information be obtained from Walter Fernando and REDACTED

May 8, 2003: Walter Fernando denies in writing ever having any sexual activity with REDACTED **(By now, Walter Fernando has engaged civil counsel)**

January 14, 2004: CMOB asks for further information. It reports that it will not hesitate to recommend administrative leave if credible information warranting such action is presented.

January 14, 2004: Article in LA Times

January 15: 2004: Article in Pasadena Starr News.

January 16-20, 2004: Various witnesses are interviewed.

January 17-18, 2004: Announcements at all the Masses at Assumption, Pasadena and St. Hiliary, Pico Rivera.

January 22, 2003: CMOB discussed the case.

March 26, 2003: CMOB discussed the case

April 23, 2003: CMOB gave a recommendation

January 14, 2004: CMOB gave a recommendation

February 17, 2004: CMOB gave a recommendation.

January 23, 2004: Canonical auditor reports tha REDACTED was born on August 7, 1963, that Walter Fernando was at St. Hilary's from March 1, 1981- Nov 29, 1981, that there are no independent witnesses to corroborate REDACTED allegations, that the police recorded a telephone conversation between REDACTED and Walter Fernando, which according to police, corroborates REDACTED account.

January 29, 2004: Canonical auditor interviewed REDACTED at length. She alleges that Walter Fernando sexually abused her.

February 7, 2004: Article in LA Times.

February 17, 2004: CMOB, despite Walter Fernando's denials, finds tha REDACTED REDACTED account of things to have the appearance of credibility and recommends that Walter Fernando be placed on administrative leave.

February 19, 2004; Walter Fernando is placed on administrative leave.

March 3, 2004: Article in the Los Angeles about the allegations against Walter Fernando

September 1, 2004: Walter Fernando engages canonical counsel. The Archdiocese agrees to pay advocates fees.

September 22, 2004: The canonical auditor listens to the police recording of the conversation between REDACTED and Walter Fernando. He admitted feeling love for her. He recalled rubbing her breast and admitted to kissing her breasts. The tape seems to confirm that something of a sexual nature transpired between them. Debate ensue as to whether there was question of a *gravius delictm,* Since REDACTED appeared to be above the age of 18.

November 9, 2004: Since the preliminary investigation established the semblance of truth in REDACTED allegations, that when she was 17 years old she was sexually abused by Walter Fernando, Cardinal Mahony reports matter to Rome, noting that REDACTED ~~migh not have been a minor at Canon Law but would have been a minor in~~ civil law.

July 4, 2005: CDF responds to Cardinal Mahony advising him that since the case does not involve a reserved *gravius delictum* not special authorization is needed for him to evaluate the merits of the case and act accordingly.

November 9, 2005: Walter Fernando's canonical advocate writes to the Vicar for Clergy expressing concern at the Vicar for Clergy's proposal to engage in further "fact finding' investigation while the civil lawsuit by REDACTED was pending. He suggests the *status quo,* i.e. Walter Fernando's continuing administrative leave with residence at St. Basil's and no further action on the part of the archdiocese- should be preserved until the conclusion of the civil suit.

December 19, 2005: Walter Fernando's canonical advocate writes to the Vicar for Clergy expressing concern that doubt exists as to whether REDACTED was under 18 when the alleged abuse took place and objects to any "fact-finding" on the part of the archdiocese until it is proven that REDACTED was in fact under 18. **(meanwhile, law suits are still pending).**

November 6, 2006: Advocate writes to Vicar for Clergy complaining about the delay in acting on the case and asks why Walter Fernando is still out of ministry. Advocate asks what action the archdiocese intends to take in the case.

December 15, 2006: Vicar for clergy writes to advocate explaining that, in agreement with what the advocate had written in his letter of Nov 9, 2005, the archdiocese also felt that it was in the best interests of all concerned to preserve the status quo with regard to Walter Fernando (i.e. administrative leave and residence at St. Basil's) unti;l the civil suit should be concluded; at an opportune time the serious question of Walter Fernando's suitability for ministry will be properly handled.

December 23, 2006: Advocate writes to Vicar for Clergy arguing that the matter cannot be pursued further under 1395.2; "I am now concerned about this open-ended delay, especially because the disposition of the civil case may have no bearing on the canonical issues".

November 2007: Law suits are settled.

February 25, 2008: Advocate requests that faculties withdrawn by the Vicar for Clergy on Feb. 18, 2004, be rescinded and Walter Fernando be reinstated .

May 17, 2008: Response from Vicar for Clergy; petition denied.

May 31, 2008: Advocate requests a reconsideration of his request.

FERNANDO

REDACTED

From: REDACTED
Sent: Wednesday, April 02, 2008 7:04 PM
To: REDACTED
Cc: Gonzales, Msgr. Gabriel; REDACTED
REDACTED
Subject: FERNANDO CASE

REDACTED

Per our conversation at this morning's meeting, here are the follow up items on the Fernando case:

1. Was this case part of the recent civil settlement and, if so, how much was paid to his victim?
2. Does the victim's attorney have any information we need to consider?
3. Does the Archdiocese attorney have any information we need to consider?
4. Can the complainant's mother, sister or brother corroborate the number of "dates" she had with Fernando?

REDACTED

When these questions have been answered, please forward the investigative report to REDACTED and he will agendize the matter for CMOB's consideration.

Thanks,
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When these questions have been answered, please forward the investigative report to REDACTED and he will agendize the matter for CMOB's consideration.

Thanks,

REDACTED

REDACTED

I have incorporated my suggestions. Do with them as you will

15 September 2008

Prot. N. 20082209

His Eminence
Cláudio Cardinal Hummes, Prefect
Congregation for the Clergy
Piazza Pio XII, 3
00120 VATICAN CITY

Your Eminence,

Thank you for your letter dated 4 August 2008, notifying me of hierarchical recourse by Rev. Walter Fernando, a priest of our archdiocese, "against the apparent provisions of the Archdiocese of Los Angeles not to reinstate him to ministry."

On February 19, 2004, Fr. Fernando was placed on administrative leave according to the norm of c. 1722, pending the outcome of the preliminary investigation of allegation of sexual abuse of a minor brought against him. On February 25 of this year, Fr. Fernando, through his canonical advocate REDACTED , requested that the decree of February 19, 2004, be rescinded. My present Vicar for Clergy, Msgr. Gabriel Gonzales, on May 17, 2008, responded to REDACTED that his request cannot be granted "at this time" because his case is still pending before the review board mandated by particular law of the United States, whose recommendation I must have before I make a decision whether he can be reinstated.

Thus, no provision as yet has been made "not to reinstate" him. Rather, the temporary removal from ministry, which was required by the circumstances of the case as I will explain below, has yet to be resolved. The necessary steps toward a resolution of the matter, which, for reasons outside our control had to be suspended, are again under way. I will inform you of the resolution when that occurs. In the meantime, your request necessitates this interim response.

Toward an understanding of the nature of Father Fernando's situation, please allow me to highlight the following points:

1. At every step of the way the Archdiocese has paid for competent canonical advocacy, has heard the accused, has supported and housed the accused in a safe and suitable place, and will hear the accused again before a final decision.

2 The content of a telephone conversation between Fr. Fernando and his accuser, recorded by the police in tempore non suspecto, provides the best evidence that something of a sexual nature did occur between them. This evidence stands in contradiction to Father's own explicit denial that anything of a sexual nature transpired between them.

3.Complicating the issue is the fact that the matter received extensive coverage in the local media. Furthermore, in keeping with our own policy to properly inform the faithful in these cases, announcements were made at two parishes in which Fr. Fernando served. In view of this publicity, for Father Fernando to be returned to ministry, the Archdiocese would have to say that he is exonerated of all charges. The archdiocese is not in position to say that until such time as the investigation to determine the truth and circumstances of the alleged offense, necessarily suspended until the conclusion of parallel civil action, was completed, and I have heard from my review board.

3.As the victim was over age 16 at the time of the offense, the matter is outside the realm of a *gravius delictum*. Nonetheless, at civil law the matter did become part of a class action lawsuit against the archdiocese, and Fr. Fernando's accuser did receive a monitory settlement from the archdiocese.

4.Even if it cannot be maintained that the alleged offense is a gravius delictum under any law, matters such as the principles of loss of good reputation and *aversio in parochum* articulated in canon 1741 3° will have to be considered in the determination of Father Fernando's suitability for ministry in the future.

4.The archdiocesan review board has considered the matter at least three times and twice made recommendations to me. Now that the civil lawsuits against the Archdiocese have been settled, and in light of the results of further investigations, the review board needs to consider the case yet again in order to make a final recommendation to me. I ask that you bear in mind that our review board is made up of volunteers who take time from their regular work to donate to this important function. In view of the large number of cases, old and new, that they are asked to consider, it takes a great deal of time to do a thorough job. For this reason the resolution of these matters takes more time than all of us would like.

5. Any future legal canonical action will not be taken on the basis of canon 223 §2. I understand that expiatory penalties cannot be imposed or declared by means of a decree (c.1342 #2). I understand that administrative decisions addressing the cleric's ministry from the perspective of the pastoral responsibility of the diocesan bishop to exercise governance by regulating ministry within the

diocese, must be given in writing and in keeping with the principles of law which regulate the issuance of a singular decree. If the cleric is aggrieved, I understand that he does have the right to challenge the decision.

The numerous factors that come into play in the resolution of these cases render their just resolution time consuming and tedious. This, together with the good of the church and the good of all involved, accused and victims alike, is of constant and great concern to me. For that reason, you can rest assured that we are trying to resolve our cases, including this one, as expeditiously as possible. I will inform you of my decision in the case at issue as soon as further needed investigation has been completed, I have a formal recommendation from my review board and have heard Father Fernando on the matter. In the meantime, as per your request, I enclose the acts of the case up to the present date.

Thanking you for your assistance and keeping you in my prayers, I remain

Fraternally yours in Christ,

His Eminence
Cardinal Roger M. Mahony
Archbishop of Los Angeles

Enclosure

REDACTED

From: REDACTED
Sent: Thursday, September 11, 2008 10:31 AM
To: REDACTED
Cc:

Subject: [SPAM] FERNANDO CASE

REDACTED

Same thing on this case.

REDACTED

-------- Original Message --------
Subject: Re: FERNANDO CASE
Date: Wed, 2 Apr 2008 19:29:19 -0700
From:REDACTED
To:
CC:

References:

10-4
REDACTED

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To: "(
Cc REDACTED
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Sent: Wednesday, April 02, 2008 7:04 PM
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> Thanks,
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REDACTED

APOSTOLIC NUNCIATURE
UNITED STATES OF AMERICA

3339 MASSACHUSETTS AVENUE, N.W.
WASHINGTON, D.C. 20008-3687

No. 25.787

This No. Should Be Prefixed to the Answer

November 18, 2004

Dear Monsignor Cox:

I acknowledge your kind letter of November 16, 2004, with enclosures.

Rest assured that the correspondence concerning **Reverend Walter Fernando,** including check for taxa in amount $500.00 will be duly forwarded through the diplomatic pouch to His Eminence, Joseph Cardinal Ratzinger, Prefect, Congregation for the Doctrine of the Faith.

With cordial regards and best wishes, I remain

Sincerely yours in Christ,

+ Gabriel Montalvo

Archbishop Gabriel Montalvo
Apostolic Nuncio

Monsignor Craig A. Cox, J.C.D.
Vicar for Clergy
Archdiocese of Los Angeles
3424 Wilshire Boulevard
Los Angeles, CA 90010-2241

Archdiocese of Los Angeles

Office of
the Archbishop
(213) 637-7288

3424
Wilshire
Boulevard

Los Angeles
California
90010-2202

November 9, 2004

His Eminence
Cardinal Joseph Ratzinger
Congregation for the Doctrine of the Faith
Piazza del S. Uffizio, 11
00120 Vatican City
EUROPE

RE: Reverend Walter Fernando

Your Eminence:

I seek the assistance and guidance of the Congregation for the Doctrine of the Faith with regard to Reverend Walter Fernando, a priest incardinated in the Archdiocese of Los Angeles.

In 2002, Father Fernando informed the Vicar for Clergy of this Archdiocese of Los Angeles that two police detectives had come to the rectory of his parish seeking to question him. He had not been present when the detectives called and he asked the Vicar for advice. He was placed in contact with an attorney so that he would have professional advice as to his civil rights in the United States. At that time, there was no specific information on the nature of the investigation.

In early 2003, we learned that a woman by the name of REDACTED had lodged a complaint with the police of alleged abusive sexual conduct on the part of Father Fernando when she was a minor and he was serving as Associate Pastor of St. Hilary Parish, Pico Rivera. These events allegedly began in 1981. We initiated a preliminary investigation on February 10, 2003.

REDACTED filed a lawsuit seeking damages for the alleged abuse. She has also been a participant in activities of SNAP. This case has received attention in the secular media.

Initially, the attorney for REDACTED did not permit our canonical auditor to meet with her. Eventually, however, we had the opportunity to conduct a lengthy interview with her.

There was a Grand Jury subpoena issued related to the police investigation of Father Fernando. The criminal case, however, was dismissed after the Stogner decision of the United States Supreme Court.

The preliminary investigation has been completed, and it establishes that there is a semblance of truth to the claims of REDACTED Copies of the materials assembled during that preliminary investigation are attached. Specifically, please note that the police arranged to tape a conversation between REDACTED and Father Fernando. Our canonical auditor was able to listen to that tape at the offices of the police department. His notes as to its content are included with this letter. We have been assured that we may obtain a copy of the tape in the future. REDACTED would also be able to obtain a copy of that tape and could use it in any civil trial for damages and thus at some point it could also be released to the media.

The abusive activity is alleged to have taken place beginning in 1981. Thus, canon 2359 of the 1917 *Code of Canon Law* was in force. The preliminary investigation established that REDACTED was seventeen years of age at the time. Thus she was not a minor in canon law and even if Father Fernando perpetrated the deeds she described, they would not have met the criteria of an ecclesiastical crime. Those activities, however, did meet the definition of a civil crime in the State of California.

While it is not possible to charge Father Fernando with the ecclesiastical delict of canon 2359, the fact that there is evidence of abusive sexual activity with a person who was a minor in the laws of civil society cannot be ignored. Given the commitments made by the Bishops of the United States in the *Charter for the Protection of Children and Young People*, some form of canonical action is necessary. Therefore, I propose to the esteemed members of the Congregation of the doctrine of the Faith the following course of action.

1. That the Congregation authorize me to form an ecclesiastical tribunal to investigate the matter and establish the juridic fact (canon 1400, §1, 1°) of whether or not the alleged abusive activity took place. I believe that it is necessary to have the evidence assembled and assessed in this manner in order to protect the rights of all involved, and to have a determination made by unbiased persons in accord with the requirement of moral certitude. I would recommend that, while this is not a penal trial, the norms for penal trials be followed by this tribunal.

2. After the judges issue their finding, that the sentence of the tribunal be forwarded to the Congregation of the Doctrine of the Faith for review. If the tribunal finds with moral certitude that the alleged abusive conduct indeed took place, then I would envision asking the Congregation for authorization to impose permanent restrictions on the ministry of Father Fernando in accord with the needs of the common good and the authority provided by canon 223, §2. If the tribunal reached some other determination, then it would be necessary to assess the nature of that decision (e.g., true exoneration, some other more ambiguous conclusion) and consult with the Congregation on the canonical measures appropriate given the finding of the tribunal.

If it is your Congregation's judgment that some other course of action is more appropriate, I will see to its execution.

I would be most grateful for the guidance and assistance of the Congregation in this sensitive matter that raises difficult canonical and pastoral problems. Please know that you are in my prayers.

I remain,

Yours in Christ,

+ Roger Cardinal Mahony

Cardinal Roger M. Mahony
Archbishop of Los Angeles

enclosures

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DIOCESE	Los Angeles in California
NAME OF ORDINARY	Cardinal Roger M. Mahony
CDF PROT. N. (*if available*)	
NAME OF CLERIC	Reverend Walter Fernando

PERSONAL DETAILS OF THE CLERIC	**Date of Birth**	24 April 1944	**Age**	60
	Ordination	25 January 1973	**Years of ministry**	31

ORIGINAL DIOCESE OF INCARDINATION	Colombo, Sri Lanka
MINISTRY IN/TRANSFER TO OTHER DIOCESE	Los Angeles in California, incardinated on 24 February 1986
CONTACT ADDRESS OF THE CLERIC	REDACTED
PROCURATOR (*include original signed mandate*)	REDACTED
CONTACT ADDRESS OF THE PROCURATOR	

ASSIGNMENTS

Year	Parish	Location	Appointment
1973	St. Anthony	Kepungoda	Parochial Vicar
1974	St. Mary	Dehiwala	Parochial Vicar
1976	St. Thomas	Kotte	Parochial Vicar
1977	St. Cadjetan	Kotugoda	Parochial Vicar
1981	St. Hilary	Pico Rivera, California	Parochial Vicar
1981	St. John Baptist de la Salle	Granada Hills, California	Parochial Vicar
1986	St. Rose of Lima	Simi Valley, California	Parochial Vicar
1990	Cathedral Chapel	Los Angeles, California	Parochial Vicar
1992	St. Gregory the Great	Whittier, California	Parochial Vicar (Pro Tem)
1992	Assumption of the Blessed Virgin Mary	Pasadena, California	Parochial Vicar
2004			Leave of Absence

ACCUSATIONS AGAINST THE CLERIC

Year	Victim	Age	Imputable Acts	Denunciation
1981	REDACTED	17		2003

CIVIL PROCEEDINGS AGAINST THE CLERIC

Year	Type/Case	Conviction	Sentence (*include copies of civil documents*)
2002	Police Investigation and Grand Jury Subpoena	Dismissed	Case closed because of the expiration of criminal statute of limitations in accord with the Supreme Court Stogner case.
2003	Civil Lawsuit for Damages (BC307409)	pending	

MEASURES ADOPTED BY THE DIOCESE

Year	
2003	Preliminary Investigation Initiated
2004	Father Fernando was placed on Administrative Leave

SUSTENANCE PROVIDED BY THE DIOCESE TO THE CLERIC

Father Fernando is living in an ecclesiastical house with his room and board provided. He continues to receive his salary and is covered by medical and other benefits. He has the same transportation provisions as a priest serving actively. He has requested and been granted loans for criminal defense.

RESPONSE/RECOURSE MADE BY THE CLERIC

Year	

BISHOP'S *VOTUM*

In this case, the alleged sexually abusive activities occurred while the 1917 Code of Canon Law was in force. The alleged misconduct did not violate canon 2359 of that Code because REDACTED was age 17, and hence not a minor at canon law. She was a minor in the law of the State of California and the alleged activity did amount to a crime in the law of the State.

Recognizing this reality, we are nonetheless seeking an ecclesiastical trial, not to impose a penalty but to declare the juridic fact (canon 1400, §1, 1°) of whether or not the alleged abusive conduct took place. The seriousness of the matter requires an unbiased determination with moral certitude of the facts of the matter, with all the protections for the rights of the parties that a trial affords.

If the judges conclude that Father Fernando perpetrated the alleged deeds, we would forward those results to the Congregation in order to consult how to proceed, perhaps in light of the provisions of canon 223, §2.

CANONICAL INTERVIEW OF FATHER WALTER FERNANDO

Monday, March 23, 2009

Los Angeles, California

REDACTED

Canonical Interview of Father Walter Fernando, taken on behalf of the Roman Catholic Church, at 3424 Wilshire Boulevard, 5th Floor, Los Angeles, California, beginning at 10:38 a.m. and ending at 11:45 a.m. on Monday, March 23, 2009, before REDACTED

REDACTED

APPEARANCES:

REDACTED

Monsignor Gabriel Gonzales, Vicar for Clergy

REDACTED

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FATHER WALTER FERNANDO	REDACTED	11

LOS ANGELES, CALIFORNIA, MONDAY, MARCH 23, 2009

10:38 A.M. - 11:45 A.M.

REDACTED I'll begin by introducing people around the table. We've already written out our names for the stenographer.

REDACTED

REDACTED My role in this meeting is basically the host, to kind of coordinate the activities; see to it that things get done.

If I can start from the reporter's left hand, seated next to her is Father Walter Fernando, whose status as a priest of the Archdiocese has been affected by an accusation, which will be explained.

Next to him is Father Fernando's advocate, REDACTED He is serving in the capacity as Canonical advisor and advocate, looking out for Father Fernando's interest in this matter.

Seated beyond REDACTED is REDACTED REDACTED. Sometimes we'll refer to him as "REDACTED" simply by reason of our relationship to him. He is here in his capacity as the canonical/auditor.

Going from the reporter's right hand, seated next to her, is Monsignor Gabriel Gonzales, REDACTED REDACTED -- I'm sorry -- the Vicar for Clergy --

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I'm sorry about that -- who's -- is here in the capacity of representing the Cardinal in his concern for his priests and dealing with both sides of the issues when a person needs help and when a person needs discipline.

On my right hand at the far end is REDACTED, who is here in his capacity as REDACTED That is a canonical position that sees to attending to the public interest of the church in serious matters.

Today is the 23rd of March, roughly 10:40 in the morning. And the purpose of this meeting -- well, from our standpoint, our being officials, is to offer Father Fernando the opportunity to make any reply, if he cares to do so, to the heart of the matter as we're confronted with it. At this point, I should reiterate that while this is not a formal trial process, this is not a formal penal process, the rights that Father Fernando has remains the same. He need not say anything if he cares not to. He certainly has the right to ask any questions. He will not be put under oath. He's not expected to admit or deny anything. We are hoping, however, that he could clarify, if he wishes to do so, concerns that would be expressed by the canonical auditor.

The nub of the question is generated by an accusation that was made some -- quite some time ago by

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one REDACTED of sexual misconduct with her as a minor. This was a subject of a civil lawsuit that has since been

settled and resolved.

In our own canonical investigation of the matter, we have determined that there was no canonical delict. That's a technical term. The word is spelled D-E-L-I-C-T. And for practical purposes, it is a ecclesiastical crime and there was no delict of abuse against a minor because the alleged victim at the time was over 16 years of age and the law at the time defined a minor someone who is under 16. What does remain more problematic in this case is the age of the victim at the time of the alleged activity because civilly, she may have been a minor. And at least from our point of view, there will never be any more evidence than has already been gained to determine whether or not anything had occurred before or after she turned 18. It is her claim that things did begin while she was 17.

This puts the Cardinal in the position of dealing with the question of returning someone to ministry who may have been guilty of a -- in civil law, criminal or civil or tortuous activity involving a minor, a civil minor. Needless to say, this is something that the -- the cardinal has great concern about and also the Clergy Misconduct Oversight Board, whose recommendation he is

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looking for before he makes a decision on the matter. And it is at the oversight board, or it might also say the advisory board is another way of speaking of them, is to -- it is their interest to have this position put before Father Fernando for any comment he might make and it is this: On the one hand, there exists an audiotape made by the Los Angeles Police Department of a telephone

conversation that Father Fernando had with the alleged victim in which he makes certain incriminating remarks to the effect that he apologizes for what happened, although it is never said what happened. There's no detail about that. But he also makes the remark that he went to confession. He confessed the matter. In the context that we're talking about, the problem that that statement raises is that what would there be of confessional material that doesn't imply some type of violation of the Sixth commandment. So we have that on the one hand.

The other hand is a letter from May 8th, 2003 -- I forget the year -- but in which Father Fernando writes that he did nothing to violate his vow of celibacy, and so we're faced with an apparent contradiction and that is the focus of the meeting.

Is there anything Monsignor Gonzales would like to add or wants to clarify?

MONSIGNOR GONZALES: Thank you. I simply would

like to take this opportunity to emphasize what other REDACTED has said to Father Fernando; namely, Father Fernando, that you do have civil rights. You do have canonical rights. You have the presence of your canonical advisor and advocate here today. If at any time you wish to consult with your advocate or if your advocate would like to consult with you, we do have a separate conference room available for you for those purposes.

That's all.

REDACTED Yes. Thank you very much for the summary of what this meeting is about. It's important that I know that. As I see it, nothing has changed in what I wrote in my letter. That since the allegation is

no longer an issue as far as the canonical crime to which he should be or would be subject to any penal action, I don't -- everything else remains the internal form. There's nothing, as you said, in the audiotape that describes anything. His statement that he didn't violate the celibacy, even if were not made, is a matter of the internal form. So I don't see that there's anything that he should be questioned about concerning that incident. Furthermore, the burden of proof is not on him. He has -- if in the record there's a statement --

I know you are going to say something. Go ahead.

REDACTED Yeah. These are materials that I think really are subsequent to the interview that needs to be conducted now by the canonical auditor. Once he has had the opportunity to explain in whatever detail he cares to, then I think we could go into those matters.

REDACTED Well, except, Father, that if you -- I -- I -- I will not -- I will advise Father Fernando since because of what I have said, that any investigation of what he may or may not have done as a matter of the internal form REDACTED or anybody else, is not to be --

REDACTED If that becomes relevant, we will speak about it.

REDACTED All right. I don't understand.

REDACTED : Yeah.

REDACTED All right.

REDACTED I would like to see what the canonical auditor has to ask before we understand what issues have to be addressed. He is the one who is

conducting the investigation and needs to tell us what the materials are.

REDACTED Well, I would just point out one more thing then, just for the record. There's no more investigation to be done about the REDACTED allegation. That investigation is over. The only --

REDACTED Could we have the statement from the investigator about that?

REDACTED All right. Okay.

REDACTED I don't want to jump the gun on anything conclusive here.

REDACTED Okay. Unless there's something that I have not yet been -- been made aware of as to any new allegation, I don't know. Okay.

REDACTED Yeah. YeahREDACTED

EXAMINATION

REDACTED

Q Father Fernando, what -- tell me when -- your date of birth and where you were born.

A REDACTED -

Q Okay.

A '44.

Q '44. In?

A In Sri Lanka.

Q Okay. And what city?

A The city is called "Ragama," R-A-G-A-M-A.

Q R-A-G-M-A?

A R-A-G-A-M-A.

Q -- A-M-A?

A Yeah.

Q Okay. Thank you.

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And what are your parents' names?

A REDACTED

Q

A Yes.

Q Uh-huh.

A And that's Fernando.

Q Okay. And do you have siblings?

A I do. I have a sister and a brother.

Q And their names?

A REDACTED

Q

A

Q

A

Q

A Yeah.

Q Okay.

A REDACTED

Q Say it again.

A REDACTED

Q

A Yes.

Q Okay. Did you have a or do you have a Sri Lankan name as well as Walter or are they all westernized names?

A Yeah. My -- my first name, no, I don't have a

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translated name, no.

Q You do not have a --

A No.

Q So -- all right. Have you ever gone by the name of REDACTED

A Yeah. That's -- well, that's not in my birth certificate.

Q But what -- who would refer to you as REDACTED

A My parents.

Q Okay. Would that be a name that anybody else would know of in the United States or anybody -- any of your friends, any of your Sri Lankan priest friends or anything like that would?

A No.

Q Okay. Your siblings?

A They --

Q Would they call you that?

A Well, they don't call me by name. They -- we have a -- if -- if I am the younger brother --

Q Are you the younger brother?

A -- of my sister --

Q Uh-huh.

A -- then she would call me Mali, M-A-L-I. That's -- that's a term they use for younger brother.

Q Okay. But I guess my point is anybody -- this would all take place if you were in Sri Lanka, they would -- or if they visited you here, perhaps. But people in the United States would not refer -- you can't think of anybody in the United States that would refer to you as REDACTED

A No.

Q Okay. Okay. What did you do prior to entering the seminary in Sri Lanka? Did you have a profession?

A No. I was -- I went from the college to the seminar.

Q Okay. And how old were you?

A I was 18, I believe.

Q Okay. So college would be our high school, then --

A Yes.

Q -- approximately?

Okay. Did you have any type of relationship with females prior to --

REDACTED Don't answer any question that has to do with any relationship or any person of any kind.

By the way, may I ask, what REDACTED

REDACTED Sure.

REDACTED I'm not asking you a question.

Oh, okay.

REDACTED I just mentioned your name.

By what -- he is a canonical auditor in what process right now?

REDACTED The current interview is to assist the Clergy Misconduct Oversight Board in making its recommendation to Cardinal Mahoney in responding to the recourse which has been submitted to the Congregation for the Clergy. After that recommendation has been made to Cardinal Mahoney, it is the intention of the Cardinal to inform Father Fernando what he intends to do before then he submits his own -- Cardinal Mahoney's own response to the congregation.

REDACTED Well, then, I suggest that since the decision of the congregation and the recourse does not

depend on the initial allegation, that there's no reason to submit anything more regarding the issue of the congregation until it renders its decision. And I don't see --

REDACTED Maybe I need to deny a major here. Just because there's no crime doesn't mean there isn't an issue and I thought I stated that at the beginning; namely, the Cardinal is in the position potentially of returning to ministry someone who --

REDACTED May have.

REDACTED -- entered into criminal activity

civilly.

That is the concern that we have.

REDACTED But you said "may have."

REDACTED : Yes.

REDACTED : Well, it -- you.

REDACTED : It is our further concern that we will never resolve that issue.

REDACTED Exactly.

: And the point is what can the cardinal do in that kind of a situation.

REDACTED Okay. May I suggest something? May I suggest -- excuse me a moment -- off the record.

(Discussion held off the record.)

REDACTED Okay. In view of the conversations that we were able to have --

MONSIGNOR GONZALES: Private conversations.

REDACTED Yeah. The private conversations that we had while -- during this break in the proceedings --

REDACTED Excuse me. Did we mention that

during the break the court reporter and REDACTED were excused and were not part of these conversations?

REDACTED Okay. I think that's a very good point. Yeah. So the conversations I'm referring to were between the five of us except for REDACTED and the court

reporter, who stepped outside the room. And as a result of the conversations, we believe that we have been able to come to an accommodation that should resolve concerns that have led to this investigation. And we will put this on record, but we're thinking that there isn't any further point to the investigation as such and that REDACTED could be excused from this session.

REDACTED Okay.

REDACTED Thank you.

REDACTED Thank you.

(Discussion held off the record.)

REDACTED Okay. Now that REDACTED has left the room, I think maybe Monsignor Gonzales would be in the position to speak to the matter.

MONSIGNOR GONZALES: Since the proceedings now in terms of the auditor and his purpose, namely, to provide the Clergy Misconduct Oversight Board with the details of an interview, since those are now finished, we have begun a conversation about a possible agreement between Father Fernando and the Archdiocese of Los Angeles, specifically Cardinal Mahoney. The terms of that possible agreement, and I would welcome all of you to assist me with this so that we're clear for the record.

REDACTED Well, Monsignor Gonzales, for the sake of disclosure for whoever is going to read this, this

private conversation was called by the advocate and the proposed solution was volunteered by Father Fernando. I think that's important for them to know.

MONSIGNOR GONZALES: I concur.

REDACTED In that sector, yeah.

MONSIGNOR GONZALES: The terms of the offer that Father Fernando has proposed would include the following: That Father Fernando would be willing to retire upon reaching the age of 65 years of age; that Father Fernando would be willing to refrain from any priestly public ministry.

REDACTED In the Archdiocese.

MONSIGNOR GONZALES: In the Archdiocese.

And I've also articulated to Father Fernando that there remain concerns on the part of the Clergy Misconduct Oversight Board in terms of its recommendation to Cardinal Mahoney. Those concerns include the stipulation that the Archdiocese would not be able to provide faculties of the Archdiocese for Father Fernando and in terms of any inquiry from another diocese in Bishop, that the Cardinal's recommendation would have to include the doubts that remain with respect to the allegation.

Any other comments?

REDACTED Yes. I think we also discussed that the question of any such letter of inquiry from another

Bishop, we would get together and determine the wording of any letter from the Cardinal or successive -- successive ordinaries of Los Angeles.

And since this is going to be reviewed by the board, my feeling would be that the fact of two things

should be in that letter. The fact that the allegation is not a canonical crime calling for canonical penalty, but the -- the realty of the difference between civil and canon law, something like this, but the fact is we -- the facts should be stated without a conclusion that he has been found unfit for ministry. That can't be in there because that just isn't a fact. And that -- so we'll work on that wording and so that it satisfies everybody. But I think it should be clear that it should be fair to the ordinary who writes it, as well as to Father Fernando, who is willing to in a sense, give up the function of his priesthood in order to accommodate this. I don't want to complicate this, but I want to make sure we state only -- when the letter, if it says we have denied him, that -- that wouldn't be worded that way. He has offered and we have agreed that he will not exercise ministry in this diocese. So that Bishop proceeding, if there ever is one will say, "Okay. That leaves it up to me, whether given all these facts, I want to do something about it."

Without complicating it, is that a fair

statement?

MONSIGNOR GONZALES: I -- it fairly summarizes and accurately, I think, the position that you have stated to us. Yes, I would say that.

REDACTED Okay.

MONSIGNOR GONZALES: However, there's one other point that I would like to make and it is I think it's important for me to tell you, and its on the record, that in my experience, that the Clergy Misconduct Oversight Board would in all likelihood have difficulties accepting

that final provision that you have -- you have mentioned here.

REDACTED Which one is that, Monsignor Gonzales?

MONSIGNOR GONZALES: Namely, that the Clergy Misconduct Oversight Board would recommend to the cardinal -- let me just go off the record for just a minute.

(Discussion held off the record.)

MONSIGNOR GONZALES: We're back on the record.

REDACTED Oh, back on the record. Don't forget we also agree that there should be a revocation of that -- of that precept that was given when he was put on leave.

MONSIGNOR GONZALES: That is correct.

REDACTED : That's a minor, but it's really

important.

REDACTED Question occurs to me, when does Father Fernando turn 65?

REDACTED : April 24.

THE WITNESS: 24th of April.

REDACTED Okay.

REDACTED One day after mine and I am not going to be 65, long passed that.

MONSIGNOR GONZALES: So as part of the summary of the agreement, we would include that the Cardinal would revoke the precept for which -- for which the recourse was submitted.

And, finally, then, to summarize the last issue with regard to the Clergy Misconduct Oversight Board, it's fair to say that in my experience, it will be the position of the Clergy Misconduct Oversight Board to recommend to

the Cardinal that -- that Father Fernando would not exercise ministry -- public ministry anywhere. So that would be their position.

And, REDACTED would you like to comment?

REDACTED Well, I would just add that there would probably never have to reach that -- that issue because what would be presented to them initially would be the fact that part of Father Fernando's offer is that he voluntarily would not want faculties and would not

exercise ministry in the Archdiocese of Los Angeles.

MONSIGNOR GONZALES: These proceedings are closed.

(Whereupon, the proceedings were concluded at 11:45 a.m.)

I, the undersigned, a Certified Shorthand Reporter of the State of California, do hereby certify:

That the foregoing proceedings were taken before me at the time and place herein set forth; that a verbatim record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my direction; further, that the foregoing is an accurate transcription thereof.

I further certify that I am neither financially interested in the action nor a relative or employee of any of the parties.

IN WITNESS WHEREOF, I have this date subscribed my name.

Dated: _____

REDACTED

_____

COPY

REDACTED

Archdiocese of Los Angeles

3424 Wilshire Boulevard

Los Angeles California 90010-2202

September 15, 2008

Los Angeles Police Department
Discovery Section
Attention: Custodian of Records
201 North Los Angeles Street
Space 301
Los Angeles. CA 90012

Re: Father Walter Fernando; DR 02-1715862

Dear Sir/Madam:

In 2004 REDACTED an investigator of the Archdiocese of Los Angeles, contacted Detective James Brown in the Juvenile Division of your Department regarding the above matter, with Walter Fernando, as the subject of your investigation, and REDACTED as the victim.

In a conversation earlier this week between REDACTED and an officer in your Department, we understand that this case has been closed. In accord with the internal canon laws of the Church, the Archdiocese is now going through a procedure concerning Father Fernando's status. The content of an audio tape recording by your Department of a telephone call on May 24, 2002, between Father Fernando and REDACTED s very important to our reaching a fair and logical conclusion. The call was made during the course of Detective Brown's investigation and REDACTED our investigator, was given the opportunity to listen to the tape. However, to satisfy canon law, we need to have the actual tape available to the parties reviewing the case.

Accordingly, this letter is a formal request for the tape recording, or an authenticated copy. We will, of course, reimburse you for any expenses incurred in this matter.

If you have any questions please feel free to call me a REDACTED

REDACTED

LOS ANGELES POLICE DEPARTMENT

WILLIAM J. BRATTON
Chief of Police

P. O. Box 30158
Los Angeles, California 90030
Telephone: (213) 978-2100
TDD: (877) 275-5273
Reference Number: 14.4

ANTONIO R. VILLARAIGOSA
Mayor

October 7, 2008

RECEIVED
OCT 10 2008
BY:

REDACTED

3424 Wilshire Boulevard
Los Angeles, California 90010-2202

REDACTED

Dear

I have reviewed your request for a copy of a tape recording of a May 24, 2002, telephone conversation between Father Walter Fernando and REDACTED

Please be advised that the audio tape recording of a telephone call between Father Fernando and REDACTED was generated to support the Los Angeles Police Department's investigation.

In accordance with Government Code Section 6254(f), records of investigations conducted by, or investigatory files compiled by, any local police agency for law enforcement purposes, are exempt from disclosure. Your request seeks records that are either investigatory records themselves or properly part of an investigative file; therefore, I am denying your request. However, if your request is due to pending litigation, the document you are requesting may possibly be obtained through a court order.

If you have any questions regarding this correspondence, please contact Management Analyst REDACTED

Very truly yours,

REDACTED

LOS ANGELES POLICE DEPARTMENT

WILLIAM J. BRATTON
Chief of Police

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If you have any questions regarding this correspondence, please contact Management Analyst REDACTED

Very truly yours,

REDACTED

Father Walter Fernando
CMOB #027
SUMMARY

April 17, 2009

Timeline of Significant Events

Father Fernando was ordained in Sri Lanka in 1973. In 1981, he came to the Los Angeles Archdiocese and was assigned to St. Hilary's Parish on March 1, 1981. On August 7, 1981, the Complainant turned 18. Fernando served at St. Hilary's until his routine transfer to St. John Baptist de la Salle on November 30, 1981. Fernando was incardinated in Los Angeles on February 24, 1986.

4-02	The Complainant reported her alleged sexual abuse to the Los Angeles Police Department (LAPD).
5-02	As part of their investigation, the detectives had the Complainant make a monitored telephone call to Fernando. After that recorded conversation, the detectives went to Fernando's rectory, but he is gone on vacation.
6-02	Fernando informed the VC that the LAPD came to his rectory looking for him. He told the VC that about 20 years earlier he had "crossed boundaries" with a woman when he took her to the movies and put his arm around her.
8-02	The Los Angeles Times published an article naming Fernando as being under investigation by the LAPD. Ultimately the criminal case was closed due to the statute of limitations (*Stogner*).
1-03	The CMOB first discussed this case, but recommended no action due to the lack of facts.
2-03	VC REDACTED interview Fernando, but he declined to answer any questions regarding the Complainant on advice of counsel. Later, Fernando sent two letters (3-7-03 and 5-8-03) to the VC in which he denied the allegations and claimed to have obeyed his vow of celibacy.
3-03	CMOB considers the case again and requests that more information be obtained
1-14-04	LA Times article is published detailing the case against Fernando and reporting that he is still in ministry. On that same day, the CMOB considered the case and requested an expedited investigation.
1-17/18-04	A statement was read at all weekend Masses at St Hillary's that Father Fernando was named in a lawsuit accusing him of sexual abuse while assigned to that parish. Any parishioner with information regarding the matter was asked to contact the VC, but no contacts were made.
2-04	CMOB considered the case again and found the allegations to be credible. They recommend that Fernando be placed on administrative leave, which he was.
11-04	Case is sent to Rome
9-05	Rome responded that the complainant was 17 at the time and under the 1917 Code of Canon Law she was not a minor. (It has since changed to 18.) Consequently,

the case is not under Rome's jurisdiction and responsibility for further action rests with the Archdiocese.

Interview of Complainant

On January 24, 2004, the Complainant agreed to be interviewed by REDACTED They met in a restaurant accompanied by her lawyer. There were no restrictions placed on the interview other than asking that it not "drag on for several hours."

Complainant stated that when she was a senior in high school she worked as a junior secretary in the rectory. She worked most weekdays from after school until about 9:30 PM. Consequently, she almost always wore her Catholic High School uniform when working at the rectory. She was active in her parish, taught CCD and was in the choir. She characterized herself as an "unattractive nerd" with few friends and subject to verbal abuse from her peers. Her home life was troubled, so she enjoyed getting away to work in the parish.

Complainant said that while she was working at the rectory and still in high school Fernando took her to a movie. Towards the end of the movie he put his hand on her breast and began to rub it. Then he gave her a kiss on the lips. In another instance while she was still in high school they were together in a parked car and he laid his head on her lap pulling her head towards him and gave her a long kiss putting his tongue in her mouth. On another occasion while she was in high school, Fernando took her to a park where he kissed her and fondled her placing his hand inside her blouse and bra to rub the skin of her breast. Another time at the same park while she was in high school she was with him in a parked car. It was evening and he unzipped his pants, exhibited his erect penis and tried to force her to orally copulate him. She refused so he took her hand, placed it around his penis ad, with his hand clasped over hers, and masturbated until he ejaculated. She also described several incidents of sexual activity between her and Fernando that occurred after she was 18, including Fernando digitally penetrating her vagina.

Effective December 1, 1981, Fernando was transferred to St. John Baptist de la Salle parish in Granada Hills. So, the Complainant was now 18. He picked her up at her house and drove her to his new parish. He took her to a private sitting room in the rectory from which there was a door leading to his bedroom. They remained in the sitting room awhile while she played her flute. He brought her to the rectory a second time and this time they went into his bedroom. He had her disrobe, kissed her breast, sucked her nipples and lay on top of her on the bed and then alongside him. He did not undress, but she could feel his erection. She asked him why he did not undress and he replied he didn't want her to become pregnant. She estimated she went to the parish in Granada Hills about ten times and that similar sexual activity occurred between Fernando and her each time. She provided REDACTED with a detailed description of the rectory and Fernando's living quarters. When asked who could corroborate her story, she stated that her mother, brother and sister all knew that she was going out with Fernando.

Through his Canonical Advocate, Fernando denies that the Complainant was ever in his quarters at St. John Baptist de la Salle. Howeve REDACTED inspected the premises and found the Complainant's description of the physical layout to be completely accurate. In order to account

for any alterations that may have been made over the years REDACTED interviewed the priest who was the pastor there at that time. His description of the premises also matches the description given by the Complainant.

Through his Canonical Advocate, Fernando points out that he could not have driven Complainant as she describes because he did not have a driver license when he arrived in the United States. He claims not to have obtained his license until the summer of 1981. No documentation of that date has been obtained.

Monitored Telephone Call

On May 24, 2002, the LAPD detectives had the Complainant initiate a telephone call with Fernando. That conversation was recorded.REDACTED has attempted to obtain a copy of the call, but has been unsuccessful thus far. A letter from REDACTED to the LAPD resulted in an October 7, 2008, letter denying her a copy. The letter does say that if the request is due to pending litigation the document may be obtained through a court order. No effort has been made to pursue that avenue or to explore whether the police department would honor a church subpoena. There is also no explanation on why the request was not submitted to Deputy Chief Beck, the police department's Chief of Detectives.

The ability to obtain the tape notwithstandin REDACTED has had the opportunity to listen to the tape. He describes the tape as corroborating the Complainant's allegations. Fernando's admissions during that taped conversation are in direct conflict with his statements in his March 7 and May 8, 2003, letters in which he denies "having had any sexual activity with (Complainant)" and affirms that he has obeyed his vow of celibacy. REDACTED status report of March 21, 2007, states, "police record phone conversation between Complainant and Fernando in which Fernando appears to admit that sexual activity took place between him and Complainant when Complainant was 17 years old." His report goes on to say that, "Fernando said that he remembered kissing the victim but didn't remember showing her his penis; he stated that he thought the victim was 19 years old; he admitted feeling love for her and recalled rubbing her breast and kissing her breasts; he told her that he confessed his sins in this matter and asked her for her forgiveness; he stated he wanted to remain a priest and asked her to keep this between them. The investigator concluded that the tape appeared to confirm that something of a sexual nature had transpired between Fernando and the victim."

Interview of Complainant's Family

In the meeting of April 2, 2008, it was decided that efforts should be made to contact the Complainant's mother, sister and/or brother in an effort to corroborate the number of "dates" she allegedly had with Fernando and to determine if any of them had any additional information to support or refute these allegations. The need for this effort was consistent witlREDACTED March 21, 2007, analysis of this case. In that report he recommended that the Complainant's mother, brother and sister be interviewed to ascertain what knowledge they may have of the Priest and Complainant going out together. Rather than contacting these people directly, the

investigator has elected to seek their cooperation through the Complainant's attorney. Consequently, none of them has been interviewed nor have they declined to be interviewed.

Information from Attorneys

Attorneys representing the complainant and Archdiocese were contacted and they had no new information regarding this case.

Civil Suit

This case was settled as part of the global settlement. The amount received by this complainant was within the median amount for settlement of those cases.

Interview of Father Fernando

Once the foregoing were completed, it would then be appropriate to interview Father Fernando. Again, this would be consistent with REDACTED March 21, 2007, analysis of this case. His first recommendation in that report was that Father Fernando "should be interviewed *quam primum* with regard to every aspect of his case, since direct statements from him will prove invaluable for resolving many of the issues and questions that remain and will also prove useful in properly evaluating the claims advanced by (the Complainant)."

On Monday, March 23, 2009, Father Fernando was interviewed. Present were REDACTED REDACTED

The interview was transcribed and consists of 23 pages in total. After some legal wrangling, REDACTED is allowed to begin his interview. After asking a few background questions, he asks Fernando, "Did you have any type of relationship with females prior to...." He is immediately interrupted by REDACTED who instructs Fernando not to, "...answer any question that has to do with any relationship or any person of any kind." After a brief discussion of a canonical nature, REDACTED and the recorder are asked to leave the room.

An unknown amount of time later, they reenter the room and the record continues. Father REDACTED comments that, as a result of the conversation, they "have been able to come to an accommodation that should resolve concerns that have led to this investigation. And we will put this on record, but we're thinking that there isn't any further point to the investigation as such and tha REDACTED could be excused from this session." At that point the interview is concluded and REDACTED leaves the interview room.

Proposed Agreement

Once the investigation is concluded, a discussion ensues regarding an offer that Father Fernando has made and the Archdiocesan representatives apparently have accepted. That proposal is that:

1. Father Fernando will retire at 65 years of age (4-24-09) and will voluntarily agree to refrain from any priestly public ministry in the Archdiocese of Los Angeles.

2. Should any letter of inquiry be received from another Bishop, the parties would collaborate on the wording of any response from the Ordinary of Los Angeles. The letter would not say that Fernando has been found unfit for ministry, but clearly communicate that Fernando has offered and the Archdiocese has agreed that he will not exercise ministry in this diocese. Any Bishop making an inquiry should be given the facts and the decision left up to him regarding any granting of faculties. It was pointed out that CMOB would in all likelihood have difficulty accepting that provision, but that issue was never resolved. (Fernando vacations in Sri Lanka.)

3. The original precept placing Fernando on leave would be revoked.

Not discussed in the proposal are several other considerations the CMOB usually addresses in its final recommendations to the Cardinal. Among those are:

- The appropriateness of the accused priest residing or maintaining a presence in a rectory or church facility;
- An announced at any parish with which he has maintained a priestly relationship; and,
- Notification to the Complainant regarding the Archbishop's final decision on this matter.

Your Eminence:

The measures referenced in my letter to you dated September 22, 2008, deemed necessary to respond fully to the hierarchical recourse placed against me before your Congregation by Rev. Walter Fernando are now complete. These measures included, further investigation, the formal recommendation of my Clergy Misconduct Oversight Board, and hearing Father Fernando on the matter. I am hereby informing you of my final decision in the matter.

The following is a summary of the facts of the case based on the *acta causae*:

1. Walter Fernando was born on April 24, 1944 and was ordained a priest in Sri Lanka January 25, 1973, where he ministered until 1981. In 1981 he came to Los Angeles and was incardinated in our Archdiocese in 1986. In 2002, the local police began an investigation into an allegation, that some 20 years earlier, Fr. Fernando had sexually abused a 17 year old girl. He denied all claims of abuse. A canonical investigation was undertaken, and despite Fernando's denial of the allegations, the accusation was deemed credible and decree February 19, 2004, Fernando was placed on administrative leave according to the norm of Canon 1722. Since that time Fr. Fernando has been living in an ecclesiastical house with his room and board provided. He continues to receive his salary and is covered by medical and other benefits.

2 On September 1, 2004, Father Fernando gave his mandate to REDACTED REDACTED, to represent him as his procurator and advocate in all matters having to do with investigation of this case. The archdiocese has paid for all of REDACTED services.

3.On November 9, 2004, I furnished a report to the Congregation for the Doctrine of the faith in accord with the provision of *Sacramentorum sanctitatis tutela* Art. 13. On July 4, 2005, that Dicastery responded that, since by her admission, the woman was 17-18 years of age at the time of the alleged incidents in 1981, the matter cannot be considered as a *delictum gravius*, and I did not need any authorization from that Dicastery to evaluate the merits of the case and act accordingly.

The Allegation

The complainant, REDACTED was interviewed at length by canonical auditor. She alleged:

a) That while attending a movie together Walter Fernando put his hand on her breast and began to rub it.
b) In another instance, while in a parked car, Walter Fernando gave her a long kiss, putting his tongue in her mouth.
c) On another occasion, while at a park together, he kissed and fondled her, placing his hand inside her blouse to rub her breast.
d) Another time at the same park, while in a car he unzipped his pants, exhibited his erect penis and tried to force her to orally copulate him. She refused so he took her

WALTER FERNANDO

Summary

General Data

Walter Fernando was born on 24 Apr 44 and ordained in Sri Lanka on 25 Jan 73, where he ministered until 1981. In 1981, he came to Los Angeles, where he ministered until 2004, having been incardinated into L.A. in 1986. In 2002, police began investigating an allegation that, some 20 years earlier, Fernando had sexually abused a 17-year-old girl. Fernando denied all claims of abuse, canonical investigation was undertaken, and despite Fernando's denial of allegations, accusation was deemed credible and Fernando was placed on administrative leave in 2004.

Details of Allegation

In 2002, an adult woman claimed that in 1981 when she was 17 years old, and continuing on past her 18th birthday REDACTED, Fernando engaged her in a sexual relationship that included kissing, touching and kissing of breasts, digital penetration of vagina, masturbation of victim and attempts to force victim to orally copulate the perpetrator.

Statements by Fernando

Denials. In Mar 03 Fernando wrote to the Vicar for Clergy denying the girl's claim that he digitally penetrated her, masturbated her and attempted to force her to have oral sex. In a subsequent letter the same month he denied having had any sexual activity with the girl in question and affirmed that he had absolutely obeyed his vow of celibacy.

Admissions. In 2002, Fernando, having been contacted by police detectives, sought advice from the Vicar for Clergy, as he thought the matter might involve a situation from 20 years earlier when he "crossed boundaries" with a young female parishioner. A month earlier, police had recorded a phone conversation between the alleged victim and Fernando, which, according to police, corroborated the allegations made.

In 2004, a canonical investigator listened to the police recording of the phone conversation, and reported that on the tape Fernando said that he remembered kissing the victim but didn't remember showing her his penis; he stated that he thought the victim was 19 years old; he admitted feeling love for her and recalled rubbing her breast and kissing her breasts; he told her that he confessed his sins in this matter and asked her for her forgiveness; he stated that he wanted to remain a priest and asked her to keep this between them. The investigator concluded that the tape appeared to confirm that something of a sexual nature had transpired between Fernando and the victim.

Admission of Victim to Third Party

Sometime between 2000 and 2002, the alleged victim told a friend of hers that Fernando had abused their relationship. This friend does not believe that the victim would lie about such a thing, nor did it occur to this friend that the abuse was sexual, she presumed it to have been something like the betraying of a confidence.

Criminal/Civil proceedings

No criminal charges were filed against Fernando, but a civil lawsuit was filed in 2003 and settled in 2007.

Canonical proceedings

A canonical investigation found the accusation to be credible, but the victim was not a minor in canon law; hence there is no *gravius delictum*. Fernando's canonical advisor claims that

the victim, even if her allegations are true, was not even a minor in civil law, as none of the behavior alleged could have occurred before she was 18 (the advisor explains that Fernando did not have a driver's license until after the victim had graduated from high school, and all the alleged behavior involves Fernando driving the victim in his car). The victim, however, clearly recalls much of the behavior occurring while she was still in high school, before she turned 18.

Conclusions

Whatever may have happened between Fernando and the victim, and however old the victim may have been, this was clearly a one-time occurrence, that is, at no time after these alleged events in 1981, have there been any reports of misconduct by Fernando. Fernando appears to pose no real danger to any minor. However, a determination needs to be made whether Fernando can be returned to active ministry of any kind, even restricted. Although the case does not involve a *gravius delictum*, the Archbishop can — should he determine that the case warrants it — restrict Fernando's ministry in accordance with the norms of canons 233 §2 and 277 §3.

In the matter of Walter Fernando:

The primary evidence comes from a canonical auditor who listened to a police tape recording of a telephone conversation in which Fernando admitted to the complainant his crossing sexual boundaries (fondling and kissing her breasts). He also stated that he confessed his sins in this regard, indicating his awareness of having transgressed the sixth commandment. It should be noted that this evidence contradicts his flat denial, written in 2003, that he had "absolutely obeyed his vow of celibacy."

The Dallas charter upholds the principle of zero tolerance for even one transgression that is proven or admitted involving the sexual abuse of a minor.

The following considerations are relevant:

a. There is a dispute about the victim's age at the time of the offense, whether she was 17 or 18. Canonically, she was not a minor at the time (below 16). If she was 17, civilly she was a minor. There is no reasonable hope of resolving this dispute.

b. The relevance of this point is that if she was civilly a minor, then from a civil law standpoint, a crime was committed, regardless of Fernando's intentions or false understanding of her true age.

c. Even though there was no *delictum gravius* (by reason of the victim's age), the principle of *aversio in parochum* mentioned in canon 1741 3° applies all the more strongly in cases of this nature, as borne out by the extent of the damages exacted thus far against the Archdiocese to the tune of $720,000,000, only a fraction of what was initially sought.

Further point: Do we know exactly the nature of the appeal? I must assume it is against the temporary measures that the Archbishop has taken for "the good of the Church and the public good," since a final determination of his status has not been made.

The review board's delay in making its final recommendation has certainly not helped matters, as justice delayed is justice denied. Nevertheless, it is reasonable to assume that its decision will be that Fernando should not be returned to ministry. The board consists of eleven "upright and responsible parishioners" (canon 1741 3°) and two pastors. They are well aware of the wider public sentiment as well as the predicament of priests who are either falsely accused or whose transgressions are long past and who pose no reasonable danger to minors. Their estimation of an accused cleric's suitability or lack thereof for return to ministry is not to be taken lightly.

Matters to be considered in deciding how th REDACTED should respond

1. Should there be an interim letter to the Congregation, or should there be a resolution and then a response?

2. At every step of the way the archdiocese has paid for competent advocacy, has heard the accused, has supported and housed the accused in a safe and suitable place, and will hear the accused again before a final resolution.

3. There seems to be little doubt that something of a sexual nature did occur between Walter Fernando and REDACTED The police tape seems to be the best objective evidence of this

4. Complicating the issue is the fact that the matter received extensive press coverage in the local papers and announcements were made at two parishes. If Walter is placed in ministry, the archdiocese would not be in a position to announce that he is completely exonerated. Given the public nature of the case, any parish to which Walter would be assigned would have to be set straight on the facts. This would put Walter in a very awkward position; how would he be received by the parishioners? Would his ministry be effective? An important factor in all of this would be whether or not REDACTED received a settlement. Parishioners might want to know that.

5. A REDACTED was over 18, the matter is outside the realm of a *gravius delictum.* Yet, something of a sexual nature did take place that cannot be ignored. The architects of the Essential Norms had this very situation in mind when they included Norm 9. When a delict is admitted or proven, the diocesan bishop does not need a Review Board; he has no option but to remove the accused from ministry.

6. The cardinal has not taken this matter lightly as evidenced by the fact that the matter has been taken to the Review Board at least three times and at least two recommendations have been given. The letter to the advocate dated May 17, 2008, clearly states that the matter is pending before the Review Board yet one more time, this in the wake of the settlement of the law suits. His Eminence' decision will be duly communicated with motivation. **(It should be noted that CMOB is made up of volunteers who donate time from their regular work to serve on this board. In view of the large number cases, old and new, that are in need of review, it takes a great deal of time to do a thorough job. For that reason, the resolution of these matters takes more time that we would like)**

7. The legal action will not be taken on the basis of c.223.2. His Eminence understands that any determinations that are made cannot include the imposition of expiatory penalties but must address the cleric's ministry from the perspective of the pastoral responsibility of the diocesan bishop to exercise governance by regulating ministry within the diocese. Furthermore, he understands that any administrative decisions which he makes must be done in writing in keeping with

the principles of law which regulate the issuance of a singular decree, and if the cleric is aggrieved, he does have the right to challenge the decision.

8. **As he exercises his responsibility in this matter, he will keep in mind the good of the cleric himself, the good of the church and the supreme law, the salvation of souls.**

In Facto:

May 24, 2002: The police record a telephone conversation between Walter Fernando and REDACTED in which Walter Fernando appears to admit that sexual activity took place between himself and REDACTED when REDACTED was 17 years old.

June 13, 2002: Walter Fernando learns that police detectives wish to speak with him. Believing that the matter might involve a situation from some 20 years earlier when he "crossed boundaries" with a young female parishioner, Walter Fernando seeks advice from the Vicar for Clergy.

January 22, 2003: The Vicar for Clergy brought the matter to CMOB. No recommendation pending further information.

February 10, 2003: Decree issued opening the preliminary investigation in accord with C. 1717.

March 7, 2003: Walter Fernando denies all claims made by REDACTED as part of a class action suit in which Walter Fernando is named.

March 26, 2003: The Vicar for Clergy reports to CMOB that Walter Fernando has been named in a class action suit. The information stated that Walter Fernando had abuse a young girl from 1980-1981 by pre-sexual grooming, French kissing, fondling buttocks, rubbing/massaging breasts, placing finger in vagina, etc. CMOB recommended that further information be obtained from Walter Fernando and REDACTED

May 8, 2003: Walter Fernando denies in writing ever having any sexual activity with REDACTED **(By now, Walter Fernando has engaged civil counsel)**

January 14, 2004: CMOB asks for further information. It reports that it will not hesitate to recommend administrative leave if credible information warranting such action is presented.

January 14, 2004: Article in LA Times

January 15: 2004: Article in Pasadena Starr News.

January 16-20, 2004: Various witnesses are interviewed.

January 17-18, 2004: Announcements at all the Masses at Assumption, Pasadena and St. Hiliary, Pico Rivera.

January 22, 2003: CMOB discussed the case.

March 26, 2003: CMOB discussed the case

April 23, 2003: CMOB gave a recommendation

January 14, 2004: CMOB gave a recommendation

February 17, 2004: CMOB gave a recommendation.

January 23, 2004: Canonical auditor reports thaREDACTED was born on August 7, 1963, that Walter Fernando was at St. Hilary's from March 1, 1981- Nov 29, 1981, that there are no independent witnesses to corroboratREDACTED allegations, that the police recorded a telephone conversation betweenREDACTED and Walter Fernando, which according to police, corroborateREDACTED account.

January 29, 2004: Canonical auditor interviewedREDACTED at length. She alleges that Walter Fernando sexually abused her.

February 7, 2004: Article in LA Times.

February 17, 2004: CMOB, despite Walter Fernando's denials, finds thaREDACTED REDACTED ccount of things to have the appearance of credibility and recommends that Walter Fernando be placed on administrative leave.

February 19, 2004; Walter Fernando is placed on administrative leave.

March 3, 2004: Article in the Los Angeles about the allegations against Walter Fernando

September 1, 2004: Walter Fernando engages canonical counsel. The Archdiocese agrees to pay advocates fees.

September 22, 2004: The canonical auditor listens to the police recording of the conversation betweREDACTED and Walter Fernando. He admitted feeling love for her. He recalled rubbing her breast and admitted to kissing her breasts. The tape seems to confirm that something of a sexual nature transpired between them. Debate ensue as to whether there was question of a *gravius delictm,* SinceREDACTED appeared to be above the age of 18.

November 9, 2004: Since the preliminary investigation established the semblance of truth inREDACTED allegations, that when she was 17 years old she was sexually abused by Walter Fernando, Cardinal Mahony reports matter to Rome, noting that REDACTED ~~migh not have been a minor at Canon Law but would have been a minor in~~ civil law.

July 4, 2005: CDF responds to Cardinal Mahony advising him that since the case does not involve a reserved *gravius delictum* not special authorization is needed for him to evaluate the merits of the case and act accordingly.

November 9, 2005: Walter Fernando's canonical advocate writes to the Vicar for Clergy expressing concern at the Vicar for Clergy's proposal to engage in further "fact finding' investigation while the civil lawsuit b REDACTED was pending. He suggests the *status quo,* i.e. Walter Fernando's continuing administrative leave with residence at St. Basil's and no further action on the part of the archdiocese- should be preserved until the conclusion of the civil suit.

December 19, 2005: Walter Fernando's canonical advocate writes to the Vicar for Clergy expressing concern that doubt exists as to whether REDACTED was under 18 when the alleged abuse took place and objects to any "fact-finding" on the part of the archdiocese until it is proven that REDACTED was in fact under 18. **(meanwhile, law suits are still pending).**

November 6, 2006: Advocate writes to Vicar for Clergy complaining about the delay in acting on the case and asks why Walter Fernando is still out of ministry. Advocate asks what action the archdiocese intends to take in the case.

December 15, 2006: Vicar for clergy writes to advocate explaining that, in agreement with what the advocate had written in his letter of Nov 9, 2005, the archdiocese also felt that it was in the best interests of all concerned to preserve the status quo with regard to Walter Fernando (i.e. administrative leave and residence at St. Basil's) unti;l the civil suit should be concluded; at an opportune time the serious question of Walter Fernando's suitability for ministry will be properly handled.

December 23, 2006: Advocate writes to Vicar for Clergy arguing that the matter cannot be pursued further under 1395.2; "I am now concerned about this open-ended delay, especially because the disposition of the civil case may have no bearing on the canonical issues".

November 2007: Law suits are settled.

February 25, 2008: Advocate requests that faculties withdrawn by the Vicar for Clergy on Feb. 18, 2004, be rescinded and Walter Fernando be reinstated .

May 17, 2008: Response from Vicar for Clergy; petition denied.

May 31, 2008: Advocate requests a reconsideration of his request.

REDACTED

From: REDACTED
Sent: Monday, March 02, 2009 9:03 PM
To: REDACTED
Gonzales, Msgr. Gabriel; REDACTED
Subject: Re: FERNANDO CASE

REDACTED

Thanks for the email.

Yes, we decided some months ago that a particular person would be assigned as IN CHARGE of each of these cases and investigations until resolution.

If we need to meet again quickly to do that, please let me know.

I am concerned that these cases drag on for months and years and no one is responsible for each case.

+rmm

In a message dated 3/2/2009 7:53:59 P.M. Pacific Standard Time, REDACTED writes:

REDACTED

> When I received your email last Friday, I thought it would be prudent to wait and see what feedback it illicited. Four days later I have received none--hence this email. My concern is that no one person sees themselves as responsible for pursuing the Fernando investigation. Consequently, I'm afraid everyone may be waiting for someone else to finish the investigation so the CMOB can hear it and make their recommendation to the Cardinal. So, let me force the issue with two questions:
>
> 1. Who is responsible for finishing the Fernando investigation?
>
> 2. In addition to Fernando, who is responsible for completing the investigations on REDACTED REDACTED ? We all met on these cases in December 2008 and agreed on the additional investigation that needs to be done.

REDACTED

> ----- Original Message -----
> **From:** REDACTED
> **To:** REDACTED Gonzales, Msgr. Gabriel; REDACTED
> **Cc:** REDACTED
> **Sent:** 2/27/2009 2:49:35 PM
> **Subject:** CMOB special review case
>
> All,

It was last September that the Cardinal sent a letter to the Congregation for the Clergy in response to their notice that it had received an appeal from Fr. Walter Fernando against his removal from ministry. The Cardinal's letter indicated that the case was still being investigated and so no decision had yet been made to appeal against. However, the investigation should be concluded soon, and when it is, the Cardinal will notify the Congregation of his decision in the matter.

In about three more weeks, it will be six months since this letter went to the Congregation. I am fearful that if they do not hear from the Cardinal soon, they will take some kind of action.

What is the status of the investigation? I believe once we completed the other items outlined by REDACTED as needed doing, someone needed to interview Fr. Fernando himself. Are we ready to do this? Once CMOB makes its formal recommendation to the Cardinal in the matter, he can make his decision and notify all concerned.

If we need to convene to discuss this, please be aware that I am out of town March 1-4, returning to the office Thursday, 5 March.

REDACTED

A Good Credit Score is 700 or Above. See yours in just 2 easy steps!
