VOLUME I
ISSUE 1

SEPTEMBER 2007

Due Process, Law and Love

Justice for Priests and Deacons

Justice for Priests and Deacons
Celebrating our 10th Anniversary
1997-2007

JUSTICE FOR PRIESTS AND DEACONS IS AN INDEPENDENT CANON LAW GROUP DEDICATED TO DEFENDING THE RIGHTS OF CLERGY

"If you want peace, work for justice."
Pope Paul VI

INSIDE THIS ISSUE:

A BRIEF HISTORY OF JUSTICE FOR PRIESTS AND DEACONS 2

THE SUCCESS OF OUR MINISTRY 3

LETTERS OF THANKS 4

WEBSITE OUTLINES DUE PROCESS RIGHTS 5

PSYCHOLOGICAL EVALUATION OF CLERGY 5

CALLED TO LIVE A LIFE OF FORGIVENESS, RECONCILIATION AND LOVE 6

THOU ART A PRIEST FOREVER 6

WORKSHOP ON RIGHTS OF WOMEN RELIGIOUS 8

PRISON MINISTRY 9

GUILTY UNTIL PROVED INNOCENT 10

MAY THE LORD BE WITH YOU, MY BROTHERS AND SISTERS

As the chairman, I am delighted to be able to send you our first newsletter: *Due Process, Law and Love*. Now in our tenth year, we find occasion to reach out to you, our benefactors, interested people and those to whom we have been able to provide assistance. I pray that you will find this newsletter, with important information and worthwhile materials, helpful and delightful.

About fifteen years ago, Dr. Michael Higgins, J.C.D. and I had the opportunity to meet at two different conventions in sunny San Diego. We spoke about the injustices that were happening to priests, religious and laity. We had come to know them and had worked with many of them. They had not received justice from their bishops, provincials and pastors. They did not know what rights they had, and were shocked to discover that many people in authority were working not for the good of the people of God but to shield themselves from liability according to what civil lawyers were telling them. Many were completely ignoring the Code of Canon Law. It became apparent that something needed to be done to inform priests, religious and laity of their rights and to assist them in finding justice within the law.

Since then, we have gathered over ninety canonists worldwide and provided assistance to hundreds of priests, deacons, sisters and lay people who have been seeking information and advocacy before their provincials, pastors and bishops. You have been an important part of this ever increasingly needed ministry. As time goes on we discover that the need has increased. Your continued prayers and support make this possible. Thank you for all you do for those who have received injustice and accusations and who need our assistance with regard to employment and allegations of sexual misconduct.

With the grace of God we pray that we might continue to help all involved and that eventually our ministry demand might diminish as the Justice of God is lived and proclaimed in our Catholic Church.

Rev. Michael Sullivan, J.C.L.

Chairman of the Executive Board

Saint Raymund of Pennafort (1180-1275)
Brief biographical sketch on back page

A BRIEF HISTORY OF JUSTICE FOR PRIESTS AND DEACONS

Thank you for your interest in Justice for Priests and Deacons. I would like to give you a brief history of our organization.

Having obtained my doctorate in canon law (J.C.D.) from the Pontifical Gregorian University, Rome, I returned to San Diego in the early seventies. Upon my return, my duties were many and varied at the request of my bishop. I was the official canon lawyer for the diocese and Judicial Vicar of the Diocesan Tribunal. I joined many professional organizations and became involved in leadership both on the national and international levels. I began to notice disregard for rights and the lack of justice for clergy and laity by Church authority, not only in the U.S. but also in other countries. I saw the need to vindicate these rights and began to do advocacy work and defend some of those injured by the lack of just treatment.

In the light of this experience, I joined with other canon lawyers of like mind and decided to establish the organization: Justice for Priests and Deacons. The first meeting of our organization took place in San Diego in October 1997, and fourteen canonists from the U.S and other countries attended. We now have ninety canonists working with us. All our canonists must have degrees in canon law. Many have advanced degrees in sacred theology and twelve have civil law degrees.

We have several theologians who act as consultants in their area of expertise such as biblical theology, liturgy, sacramental theology, moral theology and systematic theology. We are also blessed to have competent legal counsel. We do consultancy for some bishops and civil attorneys who are defending priests in criminal and civil cases.

The rapid growth of recognition about our organization is attributable to the excellent publicity that we have received. We are known by many members of the clergy and laity, not just in the U.S., but also overseas. We have found that many priests have received serious injustices from their bishops or religious superiors and because of this there is a great need for our services.

We also have defended the rights of some laity, women religious and brothers. Some cases are a travesty of justice. One woman was removed from being an Eucharistic Minister because she was not using her Sunday envelopes. We had her reinstated. Her husband deserted her for another woman, leaving her with two young children. She continued to work and also went to school to get her degree in nursing so she could get better work.

Jesus said: "Blessed are the poor in Spirit." We do many other things from providing a list of pensiones in Rome to finding an attorney in San Diego who is a specialist in taxes and real estate for a wonderful couple who are benefactors. We also have a Department of Linguistics that translates Roman documents for our canonists and bishops.

If you are interested in additional information, you may wish to visit our web site at ***www.justiceforpriests.org***.

Dr. Michael Higgins, M.A., S.T.D. , J.C.D.

****

IS DUE PROCESS A SHAM?

Justice for Priests and Deacons received some very good national exposure this spring when the National Catholic Reporter did an article about the lack of due process concerning the abuse problem in the United States. They contacted our office to get some information and our director; Dr. Michael Higgins forwarded their call to me. We spoke for nearly ninety minutes and there was a follow-up call. They quoted me extensively as they described the lack of canonical procedure and justice for those accused of misconduct. They described the disregard for Canon Law by some bishops and provincials in dealing with priests, religious and laity.

I shared with them a number of stories about cases in which we have been involved. I purposely changed names and other data that would be identifiable. Since the article came out in April, I have received a number of calls from priests and deacons throughout the country and our office has received even more. It

is apparent to me that those involved in church ministry know that an organization such as ours exists, for the article confirms that many know the current state of bishops "abusing" their priests and deacons. As one recent article pointed out, first the bishops abused the sheep of their flock by acting inappropriately with the victims and now they are acting inappropriately with their brothers in the clergy. Will the bishops' misconduct ever stop? Apparently not, with some of those currently in the role of bishop.

Once an accused person knows of an accusation, he should IMMEDIATELY stop any process until he has both a canon lawyer and a civil attorney. He should NEVER agree to depart from his residence unless arrested. The removal of a pastor is a separate canonical procedure to which bishops are still held. And he should NEVER agree to leave for treatment until everything is clearly spelled out in a letter from the diocese or religious order. We continue to advise those accused that they should NEVER resign their assignment in the diocese even though the bishop says appropriate ministry will be found after their treatment.

These are simple rules to protect the canonical rights everyone has, since many religious superiors have decided to ignore proper procedures found in Canon Law. Tragically by actions that bishops have decided to take in the past, they have placed themselves in adversarial positions with the very people for whom they are supposed to have a "special solicitude" and special care to see to the protection of their rights (canon 384).

It is my fervent prayer that in this great time of need, Christ will raise up men "of good reputation, filled with the Holy Spirit and with wisdom" (Acts 6:3). Pray, my sisters and brothers that God might look favorably upon His church in this hour of need.

Rev. Michael Sullivan, J.C.L.
Archdiocese of
St. Paul and Minneapolis.

THE SUCCESS OF OUR MINISTRY

Our first press release was in October 1998, and an article appeared in the National Catholic Reporter. The publicity of the organization was received with great enthusiasm. The paper told us that they had received many positive comments. Clergy welcomed the existence of an independent canon law group. They fear that they cannot be adequately represented by diocesan canon lawyers and can now turn to our canon lawyer referral program.

Most diocesan canon lawyers work in the tribunals of local dioceses and are employees of the diocese themselves. Thus, they are often reluctant to take on cases that will put them at odds with their employer.

Most priests and deacons are inadequately informed about their rights under canon law. Father Donald Wolf, director of the National Federation of Priests Councils, hailed the availability of an independent referral program. "Most priests", he said, “are not aware of their own rights under canon law. This new program should not be construed as an attack on dioceses. We see it as a service.

It's important for priests and deacons to be aware of their rights. All too often, they are not provided this information, and, as a result, they may not be justly treated."

Our office has formally accepted 610 cases. Many clergy have returned to active ministry, others have their cases still pending at the Holy See. We also have some priests and deacons who have retired. Every effort was made to make sure that they received their pension and medical benefits. We tried to do the same for priests who have been laicized and those who have received forced laicization. Proper defense at times is very difficult. The major flaw is that the accused rarely get to see or respond to the bishop's letter (votum) sent to the Holy See. As a result of this, they are unable to make a proper canonical defense. This letter carries tremendous weight, and determines the outcome in many cases.

The right of defense must be given for the canonical process to be valid. Our organization also has a ministry to victims. We facilitate support groups for victims on a weekly basis.

LETTERS OF THANKS

We do appreciate in hearing from our clients around the world and here are some letters that we have received.

For me, the first and greatest gift Justice for Priests and Deacons gives suffering priests is hope. This becomes a practical reality through the excellent web site with its easy reference to relevant canons; very important as well is the help in finding a canonical advocate.

Doctor Higgins' personal interest, his forwarding of relevant documents, articles, etc. is also part of the great service given to suffering priests over the past ten years -- all of which have been of immense help to me personally and for which I am truly grateful.

Rev. Robert Papi
Peterborough, Canada

I want to thank you, Michael, and Justice for Priests and Deacons, for taking my case in 2003. It was a happy day for me when I found you on the Internet and an even happier one when you so quickly assigned me a canon lawyer to deal with my case.

My canonist guided me through my first appeal to the Congregation for Clergy against my bishop's removal of me as Parish Priest. This appeal was upheld in 2004. Then, with equal care he guided me through my appeal against the bishop's second removal. This too was upheld.

I want to thank you and the other canonists for the work they do for priests like me.

Few priests understand their rights when bishops move against them. I found in Justice for Priests and Deacons the help I was looking for, a Canon Lawyer who understood my needs and who guided me with great clarity and kindness through the difficult process of appealing against a decision of my own bishop.

God bless you and your team.

Rev. John Speekman
Camperdown, Australia

Thank you to Justice for Priests & Deacons. A priest friend had difficulty with the Archdiocese of Chicago and we needed canonical counsel to defend his rights. We contacted Justice for Priests and Deacons. My friend received excellent counsel, defended his rights, and was reassigned to a beautiful parish. We are truly grateful for the advocacy he received here.

Mary Ellen McGuire
Chicago, Illinois

****

FINANCIAL SUPPORT

This Newsletter is being sent to you through the generosity of our many benefactors - priests and laity. We need your prayers and your financial support to keep Justice for Priests and Deacons active in the defense of rights for the People of God.

Justice for Priests and Deacons is an independent, world wide group of canon lawyers and not affiliated with any Diocese. It is the only organization that has an advocacy program to defend the rights of clergy, religious and laity. We face tumultuous times where the morale of priests is at an all time low.

This newsletter is being sent to over 42,000 priests in the U.S. including active, retired, religious, Eastern Rite priests and chaplains; it was mailed to all English speaking bishops of the world and copies personally delivered to members of the Vatican Curia and the Holy Father with a very positive response.

Sadly we all know of a priest who has been removed from active ministry. Many live in fear since in most cases priests realize that little support comes from their bishops. There has always been a solidarity amongst priests and we are always here to help you.

Mail your donation to: Justice for Priests and Deacons, P.O. Box 87225, San Diego, CA 92138-7225. Or donate at our website www.justiceforpriests.org using your credit card. **Any amount helps us.** Your donation is tax-deductible. Please study and keep the newsletter. **We are *all* only one step away from a complaint being brought against us.**

God loves a cheerful giver: 2 Corinthians 9:7

WEBSITE OUTLINES DUE PROCESS RIGHTS

This past year, the website of Justice for Priests and Deacons has a special section that outlines all the rights of a cleric who finds himself in the most difficult situation of having been accused of anything.

Even though it was designed as a quick reference for clerics with little or no background in Canon Law to know their rights and what to expect, it can also be most helpful for Canon Lawyers acting as Advocates for such clerics where the footnotes specify the applicable canons and laws.

Perhaps the most important time to avert serious damage affecting his rights is precisely at the very beginning when nothing more should be done or said until he attains a canon lawyer and perhaps, even, a civil attorney. In the equivalent of eight single-spaced pages, eight different chapters outline what he could expect anywhere from being accused of a most serious crime such as sexual abuse of a minor to being simply an administrative transfer as a pastor whose ministry is considered though disputed to have become ineffective.

Even if a serious mistake was done in the very beginning such as signing a letter of resignation, canon law still avails the cleric 10 available days to retract such actions before they become effective, where after such a period elapses, little can be done to undo it.

Perhaps the hardest thing to undo would be the signing of a confession, where all the legal ramifications need to be considered by means of legal counsel. So in the hope of avoiding such serious mistakes, a handy and concise reference in this pressure-filled time is only a click away. And even experienced canon lawyers may appreciate a handy reference to ensure nothing is forgotten in the service toward their clients thanks to the Justice for Priests and Deacons website.

Rev. Michael Maginot, S.T.L. J.C.L.
Diocese of Gary, Indiana

PSYCHOLOGICAL EVALUATION OF CLERGY

The Holy See has constantly defended the right of a person to refuse psychological evaluation. (cfr. A.A.S. LIII (1961)

Pope Paul VI held the opinion that psychological testing is an invasion of the internal forum. He instructed Cardinal Villot, then Cardinal Secretary of State, to make his mind known to the bishops of the Church. This was done in a letter dated 6 August 1976, which was sent to all the Nuncios for transmission to the bishops of the world (cfr. Segreteria di Stato, N.311157, 6 August 1976).

On October 8, 1998, The Congregation for the Clergy wrote: "It is the constant teaching of the Magisterium that investigation of the interior and moral status of any member of the Christian faithful cannot be carried on except with the consent of the one to undergo such evaluation, as is clearly written about in the instruction of the Secretariat of the State in their August 6, 1976 letter to Pontifical Representatives."

The release of information form that you choose to sign (or not) should be very specific in designating to whom the assessment information will be released, and over what time period it will be in effect. Only you have the right to designate to whom the report will be released.

Federal and civil statutes forbid any information to be released without a signed authorization from the individual. We suggest that you limit the time for the release of information to no longer than a three-month period. It is also the right of the person to review the information and to approve it before it is released.

These rights must be clearly understood to be real rights of the individual and must be safeguarded as such by competent authority. These are not mere theories subject to arbitrary interpretation and application but are rights guaranteed in our legal structure.

Rev. Gavin Vaverek, J.C.L.
Diocese of Tyler, Texas

****

CALLED TO LIVE A LIFE OF FORGIVENESS, RECONCILIATION AND LOVE

Lord, when my brother wrongs me," Peter asked Jesus one day, "how often must I forgive him? Seven times?" Seven is a biblical number of fullness or completion. There were seven days in the week, seven petitions in Solomon's prayer at the dedication of the Temple (1 Kings 8:29-53), seven petitions in the Lord's Prayer.

The gospels record seven utterances of Jesus on the cross, and an appearance of the risen Lord to seven disciples after a night of fruitless fishing on the lake (John 21:2). The Samaritan woman whom Jesus encounters at the well in John 4 has had five husbands and is living with a sixth. Jesus, the seventh man in her life, is the one with whom she finally finds the fulfillment of her deepest desires.

Though Peter proposes what he considers a correct answer to his own question, Jesus tells him to think again. The parable of the Unmerciful Servant follows (Matthew 18:23-35). The king in the story forgives him an unpayable debt: not as a reward for past services, but as a free gift. The servant immediately finds a fellow servant whose debt to him is payable, and insists on immediate payment in full. When the king hears of it, he cancels his forgiveness of the first servant's debt.

Jesus is telling us that the forgiveness we receive from God is given under one strict condition: that we share it with others. Like all God's gifts, we can't keep it, unless we give it away!

Our willingness to forgive others must reflect God's willingness to forgive us - which, like God's himself, is without limit.

Rev. Jay Hughes, Th.D.
Archdiocese of St. Louis

****

THOU ART A PRIEST FOREVER

Scripture, tradition and the magisterium have always taught that sacred ordination confers an indelible character. This sacrament configures the recipient to Christ by a special grace of the Holy Spirit, so that he serves as Christ's instrument for his church. By ordination one is enabled to act as a representative of Christ, Head of the Church, in his triple office of priest, prophet and king.

It is true that someone validly ordained can, for grave reasons, be discharged from the obligations and functions linked to ordination, or can be forbidden to exercise them; but he cannot become a layman again in the strict sense, because the character imprinted by ordination is forever. This is defined doctrine by the Council of Trent that once he is ordained that he can never again become a layman. Therefore, laicization is a fiction of law, which was taught in the past by German and French canonists. Priests who have left the active ministry can still validly administer the sacraments especially the Anointing of the Sick and the Sacrament of Reconciliation.

Protecting Your Rights as a Priest and Deacon

A. If the Vicar for Clergy (or another diocesan official) summons you to a meeting after informing you that you have been accused of sexual abuse or other misconduct; or, if you are summoned to a meeting without being given the reason:

1) Immediately find yourself a competent canonist. You can always contact our office and we will try to help you and give you canonical advice.

2) You should also talk to a civil attorney especially if there is a possibility of a criminal case.

3) Take your civil attorney, your canonist or another reputable individual such as a fellow priest with you to the meeting. This will provide you with an independent witness to the proceedings and will limit the possibility that the meeting is mischaracterized or inappropriately interpreted at a later date. You should never go by yourself.

4) Request that the Vicar for Clergy put the purpose

of the meeting, including any and all specific allegations, in writing. If the Vicar for Clergy refuses to comply with this request, and you and your counsel decide to meet nonetheless, take careful notes. Immediately after the meeting, compose a document summarizing your notes and stating that the Vicar for Clergy refused to disclose the purpose of the meeting beforehand and/or that no specific allegations were provided to you in writing. Request that the Vicar for Clergy enter this document into your personnel file at the diocese.

5) Know that nothing you say to any agent of the diocese is considered legally confidential. Make no statements before consulting with your canonist and your attorney.

6) During the meeting, neither confirm nor or deny anything; nor make any decisions or agreements. Just listen.

7) Inform the Vicar for Clergy that you will expect to review your entire diocesan personnel file, and any other records kept about you in the Chancery, Tribunal, or Vicar for Clergy office, when you meet. It is possible that your file contains written complaints or allegations about which you were never informed, even though you have the right to be informed of any such allegations. This is very often ignored.

B. If the Vicar for Clergy (or another diocesan official) demands that you must undergo psychological testing or a psychological evaluation:

Know that you cannot be forced to undergo a psychological assessment or evaluation, and that you have the right to refuse to release the results of any such process. Note, however, that your decision not to undergo an assessment or evaluation may be interpreted against you in an ecclesiastical process.

C. If you decide to undergo mandated psychological testing or a psychological evaluation:

1) Be aware that the institution evaluating you considers the diocese or the religious community -- not you -- its client. The person, who pays for the financial expenses of the treatment center, does not give that person a right to receive information about you. Treatment centers try to placate bishops because they depend on dioceses to send them clients.

2) Demand that the Vicar for Clergy give you a copy of all information being sent to the evaluating institution. Make a list of these documents, and have the Vicar for Clergy confirm in writing that this list is accurate and complete.

3) Do not sign any release of confidential information from a doctor, psychiatrist, psychologist, or psychiatric institution to the diocese before you have read the document or record you are releasing. Psychiatric institutions will often ask a patient to give consent for release of information before they have done anything. You need to know their conclusions and recommendations before you can decide it is in your best interest to release that information.

4) Know that giving consent to a psychiatric institution to release confidential information about you protects only that institution, not you. American law demands that such institutions only release information that you permit to be released; in most circumstances, however, the law provides no protection to you against what the recipient of that information does with it. In most cases you can expect to have no legal recourse if the diocese re-releases the information to others without your consent.

5). Recently, bishops have released the personal files of clergy to civil authorities and lawyers without permission. Such action is an invasion of privacy of the person and his good reputation, (Canon 220). Some reports have even appeared in the secular press. Because of this, our office suggests that you should only release the report to your personal therapist or civil attorney. You should also see the report before you sign the release of information. Your therapist or civil attorney and you can meet with your bishop or provincial to give a verbal report.

In conclusion, it is difficult here to deal with all the situations that may arise. We suggest that you immediately find competent counsel to defend your rights and insist they show you respect. You can always call our office and a member of our staff will advise you. Do not allow yourself to be intimidated by bishops, provincials or diocesan officials. They have as much power over you as you give them.

WORKSHOP ON RIGHTS OF WOMEN RELIGIOUS

On June 25, 2007, I presented a workshop at Notre Dame University. The event was the triennial History of Women Religious Conference, which draws academics, historians, archivists, and congregational leaders, as well as lay scholars who do research in the field of the accomplishments of sisters and their congregations. Most of the presentations were about individual women religious and their unique contributions at particular periods in American, Canadian and European church history.

The workshop addressed an historical topic that affects all women religious. It was entitled: "Terminating the Fear of Being Sent Home: Installing a Viable Review Procedure in the Governance Structure of Your Religious Congregation." The first part addressed the reasons for a review process in society, and the rights of religious women to the same privilege. When sisters seek justice for others in their ministries, they should feel entitled to the same justice for themselves.

The second part reviewed the history of church efforts in the U.S. after Vatican II to educate vowed men and women, as well as laity, about their claim to due process within the church.

I reviewed the 1970 Conference of Major Superiors study from the Notre Dame University archives.

One of the important features of the document was a summary of the questionnaire sent out to scores of religious communities of men in the late 1960's, plus an analysis of Vatican II documents, which grounded the concept of "due process."

The third part was practical. I discussed the differences between three kinds of review processes. The first are those embedded in the Constitutions of a congregation, which prevent arbitrary dismissals by requiring a collegial vote by the highest level of leadership. These review processes apply anywhere a membership issue in the Constitution is accompanied by such phrases as "according to universal law," or "observing church law." The most egregious decision is one to dismiss a member.

Leaders cannot wait for a member to ask for a review of such a decision at the highest level of congregational authority. They must initiate it and have structures and procedures in place.

The second kind of review process is one that a member can initiate to review a non-membership decision, for example, made by a superior who wants to move her to another ministerial position, but gives no reasons, and gives no rationale for the move. The member can bring such a decision to a mediation or grievance board (the name is less important than the process), and have the decision, both its content and process, tested against the Congregation's Constitution, existing policies, Chapter directives, and practices as they are applied to other members. This kind of review reminds leaders that they, too, must exercise obedience in the church to the rule of law. A review process is a check on the tendency of anyone in authority to make up his or her own rules.

The third kind of review process is better called "alternative dispute resolution." It includes processes called conciliation, mediation and arbitration. These are not appropriate to deal with membership decisions, such as the denial of advancement to profession of a sister in first vows.

Sr. Eloise Rosenblatt, R.S.M. Ph.D. J.D.
San Jose, California.

****

"This is what the Lord Almighty says:

'Administer true justice;

Show mercy and compassion to one another.'"

- Zechariah: 7 ; 9

PRISON MINISTRY

Justice for Priests and Deacons offers a ministry to our priests who are in prison. A year ago, I left San Diego the Saturday before Palm Sunday. I was away for two weeks and I put on almost 10,000 miles traveling to seven States. I made this lengthy trip to visit some of the most abandoned members of our church community. I visited priests in prison. I returned to San Diego the Friday evening after Easter.

I made all the arrangements before hand to get prison clearance. I knew a local priest everywhere I went and he accompanied me when I made the visit. All of the priests I visited had contacted us because they had heard about Justice for Priests and Deacons. Our visit generally went for about three hours. In the beginning, there was some tension but as the time progressed, things changed and they started to accept us. We told them that we were there from Justice for Priests and Deacons and we had no agenda. We had to assure them that we were not representing any bishop or institution.

They were very disillusioned with the Church and with their bishops. They were getting no financial assistance -- not even pocket money -- from their diocese. Only one priest had any contact with his bishop.

There were many sad stories and we listened as they told us what happened and how badly their bishops treated them. One priest told us that a religious priest would visit him every week. The Vicar General of his diocese called his Provincial and told him to tell the religious priest that he was not to visit the priest in prison in the future.

There was another priest who was deported back to his country. We managed to provide an airfare ticket for him to cross the Atlantic. Friends gave him clothes and we gave some spending money. I called eight Catholic institutions to see if they would offer him hospitality when he arrived at his destination. I gave them a brief background and they all refused to help him. It was a Protestant lay group that finally helped him and found a place for him to stay until he got settled. He is doing great and he is grateful that Justice for Priests and Deacons were there for him.

All of these men encountered a serious violation of their canonical rights. They had lost faith in the Church. I told every one of them that I would find them a canonist and see to it that their case was personally delivered to the Holy See. Only one accepted my offer . His case was sent to the Holy See.

We left each man a small amount of money, putting it in his prison account. I had brought money orders with me. One priest was having problems with his teeth. He told us that if we would pay for the dental care that he could have it done immediately, otherwise, he would have to wait six months. We gave him a substantial sum of money and he got the dental care immediately. He was very pleased and we were happy that we were able to help him.

The two weeks were very busy but very rewarding. Our office still continues to help these men and sends them financial assistance when we are able to do so. Peace and Joy.

Dr. Michael Higgins M.A., S.T.D., J.C.D.

Executive Director

****

How can you perceive of justice without the right of defense.

John Paul, II

GUILTY UNTIL PROVED INNOCENT

The Cumberlege Commission's review of the Church's child-protection policy is about to be published. While treatment of the abused has improved, disturbing evidence has emerged that priests who have been accused and not charged are left in limbo, suspicion still hanging over them

Ever since Caiaphas observed that the destruction of an innocent man was justified to save a nation, the law of Christian countries has upheld the presumption of innocence and the need for hard evidence to convict. In the Church's legal tradition, this is known as favor rei: the accused enjoys the benefit of the law. Due process and individual rights, Pope John Paul II said in 1979, should never be sacrificed for the sake of the social order.

Yet this is precisely what has happened through the implementation of the UK Catholic Church's child-protection regime, according to canon lawyers giving evidence to a commission set up to review it.

Unlike the 2002 US norms which, after revisions, received the recognitio from Rome, the UK's child-protection policy has never been Vatican-stamped. A 2004 report by British canonists spelt out the need for restoration of due process and the rights of the accused in order to bring the policies in line with canon law, but that report was ignored.

There is a pattern here. It was the bishops' failure to follow canon law in the 1970s and 1980s which in many ways lay behind the clerical sex-abuse crisis. Sexual abuse of minors is one of the most serious offences in the 1983 Code (as it was in the earlier 1917 Code), one of the gravora delicta for which penal sanctions, up to and including dismissal from the clerical state, are demanded. The purpose of those sanctions, as the Code puts it, is "the reform of the offender, the reparation of scandal, and the restoration of justice". In the 1970s and 1980s the failure to repair scandal and restore justice through penal sanctions left the victims, and the wider Church, indignant and angry. When the media storm broke, the bishops, under pressure to restore confidence, opted for policies that effectively renounced their responsibilities under canon law, to be implemented by quasi-judicial bodies such as Copca (the Catholic Office for the Protection of Children and Vulnerable Adults), the child-protection agency of the Catholic Bishops' Conference of England and Wales, set up after Lord Nolan's report on abuse in 2001.

Nolan was alive to the possibility of false or malicious allegations, and the danger of reputations being destroyed, and canonists are agreed that it is the implementation of Nolan, rather than the report itself, which is at fault. Yet Copca's policies have ridden roughshod over these qualms. "Nolan would be turning in his grave," more than one canonist has told me.

The problem is what happens to priests who are accused and deny the accusation, and there is no evidence to judge them guilty. They should, of course, be regarded as innocent.

Archbishop Vincent Nichols of Birmingham, the bishop in charge of Copca, acknowledged last year that an accused priest is unlikely ever to be reinstated: of the 40 clergy in England and Wales who had been accused by 2005, only two had been restored to ministry (four were dismissed). Of 41 reports in 2006, 24 resulted in no further action by the police, while 14 are still being investigated. And the fate of those whose cases have been dropped by police? Many of them live in limbo, their reputations and vocations cast to the wolves. All too often, they leave the priesthood.

Archbishop Nichols sat thunder-faced at the National Conference of Priests (NCP) meeting in Leeds last year as Fr Paul Bruxby, the Brentwood canonist who defends accused priests, spelt out the consequences of the policy. "In the Church in England and Wales, which preaches justice in and out of season," he told the NCP, "a man is no longer innocent until proven guilty but guilty until proven innocent."

Most of the 20 priests Fr Bruxby is defending have been cleared by the courts and have been assessed as "low risk"; yet still, five or six years on, they are unable to return to their parishes. "They feel shunned by their bishops, and describe themselves as lepers," he says. "They feel hopeless, and sometimes imagine committing suicide."

Fr Bruxby believes, in line with canon law, that there must be moral certainty about an accusation - not least because some accusers are mentally disturbed. It is abhorrent, he says, to argue that priests' rights should be cast aside for the sake of the safety of children. Both are "paramount".

Bishops are obliged, in civil law, to notify police and social services when an accusation is made. And they do. But they are also obliged, in canon law, to investigate the truth of a claim before removing a priest from active ministry - a process the Code describes as a "preliminary investigation". Yet this is not taking place, suggests Fr Brendan Killeen, a Northampton canonist who lectures at Heythrop College. "Priests are removed, irrespective of the strength of the allegation."

Fr Dominic McKenna, the popular 56-year-old parish priest of Our Lady of Hal in Camden Town, London, knows this all too well. In January 2005 he learned, to his bewilderment, that a man in Ireland believed he had been abused by him 30 years earlier. Copca considers that such allegations should be taken as seriously as if they had been made last week, even when a priest has never had another accusation made against him.

Fr McKenna was banished to a Hertfordshire safe house for two years. Westminster's bishops were supportive and his fellow clergy kept him going with regular phone calls, but the months dragged: his identity as a priest was shattered, and he felt utterly disheartened. The Crown Prosecution Service eventually dropped the charge, and the judge directed a "not guilty" verdict. Then Copca kicked in. The Commission insisted he be risk-assessed. A canonist advised that if he took his objection to Rome (which disapproves of risk assessments as self-incriminating and injurious to a priest's reputation) he would almost certainly win. But that would take three to four years. Instead, in the weeks that followed, he underwent a series of four-hour assessment interviews at Birmingham Cathedral, and was made to fill in questionnaires asking explicit questions about his fantasies. He still shudders to recall it.

Back in Westminster, mounting indignation on his behalf was indicative that six years on from the British clerical sex-abuse crisis, public opinion was changing. Protests meant that once the assessment was over he was allowed to return last Christmas to his overjoyed parish. He has told his story to the Cumberlege Commission, set up to review the way the Church responded to the Nolan Report, and he outlined the concerns he shares with canonists. A priest, he believes, should not be asked to leave his parish until charges are brought; and he should only be risk-assessed if there is reasonable certainty that he poses a risk, or a guilty verdict has been served.

The assessments are not independent, says Fr Bruxby: they are ordered by the bishops and, because they almost never clear a priest, are self-incriminating. Nor do they necessarily spot abusers - as the case of William Hofton, a Westminster priest who was declared low risk but who in 2004 was subsequently convicted for serious abuse, painfully illustrated. "What are they assessing?" Fr McKenna wants to know. "Are you assessing me on something I've never done? Or assessing me on whether I might repeat in the future what I've never done in the past?"

Priests are angry to find that they have been wrong to expect their bishops to protect their good name, as canon law obliges them to, unless the law takes away that right.

The implementation of child-protection norms, says Fr Ladislas Orsy SJ, an American canonist, has caused "a very deep resentment within the clergy - an emotional break between the bishops and their priests".

It is now time, canonists agree, to send Caiaphas packing. Creating a safe environment for minors and defending the basic rights of priests to innocence until proven guilty, and the need for due process, should not be incompatible. Child-protection policies can be brought into line with canon law.

Austen Ivereigh, M.A., D.Phil.

Heythrope College, Oxford

****

Justice for Priests and Deacons
Celebrating our 10th Anniversary
1997-2007

Saint Raymund of Pennafort (1180-1275)
(from front cover)

Saint Raymund was born in Catalonia to a family related to the Kings of Barcelona. Raymund was educated in Barcelona where he took a Doctorate in Civil and Canon Law. In 1219, he became an Arch-Deacon, and in 1222, he joined the Dominican Order. A lover of both solitude and the apostale of reconciling heretics, Jews and Moors. He was also a notable writer. His two principal works were his Summa of moral cases and his compilation of The Decretals of Canon Law, commissioned by Gregory IX who called him to Rome in 1230. For nearly 700 years this remained the standard collection. In 1215, Raymund was chosen by him as Archbishop of Tarragona, but he refused the charge. In 1238, however, he was elected Master -General of The Dominicans and in spite of his reluctance, he eventually accepted. One work, which he completed during his Generalate was the revision of The Dominican Constitution, another was a systematic visitation of the rapidly Growing Order. After only two years however, he resigned and returned to Spain from where he encouraged Thomas Aquinas to write his Summa Centra Gentes. He died in 1275, in Barcelona. He was canonized in 1601.

Justice for Priests and Deacons P.O. Box 87225 San Diego, CA 92138-7225 Telephone 760-321-4842
E-mail: justiceforpriests@verizon.net Web Page: www.justiceforpriests.org

Business Board — Kenneth Fernandez , Chairman - Dale Calhoun - Michael Higgins - Donald Jolly- Mary Kanta
Jerry Marino - Mary Ellen McGuire - Mark Wolford

Executive Board — Michael Sullivan, Chairman - Michael Higgins, Executive Director - Robert Flummerfelt - Michael Maginot
Gavin Vaverek - Peter Walsh -

Justice for Priests and Deacons
P.O. Box 87225
San Diego, CA 92138-7225

[Personal]

NONPROFIT ORG
US POSTAGE
PAID
JUSTICE FOR PRIESTS
AND DEACONS

Do you know your rights in Canon Law?