

[REDACTED]

**BRIEFING MEMORANDUM**  
**REGARDING CATHOLIC CLERGY CASES**

**OVERVIEW**

Since March, 2002, the Los Angeles County District Attorney's Office [LADAO] has coordinated the investigation and prosecution of Catholic clergy involved in the sexual abuse of children. This effort by the LADAO remains active to this day. From the beginning, deputies involved in this endeavor have focused their efforts along three tracks: 1) the investigation and prosecution of individual priests who directly sexually abused children; 2) the utilization of the investigative grand jury subpoena process to obtain archival records in the possession of the Archdiocese of Los Angeles [ADLA] and pertinent Catholic religious orders; and 3) consideration of whether criminal liability runs to members of the hierarchy of the ADLA. A summary of these efforts is set forth below.

**PROSECUTION OF PRIEST PERPETRATORS**

In June, 2002, over 100 priests were being actively investigated by law enforcement agencies throughout Los Angeles County for crimes dating as far back as 1947. By mid-June, 2003, 11 cases involving Catholic clergy had been filed and it was projected that another three dozen cases would be filed by December 31, 2003; however, in late June, 2003 the United States Supreme Court sharply curtailed the reach of California's extension of the statute of limitations law (then-Penal Code section 803(g)) in its decision in *Stogner v. California* and as a consequence all 11 cases had to be dismissed. Since the *Stogner* decision, six priest prosecutions have been initiated and in each instance convictions have been obtained. Most notably, convictions and state prison sentences were obtained against three of the most prolific priest-sexual abusers: Michael Baker, George Miller, and Michael Wempe.

Since 2002, the resolve of this office to prosecute clergy sexual abuse offenders has not diminished. At the present time, I am working with LASD investigators on a case involving a Catholic priest [REDACTED] and, as the crimes against one identified victim occurred within the statute of limitations, the case has filing potential. In addition,

another victim of [REDACTED] has been identified just recently and that matter is under investigation.

### **ADLA ARCHIVAL RECORDS**

The initial investigative grand jury subpoenas for records in the possession of the ADLA were issued in July, 2002. These subpoenas were the catalyst for trial court and appellate litigation that lasted almost four years. After forays to the California appellate courts (twice), the California Supreme Court, and the United States Supreme Court, the ADLA was finally left with no legal recourse other than to disgorge the subpoenaed documents to the Los Angeles County grand jury in late spring, 2006. Information obtained from these documents substantially strengthened the cases in which Michael Baker and George Miller were charged.

Since the United States Supreme Court's denial of certiorari to the ADLA's petition for review on April 17, 2006, this office has caused the grand jury to issue additional subpoenas for documents in the possession of the ADLA. Although documents have been obtained, no new cases have been brought as a result of receiving those documents due to the reluctance of suspected victims to cooperate with investigators and insufficiency of corroborative evidence.

### **HIERARCHICAL LIABILITY**

Since June, 2002, four potential theories of criminal liability have been considered with regard to members of the ADLA hierarchy: 1) conspiracy to obstruct justice in violation of Penal Code section 182(a)(5); 2) conspiracy to commit child endangerment in violation of Penal Code section 273a(a) or (b); 3) conspiracy to harbor and conceal felons in violation of Penal Code section 32; and 4) conspiracy to violate mandatory reporting laws in violation of Penal Code sections 11160/11166. Settled case law holds that all overt acts underlying the conspiracy do not have to take place within the statute of limitations and that the statute of limitations commences on the date of last overt act committed in furtherance of the conspiracy. Because of the age of most of the acts alleged to have been committed by members of the hierarchy and the restrictions imposed by the statute of limitations for the underlying substantive charges, it has been recognized that the only potentially viable theoretical vehicle for capturing the entirety of the arguably criminal conduct was the continuing conspiracy theory.

For eight years, this office has proceeded on the premise that we will go where the evidence leads us. While information has been unearthed that suggests the possibility of criminal culpability on the part of members of the ADLA hierarchy, [REDACTED]

To date there has been insufficient evidence to populate a timeline stretching from the late 1980s through 2007 and that would support a continuing criminal conspiracy theory as to any of the Penal Code provisions set forth above. Furthermore, at this time the operation of applicable statutes of limitation renders the prospect of developing any criminal case against any member of the ADLA hierarchy more and more remote with each passing day.

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William Hodgman  
May 26, 2010