

1). Summary of Accusation

In August of 2005 the Diocese of Crookston first began receiving reports of inappropriate behavior on the part of Fr. Joseph Jeyapaul, an extern priest from India, towards Girl 1, a resident of Goodrich, Minnesota. The first report brought to the Diocese of Crookston came in the form of an anonymous letter sent to the Cathedral of the Immaculate Conception on 24 August 2005. It was later determined that this letter, as well as a similar letter sent to the parents of the alleged victim, was written by Mrs. F-7. In this letter Mrs. F-7 warns the diocese, and the parents of Girl 1, that she is 'worried about a sixteen yr old girl of my acquaintance' who was invited by 'a priest' to his home for a birthday dinner, given presents by him, and kissed. According to the author of the letter, 'it looks to me as if he is seducing her'. The letter was signed, 'a mother'.

The second report to the diocese, made on 26 August 2005, came from Mitch and Lee Walski, youth minister and RCIA director respectively for the Greenbush parish, who had received concerns about alleged inappropriate behavior on the part of Fr. Jeyapaul from Mrs. F-8 (mother of the alleged victim) and Mrs. F-3 of Greenbush, Minnesota. Following this communication Mrs. F-8 came to the Chancery of the diocese to make a report (29 August 2005), at which time she expressed concern that Girl 1's friend, F-6, was uncomfortable with the relationship between Girl 1 and Fr. Jeyapaul. At that time Mrs. F-8 did not relate any other specific concerns.

However, in the weeks following Mrs. F-8 would report additional concerns to the diocese, especially after she discovered an extensive email correspondence between her daughter and Fr. Jeyapaul (Items 2-4), and after she overheard the two of them exchanging kisses on the telephone (Item 1). When interviewed for this investigation, Mrs. F-8 reported that for some time prior to the receipt of the anonymous letter she had noticed a difference in Girl 1's behavior towards her, specifically that Girl 1 was 'not being responsive' and that 'the way I was being treated by Girl 1 was not her normal way, really' (Interview, Mrs. F-8, pg. 2). Mrs. F-8 also spoke of an extensive history of sexual abuse in her family, stating specifically that all of her daughters, including Girl 1, had been sexually abused by her (F-8's) father. This was discovered when Girl 1 was approximately eleven years old and had been going on for 'some time' prior to that (Interview, Mrs. F-8, pg. 2-3).

According to the testimony of Mrs. F-8 and other witnesses, Girl 1 and Fr. Jeyapaul first became acquainted on the bus ride home from the Steubenville North youth conference that was held in the Twin Cities the 29th through 31st of July 2005 (Interview, Mrs. F-8, pg. 9, Interview, Girl 1, pg. 2, Interview, F-6, pg. 1). However, according to the testimony provided by Girl 1, the first incident of

alleged misconduct did not take place until 15 August 2005, Girl 1's sixteenth birthday (Interview, Girl 1, pg. 4).

On that day Girl 1 and her friend, F-6, drove to the rectory in Greenbush for a birthday lunch prepared by Fr. Jeyapaul (Interview, F-6, pg. 3). The two girls were the only guests at the lunch, and for the most part were always together in the company of Fr. Jeyapaul. However, both girls testified that at one point Girl 1 was alone in a room of the rectory with Fr. Jeyapaul (Interview, Girl 1, pg. 4, Interview, F-6, pg. 3). According to the testimony of Girl 1, at one point following the meal, when F-6 was using the bathroom or getting something from her car,

'...I got up and he was already standing up and he just kind of turned me I guess...He didn't really put his arms around me he just kind of touched me lightly on the arm. I looked up into his eyes I guess and then he kissed me and we gave each other a hug. I felt comforted so I accepted all of this' (Interview, Girl 1, pg. 5).

Following this, the two girls and Fr. Jeyapaul returned to Thief River, where Fr. Jeyapaul purchased or provided the money for Girl 1 to purchase a track phone (Interview, F-6, pg. 3, Interview, Girl 1, pg. 3). They then returned to the rectory in Greenbush, where according to the testimony Fr. Jeyapaul suggested that the two girls take naps before they drove home (Interview, F-6, pg. 3). According to the testimony of Girl 1 and F-6, Fr. Jeyapaul offered F-6 the opportunity to rest in one of the guest bedrooms of the rectory, which she accepted. Girl 1 remained in the living room with Fr. Jeyapaul. She testified,

'I don't remember what we talked about. I don't think we really talked that much because I don't remember what we talked about at all. What ended up happening is he had kissed me again' (Interview, Girl 1, pg. 7)

According to the testimony of Girl 1, this incident ended because Fr. Jeyapaul had to prepare to say Mass. August 15 is the Feast of the Assumption, and records from the parish indicate that Fr. Jeyapaul offered Mass that day at seven in the evening (Interview, Michelle Kern, pg. 2).

A third incident was reported by Girl 1 as having occurred following a meeting between her parents and Fr. Jeyapaul, in which Fr. Jeyapaul requested permission from Girl 1's parents to guide Girl 1 as she discerned her vocation. According to the testimony provided by Mrs. F-8, this meeting took place on 22 August 2005, at Girl 1's home. Following the meeting, Fr. Jeyapaul requested that Girl 1 be allowed to show him the town of Thief River, where Girl 1 went to school (Interview, F-8, pg. 9). The Girl 1's parents gave their permission for this, and Girl 1 and Fr. Jeyapaul left in his car, allegedly for Thief River. However, according to the testimony of Girl 1,

'We went through Thief River but we didn't travel through it...we went to his house...when we were there I was going to read him things about my past life and he listened and that is mostly what he did. He just said to forget the past and look on the future or look at it now. He just said forget the past. We were sitting on the couch and I just kind of leaned up against him like I did before. He kind of pushed me to sit up straight and he just kind of grabbed my face and he started kissing me...he held my face. Then once that kiss ended I laid my head down on his chest. It was different so I was like okay. I wasn't really thinking or anything. I felt comforted so I guess kept going...Then he kissed me the same way again for longer and it was really weird, he like pulled me over on top of him. It was weird because I was sliding down and I was like I am not sitting like this...I was on top of him...it was like he was sitting down and I would be straight down so I sat back up. Then we had some more kisses' (Interview, Girl 1, pg. 8-9).

In response to further questioning, Girl 1 testified that at one point Fr. Jeyapaul touched her underneath her clothing, on her back, and on other occasions would frequently touch her on the upper thigh or knee (Interview, Girl 1, pg. 10).

According to Girl 1, the third incident ended when Fr. Jeyapaul received a telephone call informing him that someone from the parish had been taken to the hospital, and his presence was needed. On the ride back to Girl 1's home, Girl 1 reported that she and Fr. Jeyapaul talked about music and exchanged CDs, and in the interview she named three CDs which she had lent to him on that day (Interview, Girl 1, pg. 10). When the Diocese of Crookston reclaimed Fr. Jeyapaul's car in November of 2005, the three CDs named by Girl 1 were found in the car. In addition, F-6 testified that she and her mother had seen Girl 1 and Fr. Jeyapaul driving away from Thief River, which F-6 stated made her nervous (Interview, F-6, pg. 5).

When asked what made her nervous or uncomfortable about Fr. Jeyapaul, F-6 testified,

'The way he looked at her and talked to her, and what she had told me he had done after...I don't know that I can really describe it...he just made me nervous...the most thing that I saw was when we were in the car, he would reach up his hand in the front seat and put it on her leg, and I saw him hug her lots, and he like wanted to hug me too but I didn't hug him...I think

I was like, 'Whoa, Why did that happen, why would you do that...he is an old guy!' You know, and I think that I told her that way she was talking about him it sounded like a boyfriend...and she tried to explain to me that that wasn't how it was...that it was just that she needed him to be there for her right now...and that he was showing her he loved her as a sister' (Interview, F-6, pg. 1-2).

F-6 also testified that, in addition to the track phone, Fr. Jeyapaul had given Girl 1 many other gifts. F-6 stated,

'She got a phone, and a sweater, and a like...thing that had a cross on it. The others didn't really seem that strange, but it seemed strange that he bought so many gifts.. Girl 1 got a lot of gifts besides the phone' (Interview, F-6, pg. 6).

This account of the gifts is confirmed in the testimony of F-8 (Interview, F-8, pg. 3) and Girl 1 (Interview, Girl 1, pg. 13).

When presenting her concerns to the Diocese of Crookston, Mrs. F-8 provided the diocese with copies of the emails she claims to have discovered between her daughter and Fr. Jeyapaul (Items 2-4). When interviewed Girl 1 confirmed that the emails were those she exchanged with Fr. Jeyapaul, and the investigator notes that the email address from which they were sent is the same as the email address used for recent communications with Fr. Jeyapaul (Item 6). Mrs. F-8 also presented the diocese with the telephone records for the F-8 home telephone, which indicate that several calls were placed to India, presumably to Fr. Jeyapaul, during the month of September (Interview, F-8, pg. 8).

In the course of the investigation, Girl 1 was asked to provide a detailed description of the rectory in Greenbush (Interview, Girl 1, pg. 4, 6, and 7). This description can be compared to the photos of the rectory that are included in the investigation as Photos 1-7. At a separate interview F-6 was asked if she could identify Photos 1-7, and she correctly identified the photos numbered 1, 2, and 4 (Interview, F-6, pg. 5).

When considering whether the allegations made by Girl 1 (or Mrs. F-8 on behalf of her daughter) establish the probability that a canonical *delict* has been committed by Fr. Jeyapaul, it must be considered whether the behaviors reported, if true, constitute a sin against the sixth commandment of the Decalogue involving a minor. To this end it is useful to consider the following comment from the 2002 Preamble of the *Essential Norms*.

'Sexual abuse of a minor includes sexual molestation or sexual exploitation of a minor and other behavior by which an adult uses

a minor as an object of sexual gratification. Sexual abuse has been defined by different civil authorities in various ways, and these norms do not adopt any particular definition provided in civil law. Rather, the transgressions in question relate to obligations arising from divine commands regarding human sexual interaction as conveyed to us by the sixth commandment of the Decalogue. Thus, the norm to be considered in assessing an allegation of sexual abuse of a minor is whether conduct or interaction with a minor qualifies as an external, objectively grave violation of the sixth commandment (USCCB, *Canonical Delicts Involving Sexual Misconduct and Dismissal from the Clerical State*, 1995, p. 6). A canonical offence against the sixth commandment of the Decalogue (CIC, c. 1395 §2; CCEO, c. 1453 §1) need not be a complete act of intercourse. Nor, to be objectively grave, does an act need to involve force, physical contact, or a discernible harmful outcome. Moreover, "imputability [moral responsibility] for a canonical offense is presumed upon external violation...unless it is otherwise apparent" (CIC, c. 1321 §3; CCEO, c. 1414 §2). Cf. CIC, canons 1322-27, and CCEO, canons 1413, 1415, and 1416.²

Following this definition, it is clear that, according to the universal law of the Roman Catholic Church and the particular law for the dioceses of the United States, the alleged victim, **Girl 1**, is considered a minor. For, according to the evidence collected in this investigation, **Girl 1** was sixteen-years-old at the time of the alleged incidents. The canonical age of majority when considering canonical *delicts* of this nature, although stated as sixteen in the 1983 Code of Canon Law, has been 18 for the United States since 1994, when a special derogation from universal law was granted (Rescript of the Secretariat of State, 25 April 1994). Furthermore, with the 18 May 2001 letter of the Congregation for the Doctrine of the Faith *De delictis gravioribus*, this same principle was made law for the universal church. Thus when considering the allegations made in 2005, **Girl 1** is to be considered a minor under the universal law of the Church.

When considering whether the alleged actions are external, objectively grave acts that involve the use of the minor as an object of sexual gratification, the investigator turns to the alleged victim's account of the third incident.

He kind of pushed me to sit up straight and he just kind of grabbed my face and he started kissing me... he held my face. Then once that kiss ended I laid my head down on his chest. It was different so I was like okay. I wasn't really thinking or anything. I felt comforted so I guess kept going... Then he kissed me the same way again for longer and it was really weird, he like pulled me over on top of him. It was weird because I was sliding down and I was like I am not sitting like this... I was on top of him... it was like he was sitting down and I would be straight down so I sat back up. Then we had some more kisses' (Interview, **Girl 1**, pg. 8-9).

The investigator was struck by the alleged victim's report that Fr. Jeyapaul had pulled her on top of him, which suggests to the investigator that the cleric's actions were certainly gravitating towards some form of sexual gratification. The investigator was also impressed by the alleged victim's response to this action, noting that she testified that it seemed 'really weird' to her and that she refused to maintain that position. Finally, the investigator notes that the alleged victim reported that Fr. Jeyapaul had requested an additional meeting with her, and according to her report had requested that at this future meeting he be allowed to 'touch me anywhere' (Interview, Girl 1, pg. 13). Fortunately, this meeting was prevented by action taken by the Diocese of Crookston and Fr. Jeyapaul's return to India. However, Girl 1 also reported that Fr. Jeyapaul had asked if, 'it would be alright if we slept in the same bed', when she visited him in India (Interview, Girl 1, pg. 15).

When considering Fr. Jeyapaul's imputability regarding the offences alleged against him, the investigator notes that imputability is to be presumed unless otherwise apparent. Furthermore, it is difficult to determine any mitigating circumstances (such as psychological factors that might affect the cleric's capacity for committing a *delict*) without the response or participation of the accused. One possible mitigating circumstance that might be argued in this case is ignorance of the law. However, the Sexual Misconduct Policy of the Diocese of Crookston, to which every cleric working in the territory is expected to adhere, clearly states that the canonical age of majority for this type of *delict* is eighteen. Furthermore, this law had been in place for the universal Church for at least four years before the alleged actions took place. Thus any ignorance on the part of Fr. Jeyapaul would appear to have been *culpable ignorance* rather than ignorance of a type that would exempt the cleric from a penalty.

However, the investigator also notes a plethora of aggravating circumstances that should be considered when assessing the gravity of the alleged offences. For instance, canon 1326 identifies three situations in which a judge can punish someone more severely than the law prescribes: when someone continues the offensive behavior even after being penalized, when there is abuse of authority or office in the commission of a *delict*, and in cases where negligence amounts to malice (i.e. by not taking necessary steps to avoid a foreseeable situation).

The investigator notes that the alleged crime in this case is possibly made more grave by Fr. Jeyapaul's position in regards to Girl 1, which is clearly a position of authority connected to his office in the Church. For, the parties met when returning from a Church-sponsored youth event, which Fr. Jeyapaul was attending in a ministerial capacity. Furthermore, one test of determining whether an offense is related to an abuse of office or authority is to ask the question, 'would this have occurred if this person were not a priest or deacon?' In this case, it is significant that Fr. Jeyapaul received permission to be alone with the alleged victim after asking her parents for permission to help her to discern a vocation to religious life.

Furthermore, the parents of **Girl 1** have alleged that the abuse took place in the context of a counseling relationship between the cleric and the alleged victim (See Affidavit and Petitioner for Order for Protection of 14 November 2005).

Finally, the investigator would note that the alleged incidents are canonically actionable at this time, as the alleged victim is below the age of eighteen and the alleged offences were committed within this past year.

2). Response of the Accused

On 7 November 2005 a list of questions relating to the allegations was presented to Fr. Jeyapaul through his ordinary. Fr. Jeyapaul was advised to seek canonical counsel and asked to respond to the allegations by 1 December 2005. As of 5 December 2005 no response had been received from Fr. Jeyapaul regarding the allegations.

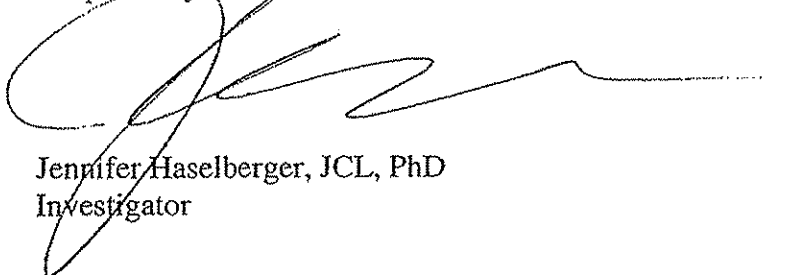
3). Law Enforcement/ Advice of the Review Board

On 5 October 2005 the allegations against Fr. Jeyapaul were presented to the diocesan Board of Review for the Protection of Children and Young People. Following the advice of the Board, on 11 October 2005 a preliminary investigation into the matter was requested by Bishop Balke.

On 19 October 2005, following an interview with the alleged victim and her mother, a report of the allegations received was presented by the diocesan attorney, Mr. Dan Rust, to Jule Hanson, Sheriff of Roseau County. It is understood that Roseau County is conducting an investigation into the matter.

On 17 November 2005, an ex parte Order for Protection (Minn. Stat. 5188.01) was issued in the matter of **Girl 1** (Petitioner) and Fr. Joseph Palanivel Jeyapaul (respondent). In the Affidavit accompanying the Petition it is argued that the Petitioner and Respondent had a 'significant sexual relationship' and that the Order is necessary in order to prevent Fr. Jeyapaul from having further contact with **Girl 1**.

Respectfully submitted,



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Investigator

5 December 2005