

August 7, 2002

To: Robert Geisinger, S.J., Procurator of the Society, cc Frank Case, S.J., Assist. ad. Prov.  
From: Rick McGurn, S.J., Socius Chicago

Dear Bob,

I'd like to ask your assistance in regard to the plans of our provincial, Fr. Richard Baumann, S.J., as to how to deal with Fr. Donald J. McGuire, S.J., in light of the long list of complaints as to his inappropriate behavior.

So, I ask:

1. Your recollections of your own role back in 1995, and whether the provincial's admonition at the time constituted a formal canonical warning to Don;
2. Your opinion as to whether a recent meeting of the provincial with Fr. McGuire constituted a second canonical warning;
3. Your advice concerning Fr. provincial's prospective plan for dealing definitively with Fr. McGuire.

You have some knowledge of, and involvement with, Don on previous occasions, which is why I ask you first; but I realize that much of this should probably also be seen by Fr. Case, and perhaps would need his reply as well, so I'm copying this communication to him. ✓

In what follows, I realize I am not giving you all the facts, which are voluminous and complicated.

1. I have a copy of a letter from acting provincial Fran Daly, S.J., to Don, dated Feb. 17, 1995 (see file attachment). It was a follow-up letter to Fran's meeting with Don on Feb. 9, 1995, in the wake of a fresh complaint about Don. The nature of the misbehavior was not clearly stated, but this mother was very angry about Don's relationship with her son, and wanted him to stay away. However, Fr. Daly also reminded Don that provincial Fr. Schaeffer had, in 1993, admonished Don privately about breaking the guidelines in place since 1991 prohibiting Don from traveling with any young companion as his assistant. The letter summarized the history of Don's dealings with previous major superiors regarding specific incidents, and clarified the guidelines that were expected of Fr. McGuire, and which Fr. Daly, in that meeting, reiterated and made more stringent.

The letter states that Fr. James P. Gschwend, S.J., was also present at that meeting. I have a note to myself, probably from a phone conversation I had with you, that you were also present—was it at this meeting of Fr. Daly with Don?

However, nowhere in the letter of Feb. 17 does it specifically say that a canonical warning had been given. That is, the phrase "canonical warning" is not used in the letter itself, nor does the letter say that it was formally stated to Fr. McGuire on Feb. 9 that Fr. Daly's admonition constituted such a warning. ✓

A question: Am I nevertheless correct to presume that it was not necessary to use the specific phrase "canonical warning" either during the conference of Feb. 9, nor in the follow-up letter of Feb. 17?

My request: If you were indeed present for that meeting, and can confirm that Fr. Daly, as acting provincial, gave Fr. McGuire a canonical warning, I would request a statement from you in

**EXHIBIT 63**

writing to that effect, unless you do not think it necessary, or have some other strong objection.

2. Fr. Baumann had a meeting with Fr. McGuire at the province office on December, 15, 2000, at which I and our province attorney, Mr. Timothy Toomey, were present and, at which time Fr. Baumann said he would be giving Don new guidelines. Since this involved Fr. Baumann confronting Fr. McGuire in front of two witnesses about 2 recent complaints involving failure to conform to previous guidelines—once again taking each of these young men with him on his travels—which were a failure of his vow of obedience, does this fulfill the conditions for constituting a second canonical warning?

As you know, Don's history is extensive and complicated. He has been required to adhere to provincial guidelines since 1991. The main requirement has been that he not travel with anyone under a certain age, which was at first stated to be 18, then later raised to 21. The most recent form of the guidelines says that he must not travel with or spend a night in the same room with anyone under 30. I met alone with Don on Feb. 13, 2001, to give him these new guidelines from Fr. Baumann.

The goal has been to prevent him from enlisting young men as personal assistants on his travels to give retreats, under the guise of fostering their priestly vocations. These young men have been, at various times, both minors and young adults. His inappropriate behavior and poor judgment have resulted in 6 complaints that have come to us from parents of young men since 1991. They allege various forms of sexually inappropriate actions with their sons, which, while not being allegations of genital contact, have involved behavior such as having a young man sleep in the same room with him, having a young man assist him in showering (at least to wash his feet for him), on one occasion buying underpants for a boy, talking incessantly about sex with them and, in at least one case, showing him pornography. Another constant theme in these complaints is that Don brings each young man unduly under his influence, and prevents him from keeping in contact with his parents, sometimes for weeks or months at a time.

Following the provincial's Dec. 15, 2000, meeting with Fr. McGuire, I met with Don on January 3, 2001, to let him relate to me in further detail his own defense of the 2 recent complaints. Following that, I met with Don on Feb. 13, 2001, and presented him with the new guidelines the provincial required of him. Don appended his signature to those guidelines (see file attachment).

Don has, as far as we know, observed most of those guidelines. He stopped traveling with a young assistant. He stopped having his young assistants constantly in his Jesuit residence (where they had acted as virtual personal valets for him). However, he has not fulfilled the requirement to place himself in the care of a designated psychiatrist, and has not even made an initial appointment. Moreover, I have a recent, second-hand report that he may again be traveling with a young male companion.

One difficulty is that I have not kept Don well-monitored. Since giving him those guidelines, I have not spoken to him. The hope was that his local superior would keep an eye on him and has done so, at least to the extent of reporting that Don has ceased having these young men in the residence. The provincial, of course, has had his regular manifestation with him.

Fr. Baumann's present concern about Don is highlighted by all the recent media attention about priestly misconduct, and what will likely be stricter criteria for letters of good standing. It does not seem possible to allow Don to continue in his solitary, itinerant retreat ministry, as there is no adequate way to supervise him regarding the current guidelines in place for him.

Fr. Baumann, at the urging of his consultors, intends to have a conference with Fr. McGuire sometime in the next several weeks. His plan is move on these two matters:

1. He wants Don to have a permanent local community, and cease doing itinerant retreat ministry. This will likely involve having Don move to the residence here at Clark St.
2. He wants Don to only do priestly ministry for which he has, in each instance, the explicit permission of his local superior or myself; and, this may well be only within the boundaries of the Archdiocese of Chicago.

A third possibility that may eventually be necessary, but which the provincial does not want to act on now, and for which your advice would be most welcome would be for the provincial to remove Don's priestly faculties. However, the provincial wants to avoid having to communicate with the Archdiocese, if possible. Moreover, we are waiting to see what procedures for dealing with misconduct by religious priests may come out of the upcoming meeting of the Bishops committee with the Congregation of Major Superiors of Men. And, if the provincial were to send Don to Colombiere, it seems very unlikely that he could obtain faculties. So, the provincial is trying to prevent Don from entirely losing his priestly ministry, though he is going to tell Don he's prepared to take this third step if necessary.

A question: What authority does a provincial have in regard to removing a man's priestly faculties? I presume the way of doing this would involve informing the Archdiocese of Chicago that he is withdrawing the letter of good standing for Don, but that would lead to us having to report him.

A final question: The provincial intends to have me and our province attorney present at his soon-to-be-scheduled meeting with Don. Given the plan of steps 1-2 noted above, and with our presence, and the fact that Don has not fulfilled one of the current guidelines, does this fulfill the criteria for a (third) canonical warning?

The provincial is considering this plan, as opposed to moving for Don's dismissal from the Society, since Don can be quite belligerent and would likely want to hire canonical counsel to represent himself. In other words, it seems better to give him a new assignment, than to institute a process for dismissal. Moreover, while Don's behavior through the years shows his failure to live up to provincial guidelines, it's hard to see the line of where there is outright disobedience, as opposed to the denial associated with his personality disorder. Manifestly, however, he has been confronted by 4 provincials, and responded with repeated violations of those guidelines.

I realize that August is the month when everyone in Rome heads for vacation, and I know you're about to do the same. So, I know you may not be able to give me an immediate reply. At your convenience, I ask for your advice. Thanks.

In Christ,  
Rick McGurn, S.J.

Enclosed Attachments:

1. Feb. 17, 1995: Letter of Acting Provincial Fr. Daly to Fr. McGuire
2. Dec. 15, 2000 & Feb. 13, 2001: Report of the Conference of Fr. Provincial Baumann with Fr. McGuire, and Guidelines