

*Report of the Audit and Review of the  
Files of the Capuchin Province of St. Joseph*

*June 2013*

*The Auditors*

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*Executive Summary*  
*Audit of the Capuchin Franciscan Province of St. Joseph in the United States*

The Capuchin Order is a religious order of men in the Roman Catholic Church. It is one of several related orders that follow the example of St. Francis of Assisi. Capuchins profess to emulate St. Francis and to animate their mission, ministries and religious life with the “charism” of St. Francis, meaning St. Francis’ special qualities and virtues and influences that characterized his unique Christian religious expression. Following the example of St. Francis, the Capuchins seek to create a community of equals in which the message of Christ is brought to others, especially poor and marginalized people. They profess to have a particular affinity for and a stewardship of all the creatures and the environment of God’s creation. They minister in hospitals, soup kitchens, schools, parishes and in the mission fields.

The Capuchin Order has various subdivisions called “provinces” throughout the world. The Province of St. Joseph was founded in 1856; but in 1952, the province was split and 188 members left to form a new province consisting of territory in New York and New England. Since 1952, the St. Joseph Province of the Capuchin Order (the province) has encompassed Michigan, Wisconsin, Minnesota, Iowa, North Dakota, South Dakota, Nebraska, Montana, the Archdiocese of Chicago and the Diocese of Joliet in Illinois, and the Diocese of Fort Wayne-South Bend, the Diocese of Gary and the Diocese of Lafayette in Indiana. The province has also had missions in Nicaragua, Guam, Japan, Australia, Panama and the Middle East.

The members of the province are referred to as “friars.” Some friars are ordained priests, which in the Catholic Church are sometimes referred to as “clerics,” who typically are called “father.” Some members are not ordained but instead are sometimes referred to as “lay friars” who are typically called “brother.” In recent years, the Capuchin Order worldwide has encouraged its members to refer to themselves as “brother” regardless of whether they are ordained, so as to underscore their equality and Franciscan vocation.

The governance of the province is accomplished through the provincial minister and a Provincial Council. The provincial minister is a “major superior” and the “ordinary,” which means he is the leader of the province. He governs with the assistance of the Provincial Council, with whom he is expected to consult on a variety of matters. In some matters (e.g. issuing canonical warnings to a friar who may be dismissed from the order), the provincial minister cannot act without the consent of a majority of his Provincial Council.

In early 2012, the current provincial minister, Fr. John Celichowski, OFM Cap., and the Provincial Council of the Capuchin Franciscan Province of St. Joseph commissioned a comprehensive independent audit of the province’s personnel files, policies and procedures and other documents and materials. The purpose of the audit was to have an independent group determine how many and which friars and employees of the province had sexually abused minors and vulnerable adults. Another purpose of the audit was to determine how the province

had responded to reports of sexual abuse, what they did with friars who abused, and how they responded to and treated victims of the friars' sexual abuses.

The following is a summary of the report submitted by the auditors to the Capuchin provincial minister and the Provincial Council.

The reader may notice some repetition when moving through the Executive Summary and the report, as the auditors took effort to ensure a representative account of the report in the Executive Summary. In addition, due to the comprehensive nature of the report, some overlap in themes and information was felt necessary for thorough explanation and integration.

#### *The Origins of the Audit*

Interestingly, the first independent critical review of an ecclesiastical entity by an outside group was also in the St. Joseph Province in 1993. The then-provincial minister, the late Fr. Ken Reinhart, retained the Kersten & McKinnon law firm to serve as special counsel and to investigate sexual abuse of teenage students at the province's St. Lawrence Seminary (SLS), an all-boys boarding high school in Mt. Calvary, Wisconsin. The investigation results and recommendations were set forth in a report commonly known as the *Kersten Report*, published on May 27, 1993.

The current provincial minister, Fr. John Celichowski, attended a conference on clergy sexual abuse, "Harm, Hope, and Healing: International Dialogue on the Clergy Sex Abuse Scandal," at Marquette University in April 2011. While at the conference he began to develop the idea of an audit of the Capuchin Franciscan Province of St. Joseph. For the next year and a half Fr. John worked with the members of the Provincial Review Board (an independent body that reviews sexual abuse allegations against friars, reviews supervision planning for friars who are on restricted ministry, and reviews the province's sexual abuse policies), the Provincial Council, members of law enforcement, attorneys and Ms. Amy Peterson, director of the province's Office of Pastoral Care and Conciliation (OPCC).

The original idea was for a somewhat limited audit scope: a review of all personnel files held by the province. However, as the provincial minister, the OPCC director and the auditors moved through the process, they developed the broader concept and scope of reviewing not only the files but the manner in which the province had responded to incidents and reports of inappropriate sexual behavior and sexual abuse in the past. In his introductory letter in the audit report, the provincial minister says: "*We needed to have a clearer idea of where we have been, where we are now and where we might go in the future.*"

It was clear that the type of audit contemplated by the province would exceed the confines of the special counsel's SLS investigation. It would be a more comprehensive and truly independent audit than the reviews of data provided by the bishops to an independent agency, the Gavin Group. Fr. John worked with the Provincial Council and with Ms. Amy Peterson,

director of the OPCC. An audit work group was formed in December 2011. The members of the work group were chosen based on their professional credentials and background experience.

The provincial minister and Provincial Council decided that the credibility of the audit and report depended on the experience and knowledge of the persons chosen as auditors. They selected three persons who are neither members of nor affiliated with the province. The independent audit team commissioned by the province consisted of: Michael Burnett, J.D., a civil attorney and consultant with extensive experience in mediation and resolution of sexual abuse cases and other aspects of sexual abuse claims; James Freiburger, Psy.D., a clinical psychologist with over 20 years of experience working with both victims and perpetrators of abuse; and Thomas Doyle, O.P., J.C.D. Dr. Freiburger is the author of *Clergy Pedophiles: A Study of Sexually Abusive Clergy and Their Victims*. Thomas Doyle is a canon lawyer with 25 years of experience dealing with clergy sex abuse in the United States and other countries.

The scope and methodology of the audit were developed over a six-month period and 12 drafts of a scope document. The audit work group, the auditors, the provincial leadership and the OPCC director were involved in this process. The work group met several times, including with the auditors in March 2012. As part of the process, the provincial minister and the audit team reviewed the methodology and results of similar inquiries in the United States and other countries over the past 25 years.

The auditors commenced the audit in June 2012, meeting numerous times at the provincialate offices in Detroit and at provincial offices in Milwaukee, and in other locations. The auditors met with the Provincial Council twice and met again several times to work on the audit report.

#### *The Scope of the Audit*

The first part of the process consisted of a complete review of friars' personnel files retained by the province. The auditors reviewed 1,093 personnel files: 180 files of current members of the province in temporary or permanent vows; 9 files of postulants; 587 files of men who left the province, including those who left during formation, or after final profession or ordination (some of whom have died); and, 317 files of deceased members.

The personnel files of the friars who became members of the new province in 1952 were moved to that province's headquarters in White Plains, NY. In the course of their review, the auditors discovered documents that referred to events or reports that had taken place prior to 1952. If the friars involved in those events and reports were among those who went to the newly-formed province in 1952, their files were not available to the auditors.

The auditors reviewed minutes of Provincial Council meetings from 1932, the earliest available, to 2013. They reviewed all past and present sex abuse policies (1988-2012) and the 1993 *Kersten Report*. They also reviewed documents and books on the history and demographics of the

province and other documentation that pertained to reports of sexual abuse by a friar or employee of the province.

The auditors were provided a large number of files and documents from other sources. Many of these files were originally from the province's archives and were obtained by civil attorneys representing victims/plaintiffs through the discovery process in legal claims.

The auditors interviewed 21 friars: present and past provincial ministers and members of the Provincial Council and other friars; and two friars on restricted ministry for sexually abusing minors. They also interviewed numerous lay people: a former friar who is now a psychologist who works with sex abuse offenders; two sex abuse survivors (one abused at the province's SLS); three attorneys who handled sex abuse cases in the province, including a victims' attorney; and 10 other lay persons, including employees of the province.

It should be noted that Fr. Ken Reinhart passed away in May 2012. He was the provincial minister at the time of the St. Lawrence Seminary sexual abuse scandal in 1992-1993. He was never interviewed, and the auditors and the process were denied his perspective on the sexual abuse scandal. His death denied him the opportunity to explain or defend against criticisms of his handling of sexual abuse claims, responses to victims and his other decisions.

The second part of the process was a critical review of the province's responses to reports of sexual abuse by friars and employees.

The third part of the process involved a study of the province's sexual abuse policies and procedures. The first such policy was issued in May 1988; the latest and current policy was issued in February 2012. In between, the province issued revisions in 1994, 1996 and 2006. The auditors also reviewed the *Kersten Report* and the 1993 recommendations of "Project Samuel," a group of sexual abuse victims.

#### *Relevant Factors that Informed the Audit*

A number of factors provided context and perspective that informed the audit. These factors included the following considerations:

The auditors reviewed the canonical regulations (canon law is Catholic Church law) that are applicable to religious "institutes" (religious orders). They reviewed the regulations that pertain to inappropriate sexual behavior by clerics and non-ordained men in vows as well as those pertaining to sexual abuse in particular. They also studied the responses prescribed by the *Code of Canon Law* for reports of sexual abuse by clerics and non-ordained.

In order to fully appreciate the Capuchin leadership's response to reports of sexual abuse by friars, the auditors reviewed various civil law statutes pertaining to sexual abuse of minors, including mandatory sexual abuse reporting laws.

The auditors gave due consideration to the concept of *clericalism*, the belief that clerics, and by extension non-ordained members of religious institutes, are inherently superior to lay persons and, because of their position, entitled to special deference, greater respect and special treatment. The auditors looked into the impact of clericalism on the province's response to victims of sexual abuse and into the shaping of their responses to reports of such abuse.

Officials of the Catholic Church have used euphemistic or "coded" language, especially in written documents and communications pertaining to sexual abuse by clerics and non-ordained men. An understanding of the various words and phrases that fall under the concept of "coded language" is essential to understanding the true meaning of many documents, especially those generated by persons in leadership. The report contains a number of words and phrases that have meaning unique to the issue of sexual abuse in a religious setting or context, as many of the charts included correspondence and language of this nature. A special report created by researcher and author A.W.R. Sipe on coded language was used by the auditors, and is available on Richard Sipe's website, richardsipe.com.

The province has utilized professional medical services and professional intervention for friars suffering from addiction problems and psychosexual disorders. From 1987 onward, friars with psychosexual issues were regularly sent to special facilities affiliated or sponsored by the Catholic Church for providing psychological help to clergy and religious. The province utilized many of the special facilities set up in the U.S., which included the facilities run by the Servants of the Paraclete, Guest House, the House of Affirmation and the St. Louis Behavioral Medicine Institute.

The absence of evidence in a sexual abuse claim does not mean that abuse did not occur. It may mean that there was lack of evidence, insufficient credible evidence, an inadequate investigation or inadequate documentation. In addition, civil and/or canon law statutes of limitation often prevent a claim from being adjudicated. If a case is "time barred," it does not equate to innocence or lack of proof. If a claim was not investigated, because of a statute of limitations or otherwise, it does not mean that there was no abuse. It means that evidence was not compiled to determine whether abuse occurred. It is also important to note that a reference to or allegation of sexual abuse does not necessarily mean that sexual abuse occurred, especially in cases where a friar denied the allegation and his alleged victim refused to come forward.

*Background: Responding to Sexual Abuse in the Province*

The Province of St. Joseph had no formal written sexual abuse policies or procedures until May 1988. However, the Capuchins, like every other religious institute and diocese, were subject to the *Code of Canon Law* and to other documents from the Holy See which had the force of canon law. *The Code* and two related documents issued by the Holy See in 1922 and 1962 contained procedures for investigating reports of sexual abuse as well as procedures for prosecuting clerics or religious accused of sexual abuse. *The Code* specifically mentions sexual abuse of a minor as a canonical crime.

Historically the provincial leadership dealt with sexual abuse of minors and others on an *ad hoc* basis. It appears that the canonical procedures were used to some degree in the cases referred to in the Provincial Council minutes from 1932 to 1951. However, there are no records of investigations or canonical prosecutions according to canonical norms until the present era. The province's handling of sexual abuse cases was inconsistent and generally inadequate. There was no consistency in the manner with which friars with confirmed reports of inappropriate sexual behavior, including sexual abuse of minors, were handled until very recently. There is no indication of how victims were responded to, especially in regard to compassionate pastoral care, or whether they were responded to at all.

Complicating the lack of a coherent and effective response was the fact that provincial leaders included many friars in different positions in various ministries and in different positions in the authority structure of the order.

The Capuchin leadership from the early years to the 1990s acknowledged that sexual abuse was a canonical crime and a serious sin, but there is no evidence that they acknowledged that it was also a serious crime in civil law nor is there evidence that the leadership, especially those in teaching positions or school administration, acknowledged and obeyed the legal obligations to report cases of sexual abuse of minors. The auditors learned that in the opinion of certain friars interviewed, the obligation to report sexual abuse to child protective agencies and law enforcement agencies was not known or understood by many friars including those in administrative positions at SLS. These and similar rationalizations are inadequate and invalid reasons for the failure to report sexual abuse. It is difficult to believe that educators did not know that sexual abuse of a minor is now considered criminal behavior.

The auditors have concluded that the province's response to reports of sexual abuse was seriously and negatively influenced by two important issues: systemic clericalism and inadequate record keeping. Provincial leaders often appeared guided by an unwritten principle grounded in clericalism that prioritized protection of the institution and the accused friar over the pastoral care of the victim, the discernment of truth, the extent and nature of injury to the victim, and the proper way to respond to reports of abuse. When a friar was implicated in sexual abuse, the prevailing concern was to protect his priestly or religious ministry. In that environment, there was little room for pastoral outreach to victims, especially when provincial leaders feared they would be confronted with victims' expectations that an offending member and the province *itself* could be held accountable in a criminal, civil or ecclesiastical manner. The auditors found that the influence of clericalism in the province still exists to some degree.

The lack of adequate record keeping or the possible removal or destruction of records that might be embarrassing to the province is related to clericalism. The practice of omitting any written reports or of using brief, vague and euphemistic references to friars' sexual misconduct were both symptoms and defense mechanisms powerfully shaped by clericalism and the concomitant effort to shield Capuchins from the consequences of their actions. In some cases,



sexual abuse was simply not documented and known only to the friar and his superior, thereby enabling the friar to remain in ministry and even gain access to future victims. When a friar's sexual misconduct *was* referenced it was often recorded in such an elusive and opaque manner that it was difficult to discern the true nature of the matter being addressed.

Clericalism, inadequate record keeping, inconsistent leadership or lack of understanding of the precise clinical nature of the psychosexual conditions that lead to sexual abuse may help to explain the patterns of response but they do not excuse the lack of accountability and lack of comprehensive pastoral outreach to victims. In this case, as with many dioceses and religious institutes, clericalism shaped the lack of proper response to the victims and fueled the self-preservation of the province.

### *The Audit Findings*

The auditors discovered documented reports of sexual abuse by friars dating to 1932, the earliest Provincial Council meeting minutes available. The sole source for all information on reports between 1932 and 1951 are the sparse and undetailed Provincial Council minutes.

When the audit started in May 2012, five friars were restricted in ministry. The action of one friar restricted in ministry did not involve sexual misconduct with minors. During the course of the audit three additional friars were placed on restricted ministry; one as a direct result of the audit, one as a result of a report from the Archdiocese of Milwaukee bankruptcy process, and one because of a new allegation. This friar has filed an appeal with the Congregation for the Doctrine of the Faith, which is pending.

There have been at least 1,283 Capuchin friars associated with the St. Joseph Province since the 19<sup>th</sup> century. In 1935, one friar transferred to the New Jersey Province. In 1952 when the province split, 188 friars transferred to the New York Province. The auditors reviewed information on a total of 1,101 friars. This number includes 1,093 personnel files: 180 current friars in temporary and perpetual vows; 587 former friars, some of who are now deceased; 317 deceased friars and 9 postulants without vows but in the formation program. They also reviewed information on six friars who had no files but were mentioned in Provincial Council minutes, and two friars from other provinces who were temporarily in the St. Joseph Province.

The auditors identified 1,283 friars of the St. Joseph Province since the 19<sup>th</sup> century. The scope of the audit was sexual abuse of minors and vulnerable adults, as those terms are defined by statute. The auditors identified:

- 46 current, former or deceased members (3.6% of 1,283 friars) with reports of alleged sexual abuse of minors.
- Of these, 23 current, former and deceased friars (1.8% of 1,283 friars) have *confirmed* reports of sexual abuse of minors.
- 23 friars have *unconfirmed* reports of sexual abuse of minors.

- The auditors found no friars with reports of sexual abuse of statutorily-defined vulnerable adults.
- Four lay employees have reports of alleged sexual abuse of minors, none of which were confirmed.

A *confirmed* report is one that has been substantiated with sufficient facts, information or other credible indicia of truth so as to be clearly or obviously true or substantially accurate.

*Summary and Examples of Reports Between 1932 and 1991*

*1932 to 1951:* Provincial Council minutes reveal that at least 15 friars were reported between 1932 and 1951. At least four reports involved sexual abuse of minors. Five of the friars were dismissed from the order, which means they were not clerics. Seven were given canonical warnings, two were transferred and one was sent on retreat. The minutes do not reflect who reported the abuses or when the abuses occurred; it is unclear if minors or others on their behalf reported abuse, or if adults who had been abused as minors reported their abuses. The minutes say nothing about the victims, nor whether law enforcement was involved in any of the cases.

*1952 to 1956:* There are no recorded reports between 1952 and 1955. In 1956, one friar was reported for sexual abuse of minor girls. This friar had been admonished for similar behavior while in formation yet was ordained anyway. He was reported for sexual abuse of minor girls several more times throughout the decade. The reports were made by the minor girls and their parents. Others, including a female police officer parishioner, reported their observations of the friar's inappropriate behavior with girls. He eventually left the order to marry.

*1956 to 1960:* There are 13 documented reports involving 13 different friars between 1956 and 1960. The documentation contains only summary information of these reports. Some reports were made by minors or others on their behalf, but it is unclear if all of these reports involved minors.

*1960 to 1961:* Three friars were reported in 1960 and one in 1961.

*1962 to 1991:* Between 1962 and 1991, there are *recorded* reports of 13 friars having some form of inappropriate sexual activity. In 1962, a teenage boy and his mother reported his sexual abuse by a friar; that and many more reports involving the friar into the 1990s were confirmed. There was one unconfirmed report in 1964 by a minor at SLS. Between 1965 and 1970, there were an undetermined number of reports made by minor students against two friars who taught at SLS.

The year 1991 was used by the auditors as a cut-off point because the reports received in 1992 and onward are treated in a separate section, since most involve the events at SLS, which began with a news story on December 20, 1992.

1992: Nine friars were reported in 1992. All the reports were made by adults but alleged sexual abuse when they were minors. Six were accused of sexually abusing minor male students at SLS. Three of the friars left the order, one of whom has since died; two died as friars; and one is still a member of the province on restricted ministry.

1993 to 2013: Fifteen friars were reported between 1993 and 2012. Most of these reports have been made by adults but alleged sexual abuse when they were minors. There were also four reports made by third parties of purported inappropriate sexual activity by lay employees involving minors between 1993 and 1998, none of these are confirmed.

#### *Summary and Examples of the Responses Between 1932 and 2013*

From 1932 to 1991, there is no evidence that civil officials from either law enforcement or child protective services were notified of reports of sexual abuse of minors. It is possible that some friars were unaware of reporting obligations even in states where clergy were included as mandated reporters. In 1989, the Archdiocese of Milwaukee established Project Benjamin, which informed all pastors and administrators of their obligations to report. Yet, there is no evidence that any reports of sexual abuse of students at SLS before December 1992 were referred to child protective services, even though the school administrators and teachers were mandated reporters at least as of 1978. Alleged lack of awareness of the legal obligations to report is no excuse for failure to report.

There were no civil lawsuits filed against the province between 1932 and 1993. No friar was charged with criminal behavior during that period.

Reports of sexual abuse of minors or vulnerable adults by friars were not investigated or processed in a consistent manner until recently, after the promulgation of comprehensive policies and procedures.

In the earliest period (1932 to 1951), five friars were dismissed, 2 transferred, 2 given canonical admonitions, 2 placed on restricted ministry, 1 encouraged to seek a dispensation from vows and 1 remains in active ministry in another religious institute.

In 1956, a friar was reported for sexual abuse of minor girls. He had been admonished for similar behavior while in formation yet he was ordained nonetheless. He was reassigned in 1957, and was again reported for sexual abuse of minor girls in 1957 and 1958 at the new assignment. A priest investigated and confirmed the abuses, but advised the prepubescent and young teenage girls to keep the abuses secret and to go to confession. The offending friar subsequently left the order to marry.

In 1959 a friar was first reported for sexual abuse of minor boys, with additional reports in 1960 and 1961. In 1961 he was given a canonical warning but his ministry was not restricted. There

were more reports in 1992, 1993 and 1995. The friar was laicized (removed from the priesthood) in 1994 and subsequently died.

The sole case that involved a full canonical process under the direction of the Congregation of the Holy Office (now the Congregation for the Doctrine of the Faith) involved a friar who was involved in seminary formation and was accused of teaching heresy and of sexual abuse of adult student friars in 1959. The case was subjected to official Vatican secrecy and placed in the order's version of the secret archives. The friar was placed on a form of restricted ministry but later re-instated. He eventually left the order to become a diocesan priest. All of the student friars involved were either dismissed or urged to leave voluntarily.

From the 1980s onward, some friars were sent for professional psychological treatment to accredited institutions such as St. Luke Institute in Silver Spring, Maryland, the House of Affirmation or the facility of the Paraclete Fathers in New Mexico. In at least two instances, they were reassigned and subsequently re-offended. In several cases friars were admonished and reassigned. Since 2002 the standard practice has been to conduct an investigation into all reports and, if confirmed, place the friar in restricted ministry.

#### *Sexual Abuse at St. Lawrence Seminary*

Over several decades prior to December 1992, many SLS students accused SLS faculty and administrators of sexual abuse, yet SLS leaders generally took no decisive action and did not respond to abuse victims with any degree of pastoral care. Friars who knew did not report it to civil authorities or parents, and only sporadically reported to provincial authorities. However, at least three provincial ministers knew about sexual abuse at SLS.

By 1978, the Wisconsin mandatory reporting law required teachers and school administrators to report sexual abuse of minors to law enforcement or child protective agencies. There is no indication that SLS sexual abuses were reported to civil authorities. Several witnesses claimed that SLS administrators did not appear to understand or acknowledge their responsibility to report suspected or actual sexual abuse of minor students, but ignorance is no excuse.

There were only two exceptions to the inaction prior to December 1992. In one, SLS leaders forced Br. Tom Gardipee to personally apologize to five 18-year old students with whom he behaved in a sexually inappropriate (though not criminal) manner. In March 1988, when Gardipee became infatuated with an SLS student and behaved inappropriately toward him, the student's parents complained, and the provincial minister terminated him from SLS. However, even despite this action, after impassioned pleas by the SLS president and SLS rector, the Provincial Council reinstated him in June 1988. His reinstatement enabled him to have unfettered and unsupervised access to SLS students, including the student who was the focus of his misconduct, until 1993. In 1994, it was learned that Gardipee had engaged in sexual abuse of the SLS student. The other exception was Fr. Gale Leifeld, who abused numerous students before leaving SLS in 1982 and being reassigned to parish ministry. Provincial leaders finally

removed him from ministry and sent him to the Paraclete Fathers for evaluation and treatment in 1993 after the SLS scandal erupted. He died in 1994. Thus, even in these two exceptions where some action was taken against SLS friars who sexually abused students, the offending friars were enabled to remain in ministry for some time after their sexual misconduct.

Moreover, in both these cases, nobody at SLS or the province notified civil authorities.

It is the opinion of the auditors that the Capuchins' response to sexual abuse reports was deficient, especially their failures to report abuse to civil authorities and their inadequate pastoral responses to victims.

From at least 1989 through 1992, the provincial minister, the late Fr. Ken Reinhart, met with several SLS sexual abuse victims and paid them modest amounts for counseling (usually in the range of \$2,000 to \$3,500) in exchange for releases of liability that included confidentiality provisions. Some victims reported that Fr. Reinhart also promised that accused friars would not be allowed to be around minors. When the victims realized that he did not comply with this promise, they took the step of contacting the newspaper.

On December 20, 1992, the *Milwaukee Journal* published a story reporting that several former students had been sexually abused by certain friars at SLS. Fr. Campion Baer, OFM Cap., described that day as "Black Sunday" in his history of the province, *Lady Poverty Revisited* (2005). Fr. Reinhart was provincial minister when the *Milwaukee Journal* article was published.

Shortly before the *Milwaukee Journal* story broke in December 1992, the provincial leadership conferred with attorneys and public relations consultants to devise a strategy for response. Early on, general counsel for the province expressed concern and compassion for the victims in his correspondence with provincial leadership. He devised a phone intake form to deal compassionately with victims who may call with reports of their abuse. He admonished the province's leaders to remember that they were Christians and Capuchins first, and that they should remember that the students who had been abused were the true victims. However, there were few suggestions as to how to reach out to victims and their families in a pastoral manner.

In approximately May 1993, the province's insurance carrier retained local counsel to defend the province. Once defense counsel became involved, the province's general counsel did not have a large role in the ongoing process. The auditors conclude that provincial leaders essentially surrendered their response to the victims to defense counsel. This caused many victims to feel alienated and re-victimized due to the tactics of the attorneys. As the clients, the province and its leaders had the ultimate voice in how their defense would be handled. As Christians and Capuchins, their response to victims should have been compassionate and pastoral, and should not have been relegated to defense attorneys whose role it was to defend against litigated claims. Although the tactics were the lawyers', it is the Capuchins who bear ultimate responsibility for surrendering their moral obligations to the attorneys.

It should be noted, however, that one SLS Capuchin handled the crisis with relative distinction. Within days after the story broke, Fr. Joseph Diermeier, the SLS rector, contacted the parents of every SLS student to answer questions and offer assurances, sent daily mailings to update parents on developments; and met with them to answer their questions. His leadership is credited as the reason all students, approximately 204, returned to SLS after the Christmas break. In early 1993, he brought in sheriff's officers, representatives from the District Attorney's Office and counselors from the Archdiocese of Milwaukee's "Project Benjamin" organization to speak to students and faculty about sexual abuse, and to facilitate students' direct reporting of sexual abuse to law enforcement and/or counselors. No SLS students came forward to the Sheriff's Department or counselors to report sexual abuse at that time.

Mass mailings were sent to SLS alumni throughout the United States between December 1992 and May 1993, inviting former students who may have been abused to seek assistance if they needed it. The province prepared intake forms to handle calls from anyone who reported abuse at SLS. These are all laudable and necessary actions. However, no evidence was found that SLS staff or provincial leadership made attempts to contact and provide pastoral care to the then-known victims or their families.

In January 1993, Fr. Ken Reinhart met with SLS faculty and staff and with the local community of Mount Calvary, Wisconsin to answer questions. However, it appears he knew that Fr. Jude Hahn, a priest at Holy Cross Parish in Mount Calvary, had sexually abused minors, yet did not disclose it and apparently made little attempt to identify other possible victims.

As noted above, in January 1993, Fr. Reinhart retained the Kersten & McKinnon law firm to act as special counsel and to conduct an investigation of sexual abuse at SLS. Fr. Reinhart gave special counsel unprecedented access to documents and information. Special counsel was also authorized to solicit and receive reports of sexual abuse, even anonymous reports, and to extend \$1,000 to \$2,000 to victims for counseling and assistance, "no questions asked," and with no investigation. He was authorized to offer more if a victim submitted a therapist's treatment plan. Special counsel's investigation report, commonly known as the "*Kersten Report*," was published May 27, 1993.

The *Kersten Report* found several reported incidents of sexual abuse at SLS between 1968 and 1986. These reports involved the sexual abuse of 14 boys by six Capuchin Friars. The report distinguished between acts of abuse as defined in criminal statutes, and inappropriate "qualified acts" that do not meet the criteria for criminal sexual misconduct. The auditors discovered that an additional two friars were confirmed as having sexually abused SLS students, bringing the total number of confirmed offending friars at SLS to eight. The auditors also determined that an additional 14 SLS students were abused, bringing the total number of SLS victims to 28. The auditors also learned that reports of SLS sexual abuses dated as far back as 1964, not 1968.

Special counsel's treatment of victims and his efforts to solicit and assist victims was commendable, and he gave credit to provincial leaders who made "an unparalleled effort" to do "everything practically possible to identify victims and to offer them appropriate counseling, diagnosis and treatment." However, when defense counsel actively assumed the defense in June 1993, and provincial leaders essentially ceded their response to victims to defense counsel, special counsel and his efforts were marginalized. One of the few individuals who had reached out to victims with compassion was no longer able to do so.

At the province's June 1993 provincial chapter, Fr. Reinhart led the friars to a discussion of the SLS scandal and encouraged friars who were sexual abuse victims to share their stories. To this day, the June 1993 chapter, where the *Kersten Report* was presented and approved and where there was painful discussion of abuse at SLS and in the friars' own personal lives, is recalled as perhaps the most difficult in the history of the province.

#### *Alienating the Victims*

The auditors believe that some evidence suggests that the attitude towards victims was warm or patronizing as long as they accepted what Capuchin leaders offered them; but the attitude turned adversarial and negative once a victim asked for transparency, accountability or monetary reparations, especially if a victim filed suit. Underlying this attitude was a significant degree of disbelief that the accusations were true *or* a refusal to consider that they *might* be true.

The Capuchin leadership and the friars in general failed to extend pastoral outreach to SLS victims. Many friars interviewed by the auditors stated that they believed provincial leaders prohibited them from reaching out to victims, on orders from defense counsel. The former provincial ministers interviewed had no memory of such a prohibition although they acknowledged that friars were told not to speak with the media.

It appears to the auditors that most friars, with two notable exceptions, distanced themselves from SLS victims. One friar reached out to the victims and "stood shoulder to shoulder with them" and the other reported that he extended pastoral care through counseling. Although the feeling among many friars was that the attorneys were ultimately responsible for preventing outreach to victims, it is important to note that there was sufficient opportunity for outreach between the revelations of sexual abuse in late December and the engagement of defense counsel in the spring of 1993. The victims made several efforts to meet and work with the Capuchin leadership, none of which were followed up on by the Capuchin leadership. After the *Kersten Report* was published, the newly elected provincial minister publicly promised to meet with the victims but never did so.

Some victims have described the defense attorneys as employing highly aggressive and combative tactics in their response to SLS victims who filed lawsuits. The attorneys representing the order appeared to not believe many of the claims, and they discouraged and disallowed pastoral outreach to victims, believing that such outreach would compromise the defense. The

extent of the abuse at SLS was questioned, and legal efforts resulted in modest settlements purchased with extensive defense efforts and expenses.

SLS victims who did not seek monetary compensation, did not retain legal counsel and did not threaten lawsuits, but only sought counseling, received more favorable treatment. The victims in this category were provided counseling at the province's expense and were not required to sign a release from liability.

When one of the SLS victims assumed a leadership-advocacy role and when several others filed civil lawsuits, many friars' negative feelings and hostility increased. Provincial leadership perceived the victims as adversaries rather than victims of their own brothers. In many cases, anger replaced compassion. Many leaders felt attacked and became defensive. They became protective of friars who were implicated.

The hostility of the friars towards former SLS students who had assumed leadership and advocacy roles was more than inappropriate — it was destructive. These former students were demanding accountability of the province "because of the sexual abuse that had been inflicted upon them and because the friars, even when informed of this abuse, did nothing." (the words of a victim). This hostility was further fueled by the attorneys. Consequently a successful pastoral outreach and a response from the friars that was in keeping with their Franciscan charism was severely compromised, damaged and, in some cases, even opposed.

Several friars described the SLS saga as the darkest night of the province's history. However, the dark night did not begin on December 20, 1992, but many years before when the first report of sexual abuse of a boy by a friar was ignored or dismissed. In the end, after lawsuits were settled, there were no winners.

The auditors perceived that the reaction of some friars to the SLS scandal was based on their own pain and embarrassment. Unfortunately, for some friars, their perception of the "dark night" did not begin with or extend to victims and the unspeakable harm inflicted upon them by religious men in whom they had placed trust. Their primary concern was the effect on the province, on SLS and on the friars, not on the damage done to the students entrusted to them. Yet there are no valid excuses for such behavior either by individuals or by the institutions.

#### *The Time Frame of the SLS Reports*

The auditors learned that a wide variety of administrators, teachers, rectors and provincial leaders received reports of sexual abuse at SLS over several decades, yet did not report the abuses to authorities. The auditors determined that the earliest reports of sexual abuse by SLS faculty date from 1965 and possibly (though not confirmed) 1964. These were reports by minor students of sexual abuse by Fr. Gale Leifeld, who taught at SLS beginning in 1958 and became the rector in 1976. There was an unspecified report in 1971. There were specific reports by SLS



victims while they were still minors in 1972, 1974, 1976, 1977, 1979 and 1981. There were reports of “qualified acts” with 18-year old SLS students in 1985.

There were reports of more “qualified acts” with a minor SLS student involving the same friar in 1987-1988. From 1989 to December 1992, there were reports of sexual abuse by adult former SLS students, who received money for counseling. Beginning in December 1992, a number of adult former students have reported sexual abuse at SLS through the media and in legal and other claims. Included in this group is the 1994 sexual abuse claim made by the adult former student who had previously been believed to be only the subject of “qualified acts” in 1987-1988 when he was a minor.

In one case, a priest consulted with Archbishop Rembert Weakland, then the Archbishop of Milwaukee. Archbishop Weakland provided some guidance, but took no action in response to the disclosure of sexual abuse. This oversight is important because, as archbishop, he had authority over all apostolic and pastoral work that took place in the archdiocese. This included SLS because the students were not members of the order, yet were among the faithful of the archdiocese.

#### *The Outcome of the Lawsuits*

Fourteen SLS victims filed civil lawsuits against SLS and the province. None went to trial. One suit filed as a result of alleged sexual abuse at the province’s pre-novitiate in Detroit did go to trial. The jury found that the statute of limitations barred the plaintiff’s lawsuit. The jury did not reach the question of whether the accused friar abused the plaintiff.

The 1995 Wisconsin Supreme Court ruling in *Pritzlaff v. Archdiocese of Milwaukee* had the effect of barring many SLS victims’ lawsuits. Subsequently, the province negotiated modest settlements for the claims (approximately \$3000 to \$4,000, of which approximately \$3,000 netted to the victim) but provincial leaders did not attempt reconciliation with victims.

Fourteen of the 28 known SLS victims received modest monetary settlements which were reported to be based on costs for counseling. The province paid for psychological assistance and counseling for seven victims. None of the 14 victims who filed lawsuits received any form of pastoral care or assistance.

#### *The Financial Aspects*

Data provided by the province’s former insurer clearly reflect that the insurer and defense counsel, and by extension, the provincial leadership, prioritized defense of the province and the accused friars in the SLS abuse claims over the victims.

The insurer’s total expenditures for the SLS abuse cases were \$962,026. The defense costs amounted to \$855,449 of the total (88.9%) and the remainder, \$106,578 (11.1%), was spent on settlements for victims. The average settlement per victim was approximately \$7,613 and

average defense cost per victim was \$61,103. However, the \$7,613 average settlement figure is skewed; because one settlement was just over \$50,000 and one was just under \$20,000, while the rest were in the low four figures, except for four that were zero. Although the auditors note that the Capuchin's and their insurer's significantly greater expenditures on defense costs rather settlements for victims was not uncommon in civil litigation; the expectation is that a Catholic religious order would have conducted themselves more as "church" than secular civil litigants.

In the SLS sexual abuse claims, the interests of the insurer and the insured province aligned. Both wanted the claims to go away as quickly as possible for as little cost as possible. The province was entitled to the best defense and claims handling that their insurer could provide. Had the province and its insurer trusted that compassionate claims handling *was the best defense and claims handling strategy*, that it served both *their* interests and *victims'* interests, they could have saved considerable money and heartache.

If the provincial leaders had taken a leadership role that prioritized compassionate resolution and accountability over an aggressive defense, SLS victims may have received more just treatment; and lower resolution costs likely would have saved the insurer enormous sums. In fact, expedited and compassionate settlement of these claims could have saved the insurer hundreds of thousands of dollars. Authentic and compassionate pastoral outreach was both the right thing to do and a good business decision.

#### *Lessons from the St. Lawrence Seminary Experience*

After the SLS experience, the province made significant changes in its approach to reports of sexual abuse, to the accused friars and to the victims. The province has revised its policies and procedures several times since the first policy was promulgated in 1988. The present policy, published in 2012, is an excellent blend of compassionate pastoral care, preventive measures for the future and education and training. The auditors agreed that it is the best policy of its kind that they have seen.

The province has made significant and praiseworthy improvements in its approach to persons who report sexual abuse. There is a much more pastoral and fair handling of abuse claims. The overwhelming majority of the expenditures on sexual abuse claims by the province have been spent on victims. Since 2004, the province has handled 100% of the sexual abuse claims that were initially reported to the province "in house," and has spent almost all its expenditures on victims. Some victims have only sought psychological counseling from the province. Several have been paid settlements, some with creative, accommodating and personally-tailored provisions designed to provide targeted assistance that responds to victims' needs. It manifests an understanding of the reality that the harmful effects of sexual abuse differ from person to person and that every victim must be treated as an individual.

### *The Auditors' Recommendations*

The final section of the report contains a review of the province's past sexual abuse policies. The auditors studied the recommendations in the *Kersten Report* (1993) and given by Project Samuel, also in 1993. With these recommendations as a backdrop and in light of the audit findings, the auditors formulated their own recommendations. The auditors are aware that many of these things are being done already. The full list of recommendations is in the report, but some recommendation for the future, in light of the findings and revelations of the study, include the following:

1. The current policy states that the provincial minister must immediately place a friar on paid administrative leave when a "credible allegation of sexual abuse" is made. "Credible allegation" is defined as "one that is at least within the realm of possibility with respect to the persons, dates, places and other relevant information concerned." The term "credible allegation," even as defined and clarified above, is confusing and often harmful to claimants and the accused. The term "credible" means "believable," and generally people consider a believable allegation to be *actually* believed or even true. The use of this term is under review by the province.
2. All supervisors and friars in positions of authority need objective, external, separate, and professional training and continuing education in the acknowledgment, identification, investigation, and processing of sexual abuse. They should seek out expertise, abilities, and ideas even when they differ from or challenge historical protocol, functioning, and beliefs
3. Adequate maintenance of the files is critical, including consistent documentation, guidelines and mandatory review of files for new assignments. This includes both past and current documentations of all interpersonal and sexually inappropriate reports. When a friar is reassigned or transitions to a new community, the previous supervisor should communicate verbally and in writing a thorough description of all abusive reports and investigation outcomes to the new supervisor. The auditors are advised that the process of updating the records management and retention policies of the province is underway. Relaying information about sexually abusive allegations and actions should not be left to the friar in question, but rather should be the responsibility of supervisors and provincials.
4. The policy should explicitly state that a provincial minister must disclose a friar's complete history of abuse allegations, investigations and responses to a bishop or other ministry director external to the province, to assist in an assessment of a friar's character and fitness for a new assignment, ministry, or relocation. Likewise, an outgoing provincial minister must provide an incoming

provincial minister with a complete report of a friar's abuse allegations, investigations and responses to ensure continuity of supervision, monitoring, intervention, and care.

5. When reading this report and the list of friars, some victims, their loved ones, friends and family members may find emotions, memories or distress re-opened or brought to the surface. To ensure pastoral and other necessary support, the province should provide a contact name and number/e-mail address for anyone contacting the order in response to this to ensure any additional support or assist can occur. This could be the OPCC or a designated victim outreach coordinator, and currently this position is held by Amy Peterson.

6. External involvement and consultation from individuals, agencies, organizations and experts in sexual abuse should also occur in response to confirmed and unconfirmed allegations to help ensure objectivity and competence, follow-up and supervision. This should also occur in conjunction with the OPCC director, the province's review board and other consultation agencies as described.

7. It is preferred that friars with confirmed allegations of sexual abuse be kept as members of the Capuchin community rather than expelling them. This will ensure that they receive needed treatment, care, support and monitoring. If they are expelled from the order and deteriorate without support or assistance, this would increase the risk of recidivism and does not serve the abuser, the victim, the order or the wider community.

8. There should be specific education — to include workshops, seminars or curriculum additions, in the nature of sexual abuse with emphasis on the complex nature of psychosexual dysfunction and the impact of sexual violation on the victim — provided for the novitiate and post-novitiate programs.

9. The members of the province should have comprehensive and realistic training in the pastoral response and care of persons sexually abused or violated by anyone, but especially and specifically training in such care for persons sexually abused by clerics or religious.

10. The ratio of defense costs to settlement amounts for SLS victims, 88.9% to 11.1%, illustrates the need for provincial leaders to prioritize compassionate and pastoral outreach and resolution over an aggressive legal defense. Pastoral outreach is much more than providing money to victims for counseling. Recent handling of such claims indicates that the provincial leadership appears to be heeding this concern.

11. This process has led the auditors to findings and discoveries previously unanticipated. As some of critical findings are outside of the scope of the audit, future studies, investigations, or audits including this information could help to further the order's understanding of sexuality and its expression, abuse, and how its clerical culture may contribute to the problem.

### *The Appendices*

In collaboration with the provincial minister and the director of the OPCC, the auditors have added several appendices to the report to provide additional explanation and insight into the importance of the province's decision to conduct the audit, and to place the audit into a broader national and international context.

### *Commendation*

The auditors recognize and commend the group of men who came forward to reveal the legacy of sexual and spiritual abuse that had brought irrevocable harm to many. Without their courage, this history of abuse and cover-up would have continued to bring not only harm to the abused but a grievous insult to the Franciscan spirit and the wonderful charism of the founder.

For this reason, the auditors highly commend Fr. John Celichowski for listening to the survivors of sexual abuse and to his Franciscan charism in bringing about this process, and to the Capuchins on the Provincial Council for their willingness to commission the audit. They commend the director of the OPCC, Amy Peterson, for her constant support and guidance and for her compassionate care for those who have experienced sexual abuse, as well as her care for those who have been accused. They commend the provincial archivist, Fr. Patrick McSherry, for his tireless provision of many materials and information that has contributed to the audit, some which the auditors would not have known to ask for. They commend Br. TL Michael Auman and Br. Mark Carrico for their tireless help with formatting, proofreading and fact checking. They commend the brothers of the province for their open and honest response to the audit and for their commitment to examining their history and their past and current response to incidents of sexual abuse. They commend them for striving to bring compassionate care and justice to the victims of sexual abuse.

## *Audit of the Capuchin Franciscan Province of St. Joseph in the United States*

### *Prologue*

The sexual abuse of children and vulnerable adults by those entrusted with their care is a crime, a sin, and a profoundly human problem. It has been with us for a long time, in a variety of social, cultural, religious, and professional settings. It was long in the shadows of secrecy and shame. Through a combination of forces, including the great courage of survivors and changes in the criminal codes and child protection laws, it has now been brought into the light. It will never go away, at least not completely. We need to do whatever we can to prevent it and to help heal the grave harm that it does, especially when the harm is caused by one of our Capuchin brothers.

In April 2011 I joined some other friars and partners in ministry in participating in “Harm, Hope, and Healing: International Dialogue on the Clergy Sex Abuse Scandal,” a conference sponsored by Marquette University Law School’s Restorative Justice Initiative. It was after hearing the stories and reflections of victims and survivors of abuse, child protection professionals from Ireland, Australia, and the U.S., and bishops and clergy that the idea of conducting an audit began to develop.

Over the past year-and-a-half the Provincial Council and I have been working with Amy Peterson, the director of our Office of Pastoral Care and Conciliation, to plan and implement the audit. We met with our Provincial Review Board, representatives from law enforcement, and survivors of abuse to plan the project.

We began with the idea of a simple file review. However, as we moved through the process it became painfully evident that we needed to look honestly at our history of preventing and responding to sexual abuse. We needed to have a clearer idea of where we have been, where we are now, and where we might go in the future.

It is not our intent to needlessly embarrass people, to affix blame for what has happened, or to hurt anyone, particularly the innocent. At the same time, we know that this type of self-examination is an inherently painful exercise. We want and need to better understand and hold ourselves accountable, learn from our experiences (including our mistakes), and reach out to those who have been harmed by our brothers or by our response to them when they came forward with their reports of abuse.

This audit is an important part of our efforts to live out our mission and values as a province. We hope that this audit will be a part of a process of ongoing reform in this area and will achieve a number of goals:

- Make the Church and community safer for children, teens, and vulnerable adults.
- Provide greater opportunity for healing victims/survivors, as well as for members in the community who have been affected in different ways.
- Provide greater openness and accountability to the wider Church, the province, those we serve, and the public.
- Strengthen the accountability, supervision, and rehabilitation of friar-offenders.
- Improve the effectiveness of our efforts to prevent and respond to abuse.
- Incorporate current and evidence-based best practices in the field and draw from a wider field of expertise and resources.

While it is important, we recognize that this audit is but one step towards meeting these goals. Preventing, responding to, and helping to heal the trauma of sexual abuse will remain our challenge as a religious community, as they are in the wider Church and society, for a long time. We must strive to fulfill these goals in an effort to integrate our mission, inspired by Christ and following the example of our brother Francis, to "...build sister-brotherhood...[and]...attend simply and directly to the spiritual and other basic human needs, especially of the poor and disenfranchised, promoting justice for all" ("Mission Vision Values Statement of the Province of St. Joseph"). It is an opportunity for us to show hospitality and compassion, provide joyful service, partner with and empower others, and promote justice for all.

— Fr. John Celichowski, OFM Cap., Provincial Minister

## *Introduction*

On January 6, 2002, the *Boston Globe* published the first of a series of articles on widespread clergy sexual abuse in the Archdiocese of Boston, leading to a nationwide clergy sexual abuse scandal in the Catholic Church. Although the sexual abuse scandal in the Catholic Church had received publicity since 1984, sexual abuse in the Archdiocese of Boston became a touchstone for many Americans, and brought the issue into the national consciousness.

The media initially exposed the scandal of sexual abuse in the Catholic Church in America, and continues to report extensively on the Catholic abuse scandal. In recent years, the Catholic sexual abuse scandal has been exposed throughout the rest of the world as well. However, over time, it has become painfully apparent that the plague of childhood sexual abuse knows no borders and infects all faiths and religious traditions.

The United States Conference of Catholic Bishops (USCCB) asked the National Review Board to create a report when the board was founded in 2002. This report was extraordinary in that it went deeply into the systemic problems related to sexual abuse by clergy. The USCCB also commissioned reports by two outside agencies: the Gavin Group and the John Jay College of Criminal Justice. The reports that each organization offered at the conclusions of their studies were specialized with the scope determined by the bishops. The USCCB conducts a study of compliance by dioceses with the terms of the *Charter for the Protection of Young People* (Dallas Charter and Essential Norms) each year. These are predominantly self-reports.

In Ireland, the National Board for Safeguarding Children in the Catholic Church, an independent group appointed by the Catholic bishops, has conducted reviews of the safeguarding practices of several dioceses and religious institutes. Their reports are the closest example of a truly independent, though limited, audit of any Catholic Church entity.

Some Capuchin Franciscans have sexually abused children and vulnerable adults. The Province of St. Joseph is painfully aware of the sexual abuse scandal that publicly erupted in December of 1992 following published reports of sexual abuse of students at St. Lawrence Seminary (SLS). A number of friars from the province have been implicated in the revelations of sexual abuse from SLS and from elsewhere in the province, and in ministries conducted by Capuchins in foreign countries.

The SLS sexual abuse scandal was a defining event in the history of the province that led to many positive developments in the province's handling of sexual abuse claims and prevention efforts. The province has much to be proud of in this respect. However, the effects continue to haunt many friars precisely because many aspects of it were not handled well and many victims were not shown pastoral care and consideration.



The auditors learned that some members continue to suffer the aftermath of the SLS scandal; some feel shame about how SLS victims were treated, and how they may have individually failed to reach out to victims with Christian love and compassion. Some friars feel that they failed to live up to and reflect the charism of St. Francis in their response to the scandal. It is apparent to the auditors that some members still have not come to terms with the SLS sexual abuse scandal from two decades ago.

## *Chapter I*

### *A Brief History and Background Summary of Sexual Abuse in the Province of St. Joseph*

The Province of St. Joseph, or Calvary Province, was canonically erected on August 7, 1882. It covered the Midwest and the eastern United States. On February 2, 1952, the province split and 188 friars left to form a new province, the province of St. Mary in New York, encompassing the eastern states. The St. Joseph Province retained Michigan, Wisconsin, Minnesota, Iowa, North Dakota, South Dakota, Nebraska, Montana, the Archdiocese of Chicago and Diocese of Joliet in Illinois, and the dioceses of Gary, Fort Wayne-South Bend and Lafayette in Indiana. The province has also had missions in Nicaragua, Guam, Japan, Australia, Panama and the Middle East.

Since the 19<sup>th</sup> Century, 1,283 men are known to have been members of the St. Joseph Province of the Capuchins. However, years ago some non-Capuchin lay people who shared a commitment to the Franciscan lifestyle lived and ministered with the Capuchins. Minimal records exist for some but not all of these people since they were not Capuchins and such record keeping was not required. A few are mentioned in the Provincial Council minutes. Some friars from other provinces temporarily resided in friaries in the St. Joseph Province, but since they were not members of the Province of St. Joseph no personnel files were needed or kept. There have been a handful of friars who transferred to other provinces and whose personnel files followed them there; thus there is no personnel file for them in the St. Joseph Province.

#### *1. No Policies, Procedures or Guidelines Until May 1988*

The St. Joseph Province had no formal written policies or procedures to address sexual abuse of minors and vulnerable adults until May 1988. There were no policies or programs aimed at the prevention of sexual abuse. There was no provincial procedure to remove offending members from ministry and to minister to victims. They were not held accountable to any internal formal written standard or mandate other than the *Code of Canon Law* and two canonical documents issued by the Holy See in 1922 and 1962.

The province and provincial leaders were subject to the mandates of the *Code of Canon Law*. The Catholic Church's *Code of Canon Law* listed sexual abuse of a minor by a cleric as a canonical "delict," or crime. The code contains general norms for investigating reports. The section on canonical processes contains the procedures to be followed in prosecuting a canonical criminal case before an ecclesiastical tribunal.

#### *2. Early Practices*

Historically, provincial leaders dealt with sexual abuse matters on an *ad hoc* basis. Hence, the province's handling of sexual abuse was inconsistent, and responses were as varied as the provincial leaders themselves. Further complicating the lack of a coherent response is the fact that "provincial leaders" include many different men in a variety of positions, ministries and jurisdictions. Provincial leaders include a provincial minister (the elected leader of the

province), members of Provincial Council (an elected council of advisors for the provincial minister), local ministers (leaders or coordinators of Capuchins in a particular location or area), and pastors (Catholic priests in charge of parishes). Provincial ministers are elected and can serve a maximum of six years. Local ministers are appointed for three year terms by the provincial minister.

The province has had a number of parishes and has provided staff for diocesan parishes and ministries. Provincial leaders have included school principals, formation leaders (leaders of Capuchin seminaries or other levels of training for priests and brothers), friary guardians; and directors of various Capuchin ministries in the U.S. and abroad. Capuchin leaders have also included rectors, deans of students, presidents and other administrators at St. Lawrence Seminary, which was the epicenter of a sexual abuse scandal in the province in the early 1990s. Thus, the lack of formal sexual abuse policies often resulted in uninformed and inconsistent responses at many levels of varying degrees of responsibility and experience.

There is evidence that the province leadership made at least initial application of the canons of the Catholic Church's *Code of Canon Law* in some of the early cases recorded. Evidence from the early Provincial Council meetings (1932-1951) appears to confirm that provincial leaders at that time acknowledged that sexual abuse was a sin and a canonical crime. However, it appears they were not equally aware or did not acknowledge that it was also profoundly injurious to the victims and their families and constituted criminal behavior according to secular law.

### *3. Clericalism and Inadequate Record Keeping*

The province's response to sexual abuse was influenced by two issues which, though not readily obvious, were closely related: systemic clericalism (the belief that clerics and religious are superior to lay people and entitled to deference, respect and special treatment) and inadequate record keeping. Provincial leaders often appeared guided by an unwritten principle imbued with clericalism that prioritized protection of the institution and the accused friar over the discernment of truth, the extent and nature of injury to the victim, and the proper way to respond to reports of abuse. When a friar was implicated in sexual abuse, the prevailing concern was to protect his priestly or religious ministry. In that environment, there was little room for pastoral outreach to victims, especially when provincial leaders feared they would be confronted with victims' expectations that an offending friar and the province *itself* could be held accountable in a criminal, civil or ecclesiastical manner.

Another manifestation of clericalism was a failure to adequately document sexual abuse in personnel files, the Provincial Council minutes, official correspondence and other documents. Non-existent, brief, vague and euphemistic references to friars' sexual misconduct were both symptoms and defense mechanisms powerfully shaped by clericalism and the concomitant effort to shield Capuchins from the consequences of their actions.

Thus, in some cases, sexual abuse was not documented, and was often known only to the offending friar and his superior; thereby enabling the friar to remain in ministry, escape reproach and gain access to future victims. When a member's sexual misconduct *was* referenced, it was often articulated in such an opaque fashion that it was difficult to discern the true nature of what was being addressed. It does not appear that these deficiencies and enabling behavior were the products of malice, but instead emanated from an otherwise laudable and understandable protective fraternal instinct.

Clericalism helps to explain but does not excuse the lack of proper accountability and comprehensive pastoral outreach to victims. Clericalism has played a major part in the institutional drive for self-preservation. In this case, as with many religious institutions, clericalism fueled the self-preservation of the province over the preservation of the psyches, innocence and faith of victims.

#### *4. St. Lawrence Seminary Sexual Abuse Scandal*

In December 1992, the *Milwaukee Journal* reported on decades of sexual abuse at the province's St. Lawrence Seminary (SLS) in Mt. Calvary, Wisconsin. It was apparent that several friars had perpetrated sexual abuse of students and that several other friars, including some provincial leaders, had ignored or disbelieved or concealed the abuse. A scandal ensued involving sexual abuse by friars at SLS and elsewhere in the province.

The SLS scandal ranks among the most tragic periods in the history of the province, and continues to affect many victims, the province and individual friars to this day. The ongoing fallout of the scandal, in part, led to the commissioning of the independent audit by the current leaders of the St. Joseph Province.

## *Chapter II*

### *Background and Development of the Audit*

#### *1. Background and Events Leading Up to the Audit*

Before being elected provincial minister, Fr. John Celichowski directed the province's Office of Pastoral Care & Conciliation (OPCC) for three years. During that time he became more aware of the impact that sexual abuse of minors and vulnerable adults has on victims and their families, friars, the province and the wider church. (See *Catholic Clergy and the Violation of Children*, Doyle, T., attached hereto as Appendix 2) As director of the OPCC, Fr. John turned to outside experts in the field of sexual abuse to assist in the development of new policies and procedures for the province. He realized that systems of internal and external accountability had to be enhanced; and that new ways of dealing with the history of abuse and the province's response to it had to be explored and developed.

Fr. John Celichowski, as the provincial minister, participated in *Harm, Hope and Healing: International Dialogue on the Clergy Sex Abuse Scandal*, a conference sponsored by Marquette University Law School's Restorative Justice Initiative. The conference took place April 4-5, 2011.

Reflecting on his experiences with his Capuchin brothers he stated, *"It will help if we stop looking at this work solely through the lenses of public relations, crisis management, or potential liability and instead focus on integrating it into our mission: inspired by Christ and following the example of our brother Francis, to "build sister-brotherhood" and "attend simply and directly to the spiritual and other basic human needs, especially of the poor and disenfranchised, promoting justice for all." It is an opportunity for us to show hospitality and compassion, provide joyful service, partner with and empower others, and promote justice for all."*

#### *2. Development of the Audit*

Thereafter, in 2011, the provincial leadership decided to commission an independent review of the friars' personnel files, the sexual misconduct policies and procedures, and the history of the province's response to reports of sexual abuse of minors and vulnerable adults. The fundamental purpose of this review, or audit, is to bring more truth and transparency to the sexual abuse problem as it has been dealt with by the friars of the St. Joseph Province.

Fr. John worked with the Provincial Council, the current director of the OPCC, Ms. Amy Peterson, and the Provincial Review Board. The provincial leaders recognized the importance of having external accountability as they developed the audit. It was also recognized that unless the audit was informed by survivors and others working in this area, the process would be flawed.

### *3. The Audit Work Group*

An audit work group was formed in December 2011. The goal was to listen to as many voices as possible in developing the audit, to be as inclusive as possible to better inform the process. Members of the audit work group were chosen because of their backgrounds and expertise in the area of sexual abuse; and include representatives from law enforcement, the District Attorney's office, psychotherapists, clergy abuse survivors; a member of the Survivor's Network of those Abused by Priests (SNAP) and a former member of SNAP, and others who have experience in this area. Ms. Amy Peterson and Fr. John Celichowski are also members of the work group. The group worked in collaboration with the Capuchin Review Board, the auditors and the Provincial Council to develop the audit process. The work group is ongoing and will assist the province in responding to the issues that arise from the audit.

### *4. The Independent Audit Team*

This need for a diversity of perspectives also informed the selection of the audit team. The provincial leadership decided that the credibility of the report depended on who the auditors were and on their experience and knowledge of the issues. They commissioned an independent team composed of Mr. Michael Burnett, J.D., Fr. Thomas Doyle, O.P., J.C.D. and Dr. James Freiburger, Psy.D. This report is the product of the review process and findings. More expanded biographies of the independent auditors can be found in Appendix 10 attached hereto.

The audit team also reviewed the results of the past 25 years of studies and inquiries into sexual abuse by members of Catholic dioceses or religious institutes.

## *Chapter III* *Defining the Audit*

### *1. The purpose of the audit*

A “Scope of the Audit” document (see Appendix 1) provided, in part, that the purpose of the audit was to engage outside auditors to conduct an independent review of materials and to compile information “to identify friars, employees, or volunteers of the St. Joseph Province of the Capuchins who were alleged to have committed sexual crimes against minors and vulnerable adults or who probably manipulated or exploited another for sexual gratification.” The purpose of the audit was also to include a forensic review of friars’ personnel files retained by the province to determine the identities of friars about whom reports of some form of sexual misconduct with a minor or vulnerable adult had been reported to provincial authorities.

An additional purpose of the audit was to examine past and present policies and procedures used in the province to respond to reports of sexual abuse by a friar, employee or volunteer. Such policies involve prevention of sexual misconduct, responses to sexual abuse claims, pastoral care of victims and their families, education of the friars about sexual misconduct, and assistance provided for friars who have engaged in sexual misconduct.

The audit also included a comprehensive review and analysis of the province’s response to past reports of sexual misconduct. Special attention was given to the sexual abuse of students at SLS, which was reported in 1992 and 1993.

### *2. The Scope of the Audit*

The “Scope of the Audit” document (Appendix 1), in part, provided for:

- an independent review by outside auditors of all documents and materials that the province possesses or controls that may relate to or bear upon the criminal sexual abuse of minors or vulnerable adults and similar behaviors that may have been perpetrated by members of the province (i.e. friars) or its employees or volunteers. A friar may be either a cleric or a lay member.
  
- For the purposes of this audit a minor is any person under age 18. A vulnerable adult is a person age 18 or older who, because of advanced age, developmental disability, mental illness or physical disability, requires supervision or personal care or lacks the personal and social skills to live independently.
  
- It will also include review and analysis of other relevant documents, policies, practices, procedures and safety plans related to sexual abuse. In addition, the audit will include interviews with members of the province who may have relevant institutional or historical knowledge about matters related to sexual abuse in the province but which may not otherwise be contained in documents.

During the course of the audit, the auditors learned of additional materials and documents that they also then reviewed. These included minutes of Provincial Council meetings going back to 1932 (the earliest year such documents were available), legal documents, and documents from outside sources generated and produced during the course of litigation. The auditors reviewed literature and historical compilations of data. The auditors interviewed individuals who may have had institutional knowledge or relevant information, when possible.

The audit identified friars and lay employees alleged to have sexually abused minors or vulnerable adults, and determined which of these individuals are confirmed to have perpetrated abuse. It also reviewed the limited or restricted ministry protocols agreed upon by the province's leadership in each case. The audit also led to a constructive critique of the way the province's leadership responds to reports of sexual abuse.

Finally, a scope of the audit has been to examine the pastoral response of the friars to those persons who have been sexually abused by members of the province.

### *3. What the audit is not about*

The provincial minister and the audit team are sensitive to the friars' right to privacy. To the greatest extent possible the auditors have made every possible effort to respect and protect the privacy of all present, former and deceased members of the province. The focus of the audit is information about crimes committed against children and vulnerable adults. The audit is *not* about potentially embarrassing situations that do not involve criminal behavior.

The auditors' intent is to report identities and relevant information about friars, or lay persons associated with the province, whose conduct constitutes sexually coercive, manipulative or exploitive behavior. The audit is not about relationships or behaviors that are not criminal but nevertheless may be of concern to the provincial authorities. Circumstances and information about consensual adult sexual activity does not contribute directly to the investigation and discussion of sexual abuse of minors and vulnerable adults. However, the auditors do believe that, although consensual adult sexual activity is beyond the scope of the audit, the occurrence of such circumstances calls for a more open and thorough approach to the issue of sexuality, which would include improved, ongoing psychosexual education.



## *Chapter IV*

### *Methodologies and Procedures*

#### *1. Review of Personnel Files*

The auditors met numerous times in provincial offices in Detroit and in Milwaukee between June 2012 and May 2013 to review personnel files, other documents and literature; and to conduct interviews and collaborate on the audit report. The auditors also met in Racine, Wisconsin, with the province's general counsel; at Monte Alverno Retreat House with Fr. Keith Clark, the former president of St. Lawrence Seminary (SLS), the all-boys boarding high school in Mt. Calvary, Wisconsin, that is owned and operated by the province; and at SLS, to tour the school and to interview the current rector, Fr. John Holly. Two auditors also traveled to a restricted residential community for clergy and religious, where they interviewed two friars living there under supervision.

The auditors examined 1,093 files including the following:

- (a) 180 files of all current members of the province in temporary or permanent vows.<sup>1</sup>
- (b) 9 files of postulants (this includes postulants for a 2-year period).
- (c) 317 files of deceased members of the province.
- (d) 587 files of all those who have left the province (some of these former friars have also died since leaving the order).

The files originated in five locations. Files of those in formation and pre-formation or postulancy are kept at St. Clare Friary in Chicago. Four locations are in the provincial minister's offices in Detroit. There, the ordinary personnel files of each current member of the province are kept in a secure setting with access limited to the provincial minister or others with his permission. The main personnel files of members about whom there are reports of sexual misconduct are kept with the other personnel files. However, the materials which document these members' sexual misconduct have been culled from their main files and are maintained in separate, corresponding files in a separate, secure repository, but in the same vault where the main personnel files are maintained.

The medical and psychological files of the members are not kept in the ordinary personnel files but in special files, also in the same secure area. The federal HIPAA regulations protect the files containing medical information of any kind, and others cannot review a person's medical files without their express permission.

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<sup>1</sup> Since the audit began in 2012, the population of the province has dropped to 174, due to death and attrition.

The files of all deceased friars and all who have left the province or order are kept in the provincial archives in Detroit.

## *2. Review of Provincial Council meeting minutes*

The auditors reviewed all available minutes from the Provincial Council meetings going back to 1932. Many friars whose personnel files included reports and information of their sexual misconduct were also mentioned in the Provincial Council minutes for sexual misconduct.

*Early Provincial Council minutes:* From 1932 until 1951, with only few exceptions, friars' sexual misconduct was generally only referenced in Provincial Council minutes without much detail. However, these early minutes did not differentiate between the number of friars reported and the number of reports, or between the number of reports and the number of sexual abuse incidents. Thus, where friars' sexual misconduct was reported only in early Provincial Council minutes, the auditors presume, generally, one report for each friar; except in a few cases where it is obvious there were multiple incidents. In some cases, it is impossible to conclude definitively from brief or opaque references whether a friar was involved in sexual misconduct with minors or vulnerable adults. Between 1932 and 1951, the minutes reflected that 16 friars were reported to have engaged in some form of misconduct with others. In 11 of these cases, it is clear from descriptions in the minutes that the misconduct was sexual in nature, sometimes based on explicit references, and sometimes based on coded language and euphemisms that likely, although not explicitly, refers to sexual misconduct.

## *3. Review of Other Documents*

The auditors reviewed literature and documents describing the history of the Capuchin Province of St. Joseph. The auditors also reviewed correspondence, legal documents, newspaper and media reports, claims charts and compilations, and insurance loss runs of sexual abuse claims asserted against the province. The auditors reviewed various evolutions of the province's sexual abuse policies and procedures, and Wisconsin statutes and case law.

An important document that was carefully reviewed and discussed with certain friars was the "Special Counsel's Report to the Province of St. Joseph of the Capuchin Franciscan Order," dated May 27, 1993. This is commonly referred to as the *Kersten Report*. This report was generated by special counsel retained by the province in the aftermath of the December 20, 1992 *Milwaukee Journal* reports of sexual abuse of students at SLS.

The auditors also received a significant number of files from an outside source. These files had been part of the Capuchin archives and were obtained during the discovery process of the civil lawsuits that began in 1993.

## *4. Interviews*

The auditors interviewed a number of friars and others associated with the province. Interviews included officials of the province, both lay and religious, especially those with historical

knowledge or perspectives. These included the five current members of the Provincial Council, including the provincial minister; 16 other current friars, including two friars who are presently on restricted ministry; and one former member. The auditors also interviewed three employees of the province, and other administrative and clerical staff.

The auditors interviewed three attorneys who were directly involved with the events surrounding the revelation of sexual abuse at SLS. They also interviewed two victims/survivors, one of whom was sexually abused at SLS and was deeply involved in the events connected with the reports of abuse there.

The purposes of these interviews were, in part, to assess the knowledge and experience of decision-makers regarding the sexual abuse of minors or vulnerable adults and similar behaviors. The auditors believed it was important that they develop a comprehensive understanding and assessment of the history and perspectives of members of the province regarding policies and protocols. Interviews of victims were also conducted in attempts to gain critical and necessary perspective on the abuse itself, and perceptions of responses, interventions, and care provided after reports were made.

It should be noted that Fr. Ken Reinhart passed away in May 2012. He was the provincial minister at the time of the SLS sexual abuse scandal in 1992-1993. He was never interviewed, and the auditors and the process were denied his perspective on the sexual abuse scandal. His death denied him the opportunity to explain or defend against criticisms of his handling of sexual abuse claims, responses to victims and his other decisions.

## *Chapter V*

### *Relevant Factors, Context and Considerations That Informed the Audit*

Many factors, contextual information and considerations informed the auditors' review and conclusions during the audit process. As a backdrop, these elements provided texture and perspective to the information and data, and the understandings and conclusions the auditors developed. Some of the information discovered by the auditors was, in itself, unremarkable and not particularly noteworthy. However, when viewed in the context of the following factors and considerations, the information took on much more meaning.

#### *1. Canon Law Requirements*

The Catholic Church has a history of awareness of sexual abuse of minors by its clerics that reaches back to the first century. The earliest reference is found in the *Didache*. The *Didache*, a brief teaching document that dates from the end of the first century, explicitly forbade sex between adult men and boys (at that time there were no clerics as such).

The earliest canon or law forbidding sex between adult men and boys dates from the Council of Elvira, 309 CE. Thus, sexual abuse of minors has been considered a crime or *delict* under church law for centuries. It was included in the first *Code of Canon Law* (1917) as a specific crime with assigned penalties that included dismissal from the clerical state (removal from the priesthood). This legislation was repeated in the revised *Code* (1983).

The Capuchins of the St. Joseph Province, like Catholic dioceses and religious institutes everywhere, were bound by the norms contained in the *Code of Canon Law*. Church law mandated an investigation into any report of the possible commission of a canonical crime (*delict*), even if such a report came from anonymous or vague sources. Religious superiors on the provincial level were obliged to conduct what the *Code* refers to as the "preliminary investigation" before turning the matter over to the local bishop for the continuation of the process. The investigation and any consequent administrative or judicial process had to be recorded and placed in the "secret archives."

Provincial minutes reflect that provincial leaders at least initially applied the canons in some early cases in the 1930s, and issued a canonical rebuke and admonition of an offending friar in 1960. However, these early efforts were wholly inadequate, and the leaders did not apply the canons *at all* in subsequent cases involving reports of friars' sexual abuse of minors and statutorily-defined "vulnerable adults."

Between 1932 and 1992, only one instance of reported sexual abuse involving a friar of the St. Joseph Province was properly investigated according to canon law norms.

It should be noted that, during this time period, the Capuchins were not alone in their neglect of pertinent canonical obligations. Documented evidence produced by U.S. dioceses and other

religious institutes reveals that in only a handful out of thousands of cases were reports investigated and prosecuted according to canonical requirements.

## *2. Civil Law Mandates*

The friars of the province have been engaged in numerous ministries in Wisconsin since the 19<sup>th</sup> century, including an all-boys boarding school, St. Lawrence Seminary (SLS), since 1860. A scandal erupted at SLS in December 1992, in which it was revealed that many teenage male students were sexually abused by friars over many decades. It is notable that there has been a mandatory reporting law in effect in Wisconsin since 1965. The statute requires mandatory reporters to report abuse of a child to law enforcement, social services agencies or other civil authorities. *Wis. Stat. §48-981, et seq.* The statute has been amended over 80 times since 1965. In 1978, sexual abuse of a child was expressly included in the statute. Also, teachers, persons who provided care to a child outside the child's home, and persons with some sort of temporary control over a child were expressly added as mandatory reporters under the statute. In 1992, professional and school counselors were expressly added as mandatory reporters. Effective in 2004, clergy were expressly added as mandatory reporters, except in circumstances where they learned of abuse in confession. Thus, in its earliest form and then increasingly with each amendment over the years, the Wisconsin mandatory reporting statute applied to sexual abuse of minors under the care of friars, especially students at SLS.

All the other states where the St. Joseph Province has a presence and has ministries have similar mandatory reporting laws that require reporting of actual or suspected sexual abuse of a child to civil authorities.

It is clear that, at least until 1993, the province did not report any incidents of sexual abuse of minors to civil authorities as required by the reporting statutes of Wisconsin and other states. Thus, the province did not comply with mandatory reporting laws in any states. In fact, faculty and staff at SLS claimed to be unaware of the reporting requirements, which of course is not an acceptable reason for failure to comply with the law. (*Kersten Report*, p. 11, note 3).

## *3. The province's Awareness of Sexual Abuse and Applicable Law:*

*Input to the Provincial Council: 1986 –1987*

Minutes from Provincial Council meetings between 1932 and 1986 contain a number of references to specific cases of sexual misconduct by friars. However, the minutes do not appear to reflect discussion about sexual misconduct in general, its causes, its legal or moral implications; or the impact of sexual abuse on a victim, victim's family and community. In 1968, a Capuchin Friar and psychologist explained that "arrested adolescence" was the reason put forth in some requests for dispensation from solemn vows. There was no explicit reference to sexual abuse, but "arrested adolescence" is a term that often accompanied discussion of sexual abuse of minors by clergy, or was a code term for sexual misconduct, so it appears that in 1968 there may have been consideration of causes of sexual misconduct among friars.

In the cases between 1932 and 1986, there is no mention in the Provincial Council minutes of pastoral contact with the victims. However, in the files, the auditors found that a friar at SLS engaged in sexually inappropriate misconduct with 18-year old seniors in 1985, and was required to apologize in person to each of the students.

Minutes from the December 1-5, 1986 Provincial Council meeting indicate that the council for the first time received educational information about the problem of sexual abuse. They viewed a film dealing with child sexual abuse, and met with their Wisconsin and Michigan attorneys. The attorneys were asked to research applicable state laws of Wisconsin and Michigan laws to determine the responsibilities of the provincial minister and Provincial Council in sexual abuse cases, and the reporting obligations, and situations where confidentiality would be respected (1984-1987 Provincial Council – 154).

Minutes from the January 12-14, 1987 Provincial Council meeting record a follow-up discussion, in which the Provincial Council reviewed reports prepared by the attorneys on child abuse laws in Wisconsin and Michigan. The council discussed legal and other difficulties that arise with their communities in different states. The council determined the need to educate province members on the issue of child sexual abuse and its serious nature, and to communicate it to the next administration.

The minutes did not contain a more detailed plan for educating friars. It is also noteworthy that the 1986-1987 minutes do not reflect any discussion about the response to individual cases or pastoral outreach to victims, nor do they reflect any discussion about the effects of sexual abuse on victims. The discussion centered around legal implications and obligations.

#### *4. SLS is an accredited school subject to state and federal regulations*

SLS was and is a fully accredited secondary school held to compliance with all state and federal regulations governing educational institutions. Those entrusted with administrative positions should have known civil law regulations governing the school.

#### *5. Clericalism*

Clericalism is the mistaken belief (especially in the Catholic Church) that clerics, and by extension religious, are inherently superior to lay people and entitled to undue special deference, greater respect and special treatment. Throughout the institutional Catholic Church, clericalism has played a direct role in the approach and response of church leaders to the problem of sexual misconduct by clergy and religious, especially misconduct that involved the violation of minors and vulnerable adults. As elsewhere in the Catholic Church, clericalism gave rise to a protective attitude among Capuchins when one of their own was implicated in sexual abuse. The prevailing concern was to protect his priestly or religious ministry. As stated in Chapter II, above, in that environment refracted by clericalism, there was little room for pastoral outreach to victims; especially when provincial leaders feared they would be confronted with victims' expectations that an offending member and the province *itself* could be

held accountable in a criminal, civil or ecclesiastical manner. These group dynamics and the influence of these dynamics on the province's handling of the problem of sexual abuse are discussed and explained in the essay *Group Conformity*, attached hereto as Appendix 3.

#### 6. "Solicitation"

The early Provincial Council minutes use the word "*solicitation*" to describe the allegation in four cases, one of which identified a lay friar. It is probable that this reference was not to the formal canonical crime of solicitation during the act of sacramental confession but rather solicitation in a broader sense. It probably referred to grooming, seduction or suggestion of sexual contact. Formal canonical solicitation applies only to priests and refers to soliciting a penitent during the act of sacramental confession for some form of sex.

#### 7. Coded Language

A manifestation of clericalism was the failure to adequately document sexual abuse in personnel files, Provincial Council minutes, official correspondence and other documents. Non-existent, brief, vague and euphemistic references to friars' sexual misconduct were both symptoms of, and defense mechanisms powerfully shaped by, clericalism and the concomitant effort to shield Capuchins from the consequences of their actions.

Several reports used vague and inconclusive language to describe concerns about a friar. None explicitly stated that the report was of alleged *sexual misconduct*. It was not uncommon for records to substitute direct reference to an offending cleric's sexual abuses with purported diagnoses of mental illness, schizophrenia or alcoholism. Inpatient psychological treatment for a paraphilia was often masked as treatment for alcoholism or mental illness; some priests or religious were even treated with electroshock therapy. Examples of coded language taken from these files are:

*"dismissed for solicitation"*  
*"immorality"*  
*"familiarity of a suspect nature"*  
*"evil actions and speech"*  
*"special problem"*

It was common for Catholic Church leaders, i.e., bishops, provincials, pastors, etc., to use oblique or coded language to describe sexual abuse. Based on the auditors' experience with cases of clergy sexual misconduct in other Catholic Church entities, these guarded and mysterious references referred to sexual actions of one sort or another.

We refer to a report composed by A.W.R. Sipe entitled "Code Words to Hide Sex Abuse" 2010. Part of the reason for such guarded language was the general attitude toward human sexuality among clergy, especially in the past. Another reason was the desire to avoid public disclosure of forbidden sexual acts by clergy. The coded language used by the friars in the past is not

unusual, but was often guarded or euphemistic language to camouflage inappropriate sexual activities.

#### *8. Professional Medical Intervention*

The first institutions that dealt exclusively with Catholic clergy and religious were opened in 1947, when the Archdiocese of Philadelphia opened St. John Vianney Center in Downingtown, Pennsylvania, and Fr. Gerald Fitzgerald founded the Servants of the Paraclete and opened a foundation in Jemez Springs, New Mexico. In 1967, the Marsalin Institute opened in Holliston, Massachusetts. St. Luke Institute, which grew out of the Marsalin Institute, opened in 1977.

At first these institutions were called upon by bishops and religious superiors for help with clerics and religious with substance abuse problems (mostly alcohol) and what was sometimes called “*spiritual burnout*.” Yet almost from the beginning, men with reported sexual problems were being sent to the Paraclete facilities. Documents from the Paraclete Fathers refer to priests sent for treatment for sexual abuse of minors. In a 1964 letter to Bishop Durick of Memphis, Fr. Gerald Fitzgerald noted that three out of ten men sent for help because of sexual problems with minors.

Alcoholism among friars in the St. Joseph Province was discussed at the 1975 provincial chapter, and a provincial policy was introduced. The policy included a panel of advisors who helped afflicted friars receive proper treatment (Baer, p. 209). Former provincial minister Ron Smith, 1978-1984, sent 30 to 40 friars to rehabilitation treatment for alcoholism.

By 1987, friars with sexual difficulties, especially problems with minors, were regularly sent to facilities for psychiatric or psychological help. The province utilized the Servants of the Paraclete, St. Louis Behavioral Medicine Institute, the House of Affirmation and Guest House. The House of Affirmation and Guest House were used primarily for substance abuse treatment.

In 1988, the province passed the first sexual misconduct policy. Although the policy does not contain detailed steps for the involvement of the accused and provincial leadership with medical and/or psychological professionals, it states that accused friars will be *required* to engage in professional counseling (B. Stage Two, “g.”).

#### *9. When There Is a Lack of Evidence And/or Documentation of Sexual Abuse*

It is important to note that the absence of documentation, credible determination or evidence does not necessarily mean that abuse did not occur. The inconclusive nature may be attributed to lack of evidence, insufficient credible evidence, an inadequate investigation or inadequate documentation. In some cases, the running of the statute of limitations precluded further investigation. The absence of evidence does not equate to the absence of abuse and the dismissal of a case does not mean there was lack of evidence of abuse.



It is also important to note that a brief or unsubstantiated reference to alleged sexual impropriety does not itself indicate that there was actual sexual impropriety. This is especially true where a friar denied allegations and his alleged victim was unwilling to come forward.

The auditors do not wish to convey the impression that they concluded that such circumstances involved sexual misconduct, but that there was merely insufficient evidence to place a friar's name on the list. Instead, in several such cases, the auditors could not determine whether there was or was not abuse. The auditors paid special attention to and carefully reviewed and evaluated all available evidence pertaining to each accused friar.

## *Chapter VI*

### *Essential Definitions*

The auditors identified specific behaviors as cause for greater scrutiny and, in some cases, the reason for identifying various members as perpetrators of sexual misconduct. Targeted behaviors included alleged sexual abuse, boundary violations and other behaviors that indicated potential abuse or increased risk of criminal sexual abuse of minors or vulnerable adults. The auditors also identified categories of abuse victims, recognized the need for clarity with respect to the various types of friars, distinguished between various types of abuse reports, and realized that lay people may not know the definitions of actions, responses, monitoring and treatments imposed upon offending friars.

To address these matters and provide context for the report, the auditors adopted or created the following definitions for purposes of the audit:

1. "Minor:" For purposes of this audit, a "minor" is any person under the age of 18, irrespective of whether canon law or secular law had at any time recognized a younger age of legal consent to sexual relations with an adult over the age of 18.
2. "Vulnerable adult:" Many state statutes define "vulnerable adult." For purposes of the audit, a "vulnerable adult" is a person who is 18 years or older whose advanced age, developmental disability, mental illness or physical disability requires supervision or personal care, or who lacks the personal or social skills to live independently. In addition, vulnerable adults included adults who are physically, psychologically or emotionally fragile, unstable, incapacitated, or unable to care for themselves. These definitions track statutory definitions of "vulnerable adult" and "adult at risk" found in Wisconsin statutes.
3. "Friar:" Any member of the Province of St. Joseph of the Capuchin Order, ordained and non-ordained. (Source: *Provincial Policies and Procedures re: Sexual Misconduct with Minors*, at 1)
4. "Cleric:" Generally refers to an ordained friar (e.g., priest or deacon); it may also refer to a friar studying for ordained ministry; priests are typically addressed as "Father."
5. "Brother:" Generally refers to any friar; in common usage, however, it would refer to a non-ordained friar, typically addressed as "Brother."
6. "Restricted Ministry:" A friar is said to be in restricted ministry when he has been removed from all public ministry but may do internal non-public ministry within the order, and lives under monitoring that includes outside of the order secular consultation, risk assessments conducted by qualified professionals, and whose activities are monitored by the OPCC director and a trained local monitor who lives with the restricted friar. In addition he must cooperate with and follow the restrictions in his individualized SSP.

7. "Supervision and Restriction:" (SSP) – A formal written individualized plan to guide supervision of a restricted member of the province, as provided in the policies and procedures. (Source: *Provincial Policies and Procedures re: Sexual Misconduct with Minors*, at 3)

With respect to a Supervision and Safety Plan, the province's policies state:

*Whenever a friar has acknowledged that he has engaged in sexual misconduct involving a minor, or whenever the findings of fact of the Review Board indicate that a friar has engaged in such misconduct and has made its recommendations to the provincial, the provincial shall take such actions as in his judgment are deemed appropriate, including but not limited to:*

- *Recommending the friar participate in an evaluation (including a risk assessment and/or therapeutic treatment.)*
- *Placing restrictions on the friar's ministry and other activities.*
- *Seeking and/or imposing appropriate canonical measures or penalties, up to and including dismissal from the Capuchin Order and, where applicable, the clerical state.*

(Source: *Provincial Policies and Procedures re: Sexual Misconduct with Minors*, at 8)

8. "Sexual abuse:" Sexual abuse is a broad concept. For the audit, it includes acts or touches of a sexual nature that are unwanted by the person to whom they are directed. It spans the spectrum from misdemeanors to felonies, kissing to genital penetration. There is no such thing as "mutual consent" to any form of sexual communication or interaction between a minor and an adult. We have adopted the definitions of sexual abuse and related concepts included in the current provincial policy statement, "*Capuchin Province of St. Joseph: Policies and Procedures Regarding Sexual Misconduct with Minors*," approved, February 2012, pages 1-3.

9. *What is a report of sexual abuse?*

(a) *Report:* A report is any first-person complainant's allegation that he/she was the victim of sexual misconduct. It also may include any third-person allegation made by a family member or close friend of the alleged victim who purports to know about the incident(s) as a result of having been told by the alleged victim. It may also include an allegation made by a witness who observed or participated in an incident(s), or a person who was entrusted with information about the incident soon after it occurred, such as a confidant, colleague, classmate, supervisor or

mentor of the alleged victim. It may also include a formal report by a mental health professional who is legally obligated to report sexual abuse. It may include any information of an incident of sexual misconduct that is believable because it is based on purported evidence, and may even include information that would be deemed inadmissible "hearsay" in a civil court of law. However, it does not include mere rumor, innuendo or speculation that is not grounded in an actual accusation or observation of sexual misconduct. Not all reports of sexual misconduct are included among allegations of sexual misconduct that are deemed "confirmed." Without sufficient evidence or other substantiating information that would confirm a report, the name of the involved friar has not been publicly disclosed.

(b) *Recorded report*: A report or allegation of sexual misconduct that has been reduced to writing, included in a written report, or otherwise formally referenced in some form of written record. A recorded report could be a report of sexual misconduct that is referenced in Provincial Council minutes, police or other civil authorities' reports, private investigators' reports, written materials in personnel records, correspondence, or other written instruments.

At various times, records and reporting, documentation, and investigation were often inadequate or less than thorough. Thus, it is likely that some verbal reports of abuse or witnessed abuse may not have been recorded. However, especially in decades-old claims, the auditors are reluctant to recognize claims that appear to be based on hearsay or only memories of alleged abuse. The auditors have attempted to distinguish in the narrative abuse that was recorded from that which was not. Only recorded and confirmed reports of abuse are reflected in the total numbers and lists of those with allegations against them and confirmed reports of abuse against them.

(c) *Confirmed report*: The auditors define a "confirmed" report or allegation of sexual abuse as one that has been determined to be true; or has been substantiated with enough facts, information or other indicia of truth so as to be clearly or obviously true or substantially accurate.

Included in the category of "confirmed reports" are:

- allegations that have been admitted by an accused friar;
- allegations that have been deemed to be true or substantially accurate through an adjudicative process, such as a criminal process resulting in a conviction, or any other hearing or process that results in a determination

that an allegation is true, based on evidence that supports the truth of the allegation;

- allegations which, based upon an investigation conducted by a law enforcement organization or other civil authority, is deemed to be true, yet may not be prosecutable (e.g., barred by the statute of limitations); and
- allegations deemed true or substantially accurate after being subjected to investigation and/or an adjudicative process by an ecclesiastical body.

In general, allegations against a deceased friar who does not have an opportunity to defend himself would not fall into the category of "confirmed." However, if enough independent yet factually similar allegations have been made against a deceased friar, then on a case by case basis the auditors may have determined whether enough substantial evidence exists to deem the allegations to be "confirmed."

#### *10. Pastoral Care and Pastoral Outreach*

Most victims of clergy and non-ordained religious were sexually assaulted within the context of receiving some form of priestly, religious or spiritual "pastoral care." Thus, for clergy sexual abuse victims, the concept of "pastoral care" is often laden with shame, guilt, fear, mental and physical and emotional pain, and a host of other negative connotations. Hence, even the most well-intentioned effort to extend pastoral care to victims can be potentially damaging. In addition, there is an inherent power and social imbalance between clerics (and religious by extension) and lay persons, especially young persons. As a result, the experience of "pastoral care" extended to clergy sexual abuse victims includes a patronizing, vertical relationship wherein the imbalance dictates the response of the person receiving the care. Pastoral care is not using scriptural quotations, pious sayings or obtuse theological concepts to convince the person to simply accept an unfortunate and painful situation. Pastoral care is not platitudes or rituals aimed at making a person feel good. Given the dynamics described above, such "pastoral care" can have the opposite effect of "feeling good."

Those who would extend pastoral care must be mindful of what victims need based on what the victims say, not based on what the person extending "pastoral care" thinks that victims should receive. Pastoral care, especially pastoral care of victims of sexual abuse by clergy, must begin with honesty. An honest communication of respect for the victim is essential. This respect must be grounded in an acceptance of their dignity. This entails correcting the inherent imbalance of the relationship to one of equality wherein the parties are meeting on a "level playing field." Honest pastoral care of necessity begins with the acceptance of the victim's situation — an acknowledgment of the profound harm done with absolutely no attempts to excuse, mitigate or minimize this harm and

its source. Any pastoral care offered to a victim of clergy sexual abuse must be grounded in a commitment to tell the truth to the victim no matter how painful and embarrassing it is to the one extending care.

All too often clerics and non-ordained religious confuse pastoral care with psychological counseling, monetary compensation or rituals such as "penitential services." These can be important components of pastoral care. However, they are no substitute for authentic, Christ-centered compassionate care. They have been used, however, as substitutes for pastoral care by church leaders who have been unwilling or unable to encounter victims in an open and honest environment of equality and dignity.

The auditors note that the provincial leadership's recent efforts to extend pastoral care to victims more closely resemble honest, authentic, Christ-centered compassionate care described above. It has been reported that the provincial leadership's recent pastoral engagement has involved an acknowledgment of the victim's assault and the harm the victim endured coupled with a sincere and unqualified apology, and is "heavy" on listening. In addition, it has been reported that pastoral outreach to recent victims has included an entreaty as to what the Capuchins can do for the victim, where the victim tells the Capuchins what he needs as opposed to the Capuchins telling the victim what they will do for him.

*Chapter VII*  
*the Audit Findings*  
*Incidents of Sexual Abuse – 1932-2013*

*Introduction – Scope of the Audit*

The scope of the audit includes only friars and employees reported to have sexually abused or exploited *minors* or *vulnerable adults*, as defined in Chapter VII. A “minor” is a person under age 18. “Vulnerable adult” is a person over age 18 whose circumstances compromise his or her ability to give consent to sexual acts, and thus falls within the Wisconsin statutory definition of “vulnerable adult.”

*General Summary of Sexual Misconduct Reports*

The auditors identified 1,283 friars of the St. Joseph Province since the 19<sup>th</sup> century. The scope of the audit was sexual abuse of minors and vulnerable adults, as those terms are defined by statute. The findings were that:

- 46 current, former or deceased members (3.6% of 1,283 friars) had confirmed or unconfirmed reports of alleged sexual abuse of minors.
- Of these, 23 current, former and deceased friars (1.8% of 1,283 friars) have *confirmed* reports of sexual abuse of minors.
- No friars had reports of sexual abuse of *statutorily-defined* vulnerable adults.
- Four lay employees had reports of alleged minor sexual abuse; none were confirmed.

*1. Breakdown of friars with reports of sexual abuse and sexual misconduct*

46 friars with reports of alleged sexual abuse are segregated into categories:

- 23 friars with confirmed reports of sexual abuse of minors (These friars are named in the report because their confirmed sexual abuse of minors falls within the scope of the audit. Their identities are not protected.)
- 23 friars with unconfirmed reports of sexual abuse of minors (These friars are not named in the report because their alleged abuse of minors is not confirmed. Their identities are protected from disclosure.)

## *2. Summary of review, investigation and compilation of information and data*

The summary of findings, above, contain information and data compiled from the many documents and materials including, but not limited to, the following:

*Personnel Files:* The auditors reviewed all 1,093 available personnel files of current, former and deceased members of the St. Joseph Province going back to the 19<sup>th</sup> century. This included personnel files of all 317 deceased friars, 587 former friars (some of whom are also deceased), 180 current friars<sup>2</sup> (including perpetually professed and temporarily vowed), and 9 postulants.

*Provincial Council meeting minutes:* The auditors reviewed Provincial Council meeting minutes going back to 1932. From 1932 until 1951, with a few exceptions, most friars' sexual misconduct was only referenced in the minutes. In later years, friars' sexual misconduct generally was referenced in both personnel files and the minutes.

## *3. Confirmed Reports of Sexual Abuse of Minors and Vulnerable Adults*

- 23 friars (1.8% of 1,283 friars) are *confirmed* to have sexually abused minors.
- The auditors found no friars with confirmed reports of sexual abuse of "vulnerable adults" as that term is defined in Wisconsin statutes.

Five of the confirmed sexually offending friars have been placed on a supervision and restriction program. During the course of the audit, three friars were removed from public ministry. One friar's case was reviewed by the audit team and subsequently removed from ministry. One friar was removed due to reports of sexual misconduct. A friar who was previously accused yet cleared of sexual abuse of a minor was placed on administrative leave during the investigation and later removed from ministry. He filed an appeal which is pending.

*The following section sets forth a list of friars with confirmed reports of sexual abuse of minors. No friars were confirmed to have sexually abused statutorily-defined vulnerable adults.*

## *4. Friars with confirmed reports of sexual abuse of minors*

The following is a list of 24 friars with confirmed reports of sexual abuse of minors. "Confirmed report," "sexual abuse" and "minor" are terms defined in Chapter VI – "Essential Definitions." A report is "confirmed" if it is substantiated with enough evidence, facts or information so as to be clearly or obviously true or substantially accurate.

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<sup>2</sup> Since the audit began in 2012, the population of the province has dropped to 174, due to death and attrition.



1. Fr. Ben Adams (deceased)
2. Fr. Baldwin Beyer (deceased) (also confirmed with vulnerable adults)
3. Fr. James Buser (deceased)
4. Fr. Arthur Cooney (member – removed from public ministry; under supervision)
5. Fr. Dennis Druggan (member – removed from ministry; his appeal is pending)
6. Br. Thomas Gardipee (removed from ministry and then left the order)
7. Br. Leonard Gibeault (restricted from ministry and then left the order)
8. Fr. Leopold Gleissner (member – removed from public ministry; under supervision)
9. Fr. Clarence Grosser (went to New York Province in 1952; deceased)
10. Fr. Jude Hahn (removed from ministry, then left order; deceased)
11. Fr. Mel Hermanns (member – removed from public ministry; under supervision)
12. Fr. Donald Kurcz (left the order in 1958 and married)
13. Fr. James LaReau (removed from ministry; deceased)
14. Fr. Gale Leifeld (removed from ministry; deceased)
15. Br. Matthew Migan (went to New York Province in 1952; deceased)
16. Fr. Austin Schlaefer (deceased)
17. Fr. Wendelin Shafer (deceased)
18. Fr. Joseph Smetana (member – removed from public ministry; under supervision)
19. Fr. Robert Spader (left the order)
20. Br. Francis Sparacino (member – under supervision in nursing home)
21. Fr. Kenneth Stewart (removed from ministry, on supervision, left order, then laicized)
22. Fr. James Wolf (member – removed from public ministry; under supervision)
23. Fr. Hilary Zach (deceased)

#### *5. General Summary of Disposition of Sexual Abuse Reports Since 1932*

The auditors note that old documents often are unclear about when abuse occurred, how old a victim was when he or she was abused, who made the report, when the report was made, and how old the reporter was when disclosing the abuse. This information is critically important to determine where and when abuse occurred, what stage of life victims were in when they were abused, and whether circumstances rendered them even more vulnerable. This information is also critically important to develop a sense of how long victims carried the burden of sexual abuse before they came forward.

Where possible, the auditors note when reports were made, who made the reports, and whether the victims were minors or adults when the reports were made. These details

are important for the sake of accuracy and clarity, to distinguish between when abuse happened and when it was reported. These facts confirm that, more often than not, victims of child sexual abuse do not report the abuse until they are adults. Although, the auditors note that a number of minor SLS students did report their abuse around the time it happened in the 1960s and 1970s.

Since 1932, 46 friars of the St. Joseph Province have been the subject of reports of sexual abuse of minors. One friar was definitively exonerated. The report concerning another friar was third-hand and lacks the name of an alleged victim. The allegation was investigated to the fullest extent possible and produced no evidence that the alleged abuse occurred.

Since 1932, there have been 23 friars with confirmed reports of sexual abuse of minors. In the early records, the age and gender of the victims are often unclear from the documents. Some friars have been accused of such behavior more than once, and sometimes there are reports of inappropriate behavior with more than one person.

#### *6. Disposition of Reports between 1932 and 1951*

The earliest year that Provincial Council minutes are available in the province archives is 1932. 1951 is the last year the province was intact before the February 2, 1952 split that created a new province encompassing the eastern states. Before the January 1952 split, the Provincial Council minutes are the only source of information about sexual abuse in the province. The Provincial Council minutes from 1932 to 1951 reveal that 15 friars engaged in sexual misconduct during that time period. At least four of these 15 friars were reported to have sexually abused minors, some confirmed and some unconfirmed. In some instances, Provincial Council minutes mention the name of the offending friar and the action taken against him. They say nothing about the victims or whether there was an investigation. Since each case required a canonical *preliminary investigation* that was to have been recorded, in the absence of records of such investigations the auditors presume that this requirement was not fulfilled.

There is no information that describes in detail how provincial leaders *responded* to reports of friars' sexual misconduct between 1932 and 1951. The minutes state that five of them were dismissed from the order, which suggests they were not priests, since the order does not have the power to laicize an ordained friar. Seven friars were given canonical warnings to cease their behavior. Except in a couple cases, it is unclear whether the warnings were heeded. Of these seven, one is still in active ministry although no longer a member of the order. One friar was put on restricted ministry and later left the order to become a diocesan priest. One was advised to seek a dispensation from vows. Two were transferred because of the report of sexual misconduct, and one was sent on retreat.

### *7. Disposition of Reports between 1952 and 1958*

There are no recorded reports between 1952 and 1956. In 1956 there were reports of inappropriate behavior by a friar with minor girls. He had been previously admonished by seminary leaders for similar misconduct; he defied them but was ordained anyway. He was institutionalized in 1954 and received electroshock therapy, but it is unclear if this was for sexual abuse of young girls. Provincial leaders reassigned him after the incidents in 1956, but there were numerous additional reports of sexual misconduct with young girls in the new assignment in 1957-1958. The reports were made by the minor girls and their parents. Others, including a parishioner who was a female police officer, reported their observations of the friar's inappropriate behavior with girls. In 1958, provincial leaders commissioned a priest to investigate. The investigating priest confirmed the reports but told the victims, all young girls, to keep the friar's abuse of them a secret and to go to confession. The offending friar left the order to marry a divorced woman. It is noteworthy that the friar's personnel file reflects more outrage and scandal on the part of the provincial leaders over the fact that he left the order to marry a divorced woman than over the fact that he had sexually abused many young girls at multiple assignments.

### *8. Disposition of reports between 1959 and 1961*

Although beyond the scope of the audit, one case (1959) involving a friar sexually involved with adult students was reported in detail and is the only case that is retained in a separate place in the archives because there was involvement with the Holy See and the consequent imposition of pontifical secrecy.

Provincial Council minutes indicate another friar was first reported in 1959 for sexual misconduct involving a young boy, and again in 1960 for "imprudent conduct" with girls and boys, charges he denied. In 1961, he was transferred "after a serious accusation concerning his conduct." At that time in 1961, he was given a "canonical rebuke and admonition" and sent on retreat. He was given "regulations" to never be involved with young people unless an adult was present, and to never visit people in their homes.

This same friar had additional reports of sexual and alcohol-related misconduct in 1960 and 1961. He defied his "regulations," and subsequent reports in 1969, 1972, 1992, 1993 and 1995 involved alcohol-related and sexual misconduct with teen and young adult males. Provincial leaders continued to re-assign him, to send him to alcohol rehab and to treatment by the Paracletes for alcohol and sexual problems. The *Kersten Report* (p. 16) indicates that the 1993 report actually happened in 1992 and that the victim was an SLS student; it was a report by an adult former student about abuse when he was a minor student at SLS.

This friar subsequently left the order and died in 1999. In the auditors' opinion, this was one of the more egregious examples of provincial leaders failing to protect children from

a known sexual predator. They continued to reassign him even after he abused children multiple times, after he was issued a canonical rebuke, and after he defied restrictions forbidding him from being alone with minors. He continued to repeatedly sexually abuse minors.

The Provincial Council minutes list five friars who were first reported in 1960. There is no specificity about the allegations against them. One friar was advised to seek a dispensation from vows. Two others were given formal warnings. One had unspecified complaints, about which provincial leaders were dismissive because the complaints came from his housekeeper.

The fifth friar was not accused of sexual misconduct. However, he was described as having an unspecified “problem” that required his removal from a friary and required “professional help.” This friar was again discussed by the provincial councilors several times in 1961, because of his “special problem” for which he was sent for psychiatric help. In 1961, the minutes also note that he sought and was given a transfer. There is no specific mention of sexual misconduct, and the auditors do not presume to take the position that he had engaged in sexual misconduct. However, the auditors note that “special problem” has often been used as code language for sexual misconduct and that, accompanied with a transfer, the circumstances could suggest sexual misconduct.

#### *9. Disposition of Reports between 1962 and 1992*

The files, Provincial Council minutes and interviews revealed that numerous friars were reported to provincial leadership and/or SLS leadership between 1962 and 1992 for sexual misconduct. Some involved minors.

There was a report of a friar’s sexual abuse of a 14-15 year old boy in 1962. The boy and his mother reported the abuse. After this report, the friar was reassigned to ministry in a Catholic high school in a different state. There were many more reports of this friar’s sexual misconduct with minor and adult males into the 1990s. The provincial leadership’s failure to respond appropriately to the friar’s abuses paved the way for decades more abuse and numerous additional victims.

Reports of Fr. Gale Leifeld’s sexual abuse of teenage male students at SLS date to 1964 and 1965. Those reports were made by minor male students at SLS. However the first *documented* report dates from 1971, also from a minor male SLS student. (For a more detailed account of Fr. Gale Leifeld’s abuses and the province’s handling of his misconduct, see Appendix 7, attached hereto.)

In 1985, Br. Tom Gardipee, an SLS friar who was a teacher and coach, was reported by 18-year old seniors because he had gone nude streaking with them, gave them pornography, displayed condoms, gave them alcohol, and solicited at least two of the

students to masturbate with him. He was required by SLS leadership to apologize to each senior, and was accompanied by another friar to ensure his compliance with this directive. He was permitted to stay at SLS.

In March 1988, Br. Gardipee was reported to SLS leaders and the local minister at Mt. Calvary, Wisconsin, for infatuation and stalking behavior of a 16-17 year old student at SLS, and for writing love letters to the student. The provincial minister terminated him, but permitted him to remain at SLS another two months, until the end of the school year. However, in June 1988, when the provincial minister was in Rome, both the president and the rector of SLS made impassioned pleas on the offending friar's behalf, and the Provincial Council reversed the provincial minister's termination of him from SLS. He was permitted to remain at SLS, was promoted to athletic director, had unfettered access to SLS students, and remained at SLS until 1993, when the sexual abuse scandal broke.

In 1994, when he was an adult, the former SLS student who was the object of Br. Gardipee's infatuation revealed that Br. Gardipee had masturbated in front of him at SLS in the fall of 1987, when he was 16 or 17 years old. Br. Gardipee was criminally charged, but the district attorney eventually dropped the criminal charges on statute of limitations grounds. Br. Gardipee left the order, lost his Wisconsin teaching license, and eventually moved to Hawaii, where he taught in a private high school until 2012, when the school administrators there learned of his past and terminated him. (For a more detailed account of Br. Tom Gardipee's abuses and the province's handling of his misconduct, see Appendix 8, attached hereto.)

Another friar was reported in 1986. The bishop of a diocese reported that the friar made sexual advances to two young adult males. The friar was sent to treatment at the Servants of the Paracletes in New Mexico in 1986 for treatment of homosexual issues following the bishop's report, and then returned to ministry. He was again sent to treatment at the Paracletes in 1999, and again returned to ministry. He claimed that he never had contact with minors. In 2009 the same friar finally admitted to sexual contact with minors. He was assessed by the Milwaukee Area Review Board in 2009, and the provincial minister removed him from public ministry.

Two friars were first reported in 1988. One friar self-reported in 1988 and was sent to the Paracletes for treatment and later returned to ministry. There were several more reports alleging sexual abuse of minors with the same friar between 1988 and 1993. He was again sent to the Paracletes facility for treatment in 1994 but this time, upon their recommendation, he was removed from public ministry. He is presently living in a restricted setting.

The second friar was reported for viewing child pornography. He was found to have a cache of child pornography in a foreign mission. The U.S. attorney dropped criminal charges. He was dismissed from the order in 1995.

Two friars were initially reported in 1989. One member was accused but denied the allegations. His denial was accepted but he left the order and was incardinated into a diocese. The second friar was accused of having sexual contacts with minor males over a period of years in Nicaragua. He was sent for an assessment and treatment. The assessment found that he fit the profile of a true pedophile. He was placed on restriction in 1990 and died in 2005.

An adult former student from SLS came forward in 1989 with allegations that Fr. Gale Leifeld and Fr. James Buser had sexually abused him when he was a minor SLS student in the 1970s.

One friar was reported in 1990 by third parties for suspect conduct involving physical activities with minor males. An adult male reported that he was abused by this friar when he was a minor SLS student. The friar was sent to the Paracletes in 1993 and returned to remain in active ministry until 2012, when he was placed on restriction based upon information the auditors uncovered during the audit.

Three friars were reported in 1991. One was accused of sexual abuse of minors in the 1950s and 1960s by an adult who alleged the abuse when she was a minor, which the friar strongly denied. The record indicates that there was no clear evidence to support the allegations. The friar eventually left the order and was incardinated in a diocese. He died in 2013. The second friar was accused of sexual misconduct with adults and minor males. An outside investigation found no evidence of *criminal acts*. The friar participated in a treatment program.

The third friar was accused of improper conduct with minors at St. Labre Indian School. After both a government-conducted investigation and an internal investigation by the order, it was deemed that there was no basis for the allegations. However, in 2012, an adult male came forward and alleged sexual abuse by the same friar when the complainant was a minor. During the formal investigation, a second adult male came forward with a similar report against this friar. Following the investigation the accusations were confirmed and the friar was removed from ministry. His appeal is pending.

Fourteen friars were reported in 1992. Eleven of these friars were accused of sexually abusing minor males who were students at SLS. All these reports were made by adults who alleged they were abused at SLS when they were minors. Reports against eight SLS friars were confirmed and three were not confirmed. Three of the eight SLS friars left the

order and one of those who left has since died. Four of the eight confirmed SLS friars have died and one is a member of the province who is no longer in ministry. One of the unconfirmed friars is deceased, one left the order, and the other remains a member of the province.

Another friar was reported in 1992 by a third party, who accused him of inappropriate conduct with minor females. It was not confirmed, but the province paid for therapy for one of the girls. The friar was sent to treatment in 1993, after which he left the order.

One friar was a pastor at a parish in the Virgin Islands and was reported by nuns there in 1992. He was suspected of inappropriate behavior with young boys. He returned to the U.S. and was re-assigned to another ministry. He was sent to the Paracletes for an evaluation. Although no sexual abuse was confirmed, there was evidence of inappropriate conduct. In 2002, an adult male reported that the friar sexually abused him when he was a minor. The friar denied the allegation, but was then discovered to be involved with pornographic images, one of which was of a minor male. He was placed on restricted ministry in 2003, and subsequently left the order and was laicized in 2010.

Another friar, Fr. Jude Hahn, an SLS teacher also assigned to a parish, was reported for a sexual overture to an adult male in 1992. He was sent to the Paracletes for treatment in St. Louis, Missouri. In January 1993, the provincial minister received additional reports that Fr. Hahn had sexually abused minors. Some documents suggest that provincial leaders may have received reports of his sexual abuse of minor males possibly as early as 1990 at the parish where he was assigned. Since 1993, many adults have come forward and reported that Fr. Hahn's sexual abused them when they were minors at SLS as far back as 1972 and in the early 1980s and thereafter. He is now deceased. (For a more detailed account of Fr. Jude Hahn's abuses and the province's handling of his misconduct, see Appendix 9, attached hereto.)

#### *10. Disposition of Reports from 1993 to 2013*

Several of the reports of sexual misconduct involved friars who acted out at SLS prior to 1992. This matter is addressed in a separate section. The other reports between 1993 and 2002 refer to inappropriate activity that did not take place at SLS and did not involve friars from the SLS community, unless otherwise noted.

Ten friars were reported between 1993 and 2002, including friars accused of sexual abuse at SLS. These reports were made by adult men who alleged they were sexually abused when they were minors at SLS. During this same period, two SLS lay employees were also reported, but these allegations were made by third parties and the reports were ultimately deemed untrue.

In 1993, three friars were reported for sexual abuse of minors. The reports were made by adults who alleged they were sexually abused when they were minors. The accused friars and the victims were not from SLS but elsewhere in the province. All three were thoroughly investigated and the reports confirmed. The three friars are retired and on restricted ministry.

One friar was reported in 1994 for sexual abuse of a student at SLS. This friar is deceased.

In 1995, a friar was accused of attempting to kiss a minor female in the 1970s, but it was never confirmed. Later, he was again reported for inappropriate misconduct with another minor girl in the 1970s, but it was never confirmed. He received treatment at the Paracletes facility and is still in ministry.

The sole report for 1998 involved a male lay employee who was accused of inappropriate conduct with students at SLS. The report was made by third parties, adults, who felt his behavior was suspect, not by any SLS students. Sexual abuse was never confirmed. No student or former SLS student has ever accused this employee of sexual abuse. A psychological assessment concluded that he was not a risk but remarked that he was socially immature.

There were two reports in 1999: one involving a friar and one involving a lay male employee. The report against the lay employee was made by a third party who felt the lay employee's conduct with an SLS student was suspect. The investigation of the lay employee concluded there was no foundation for the charge. The friar was accused by SLS students of causing some students at SLS to feel uncomfortable because of the way he looked at them. The investigation of the friar concluded there had been no misconduct of any kind.

In 2002, a woman came forward and reported that a former friar had touched her breast in the 1960s when she was a teenager. The former friar denied the allegation and no investigation was done.

In 2005, an adult male came forward alleging that a friar had molested him when he was a minor. There was no corroborative evidence in the files but the province extended financial assistance to the man for counseling.

In 2008, a friar self-reported to the provincial minister that forty years earlier he had bathed with a minor male in Nicaragua. The friar was sent to treatment and placed on restricted status.



In 2010, a couple reported that a friar had sexually abused their then minor daughter 25 years earlier. The friar categorically denied the allegation. A review board investigation could not substantiate the report.

In 2011, a woman who had come forward in 1993 to report a friar's sexual abuse of her when she was a child 40 years previously (already noted above) came forward again to report that another friar had also sexually abused her during the same time frame. This second accused friar left the order almost 40 years ago, and the woman does not want to file a report. The director of the province's Office of Pastoral Care and Conciliation consulted with law enforcement, which declined to do anything because the woman was uncooperative.

In late December 2011, the province received notice of a lawsuit in Montana against a diocese, the province and several other religious orders that, among many claims, alleged sexual abuse of minors by two friars. The first allegation was by a woman who claimed that a former, and now deceased, friar sexually abused her from 1955 to 1962. The second allegation was by another woman who claimed that another friar, also deceased, sexually abused her from approximately 1958 to 1961. A summons and complaint that include these cases was filed with a Montana court in June 2012, and they are the subject of ongoing litigation.

#### *11. Observations on the province's response to abuse*

*1932-1951:* There is no detailed information available for the reports made between 1932 and 1951 other than the information provided in the minutes of the Provincial Council. There is no discussion of the sexually abused children or of reaching out to victims, or being pastoral in the handling of sexual abuse claims.

*1951-1961:* All three reports are documented. In one case the provincial records indicate reports of a friar's inappropriate conduct with girls while he was still in formation (see above, par. 10). The province's response was to ordain him even though he repeatedly engaged in the misconduct despite being told to stop. Then, when he abused girls at a parish, the province responded by reassigning him to another parish, where he abused a number of other girls. The province retained a priest to investigate. The investigating priest confirmed the abuse, but told the young girls who were victims to keep the abuse secret and to go to confession. There was no pastoral outreach or compassion shown the girls and their families. Instead, the investigating priest's admonition that they keep it a secret and go to confession likely made the girls feel shame about what happened to them and made them feel blamed for the abuse they suffered.

In a case involving another friar, provincial records indicate reports in 1959 and again in 1960, 1961, 1992, 1993 and 1995. The province's response to this friar was consistently inadequate, putting additional people at risk. After the 1959 report, the friar's superior

was told to be observant. After more reports over a two year span, he was given a canonical warning and sent on retreat. This response was equally ineffective; the friar remained in ministry. The next reports were in the 1990s with more information from 1961 to 1992. This friar remained in ministry. There is no indication of a pastoral response to his victims.

*1961-1991:* The auditors found very little information about the responses to five accused friars. One friar admitted to the provincial minister in 1962 that he had sexually abused a teenage boy, and the provincial minister reassigned him to a high school in another state without telling the local bishop, local Capuchin minister or the high school principal.

There were documented investigations in response to two friars. In one case, a government investigation cleared a friar of sexual misconduct. This friar was reported again in 2012 and, after an investigation, was removed from ministry. The other friar was placed on leave and sent for a psychological evaluation. The evaluator concluded that he was not a threat to minors.

*1992-present:* The province's responses to sexual abuse reports beginning in 1992 is, in many respects, the story of its response to the sexual abuse scandal at SLS beginning in December 1992. Many SLS victims felt that provincial leaders' responses to them were not pastoral. Some felt that they were treated in a pastoral manner. Subsequent to the May 1993 publication of the *Kersten Report*, the provincial leaders' handling of sexual abuse claims, including those emanating from SLS, were much improved and reflected many recommendations of the special counsel commissioned by provincial leaders following the breaking of the scandal in December 1992. These aspects of the province's handling of sexual misconduct are discussed in subsequent chapters and appendices.

#### *12. Reports to Civil Officials*

There is no evidence from the period 1932 to 1991 that civil officials from either child protective services or law enforcement were ever notified as a result of a report of sexual abuse of a minor. Though friars may have been unaware of the reporting obligation with regard to child protective services, it is extremely unlikely that they were ignorant of the fact that sexual abuse or molestation of a child or minor has been considered a serious crime in every state since the early 20<sup>th</sup> century. Ignorance of the law is no excuse in any event. It is worth noting that the province's present sexual abuse policies mandate that a friar report misconduct to civil officials *even before he reports to provincial superiors*.

#### *13. Secrecy*

With one exception there is no documented evidence that secrecy was formally imposed on anyone in relation to any of the known cases of sexual abuse. The one exception was a case involving Vatican-enforced secrecy for canonical purposes; the case did not involve minors. At the time the various cases were being investigated it is presumed that

they were considered highly confidential and consequently information about even the identities of the accused friars kept from the public and most of the other friars as well.

#### *14. Response to the Accused Friars*

It appears that the consistent response of provincial authorities to friars accused of sexual misconduct, including abuse of minors, was disciplinary in nature from 1932 to the 1960s. In 1933, 1934 and 1950, four friars were dismissed from the order for unspecified sexual misconduct. More often than not over many decades, friars who engaged in sexual abuse of minors and vulnerable adults were transferred to different locations and ministries. That is consistent with how most Catholic entities handled sexual abuse at that time.

The first documented referral of a friar to professional medical assistance was in 1961 when a friar was sent for psychiatric help for a “special problem,” possibly a coded term which may have referred to a sexual problem. The Capuchins, like most other dioceses and religious orders, sent men to mental health experts only by way of exception. Inappropriate sexual behavior was commonly believed to be exclusively a moral issue, a belief that stubbornly persists in some sectors even today. Even after Catholic bishops and provincial ministers began sending men to mental health experts for assessments and treatment, the experts often were Catholic with a heavy bias in favor of returning men to ministry. They regularly advised bishops and provincial ministers that a priest or brother was safe to return to ministry, with the tragic result that the men often re-offended. The province and its leaders were no different. One psychologist was a former friar. Several friars were sent to treatment and provincial leaders were told they could return to ministry; several of those men re-offended.

## *Chapter VIII*

### *The Sexual Abuse of Students at St. Lawrence Seminary*

#### *1. St. Lawrence Seminary*

St. Lawrence Seminary (SLS) had its remote beginning in 1860 as the "Convent Latin School" attached to the friary at Mount Calvary, Wisconsin. Over the years it grew into a highly successful and well respected minor seminary. Since 1860, over 10,000 young men have received an education at SLS and over 1,500 have become Capuchin Friars. It is the oldest Capuchin ministry in the United States.

On December 20, 1992, the *Milwaukee Journal* published a story reporting that several former students were sexually abused by certain friars at SLS. The late Fr. Ken Reinhart was provincial minister when the *Milwaukee Journal* article was published. He was succeeded by Fr. Anthony Scannell, who was elected at the provincial chapter held in June 1993.

Although all were not mentioned in the *Milwaukee Journal* stories in December 1992, the group of former students who alleged sexual abuse by friars was reported to the auditors to be 28. The *Milwaukee Journal* only referred to eight victims from SLS because their policy was that there be at least three victims for anyone to be mentioned as an accused friar, and two of the three accusers had to be willing to have their names publicized.

The historical recording of the sexual abuse saga at SLS has several levels. The story is summarized by Fr. Champion Baer in *Lady Poverty Revisited*, pages 289-292 (cited above). The *Kersten Report*, discussed below in this chapter, is a critical analysis of the response of the province to the sexual abuse at SLS. The *Milwaukee Journal* and other secular newspapers carried several stories with significant input from former students who had been sexually abused at SLS. The most accurate and complete account of the entire episode is not recorded in one source; but can be gleaned from the various sources of information, especially the documents retained by the Capuchins themselves.

The revelations of systemic sexual abuse at SLS for many years marked a pivotal moment in the history of the province. Some SLS Capuchin faculty and administrators as well as provincial leaders had been aware for decades that some of their members had sexually abused minors or vulnerable adults. The upheaval at SLS beginning in December 1992 changed the province on many levels, not the least of which was its recognition of the terrible harm that comes from sexual abuse.

#### *2. The Kersten Report*

In January 1993 the province commissioned the law firm of Kersten and McKinnon to act as special counsel and conduct an independent investigation into sexual abuse at

SLS. Although there were numerous public revelations of sexual abuse by Catholic clerics and religious since 1984, very few church entities such as dioceses or religious institutes had conducted any form of inquiry. The special counsel's investigation and their *Kersten Report*, published on May 27, 1993, appears to have been the first independent investigation of and report on sexual abuse in any ecclesiastical entity in the United States that was conducted by an outside agency.

The provincial minister and the Provincial Council persisted in seeing the report through despite strong opposition from the insurer-retained attorney who defended the province against former SLS students' lawsuits arising out of their sexual abuse by friars at SLS.

The *Kersten Report* focused on the reports of sexual abuse at SLS. It reported incidents of sexual abuse from 1968 to 1986 involving 14 minor boys and six Capuchin Friars. Their frame of reference was sexual abuse as it was framed in the civil law of the State of Wisconsin during the timeframe in question. Consequently the report distinguishes between acts of abuse as defined in the Wisconsin criminal statutes, and inappropriate "qualified acts" that do not meet the criteria for criminal misconduct.

A key aspect of the required response to reports of inappropriate sexual behavior towards minors is *mandatory reporting* of the incident to law enforcement agencies or child protective agencies. The mandatory reporting law in Wisconsin was effective in 1965 but did not specifically include sexual abuse until 1978. Teachers and school administrators are among those required to report abuse.

The *Kersten Report* provided a careful examination of all then-known and documented incidents of sexual misconduct at SLS, including sexual abuse, between 1968 and 1992. The special counsel who conducted the study concluded that some incidents did not constitute reportable events. They did find however, that several other reported events did meet the criteria of reportable events, but that none of these were reported as mandated by the statute.

The special counsel found that the seminary staff claimed they were unaware of the reporting requirements and therefore the failure to report did not constitute criminal behavior. (*Kersten Report*, p. 11, note 3). The auditors questioned this conclusion by the special counsel.

In general the *Kersten Report* is critical of the response of Capuchin and SLS leadership to reports of sexual abuse. The report does state, however, that there had been significant improvements by 1992 (*Kersten Report*, p. 16).

### *3. Immediate Reaction to Revelations of Sexual Abuse at SLS*

Over several decades, many SLS students accused SLS faculty and administrators of sexual abuse. The friars who knew did not report it to civil authorities or parents. The sexual abuses were only sporadically reported to provincial authorities. However, at least three provincial ministers knew about sexual abuse at SLS, including the abuse perpetrated by Fr. Gale Leifeld, who despite being reported numerous times was elevated to the position of rector in 1976.

When sexual abuse or “qualified acts” were reported to SLS faculty or administration prior to December 1992, they generally took no decisive actions, nor responded to the students who reported abuse with any degree of pastoral concern. One exception where SLS administrators did take somewhat decisive action was their handling of Br. Tom Gardipee, who engaged in “qualified acts,” if not outright sexual abuse. In 1985, after Gardipee engaged 18 year old students in sexually inappropriate behavior, SLS and provincial leaders required him to personally apologize to the students. In 1988, the provincial minister terminated him for other sexual misconduct at SLS, but the Provincial Council reversed the termination, and he remained at SLS until 1993, with unfettered access to SLS students. (See Appendix 8)

The Provincial Council also appears to have taken some action with regard to Fr. Gale Leifeld. Leifeld first was on faculty at SLS beginning in 1958 and then was rector from 1976 to 1982. He sexually abused many SLS students. He left SLS in 1982 and continued in active and unsupervised parish ministry until 1993, when he was sent to the Paraclete Fathers for evaluation and treatment. The auditors concluded that, although the provincial minister at the time knew of Leifeld’s history of sexual abuse, he was not removed from SLS for sexual abuse. There is a 1981 letter in which he indicates to the provincial minister that he is anticipating a new ministry in 1982. Hence, it appears he was replaced upon mutual agreement with provincial leaders. However, it should be noted that a former Provincial Council member was adamant that Fr. Leifeld was removed from SLS because of his sexual abuses. (See Appendix 7)

In some cases, those receiving reports claimed they did not believe the students. Reports of sexual abuse of minors were required by statute to be made to the Wisconsin child protective authorities or law enforcement authorities. However, nobody at SLS reported the sexual abuse to authorities. Some of the witnesses interviewed claimed the friars were unaware of their obligation. On the other hand, SLS was and is a fully accredited secondary school held to compliance with all state and federal regulations governing such educational institutions. Those entrusted with top level administrative posts should have known of civil law regulations governing the school. The claim of ignorance of the regulations is not a viable excuse for ignoring the obligation to report.

From at least 1989 through 1992, the provincial minister, Fr. Ken Reinhart, met with several SLS victims and paid them modest amounts for counseling (usually in the range of \$2,000 to \$3,500) in exchange for releases of liability with confidentiality provisions. Some victims reported that he also promised he would prevent the accused friars from being able to abuse others. In time, some of these victims concluded that Fr. Reinhart was not holding to his promise to curtail the offending friars, and this prompted their decision to take the story to the *Milwaukee Journal*, which published the story of sexual abuse at SLS on December 20, 1992.

The provincial minister and other provincial leaders had prior notice that the *Milwaukee Journal* was going to publish its story on sexual abuse at SLS. Provincial leaders were in conversations with their general counsel before the publication of the *Milwaukee Journal* article. In the week before the publication of the article, Fr. Ken Reinhart, general counsel Bob Bichler, and consultants from The Barkin Group Public Relations Counselors met and worked on a response to the impending article, and developed a strategy for dealing with victims and making public statements. There was no concerted legal defense strategy, which became a point of contention when the insurer-retained attorney came on board in the spring of 1993.

Within a matter of days after the story broke, Fr. Joseph Diermeier, the SLS rector, contacted the parents of every then-SLS student to answer questions about the *Milwaukee Journal* story. In addition, the rector sent daily mailings to update the students' parents on developments. He met with the parents and spoke with them and answered their questions. In addition, SLS and special counsel sent mass mailings to SLS alumni throughout the United States between December 1992 and May 1993, soliciting former students who may have been abused and inviting them to contact the special counsel and to seek assistance if they needed it.

The rector also had officers from the Sheriff's Department and counselors from the Archdiocese of Milwaukee's "Project Benjamin" organization, (among others), to speak to the SLS students in early 1993. These speakers invited any students at SLS to anonymously report their own or anybody else's sexual abuse at SLS. No SLS students ever came forward to the Sheriff's Department or counselors. The rector's leadership is widely credited as the reason that all the students, approximately 204, returned in January 1993 after the Christmas break.

The provincial minister, Fr. Ken Reinhart, met with the faculty and staff of SLS. He also called a meeting of the local community of Mount Calvary, Wisconsin, at their town hall, to answer questions in January 1993. Ordinarily this act would have been commendable. However, information indicates that Ken Reinhart was aware at the time that Fr. Jude Hahn, assistant pastor at Holy Cross Parish in Mount Calvary, the parish of most town residents, had substantiated accusations of sexual abuse. He did not tell the people

about Fr. Jude Hahn and apparently made little or no attempt to identify other possible victims. (See Appendix 9)

A crucial moment in the province's response to the SLS scandal came at the June 1993 provincial chapter. Fr. Ken Reinhart led the friars to a discussion of the SLS scandal. He encouraged friars who were sexual abuse victims, including a former provincial minister, to share their stories, so as to put a human and familiar face on the issue. To this day, the June 1993 chapter is recalled as perhaps the most difficult in the history of the province. The *Kersten Report* had been issued shortly before the chapter convened. It was presented and approved at the chapter. Also, Fr. Tony Scannell was elected provincial minister to succeed Fr. Ken Reinhart.

In addition to soliciting victims, the province and SLS provided counseling and assistance, much of it with no questions asked. As noted above, they brought in law enforcement and others to educate faculty and students about sexual abuse, and to facilitate direct reporting of sexual abuse to law enforcement and/or to other independent third parties.

Special counsel noted that:

The six mass mailings sent independently by St. Lawrence and special counsel...involved thousands of letters to persons across the country. In our opinion, this was an unparalleled effort to identify victims of clergy sex misconduct and to offer them assistance. We are aware of no other institution mounting such a widespread campaign of personal contact with potential victims.

[T]he Capuchins have done everything practically possible to identify victims and to offer them appropriate counseling, diagnosis and treatment. (*Kersten Report*, p. 17)

The auditors note, however, that they did not find evidence, from documents or interviews, that the provincial or SLS leadership contacted then-*known* SLS sexual abuse victims nor contacted their families. There is evidence, from both documents and interviews that provincial and SLS leaders and others affiliated with the province developed negative and adversarial attitudes toward victims who had publicly asserted their claims, and who asserted legal claims. The auditors' impression is that the Capuchins properly reached out to potential SLS victims, and showed true concern about whether any then-current SLS students may have been abused; yet found it more difficult to reach out to victims who sought to publicly and/or legally hold SLS and the province accountable.



The auditors also note that when the SLS sexual abuse scandal erupted in December 1992, many friars did not want to believe it. Many of them had attended SLS and had great affection for the school. Many friars and other former students, including the province's general counsel, attributed their success to having attended SLS. Many friars came to the defense of accused friars at SLS. In addition, from friars who were interviewed, it seems that relationships that individual friars had with some victims affected their attitude toward the scandal and the victims. Many friars acknowledged that they did not believe one of the most outspoken victims, because they had prior unpleasant dealings with him.

A common theme among friars who were interviewed was that they wanted to reach out pastorally to SLS victims after the scandal broke, but believed they were prohibited from doing so by provincial leaders and by defense counsel retained by the insurance carrier. Once victims retained counsel, friars mistakenly believed that they were legally prohibited from communicating with them. The friars' misconceptions about reaching out to victims came from provincial leadership and from defense counsel, who communicated this prohibition quite strongly to the provincial leadership.

Among former provincial leaders who were interviewed, there was no memory of friars being prohibited from reaching out to victims, although they were told not to speak to the press. The SLS abuse scandal continues to cast a pall over the province and its members, because many of them have not come to terms with how the victims were treated. Many friars interviewed expressed reservations and stated concerns about how victims were treated in the past, and felt that it could have been handled better, and that there was a lack of pastoral outreach to victims.

However, another dynamic seems to be that some friars believe that the sexual abuse problem in the province was something that happened only at SLS twenty years ago, perpetrated by a small group of friars who are now dead or long ago removed from ministry. Consequently these friars believe the problem was dealt with and is now behind them and no longer an issue. They do not have as keen a sense that other sexual abuse was perpetrated by other friars in other ministries and locations.

#### *4. The time frame of reports of abuse at SLS*

Documents contain evidence that various students reported inappropriate sexual activity and sexual abuse by friars at SLS as early as 1965. There are unspecified statements that there were reports in 1964 and 1971 but no detailed information was available to substantiate the names of the accused and the victim. Clearly the public reports in the *Milwaukee Journal* on December 20, 1992 were not the first reports of sexual abuse at SLS nor was this the first time provincial leadership learned of such abuse.

The *Kersten Report* stated that the first reported incident dates from 1968. Their research listed 14 victims abused by six friars between 1968 and 1986. However, the auditors' review of all available files revealed that there were actually 28 known and confirmed SLS students abused

as minors while at SLS with reports dating to 1964. The same review revealed eight known and confirmed offending friars. As of this date, six of the eight known offenders are deceased.

Although a number of administrators, teachers, rectors, and provincial leaders received direct reports of sexual abuse at SLS between 1971 and 1989, none of the accused were removed from SLS ministry until 1988. Even then, after Fr. Ken Reinhart terminated Br. Tom Gardipee, the rector and the president of SLS made impassioned pleas on Gardipee's behalf, resulting in his reinstatement.

Although Fr. Gale Leifeld was reassigned from his position as rector in 1982, he was never removed from ministry. Furthermore, it is not clear that he was removed involuntarily as a result of sexual abuse of students. Correspondence between him and the provincial minister indicate that they had been discussing his departure from SLS with a view to a subsequent ministry as a parish priest.

In 1985, five SLS seniors, although not sexually abused as such, were exposed to highly inappropriate behavior of a sexual nature ("qualified acts") by Br. Thomas Gardipee, an SLS teacher and coach. He provided them with alcohol and pornography, showed them condoms, went nude "streaking" with them and invited at least two of them to masturbate with him. These young men were all 18 at the time and thus not legally minors, so they were not listed in the *Kersten Report* as victims of abuse. Nevertheless, there was a power differential because they were students and athletes, and the friar was a coach and teacher. Even more important than the legal considerations is the fact that the friar's behavior caused scandal in the real sense. (See Appendix 8)

##### *5. The St. Lawrence Seminary friars with confirmed reports of sexual abuse*

The documentation revealed that the following eight friars were confirmed of some form of inappropriate sexual behavior at SLS, which caused them to be reported to Capuchin leadership either at SLS or on the provincial level between 1974 and 1992:

- Fr. Baldwin Beyer (deceased)
- Fr. James Buser (deceased)
- Br. Thomas Gardipee (left the order)
- Br. Leonard Gibeault (left the order)
- Fr. Jude Hahn (deceased)
- Fr. Mel Hermanns (member, restricted status)
- Fr. James LaReau (left order; deceased)
- Fr. Gale Leifeld (deceased)

The *Kersten Report* made a distinction between acts of sexual abuse which are criminal according to civil law and "qualified acts" which are defined as inappropriate but not criminal. Using this legal distinction, the report stated that between 1972 and 1992 there were five friars implicated

in nine claims of “qualified acts.” Four of these acts involved 18-year old seniors and Br. Tom Gardipee and are classified as boundary violations and misconduct.

The auditors disagree with the *Kersten Report* conclusions that Gardipee’s actions were “qualified” and not criminal. Br. Gardipee served alcohol to boys who had not reached the legal drinking age. Thus, Br. Gardipee *had* engaged in criminal misconduct, although not necessarily criminal *sexual* acts. In addition, although it was not known at the time of the *Kersten Report* in May 1993, it is now known that Br. Gardipee masturbated in front of the 16 or 17 year old minor that he became infatuated with during the 1987-1988 school year. Hence, although the *Kersten Report* listed Gardipee among those who engaged in only qualified acts, the auditors include him among those who engaged in criminal behavior.

#### *6. Friars who received reports*

The auditors learned that a wide variety of administrators, teachers, rectors and provincial leaders received reports of sexual abuse at SLS, yet did not report the abuses to authorities.

Archbishop Rembert Weakland, the ordinary of the Archdiocese of Milwaukee, was also made aware of an accusation of sexual abuse against Fr. Gale Leifeld in 1979. He was asked for advice about the case of the young man who had informed Fr. Joseph Diermeier in the act of sacramental confession. The documentation revealed only that the archbishop had been informed and had advised Fr. Diermeier how to proceed. If these facts are true, Archbishop Weakland should have taken decisive action, but he did not. Even though the Capuchin Order is an exempt order of pontifical rite, the accusation involved an alleged canonical crime of a very serious nature, which required a response by the archbishop. Furthermore the incident was not completely within the confines of the Capuchin community. The alleged victim was a lay student and member of the archdiocese, which placed the matter directly under the scope of responsibility of the archbishop. There is nothing in the files that reflects any type of follow-up by Archbishop Weakland.

#### *7. The Role of the Attorneys in Lawsuits Arising out of SLS Sexual Abuse*

The response of some of the victims of the SLS friars was no different than elsewhere in the U.S. A survivor interviewed by the auditors, said the reason he and the others went to the *Milwaukee Journal* was because they believed the reports of abuse had been ignored by the Capuchins for years.

The information available to the auditors indicates that there was a response to the victims, but the response was inadequate. Some victims report that their motivations for going to the media and civil courts for relief were that they felt there was no indication of accountability, accused friars were left in place, they felt that the friars had offered no authentic pastoral care or adequate financial assistance for counseling expenses.

Fr. Ken Reinhart, the provincial minister when the SLS scandal broke, retained the Kersten & McKinnon law firm on January 5, 1993, to act as special counsel. He gave them unprecedented access to materials, and they wrote a candid report that outlined failures, successes, inadequate treatment of victims, and made recommendations for improvements. In addition, special counsel had authority to give complainants \$1,000 to \$2,000, no questions asked, and to reach out in a pastoral manner to complainants. Complainants could receive more if they submitted a treatment plan from their therapist. These civil attorneys conducted themselves with honor and compassion, and with a balanced approach to the investigation of the scandal. Attorney Bruce Landgraff was a particularly effective liaison among the special counsel, the province and the victims.

General counsel, an alumnus of SLS, represented the province and became directly involved in the very beginning. No civil suits were filed by the end of December 1992. The province reported the SLS sexual abuse claims to their insurer in December 1992. The insurer retained local Wisconsin counsel, Franklin Steeves, to represent the province in the sexual abuse claims. Once Attorney Steeves became involved, general counsel did not have a large role in the ongoing process.

It is the opinion of the auditors that the Capuchins surrendered their responsibility for the response to the victims to the attorneys. Mr. Frank Steeves influenced the overall response of the Capuchins to the victims. In spite of the SLS rector's initial outreach to families of current students in December 1992 and January 1993, and despite special counsel's outreach, defense counsel thereafter dictated the friars' subsequent interactions with victims.

Some factors that determined how victims were treated were whether they retained legal counsel, insisted on transparency and accountability, and asked for monetary compensation. The province's attorneys defined their role as defending the bottom line. There was documentation from that time in which general counsel expressed his concern for victims. However, as victims began to assert their claims, some through litigation, it appears that the defense attorneys perceived the victims as seeking only monetary compensation, which affected the defense attorneys' attitudes toward victims and shaped the aggressive defense tactics employed by the attorneys. Yet, many victims report that their primary concern was accountability and not monetary gain.

One category of victims received favorable care from the Capuchins. These were the victims who did not seek monetary compensation, did not retain legal counsel and did not threaten to sue the province, but only sought counseling. Defense counsel, the province's general counsel and the provincial leadership agreed that these "Category C" claimants, as they were referred to, were provided counseling at the province's expense, and were not required to sign a release from liability or any other document. Presumably, a victim could continue to have his counseling and therapy expenses paid by the province over time. Right or wrong, some observers have the impression that only victims who "played nice" received help.

When defense counsel assumed control of the defense in June 1993, he vehemently opposed the involvement of special counsel and the investigation they were conducting. *"He [Steeves] told Reinhart that he resented his 'inexperience and foolishness' and threatened to take the Catholic Mutual lawyers off the cases. His position was that the Kersten investigation could violate the province's legal duties under the insurance policy issued by Catholic Mutual. He saw the release as detrimental to the lawsuits and as doing the investigative work for the claimants' lawyers."* (*Lady Poverty Revisited*, p. 291).

In spite of defense counsel's opposition, Fr. Ken Reinhart persevered with the Kersten investigation. He subsequently refused Steeves' demand that he not make the report public.

The province also retained a criminal attorney from Milwaukee to defend two accused friars. The charges against one were dismissed based on the statute of limitations. The District Attorney dropped charges against another because medical records appeared to exonerate him. The auditors have been informed, however, that in one case the attorney threatened to publicly expose the victim's sexual orientation if he testified.

Defense counsel for the province appeared tenacious in his pursuit of a no holds barred defense. He reportedly questioned whether many of the claims were authentic and he strongly opposed extending pastoral outreach to victims, believing that to do so would compromise the defense. He reportedly instructed leadership to discourage friars from engaging victims, from apologizing to them and from referring to the misconduct as "abuse." His efforts resulted in modest settlements purchased with extensive defense efforts and expenses. Defense counsel's letters to the provincial leadership strongly implied that the province's engagement of victims constituted a violation of terms and conditions of the insurance policy, and implied that insurance coverage may not attach if they persisted in their efforts.

When the SLS sexual abuse scandal erupted in December 1992, there were communications between the province's general counsel and the provincial leadership that discussed the need to deal compassionately with victims. General counsel at first supported a pastoral approach to the victims. He counseled provincial leaders that they should remember that the true victims were those who had been abused, and that they were first Christians and Capuchins and should respond accordingly. He was supportive of Fr. Ken Reinhart's retention of special counsel, of the investigation, and of the special counsel's report, as well as the pastoral gestures and compensation facilitated by special counsel. He supported the unprecedented access granted special counsel to materials and information, and the solicitation of victims and engagement of victims. He supported the program of the special counsel that any former SLS student who alleged sexual abuse could receive \$1,000 to \$2,000 "no questions asked." General counsel even drafted a telephone intake form for any victims who might contact the Capuchins; the form was solicitous of victims' needs and designed to respectfully help victims "tell their story" in the manner that was most comfortable for them.

However, general counsel's attitude toward a victim changed if the victim filed a lawsuit against SLS and the Capuchins. He acknowledged that once a victim filed a lawsuit, the province felt it necessary to protect itself and the bottom line. Some victims have described the province's legal defense as combative, traumatizing and re-victimizing. General counsel believed that the provincial leadership should not have interfered with defense counsel's defense efforts. He reported that some of the more vocal victims, some of whom played an advocacy role for other victims, fueled antagonism.

Although some of the friars attempted to distance themselves from the attorneys' harsh tactics, claiming that they were not responsible for how the attorneys did their job, the victims perceived the attorneys' combative approach as that of the Capuchin Friars and in the end it was the response of the friars. This resulted in re-victimization and alienation from the Capuchin community. However, it is fair to say that many friars who had no connection to or involvement with SLS were not aware of the abuses there, and were unaware of how the sexual abuse claims from SLS were being handled by provincial leadership. These friars should not be unfairly "painted with a broad brush."

One plaintiffs' attorney represented almost of the SLS victims. However, once the Wisconsin Supreme Court issued *Pritzlaff v. Archdiocese of Milwaukee*, in which the court held that the statute of limitations and the First Amendment to the United States Constitution barred most of the victims' claims, plaintiff counsel's ability to pursue his clients' claims were hindered. His efforts shifted to attempting to extricate his clients from the litigation without them having to pay any costs. He succeeded in avoiding costs, and succeeded in obtaining modest settlements for most of his clients, despite the impact of *Pritzlaff*.

Plaintiff's counsel was a colleague of defense counsel, and respected him. It appears to the auditors that all the attorneys involved, both the several defense attorneys and various plaintiffs' attorneys alike, essentially had the same perspective on the claims. They seemed to treat the claims of victims as a quest for compensation, and measured success or failure based on the amount of compensation that victims received. Under these circumstances, many opportunities for authentic pastoral outreach were lost. Except for one friar, few appeared to account for extending – or failing to extend – intangible pastoral outreach to victims, such as apologies, engaged listening to victims' stories and pain, respectful "standing with" and being present to victims, or working together to prevent future abuses. It is interesting to ponder how different the plight of the victims may have been if all the civil attorneys, representing both plaintiffs and the Capuchins, had contemplated healing and compassion as attainable goals in the responses to and adjudication of the victims' claims.

#### *8. Alienating the Victims*

The auditors perceived that the attitude towards the victims was generally patronizing as long as they made no demands and readily accepted whatever the Capuchin leadership offered them or said to them. Once a victim made any type of demand, especially for monetary

compensation, the attitude turned adversarial. Underlying this attitude was a significant degree of disbelief that the accusations were true *or* a refusal to entertain the possibility that they might be true. There is little evidence of an initial feeling of compassion on the part of the provincial leadership based on their *actions* towards the victims who made the claims that were reported in the *Milwaukee Journal*. Individual friars expressed *feelings* of concern for the victims who went to the *Milwaukee Journal* or filed suit, but aside from the actions of one friar, there appeared to be little or no outward support for these particular victims. Another friar was assigned by the provincial leadership to provide pastoral care for victims who did not file suit or go to the *Milwaukee Journal*. This is consistent with the general response in other dioceses or religious orders with some exceptions. The attitude of disbelief at the outset was mingled with suspicions of some sort of conspiracy against the Capuchins. Once the attorneys entered the fray, the hostility and distrust was galvanized; with one known exception and possibly other unknown exceptions of friars who believed the victims and were sympathetic towards them.

When one victim assumed a leadership/advocacy role and when others filed civil lawsuits, the negative feelings and hostility reportedly increased. Some victims reported that provincial leadership perceived the victims as adversaries rather than victims of their own friars. They became protective of friars who were implicated. Many friars feared that the reputation of SLS would be forever stained or, worse yet, that SLS would not survive the scandal. Some leaders took personally the criticisms and demands of victims who litigated or publicly advocated for other victims. Some provincial leaders felt that their sincere efforts were mischaracterized and condemned. Some believed that victim's actions were not altruistically motivated.

Much of the hostility was directed at Peter Isely who, with another victim had been sexually abused by more than one friar at SLS. Some in leadership reportedly felt that victim advocate's efforts were manipulative in nature. In a letter to Fr. Gale Leifeld, one of the friars who had sexually abused Peter Isely, Fr. Ken Reinhart said: "*I think we have a better picture of the total situation at this time and it seems Bob is more confident in limiting our willingness to be manipulated by any individual.*" (11-16-1989).

Referring to Peter Isely in another letter he said "*once we became aware that the Milwaukee Journal was aware of this situation and that Mr. Isely was seemingly going after us...*" (Reinhart, 12-9-1992). Again on January 19, 1993, in a letter to Leifeld, Fr. Reinhart said "*We project many more [lawsuits] since this is the effort and work of the Isely's.*"

Some victims felt friars were hostile toward former SLS students who assumed leadership and advocacy roles. Some former students demanded accountability of the province for the abuse and the lack of response following their accusations. In addition, although provincial leaders were offering abuse victims monetary compensation for counseling, many victims felt that the compensation, in exchange for a signed release with a confidentiality provision from the victim, was designed to avoid liability exposure. When defense counsel took over handling the abuse

claims, many reported that a successful pastoral outreach and a response from the friars that was in keeping with their Franciscan charism was severely compromised.

### *9. Pastoral Outreach*

The friars interviewed by the auditors were all questioned about the pastoral outreach to SLS victims. The consensus among them was that, while some wanted to reach out to victims, they felt that provincial leaders and the attorneys prohibited their engagement of the victims. It is also likely, however, that provincial leaders' and defense counsel's prohibitions affirmed some friars in their reticence to engage victims. Yet, the former provincials interviewed could not remember if friars were prohibited from reaching out to the victims. Two of the provincial leaders from the time denied that they prohibited friars from reaching out pastorally to victims.

A notable exception to the lack of response by the friars was Fr. Michael Sullivan, who publicly stood "shoulder to shoulder" with SLS victims at a press conference in 1993, and who ignored provincial leaders' and lawyers' prohibitions against engaging victims and speaking to the press. He publicly called for expanded mandatory reporting to include clergy. He befriended and reached out to several SLS victims, and supported them both privately and publicly. In May 1993, "Project Samuel," a group of victims abused by Capuchins, requested that the province formally appoint Fr. Mike Sullivan as a victim's advocate for them.

Another exception was Fr. Marty Pable, Ph.D., a licensed psychologist, who responded pastorally to several SLS victims who went to him personally. Fr. Marty Pable was appointed by the provincial leaders to chair a committee that was supposed to reach out to victims, and he eventually became the first Sexual Abuse Response Coordinator (SARC). As the SARC, Fr. Marty Pable pastorally engaged some SLS victims and helped them get into counseling at the province's expense.

Fr. Tony Scannell established an office to investigate claims and provide pastoral care to victims, staffed by a friar-psychologist, Fr. Marty Pable, who is widely perceived as kind and pastoral. This appears to have been an honest attempt to pastorally engage victims. Fr. Pable reports that the few victims who came to the pastoral care office were treated with compassion and that they felt cared for and were provided counseling. None of these victims filed suit.

Fr. Scannell indicated he was advised by someone that reaching out to victims could re-victimize them. Some friars then used this as an excuse not to engage the victims. (Some former leaders interviewed denied that they told friars not to engage victims.) Under these circumstances, Fr. Scannell felt that the best pastoral care they could provide was to let victims know about the existence of the pastoral care office, and then victims could choose to go there if they wanted. Nevertheless, because the pastoral care office was only publicized in Fr. Scannell's newsletter, which was only sent to Capuchin houses, few victims heard about the office.



On several occasions victims sent written requests to provincial leadership, including Fr. Scannell, to meet with them. Victims reported that those meetings never occurred. Despite Fr. Scannell's statement to the news media he would meet with victims.

Provincial leaders were reportedly led to believe that friars were prohibited from communicating with a person represented by counsel, and some friars even believed it was *illegal* to speak to victims represented by counsel. Even if a victim retained counsel and filed suit, nothing prevented *friars* from reaching out to him and providing pastoral care and counseling. The friars could have offered the benefits of the pastoral care office to any victim regardless of whether he was represented by counsel.

It is the perception of the auditors, based on correspondence and other documents, that the provincial leadership felt that their insurance coverage was imperiled if they persisted in their nascent efforts to acknowledge the abuse at SLS and to publicly apologize for the abuse and even reach out to victims. The tone of defense counsel's letters was forceful; correspondence suggests that the provincial leadership felt their hands were tied.

#### *10. The outcome of the lawsuits*

Twelve of the victims of sexual abuse at SLS filed lawsuits against SLS and the province. None of the SLS cases went to trial, although one suit filed as a result of sexual abuse that had taken place at the pre-novitiate community in Detroit did go to trial.

The sole trial involved a former student, who alleged that he had been sexually abused by Fr. James Wolf. The plaintiff in that case reported that he opted to go to trial because he believed it was the only way to force the province to remove Fr. James Wolf. The trial ended with the jury finding that the statute of limitations for bringing the case had expired. Fr. Wolf denied abusing the former student, but in a deposition read in open court he admitted abusing several other minor males. The jury finding simply confirmed that the repressed memories were not manifested within the timeframe of the statute of limitations and therefore the statute had run out for former student. It did not exonerate Fr. James Wolf. The jury never considered the question as to whether the abuse had occurred.

In 1995, the Wisconsin Supreme Court's ruling in *Pritzlaff v. Archdiocese of Milwaukee*, 194 Wis.2d 302, 533 N.W.2d 780 (1995), had the effect of barring the SLS victims' lawsuits against the province. Subsequently, the province was able to negotiate minimal settlements so that the victims received approximately \$3,000 to \$4,000 each.

Fourteen of the twenty-eight known and confirmed victims of sexual abuse at SLS received modest monetary settlements. The province paid for psychological counseling or other mental health assistance for seven of the twenty-eight. Four of these victims had also received monetary settlements. Many of the victims only reported sexual abuse, and did not otherwise seek or take advantage of paid counseling offered by the province.

None of the 14 victims who filed lawsuits were provided any form of pastoral support. Some of these victims received monetary settlements, but they did not receive paid counseling. They certainly were not assigned a victim support person as provided for in the 1988 sexual misconduct policy and all subsequent versions of the sexual abuse policies.

#### *11. Criminal Actions*

Criminal actions were brought against two offending friars for sexual crimes at SLS. A criminal case brought against Br. Tom Gardipee in Fond du Lac County, Wisconsin was dismissed in March 1993. Fr. Gale Leifeld died before he could be criminally prosecuted.

#### *12. Prelude to SLS claims handling and expenditures*

The province submitted the SLS sexual abuse claims to its insurer in 1993. The insurer retained local defense counsel in Wisconsin to handle the claims. One of the defense attorneys reportedly told provincial leaders that they were not to refer to the misconduct as “abuse” and were to cease apologizing for the misconduct. When the Wisconsin Supreme Court ruled in *Pritzlaff, supra*, the claims of sexual abuse victims against religious entities were severely limited, which resulted in the dismissal of the SLS victims’ lawsuits against SLS and the province. These factors contributed to the modest sums paid to victims juxtaposed with significant sums spent on defense fees and expenses, as set forth below.

With full disclosure about the potential impact of such communication on confidentiality, the Capuchins could have offered the benefits of the pastoral care office to victims who were represented by counsel, or who were not represented by counsel but were seeking compensation. If a victim was counseled by Fr. Marty Pable, a psychologist, those communications would have been privileged. A victim, in consultation with his attorney, could then decide whether to take advantage of pastoral resources offered by the province.

#### *13. Expenditures reflect priorities in the handling of the SLS abuse claims*

Data provided by the province’s insurer at that time clearly reflect that the insurer and defense counsel, and by extension, the province, prioritized defense of the province and the accused friars over the victims:

- The province’s insurer handled 14 of the 28 known and confirmed SLS sexual abuse claims.
- The insurer spent a total of \$962,026 on defending against and resolving the 14 SLS abuse claims with which it was involved.
  
- The insurer paid out \$106,578 in settlements of ten of the 14 SLS claims it handled. The other four claims involving one victim were defended to a not guilty verdict in a jury trial in Michigan, and to zero pay outs.

- However, the insurer spent \$855,449 in defense costs in the 14 SLS claims it handled.
- Thus, the insurer spent more than eight times as much on defense expenses than it did on settlements to victims.
- Of the total amount expended by the insurer (\$962,026), the amount spent on settlements for victims (\$106,578) comprised just 11.1% of the total, and the amount spent on defense costs (\$855,449) comprised 88.9% of the total.
- The average settlement per victim was only approximately \$7,613 (\$106,578 / 14), whereas the average defense costs per victim was approximately \$61,103 (\$855,449 / 14). In addition, the \$7,613 average settlement figure is skewed; one settlement was just over \$50,000 and one was just under \$20,000, while the rest were in the low four figures, except for four that were zero. Although the auditors note that the Capuchin's and their insurer's significantly greater expenditures on defense costs rather settlements for victims was not uncommon in civil litigation; the expectation is that a Catholic religious order would have conducted themselves more as "church" than secular civil litigants.

There is tragedy in this data. Defense counsel's role is to advise as to the best resolution and to conduct the defense, but the insurer and the insured client ultimately control the defense and decide which path to pursue. However, provincial leaders and the insurer surrendered handling of the SLS claims to attorneys whose defense philosophy was to pursue a zero-sum "win" at the great expense of victims *and the insurer that funded the defense*. Needless to say it also seriously harmed the order. By forfeiting handling and control of the claims to attorneys, the Capuchins forfeited the opportunity to be compassionate, to save the insurer significant sums of money and most important, to minister to victims.

It appears both the province and insurers wanted the claims to resolve as quickly as possible for as little expenditure as possible. The province was entitled to the best defense and claims handling the insurer could provide. Had the province and its insurer trusted that compassionate claims handling *was the best defense and claims handling strategy*, that it served both *their* interests and *victims'* interests, they could have saved considerable money and heartache.

If they had taken a leadership role to prioritize expedited and compassionate resolution over an aggressive defense, lower resolution costs may have saved the insurer hundreds of thousands of dollars. Pastoral outreach was both the right thing to do and a good business decision.

#### *14. Lessons Learned From the St. Lawrence Seminary Experience*

It appears that the province has learned many lessons from the SLS experience. The province's more recent approach has been a much more pastoral and fair handling of abuse claims. Since 2004, the province has handled all sexual abuse claims that were initially reported to the province "in house," and has not submitted any such sexual abuse claims to its insurers. The province has spent far more on assisting victims than defense costs. The overwhelming majority of the province's financial expenditures on sexual abuse claims have been spent on compensation and counseling and other assistance for the victims, including amounts spent on claims arising out of sexual abuse of former SLS students who have come forward recently.

In fact, presumably because of this more pastoral outreach, many SLS victims who have emerged more recently have not sought compensation or taken advantage of counseling that has been offered. Some have *only* sought psychological counseling from the province. Several have been paid settlements, some with creative and accommodating and personally-tailored provisions designed to provide targeted assistance that respond to victims' needs. One size does not fit all. The auditors credit recent provincial ministers and directors of the province's Office of Pastoral Care & Conciliation with this more pastoral and gospel-oriented approach to sexual abuse claims. They have often courageously persevered with this more pastoral engagement with victims even in the face of fierce opposition from some others affiliated with the province.

## *Chapter IX*

### *The Office of Pastoral Care and Conciliation*

#### *1. Role of the Office of Pastoral Care & Conciliation*

The Office of Pastoral Care & Conciliation is the provincial office that evolved from the special counsel's 1993 independent investigation of sexual abuse at St. Lawrence Seminary and the recommendations included in the special counsel's *Kersten Report*.

In 1993, in response to the *Kersten Report* recommendations, provincial leaders established the Sexual Abuse Response Coordinator ("SARC") position, and assigned Fr. Marty Pable as the first SARC. It was re-named The Office of Pastoral Care & Conciliation in an effort to better reflect and continue to develop its mission.

From 1993 to 2005, as the SARC, Fr. Pable:

- Oversaw the update and improvement upon the province's sexual abuse policies and procedures first enacted in 1988, incorporating many special counsel recommendations; and oversaw several subsequent updates and clarifications to the policies;
- Received reports of alleged sexual abuse by friars and employees;
- Responded to victims of sexual abuse by friars and employees;
- Provided pastoral care and support to victims and/or facilitated counseling for victims;
- Facilitated treatment and handling of friars who had sexually abused minors; and,
- Met with provincial leaders and provided initial training and education on sexual abuse to leaders and friars.

In 2005, Fr. John Celichowski was appointed director of the SARC office. He re-named it the Office of Pastoral Care & Conciliation (OPCC) in an effort to better reflect and continue to develop its mission. From 2005 to 2008, Fr. John:

- Further developed the sexual misconduct policies, procedures, and practices to prevent and respond to sexual misconduct. These were first accredited in 2007 by Praesidium, an abuse-risk company, in accord with standards it developed with the Conference of Major Superiors of Men (CMSM). (The province was reaccredited in 2010.)

- Trained friars and employees using Praesidium videos;
- Educated himself on the issue of sexual abuse;
- Organized the first review board;
- Participated in the Archdiocese of Milwaukee's restorative justice circle, *The Healing Circle*, which was made into a DVD;
- Contracted with a consultant, Ms. Amy Peterson, the then Victims Assistance Coordinator for the Archdiocese of Milwaukee, to improve supervision of friars on restrictions; and
- Began to focus on pastoral care in response to victims instead of the "legal" model.

Fr. John was elected provincial minister in 2008. Br. Mark Carrico, a mental health counselor, was appointed director of the OPCC. From 2008 to 2011, expanding the scope of the OPCC, he:

- Continued to contract with the consultant, Amy Peterson, to improve supervision of friars on restrictions;
- Worked with Amy Peterson to increase membership on the review board to include more representatives from law enforcement, victim advocates, and the Department of Corrections (sex offender unit);
- With Ms. Amy Peterson, had risk assessments conducted on all friars on restrictions; and
- Worked to comply with Praesidium's standards and second accreditation process in 2010.

As provincial minister, Fr. John Celichowski, working with Br. Mark Carrico and the rest of the Provincial Council, hired the first lay person as director of the OPCC. Ms. Amy Peterson, who served for seven years as Victim Assistance Coordinator for the Archdiocese of Milwaukee and had worked as a consultant to the province, was hired in July 2011. Since then, Ms. Peterson has further expanded the OPCC, among other things including:

- The province created a full time position for lay director;
- Updated the misconduct policies for minors, adults, social networking;

- Worked with law enforcement to identify and train recent retired sensitive crimes officers to do internal investigations;
- Developed training for friars, employees and volunteers (focusing on mandatory reporting laws);
- Worked with individual provincial ministries to identify safe environment training needs, did offer training in specific ministries;
- Updated the website, including adding a safe environment tab to each provincial ministries website (making it easier for getting information on how the province handles reports, etc.);
- Developed and instituted a policy for screening specific volunteers;
- Helped with development of the audit, the audit work group, auditors, etc.; and
- Created due process documents/procedures.

The OPCC director and provincial minister assisted the auditors by facilitating access to files, interviewees, and other sources of information in accord with the scope of the audit. In addition Fr. John, the provincial minister, wrote to friars encouraging their cooperation.

Two forms recently adopted within the past six months by the province are attached hereto in Appendix 5:

- “Notice to a Friar Accused of Sexual Abuse of a Minor”
- “Allegations of Sexual Abuse of Minors – OPCC Director and Provincial Minister Checklist”

## *Chapter X*

### *Improvements in Responses to Report After the St. Lawrence Experience*

#### *1. Assistance to Victims Since 1993*

The data show that the province's recent handling of abuse claims is as hopeful as defense counsel's handling of the SLS claims was tragic. A commitment to compassionate and pastoral outreach to both victims and offenders is evident. Provincial leaders emphasize a pastoral approach, and the province has prioritized victims and pastoral outreach over defense of the province. They have been guided by the province's sexual misconduct policies and by the leadership of Fr. John Celichowski, both as OPCC director and now as provincial minister, and by other past and current OPCC directors: Fr. Marty Pable, Br. Mark Carrico and Ms. Amy Peterson.

Since the mid-1990s, the province has handled most sexual abuse cases in-house, and *all* such claims that were initially reported to the province since 2004. Fr. John Celichowski explained that the primary reason for this is pastoral. They want to avoid the way SLS victims were treated and the trauma of litigation, discovery and depositions that an insurer might require a victim to endure. Foregoing an insurance-funded defense enables the province to freely and pastorally engage victims without interference by insurer-retained defense counsel.

The province has not stood on legal defenses such as the *Pritzlaff* defense, the statute of limitations or the First Amendment to the United States Constitution. Consistent with the province's sexual misconduct policies, victims are assisted regardless of how long ago they were abused. In fact, some SLS victims have returned for additional assistance, and have been helped again, even though they may have signed prior releases in exchange for settlements. Releases are more fluid and have not been used systematically as a bar to further assistance.

The province's pastoral approach is reflected in the data from *all* the sexual abuse claims it has handled, not just the SLS claims. Since the early to mid-1990s, the province has spent a *known* total of at least \$300,000 on settlements, counseling and other assistance for victims of friars' and employees' sexual abuses. Many victims have neither sought nor accepted any compensation, counseling or other assistance. The province has in general spent minimal amounts on defense costs since the mid-1990s.

The province clearly prioritizes pastoral outreach to victims over defense of the province:

- The province has handled "in house" 15 of the 28 confirmed SLS sexual abuse claims. (One victim's initial settlement was covered by the province's insurer, and a second settlement to this same victim was paid by the province and so he is counted twice.)



- The province has spent at least \$95,900 in *known* costs on SLS claims it has handled. Actual expenditures are higher, as the province paid at least one settlement for an unknown sum to an anonymous victim, and has paid unknown costs for counseling and assistance for many SLS victims. Unfortunately, recordkeeping, although better today, was inconsistent in the past; not all counseling and assistance was tracked in the past.
- The province has paid over \$125,000 in monetary settlements in four other claims not connected to SLS.
- The province has spent far fewer amounts on defense costs in recent years. (Also, the province's general counsel generously handled residual legal matters associated with these claims *pro bono*.)
- The province has spent almost all of its expenditures on abuse claims for settlements, counseling and other assistance to victims in recent years, usually on claims that otherwise would be barred by the statute of limitations if pursued in courts.

This data is all the more telling, because it supports what many people already know: pastoral and compassionate outreach is much more effective than money in helping victims achieve some measure of healing. In addition, the province's pastoral and compassionate approach to abuse claims is in stark contrast to the claims handling philosophy of the past. For example, in 2004, five abuse claims were submitted to the province's former insurer. Four were settled for very nominal four-figure payments under \$3,000, yet the insurer paid significant defense costs three to four times the settlement amounts. The insurer could have paid three times the amount it paid in settlements and still have saved money on handling the claims. In the fifth claim, the insurer paid tens of thousands of dollars in defense costs to avoid paying a settlement.

## *2. Number of Claims and Errors from 1993 to the Present*

The auditors have counted 47 claims of substantiated sexual misconduct with minors and adults in vulnerable circumstances (although none were statutorily-defined vulnerable adults). Other allegations of sexual abuse and exploitation were not substantiated or were determined to be false. In addition, despite numerous claims and friars' admissions of sexual abuse of minors in Nicaragua, no Nicaraguan claimants have come forward. These have not been included in the count of 47 claims, because the numbers are indefinite and nobody made a formal claim. It is likely that there are other victims who have not and may never come forward.

Despite the province's improved handling of sexual abuse claims in recent years, provincial ministers have occasionally written letters to bishops or their delegates stating that a friar was in good standing and suitable for ministry without disclosing background information that would have provided better notice that a friar may pose a risk if assigned to a ministry in the

diocese. For example, while the lack of a confirmed allegation of sexual abuse of a minor may technically render a cleric suitable for ministry under the USCCB's *Charter and Norms*, confirmed allegations of misconduct involving adults would merit a serious reconsideration of a friar's suitability, particularly in the absence of any therapy, supervision or other measure of accountability. In one such case the province did disclose such information regarding misconduct with adults to the receiving diocese and the friar was placed on a supervision plan with permitted limited ministry. He was subsequently removed from ministry when he was confronted with a report that he had engaged in sexual misconduct with minors – a report that he initially denied but eventually confirmed by his own admission.

## *Chapter XI*

### *Sexual Misconduct Policies and Procedures of the St. Joseph Province of the Capuchins*

#### *1. History, Lack of Policies and Early Practices*

The St. Joseph Province had no formal written policies or procedures to address sexual abuse of minors and vulnerable adults until May 1988. The lack of sexual abuse policies prior to 1988 reflected the province's general lack of awareness of the extent of the sexual abuse problem and the devastation wrought upon victims, their families and communities. Other than the moral law of the Catholic Church and the obligations of the vow of chastity, there were no policies or protocols to prevent sexual abuse. There was no special procedure to remove offending friars from ministry or to minister pastorally to victims. The Capuchins were not held accountable to internal formal written standard or mandates. They were not held accountable to policies or procedures issued by the world-wide Capuchin Order, Congregation for Institutes of Consecrated Life and Societies of Apostolic Life, or the U.S. bishops. Instead, provincial leaders often appeared to be guided by an unwritten principle that prioritized protection of the institution and the accused friar over the discernment of the truth of the accusation or justice and pastoral care for the injured victim.

The *Code of Canon Law* listed sexual abuse of a minor by a cleric as a canonical delict or crime. The *Code* contains general norms for investigating reports. The section on canonical processes contains the procedures to be followed in prosecuting a canonical criminal case before an ecclesiastical tribunal. Nevertheless, although there had been several substantiated reports of sexual abuse of minors prior to 1988, there is only scant documented evidence that the required canonical procedures were complied with, other than inadequate initial application of some canons in a few early cases.

#### *2. Ignorance of the law*

It appears provincial leaders were unaware of the need for sexual abuse policies, even though Wisconsin mandatory reporting laws dated to 1965 and, as of 1978, expressly mandated reporting of actual or suspected sexual abuse by teachers and school administrators. (St. Lawrence Seminary High School and many other ministries of the province are located in Wisconsin.) Thus, many Capuchins were unaware of statutory mandates, and were not guided by protocols to comply with legal and moral imperatives regarding sexual abuse of minors.

With very few exceptions, the Capuchins' lack of sexual misconduct policies and noncompliance with the law was little different than other U.S., Canadian and European dioceses and ecclesiastical institutions; and likewise little different than secular institutions. Their limitations in this regard mirrored those of many other individuals and institutions. Prior to 1985 when revelations of sexual abuse by Catholic clergy first became publicly known, dioceses and religious orders and congregations did not have separate policies.

### 3. *The First Sexual Misconduct Policy in May 1988*

The first sexual misconduct policy was issued in May 1988. It came closely after the USCCB issued the *USCC Pedophilia Statement* on sexual abuse (Feb. 18, 1988). In addition, Br. Tom Gardipee's sexual misconduct at SLS in 1985 and 1987-1988, in part, inspired provincial leaders to promulgate the policy.

The only concrete *pastoral* recommendation in the 1988 provincial policy was that counseling services were to be offered to the victim at the province's expense. The policy also required accused friars to engage in professional counseling (B. Stage Two, "g"). However, this policy also allowed the possible re-assignment of a friar with substantiated allegations, in the event that the friar's psychiatric counselor recommended reassignment. The policy did not reflect awareness that sexual abuse of a minor is a crime in civil law. There is no recommendation that law enforcement be notified.

The efficacy of the 1988 policy can be determined by how the province responded to reports of sexual abuse received after the policy was implemented. The policy's value and effectiveness depended on the commitment of the provincial minister, the Provincial Council and others in provincial leadership to follow the policy and procedures. In this regard the outcome is mixed.

Between 1988 and 1992, 20 friars were reported for sexual abuse, 17 for sexual contact with minors and three with adults. Seven friars were sent for treatment at specialized facilities. Three friars were placed on long-term restricted living arrangements. Some victims were offered financial assistance for counseling and therapy.

Nevertheless, even as the May 1988 sexual abuse policy was implemented, provincial leaders failed to apply the policy in cases of two SLS friars. Fr. Gale Leifeld was reported to provincial authorities as early as 1964 for sexual abuse of SLS students. He was removed from SLS in 1982 for disrespect and unprofessional behavior toward his staff, but purportedly not for sexual abuse. He was reassigned to another ministry in 1984 and again after the 1988 policy was implemented; he remained in active ministry until 1993, when the SLS abuse scandal unfolded. Br. Tom Gardipee was removed from SLS in March 1988 for his infatuation with and romantic gestures toward a student, two months before the May 1988 first sexual abuse policy was implemented, but the Provincial Council returned him to SLS in June 1988, one month after the sexual abuse policy was implemented. He remained at SLS, with unfettered access to SLS underage students until 1993.

The *Kersten Report* contains a review of the 1988 policy (pp. 18-20) and recommendations for improvements. The *Kersten Report* concluded that the Capuchin policy was more progressive than comparable policies from other Catholic Church entities in the U.S. The report's only criticism regarding the policy was with respect to mandatory reporting to civilian child protective authorities. It pointed out that Wisconsin statutes required a reporting person to make the report directly to Child Protective Services and not to the school administrator.

The auditors reviewed the policy and agreed with the *Kersten Report* on both its criticism and its praise. However, the auditors also found that the policy, while it reflected a close adherence to civil law, lacked provisions for pastoral response and outreach to victims. The procedures to be followed in the event of a report of sexual abuse included no requirement that the provincial or anyone else were to make contact with the victim for pastoral purposes.

#### *4. Policy Revisions after 1988*

The *Kersten Report* was issued on May 27, 1993. It included recommendations to improve the 1988 Policy (*Kersten Report*, pp. 21-39). The recommendations refined elements of the province's response to sexual abuse reports. It recommended independent investigators and an independent review board. Some recommendations directly impacted victims, the most important of which urged pastoral (not merely psychological) counseling that was not dependent on silence or a promise to forego future litigation (See Appendix 6).

Two days after the publication of the *Kersten Report*, May 27, 1993, members of Project Samuel, a group of survivors of sexual abuse by Capuchin Friars, submitted a list of written recommendations to the provincial leadership. These recommendations focused on care of the victims and the creation of structures and programs designed to provide a compassionate and understanding engagement with victims and to prevent future sexual abuse (See Appendix 6, Recommendations from "Project Samuel").

Documents reviewed by the auditors reflect that, between 1994 and 1998, several revisions were made in the province's sexual misconduct policy that incorporated some of the recommendations from the *Kersten Report* (See Appendix 6).

New "Guidelines for Management of Provincialate Personnel Files" were issued in June 1994 and revised in August 1994. One of the goals was to ensure that successive provincial administrations would have accurate information to assist in dealing with friars who had reports of inappropriate behavior in their background (See Appendix 6).

The next document made available to the auditors was titled "*Internal Procedures Regarding Allegations of Sexual Misconduct*" dated June 1996. There is also an undated document titled "*Procedure for Handling a Complaint of Sexual Misconduct.*"

The "*Internal Procedures*" issued in June 1996 incorporated many of the *Kersten Report* recommendations. The policy included several other improvements, including explicit norms on the department of friars with minors (See Appendix 6).

#### *5. The 2006 Policy*

The 2006 sexual misconduct policy exceeded special counsel's 1993 recommendations. It reflected state of the art legal, professional, ethical and safety experience and expertise. The language is simple and easy to understand, and carefully sets forth mandatory actions. The

policy and mandates were accompanied with references to the Capuchin mission and underpinnings of the policies and the reasons for mandated actions and considerations.

The 2006 policy clearly defined sexual abuse and misconduct. It had prevention measures, response protocols, mandatory reporting procedures, evaluation and treatment and aftercare protocols, and pastoral outreach guidelines. The policy set forth accountability measures and expectations. It was accompanied by a “Code of Responsibility” and a “Volunteer Code of Conduct” agreement. The organization and comprehensive nature of the policies were impressive. No friar, employee or volunteer could seriously argue that they were unaware of the spirit and letter of the policies. There could be little confusion as to how provincial leaders and their designates should proceed in the event of alleged sexual abuse or misconduct.

#### *6. The Present Policy: 2012*

In February 2012, the province enacted its most recent sexual misconduct policies. This current version of the province’s sexual misconduct policies is divided into two sets—“Policies and Procedures Regarding Sexual Misconduct with Minors” and “Sexual Misconduct with Adults.” The policy regarding minors explicitly states that it also applies to vulnerable adults. In addition, the new policies are accompanied by a “Volunteer Code of Conduct” that must be reviewed and signed by a volunteer.

These policies are clear and comprehensive, and further improve upon the already-exceptional 2006 policy. The auditors agreed that it was one of the best documents of its kind they had seen. It is apparent that the policy was drawn up with the pastoral care and welfare of the victims as the top priority.

The introduction to the new policies is broad and mission-based, and expressly commits the province to the prevention of abuse and pastoral outreach to victims in a healing manner. Considerable detail is devoted to background checks, screening, testing and evaluation of friars, including candidates and friars in formation. The new policies also expressly emphasize compassionate, healing and pastoral outreach to victims and their families, no matter when the abuse occurred or how old the abuse survivor may be.

New and expanded definitions better define and clarify various forms of sexual misconduct. The minors policy includes definitions specific to abuse of children and minors, child pornography, and references to online enticement of children for sexual acts.

Reporting mandates have been strengthened so that the province now requires reports of sexual abuse to civil authorities and provincial leaders, regardless of when the abuse occurred, and regardless of whether civil laws require such reporting. Very importantly, a friar or employee now must immediately report suspected child abuse to civil authorities *first*, and only thereafter inform the provincial minister or the OPCC. The provincial minister or OPCC must then confirm that the proper reporting has been done.

Investigation mandates are broader, requiring investigation of allegations of the abuse of a minor, even if the information was provided anonymously. The OPCC director, under the provincial minister's supervision, handles sexual misconduct reports. The director convenes the review board, initiates investigations, provides support persons for victims and the accused, directs reporting, liaises with civil authorities, and is responsible for safety and supervision plans of offending friars. References to "reasonable suspicion of abuse" are replaced with a definition of the "preponderance of evidence" standard, in which the review board determines whether evidence of abuse is more convincing than opposing evidence. The provincial minister has more leeway to go beyond the mandates, and has discretion to provide more assistance to victims and impose more restrictions and accountability measures upon offending friars.

#### 7. *Specific and Noteworthy Elements of the 2012 Policies*

- (a) *Ongoing education* of all friars is required. In this regard, we suggest that this ongoing education go beyond that offered by either *Praesidium* or *Virtus* and include information on human sexuality, sexual disorders and the psychological, emotional and spiritual damage to victims, especially victims of clergy sex abuse; and in how best to minister to and extend pastoral measures to victims of clergy sexual abuse and their families.
- (b) The explicit mention of *outside consultation* is commended as a way to enhance the credibility and effectiveness of the province's response to sexual abuse.
- (c) The emphasis and priority on *pastoral care of the victims* is an essential aspect of policies or procedures used by church-related entities. The detailed and comprehensive approach of the province's current policies should be a focus not only in the response to individual reports, but a focus of continuing education.
- (d) The section on *reporting* is especially commendable. It sets forth in clear and unequivocal terms the obligation to report to civil authorities. The explicit requirement that a friar, employee or volunteer immediately report suspected or known sexual abuse to civil authorities first, and only thereafter to Capuchin authorities, is in compliance with civil law.
- (e) The *provincial minister's availability to meet with families* rightly deserves explicit mention. Along with immediate reporting of sexual abuse to civil authorities, the province's first obligation is the pastoral response to the victim. In general, the best person to initiate this response would be the provincial minister. In some instances, however, the victim and/or victim's family may not want such a meeting or may prefer to meet with someone other than the provincial minister. This highlights the importance of engaging and communicating with victims to determine the best response to abuse victims.

## *Chapter XII*

### *The Auditors' Recommendations*

#### *1. The Auditors Recommendations for the Present Policy*

The current policies and procedures are excellent and reflect a deep commitment to a comprehensive approach to child sexual abuse. The auditors make the following recommendations to further improve upon the policies:

(a) *Notifying the local ordinary (Bishop or Archbishop).* The policy should explicitly require that the local ordinary *always* be notified. Any time the victim of sexual abuse is a layperson, which is always the case with minors, that person is under the spiritual responsibility of the local bishop.

(b) *Informing the Congregation for the Doctrine of the Faith.* The present norms from the CDF require that every report received by the *ordinary* be sent to the CDF (Article 16). Since the CDF document does not use the term *local ordinary* but *ordinary*. It appears that this norm applies to all ordinaries, including provincial superiors of religious institutes of men. Recent instructions from the Capuchin General Curia state that the provincial minister is to notify the general minister of any reported sexual abuse allegation involving a friar. If the friar is a cleric, the general minister in turn notifies the Congregation for the Doctrine of the Faith.

(c) The document sets forth a detailed and comprehensive procedure to be followed for conducting investigations. Such an investigation is *required* by canon law. Explicit mention of the canonical basis for the investigation should be in the text.

(d) The policies should define “vulnerable adult,” especially since the minors policy explicitly refers to minors and *vulnerable adults*. The definition should include adults who are unable to care for themselves or live independently; or who have physical, emotional, mental or social limitations that render them unable to give true consent. The definition should closely track statutory definitions of the term.

(e) Include “cyber bullying,” online sexual enticement of minors, “sexting,” social media abuse and harassment, and/or computer-generated abuse or harassment as reportable offenses. Child pornography often includes computer-generated images, and including definitions of other types of sexual misconduct or bullying perpetrated through electronic devices and social media is critical. Given that so much misconduct is now perpetrated through computers, electronic devices and social media sites, the current policy should define these forms of misconduct as those which are proscribed.



(f) Mandate a written record of each stage of the reporting process. After an immediate telephonic or in-person verbal report is made to civil authorities and then to provincial leaders afterward, it should be followed-up with a written report which confirms the oral report, perhaps addressed to both civil authorities and provincial leaders. It should be required within two days of the oral report to provincial leaders. Provincial leaders and/or the OPCC director should document the file that oral and written reports to civil authorities were made. The policy should expressly mandate that all written materials be put in the file.

(g) If the alleged misconduct occurred in a diocesan parish, school or other diocesan-affiliated ministry, the provincial minister or his vicar should provide oral and written notice to the diocesan bishop once civil authorities have given permission to do so. Requests for civil authorities' permission should be in writing. If authorities withhold permission, that should be documented in writing. When authorities do grant permission, it should be documented in writing. Preferably, the OPCC director should request that authorities put in writing all their instructions regarding permission. An oral and written notice to the bishop where the alleged offender resides should also be made, if it is different from where the alleged abuse occurred. Bishops who are given notice should be notified of developments and disposition in the matter.

(h) The policy states that the provincial minister must immediately place a friar on paid administrative leave when a "credible allegation of sexual abuse" is made. "Credible allegation" is defined as "one that is at least within the realm of possibility with respect to the persons, dates, places and other relevant information concerned." The term "credible allegation," even as defined and clarified above, is confusing and often harmful to claimants and the accused. The term "credible" means "believable," and generally people consider a believable allegation to be *actually* believed or even true. (The use of this term is under review by the province.)

(i) A different statement or term should be used to more accurately articulate the standard that dictates when and why a friar may be placed on administrative leave, and to avoid confusion. In addition, the more precise explanation could form the basis of a public statement that explains the actions of the province (if civil authorities permit such a statement). It requires more words, but is more clear and accurate. A sample of a public statement can be found in Appendix 4.

(j) The auditors recommend that the province place a public statement at any location where the accused was in ministry, regardless of how long ago it was. In addition, the auditors recommend that the province create a template for a public statement so that any time civil authorities give permission, a consistent

statement explaining the standard for action may be disseminated to the public. The statement could also mention the role of the review board, if necessary (See Appendix 4).

(k) As in the minors policy, if sexual misconduct with an adult occurs in a diocesan parish, school or other diocesan-affiliated ministry, the bishop of the diocese must be notified. The policy should dictate that the bishop of the diocese where the friar resides should be notified as well, if it is different from the diocese where the misconduct occurred.

(l) The current “Volunteer Code of Conduct” includes a pledge to avoid being alone with children or youth at church activities. It should be expanded to include a pledge to avoid being alone with children and youth on church premises (with the obvious exception of the Sacrament of Reconciliation).

(m) All supervisors and friars in positions of authority need objective, external, separate, and professional training and continuing education in the acknowledgment, identification, investigation, and processing of sexual abuse. They should seek out expertise, abilities, and ideas even when they differ from or challenge historical protocol, functioning, and beliefs. The province is already doing this, and the auditors recommend that this practice continues.

(n) Adequate maintenance of files is critical, including consistent documentation guidelines and mandatory review of files for new assignments. This includes both past and current documentations of all interpersonal and sexually inappropriate reports. When a friar is reassigned or transitions to a new community, the previous supervisor should communicate verbally and in writing a thorough description of all abuse reports and investigation outcomes to the new supervisor. Relaying information about sexual abuse allegations and actions should not be left to the friar in question, but rather should be the responsibility of supervisors and provincials.

(o) The policy should explicitly state that a provincial minister must disclose a friar’s complete history of abuse allegations, investigations and responses to a bishop or other ministry director external to the province, to assist in an assessment of a friar’s character and fitness for a new assignment, ministry, or relocation. Likewise, an outgoing provincial minister must provide an incoming provincial minister with a complete report of a friar’s abuse allegations, investigations and responses to ensure continuity of supervision, monitoring, intervention, and care.

(p) Extend assessment, monitoring, supervision, and accountability when involved in other countries to also help ensure safe and adequate functioning. The auditors recommend that the province continue this practice.

## *2. General Recommendations*

(a) When reading this report and the list of friars, some victims, their loved ones, friends and family members may experience painful emotions, memories or distress. To ensure pastoral and other support when this occurs, the province should provide a contact name and number/e-mail address for anyone contacting the province in response to this audit report. The OPCC director's contact information is on the province's website, [www.thecapuchins.org](http://www.thecapuchins.org).

(b) External involvement and consultation with individuals, agencies, organizations and experts in sexual abuse should be a part of the province's response to confirmed and unconfirmed allegations to help ensure objectivity, competence, follow up and supervision. This should also occur in conjunction with the OPCC director, the province's review board and other consultative agencies.

(c) It is preferred that friars with confirmed allegations of sexual abuse be kept as members of the Capuchin community rather than expelling them. This will ensure that they receive needed treatment, care, support and monitoring. If they are expelled from the order and deteriorate without support or assistance, this would increase the risk of recidivism and does not serve the abuser, the victim, the order or the wider community.

## *3. Specific Recommendations for the "Volunteer Code of Conduct"*

(a) The "Volunteer Code of Conduct" should contain a pledge not to engage in any form of physically, emotionally or romantically intimate relationship of any kind with a minor, either during or outside church activities.

(b) The "Volunteer Code of Conduct" already includes a pledge not to "Strike, spank, shake, or slap children and/or youth." It should also include "or otherwise physically harm" children and/or youth.

(c) The "Volunteer Code of Conduct" already includes a pledge not to "humiliate, ridicule, threaten, or degrade children and/or youth." It should also include "or otherwise emotionally or verbally harm, abuse or harass" children and/or youth.

(d) The “Volunteer Code of Conduct” should include a pledge not to use sexually-charged, sexually explicit, sexually intimate, or seductive language or innuendo directed at or in the presence of minors.

(e) The “Volunteer Code of Conduct” should include a pledge not to engage in any form of activity using electronic devices and social media that is otherwise prohibited above. This includes, but is not limited to, sexting, pornography, inappropriate postings and images and stalking on social media sites and the like. In addition, volunteers should be encouraged not to “friend” children and/or youth involved in church activities on their personal social media sites.

(f) The “Volunteer Code of Conduct” should include a pledge to act in accordance with Christian values, morals and ethics while engaged in volunteer ministry, and to not violate professional standards.

(g) The “Volunteer Code of Conduct” is entirely addressed to volunteers who work with children. The document should be addressed to all volunteers.

#### *4. Specific recommendations concerning Pastoral Care*

(a) The members of the province should have comprehensive training in the pastoral response and care of persons sexually abused or violated by anyone, but especially for persons sexually abused by clerics or religious.

(b) Training in pastoral and spiritual care should include care for victims’ families and loved ones.

*Epilogue*  
*A Final Reflection by Father John Celichowski*

The Feast of the Holy Innocents (December 28), which occurs in the Octave of Christmas, calls us to remember a horrific and deadly abuse of power: the slaughter of infants and toddlers in Bethlehem and the surrounding area under the orders of King Herod (Matthew 2:13-18). It presents a stark contrast to the more quaint and comforting scene at the manger brought to life in the Nativity sets many people put up at Christmas.

It's also a reality check. It reminds us that Jesus, God's eternal Word, was made flesh in a world where the ugliness, sin, and worst crimes that human beings are capable of exist along with the faith, strength, and courage of women and men like Mary and Joseph. It is a world where terrible acts are too often visited upon the innocent, the vulnerable and the marginalized. A young woman in India is so brutally raped by a gang of men on a bus that she dies of her injuries. A dictator in Syria clings to power by bombing his own people as they line up for bread. A gunman kills his mother and then murders over two dozen other people, most of them first graders, at a school in a small town in Connecticut. It is difficult to comprehend such inhumanity.

Children all over the world, like the little ones of Bethlehem two millennia ago, are still used, abused and disposed of by those who should be protecting them: parents and other relatives, teachers, coaches, scoutmasters, priests, religious and other spiritual leaders. Because sexual assaults, incest and other forms of abuse are greatly under-reported, many of these young people carry their wounds with them into adulthood, even as they try to get on with their lives. Most of them will suffer alone, in silence, and without any help.

For those who have been abused by members of the clergy and religious, their suffering is spiritual as well as physical and emotional. Some wonder what they did to deserve such suffering. Others feel abandoned by God and the church. Some are so overwhelmed by their abuse that they engage in self-destructive behaviors or even commit suicide.

Those who have harmed them and have abused their power may, like Herod, seem oblivious to their crimes. Some offenders, driven by sheer pathology and evil, view even the most vulnerable as objects of their pleasure and startlingly see themselves as victims. Those who have a conscience and are overcome by the enormity of what they have done, along with the possible or real consequences of their actions, can often take refuge in denial, minimization, blame-shifting and other rationalizations. Some who were victims themselves and later become victimizers never really discover what it means to have healthy and appropriate relationships, especially intimate ones.

Then there are the rest of us, the witnesses: family members and friends of the abused who walk with them in their struggles; communities of faith who wonder how someone they love

and thought they knew so well could do something so wrong; priests and religious who have lived and served with integrity but now feel as if they have targets on their backs; others who have been falsely accused and feel the system and its leaders have let them down; therapists who want to help victims, survivors, and offenders but are sometimes at a loss at how to do it; bishops, religious superiors, and other leaders who can feel inadequate and grow weary carrying the burdens of the sins of the past as well as the challenges of the present; and many others.

From the time we are children and are disciplined by our parents we learn the power of shame. It is a necessary pole in the development of our moral compasses. In the best of all worlds we would do what is good and avoid evil solely through our knowledge and embrace of the good, regardless of the cost or consequences. But human nature being what it is, we do not always desire what is good and right, especially when avoiding them and doing what is wrong seem more rewarding or expedient. That is where shame has a role. Sometimes the experience or even the fear of disapproval, rejection or punishment can spur us to do what is good and avoid what is evil when the better angels of our nature cannot.

But like other medicines shame and fear can sometimes be toxic. At times they are administered to or internalized by those who do not deserve them. Many victims and survivors of sexual abuse feel shame over what has been done to them, especially when it is perpetrated by someone they trust, admire, and even love. It is hard for a child or teen to make sense of how an adult to whom they looked for guidance, affirmation or affection could hurt them and do so in such a personal way. Too often they blame themselves. Sometimes the offender blames them and reinforces the shame with threats or a pact to keep the abuse secret.

Many offenders also feel ashamed of what they have done. That—in addition to fear of the consequences of being discovered and held accountable for their crimes—is part of the reason that their denial, rationalization and minimization can be so maddeningly strong. This shame can be particularly intense in people like priests and religious, where the abuse that they have committed is in such contrast to their public personas, the vows they have made, and the values they profess to live. It can be a barrier not only to coming to admit what they have done and to accept the consequences but also to living a life of prayer and penance and engaging in the process of rehabilitation.

The shame of the witnesses can also feel overwhelming. For a few it is because they knew of abuse but felt powerless or did little to stop it. For others it is more the shame that comes with hindsight and the sense that there must have been something they should have seen or done. Sometimes it takes the form of “survivor’s guilt.”

There is also a collective shame that groups, organizations and institutions experience in the wake of revelations of sexual abuse. It is the shame of “guilt by association,” the kind of shame that has been experienced by the Boy Scouts of America, Penn State University, the Roman

Catholic Church, our own province, and many others. It is experienced by families who deal with incest.

Everyone likes to be associated with others who are admired, give them a sense of identity and purpose, and are powerful. The multi-billion dollar popularity of branded and team-licensed clothing is but one testament to that desire. Those senses of admiration, identity, purpose and power can evaporate with revelations or even accusations of sexual abuse. A sign of pride is transformed into a scarlet letter. Members of these various groups and those associated with them often respond to this collectivized shame by denial, silence, avoidance, and finger-pointing—whatever they can do to avoid being labeled “one of them.”

The disorienting and destabilizing experience of having to deal with such matters publicly inhibits effective and healing responses. People often prefer dealing with—or ignoring—the devil they know instead of the one they fear.

How can we overcome the power of this toxic shame and fear to deal more effectively and pastorally with sexual abuse? The first reading that the church provides for the Mass for the Feast of the Holy Innocents, 1 John 1:5-2:2, offers a way:

*Beloved:*

*This is the message that we have heard from Jesus Christ and proclaim to you:*

*God is light, and in him there is no darkness at all. If we say, “We have fellowship with him,” while we continue to walk in darkness, we lie and do not act in truth.*

*But if we walk in the light as he is in the light, then we have fellowship with one another, and the Blood of his Son Jesus cleanses us from all sin.*

*If we say, “We are without sin,” we deceive ourselves, and the truth is not in us.*

*If we acknowledge our sins, he is faithful and just and will forgive our sins and cleanse us from every wrongdoing.*

*If we say, “We have not sinned,” we make him a liar, and his word is not in us.*

*My children, I am writing this to you so that you may not commit sin.*

*But if anyone does sin, we have an Advocate with the Father, Jesus Christ the righteous one.*

*He is expiation for our sins, and not for our sins only but for those of the whole world.*

While we cannot forget or ignore the reality of sin and must hold ourselves and each other accountable for it, we need to remember that God is light, grace, and love. God knows better than anyone the weakness of his children, and God’s compassion is so great that the world was blessed with Jesus, who “though he was in the form of God...emptied himself...humbled himself” for our salvation (c.f. Philippians 2:6-11). This same Jesus, God’s Son, is our advocate with God.

So as far as God is concerned we need not fear to bring sin, even and especially our own, into the light and deal with the truth. God knows it, anyway. Bringing that sin into the light is the

best hope we have to overcome it. A doctor has a much greater chance of aiding our healing if we are honest about our symptoms; a lawyer can better represent us if we share all of the relevant facts, even those that may not reflect well on us; a priest can better counsel us and give us a helpful penance if we name our sins; a mechanic will have a better idea of how to fix our car if we can identify where that strange noise is coming from; and the light of God's grace has the best opportunity to work in our hearts and minds when we open them up to that light.

That does not make exposure to the light any easier. It will not take away the pain, the ugliness, or the embarrassment. It will not shield us from the criticisms or condemnations of others. Generations of people who have benefitted from 12 Step programs know that recovery is difficult if not impossible without "a searching and fearless moral inventory;" admitting their wrongs to God, themselves and others; making amends where possible; taking an inventory on an ongoing basis; and trusting in God's guidance and grace. It is in such recovery, however, that we can become better able to share God's light, grace and love with all who must deal with sexual abuse and other abuses of power and human dignity.

This audit, whatever its limitations, has been an attempt to take such an inventory and to admit where we as friars and a province have harmed those entrusted to our care. Personal and institutional transformation, making amends for harm done, and building trust and hope for a better future are ongoing efforts. These are not easy things to do. They are often painful. Our natural human tendency, it seems, is to want to avoid them.

However, the terror attacks at the Boston Marathon on April 15, 2013 revealed another, humane, tendency: the desire to help and heal. While some were fleeing in panic after the blasts, others—police officers, fire personnel, and even some runners who had just completed the 26.2 mile race—were rushing in to help, comforting the injured and attending to their wounds.

We are invited to rush in where others would flee and to walk in the light, trusting in the One who walks with us and is the light—the light that no darkness can overcome (John 1:5).

—John Celichowski, OFM Cap.



## *The Appendices*

Appendix 1: Scope of the Audit of Personnel Files and Other Documents of the Province of St. Joseph of the Capuchins Order.

Appendix 2: Catholic Clergy and the Violation of Children

Appendix 3: Group Conformity

Appendix 4: Sample of a Public Statement

Appendix 5: Forms adopted by the OPCC

Appendix 6: Recommendations from various reports

Appendix 7: Case Study: Gale Leifeld

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Appendix 10: Biographies of the Auditors

*Please be advised that some of the materials in these appendices may not be suitable for all readers.*

## *Appendix 1*

### *Scope of the Audit of*

#### *Personnel Files and Other Documents of the Province of St. Joseph of the Capuchin Order*

##### *Audit Process*

The provincial minister and Provincial Council of the Province of St. Joseph of the Capuchin Order (hereinafter “the province”) have invited an independent review by outside auditors of all documents and materials that the province possesses or controls that may relate to or bear upon the criminal sexual abuse of minors or vulnerable adults and similar behaviors that may have been perpetrated by members of the province (i.e. friars) or its employees or volunteers. A friar may be either a cleric or a lay member.

For the purposes of this audit a minor is any person under age 18. A vulnerable adult is a person age 18 or older who, because of advanced age, developmental disability, mental illness or physical disability, requires supervision or personal care or lacks the personal and social skills to live independently.

The audit will include a forensic review of the personnel files of the friars and other files that may have information relevant to the audit. It will also include review and analysis of other relevant documents, policies, practices, procedures and safety plans related to sexual abuse, wherever such materials may be located. In addition, the audit will include interviews with members of the province who may have relevant institutional or historical knowledge about matters related to sexual abuse in the province but which may not otherwise be contained in documents.

##### *Purpose of the Audit*

The first purpose of the audit is to identify friars, employees, or volunteers who probably committed sexual crimes against minors and vulnerable adults or who probably manipulated or exploited another for sexual gratification.

Another purpose of the audit is to assess the efficacy of measures undertaken by the province to:

- Prevent sexual abuse;
- Effectively address incidents and claims of the criminal sexual abuse of minors or vulnerable adults and similar behaviors;
- Pastorally engage with victims and survivors of abuse, their families, and the communities affected by abuse;
- Confront, appropriately discipline, and facilitate the treatment and rehabilitation of friars who have perpetrated sexual abuse;
- Promote the healing of those people and communities affected by abuse; and

- Effectively and pastorally resolve claims of the criminal sexual abuse of minors or vulnerable adults and similar behaviors.

More generally the purpose of the audit is to promote and facilitate truth, transparency, justice, more effective abuse prevention and risk control practices, and the healing of sexual abuse survivors and others affected. *The audit is not intended to needlessly embarrass people or to invade their personal privacy; nor is it intended to interfere with fraternal relationships or to interfere with members whose ecclesiastical status or other circumstances are related to behaviors that are not criminal or dangerous but which nevertheless may be of concern to themselves or the province.*

Throughout the audit the auditors shall honor all valid privacy and confidential rights and duties. As warranted, methods such as “de-identification” of persons or use of fictitious names may be used to insure that rights and duties relating to privacy and/or confidentiality are not breached or jeopardized.

#### *The Audit*

The access to components of this audit is circumscribed by law. This audit shall be done in compliance with HIPAA and other state and federal privacy laws, applicable canonical restrictions, and other legal rights and/or protections.

The following are components of the audit and are not necessarily an exhaustive list, as it may become apparent during the audit that others need to be added.

- (1) Review and analyze the following province documents:
  - (a) Policies, procedures, protocols, programs, and supervision and safety plans that address the sexual abuse of minors or vulnerable adults. Various generations of these materials will be reviewed to determine how the policies have evolved and whether the province has complied with policies in effect at various times when sexual abuse claims have arisen.
  - (b) Current and previous loss prevention and risk control policies, procedures, protocols, and programs to the extent that they may be other than the materials identified above.
  - (d) Personnel files of friars—current, former, and deceased—including men in initial formation, insurance claims files and/or loss histories and other documents of the province related to suspected, alleged, or actual sexual abuse. This category includes materials which on their face may not appear to be directly related to the criminal sexual abuse of minors or vulnerable adults and similar behaviors but which may nevertheless constitute “red flags,” i.e. behaviors that research has

shown often coexist with such misconduct, an example of a “red flag behavior” is “grooming.”

(e) Training materials and programs designed to prevent and respond to the sexual abuse of minors or vulnerable adults and similar behaviors, including data reflecting the scope of training to date, to determine which personnel have been trained, whether there is updated training, etc.

(f) Materials related to the screening of prospective members of the province and the evaluation of those in the various stages of initial formation (postulancy, novitiate, post-novitiate).

(2) Interview officials of the province, especially those with historical knowledge or perspectives. These may include but are not limited to: the provincial minister, provincial councilors, and other advisors; former provincials and council members; the director of the Office of Pastoral Care & Conciliation (OPCC); the risk manager; director of insurance; human resources director; The purpose of these interviews is to assess the knowledge and experience of decision makers regarding the sexual abuse of minors or vulnerable adults and similar behaviors. It is important to develop a comprehensive assessment of the understandings and perspectives of members of the province regarding policies and protocols.

(3) Review the history of resolution of abuse incidents and claims. How have such claims been resolved in the province? How effective have the resolution efforts been? What healing measures have been undertaken? Has there been sufficient disclosure of these matters, both within the province and to the public?

(4) Require that friars and ministry directors report any previously unreported incidents of probable criminal sexual abuse of minors or vulnerable adults that may have been perpetrated by friars, employees or volunteers.

(5) Review previous accreditation reports conducted by Praesidium in 2007 and 2010.

#### *Methodologies and Clarifications*

The audit shall proceed in a manner that is fair, respectful and sensitive to the personal and privacy interests of the friars, employees and volunteers of the province as well as victims and survivors of abuse. The focus is on sexual misconduct, exploitative misconduct and similar misconduct toward minors and vulnerable adults (hereinafter called “targeted-conduct”).

The auditors will review the materials and information indicated below (subject to the restrictions noted elsewhere in this document).

(1) The auditors will review friar files to spot targeted-conduct that falls into six categories:

- (a) General personnel files;
- (b) Separate files with information specifically related to the criminal sexual abuse of minors or vulnerable adults;
- (c) Other personnel-related files;
- (d) Files in the provincial archives of friars who are deceased or have left the province or Capuchin Order;
- (e) Files of friars and others in initial formation;
- (f) Other files of friars from other jurisdictions working in the province and friars of the province living or working in other jurisdictions.

(2) Regarding targeted-conduct the auditors will seek information on the following:

- (a) Allegations of sexual abuse;
- (b) Boundary violations and other behaviors that may indicate potential abuse or increase the risk of the criminal sexual abuse of minors or vulnerable adults;
- (c) How the province has responded to victims of sexual abuse of minors or vulnerable adults.

(3) The auditors will note information that may constitute “red flags” that could be indicators of past abuse or that indicate the potential for current or future abuse and warrant further investigation.

(4) If information establishes that sexual abuse of a minor or vulnerable adult has occurred and has not been previously reported to the civil authorities, it shall be reported.

(5) If information suggests that a friar currently in ministry may have committed criminal sexual abuse of a minor or vulnerable adult and that the matter was not investigated, then the province shall proceed as outlined in its applicable policies and procedures.

(6) The auditors will seek any relevant files, documents, materials and information that may be found in locations other than Detroit, Milwaukee, or Chicago; although it is believed that it will be primarily found in those three locations.

(7) The auditors will create a checklist to serve as a reference for items and information that would be of particular interest in the review of personnel files and other collections of relevant documents.

(8) A “special master”, someone who is not a friar, will be appointed by the province to consult with the auditors [hereinafter “consultant”]. This consultant will help determine how information is collected, analyzed, disseminated, and communicated. Also, the consultant will help ensure that the data collection process, analysis, and incorporation of information occur in an objective, reliable, consistent, credible and valid manner.

(a) The special master will be available as needed to the auditors at all points during the audit process, but will directly assist in the planning, analysis, and communication of data. Checklists will be developed in particular to help with the collection of data, including number of victims and incidents, and whether:

(i) Abuse reports are: investigated, documented, and whether they produced correspondence, reassignment, referral to treatment, removal from ministry, supervision, or h) restrictions;

(ii) Information collected will be communicated in: in data form, in name form, to law enforcement - and whether communications, should be made internally, externally, or both.

(b) Some information may not require identification of specific individuals, institutions, orders, or organizations to serve the purposes of the audit. When specific identification is required, this specific identification will be made in so far as it is essential to fulfill purposes of this audit – such as, for transparency, education, healing, risk control/relapse prevention, accountability, and/or rehabilitation.

(c) The consultant will help assess critical parameters, including what kinds and types of abuse will be collected and included as part of the audit process. All reports of abuse or sexual misconduct, whether from friars or volunteers, require consideration – and all inappropriate intimate behavior that constitutes a violation of vows or indicates an abuse of power and position places it on the continuum of behavior necessary for inclusion in the audit.

(d) In cases in which it is difficult to determine when certain information should be made public or remain confidential, the special master will help assess, determine, and render his or her best judgment on the issue. Information will be categorized, analyzed, and reported individually as indicated by the checklists, and these will serve as templates to help ensure that the scope, purpose, methodologies, and collection as outlined in the initial plan are reflected in and consistent with the findings and results of the audit as described in the final report.

#### *Report*

The information discovered in the audit will be compiled in a report which will be made public. The public report will contain all information that may be legally disseminated under relevant state and federal privacy laws, as well as any applicable canon law. It will be comprised only of information that reflects upon criminal sexual abuse of children and vulnerable adults. The public report will protect the identities of victims.

Findings which cannot legally be made public due to the legitimate privacy concerns of victims or friars, employees or volunteers who have been accused but whose guilt has not been established will nevertheless be disclosed to the provincial minister to assist him and his successors in their efforts to ensure the safety of all to whom the province's members, employees and volunteers minister.

*Appendix 2*  
*Catholic Clergy and the Violation of Children*  
*An Essay by Thomas P. Doyle, J.C.D., C.A.D.C.*

The sexual violation of minors and vulnerable adults by the Catholic clergy of all ranks has been a tragic reality in the church from its earliest days. The *Didache*, a kind of handbook for followers of Christ, which dates from the first century, states explicitly that adult men are not to engage in sex with young boys. The prohibition applied to *all* males in the community including the leaders who at that time were not known as clergy.

The earliest known *law* or *canon* to condemn sex between adults and boys dates from the Synod of Elvira which took place in Spain in 309 A.D. Over the centuries church leadership has been well aware of the various violations of mandatory celibacy by the secular or diocesan clergy and of similar violations of the vow of chastity by religious men. There is a body of ecclesiastical legislation that spans the centuries, all of which attempts to either eliminate or control the grave problem of the sexual violation of minors or adults by clergy and religious. Some of this legislation is in the form of papal decrees. There are also canons or decrees from general councils, regional synods and disciplinary edicts issued by individual bishops and major superiors of religious communities.

A common theme over the centuries is the recognition by church leadership that sexual violation of anyone is a serious sin but if the victim is a child it is particularly heinous. In certain historic periods church leadership gave evidence that it was also acutely aware of the criminal dimension of sexual abuse. St. Augustine mentioned in one of his letters that Christian men who committed sodomy, the common term for abuse of a boy, should suffer the same punishment as anyone else under Roman Law. Later on in the late medieval and early modern period there is ample documentary evidence that in certain locales clerics or religious accused of sexual abuse of minors were tried in church courts and if found guilty, defrocked and then turned over to the secular authorities for punishment. In some instances the punishment was death.

The present era of awareness of sexual violation by clergy and religious began in the U.S. in the early 1980s with two separate cases: one from the Archdiocese of Minneapolis St. Paul and the other the Diocese of Lafayette, Louisiana. Since that time there have been thousands of cases not only in the United States but in Canada, Europe, Australia and New Zealand. Within the past two years several victims have exposed systemic abuse and cover-up by the church leaders in several Latin American and African countries.

In spite of the legacy of internal legislation the church's leadership has not been able to eliminate this horrific problem. Over the centuries the church's concern has been focused on the errant clerics: explaining their behavior, controlling or punishing them and in our present era, concealing them. There are two massive lacunae in the historical response and in the



contemporary response as well: an accurate awareness of the profound harm done to the victims *and* an honest recognition of the essential role church leadership has played in enabling the clergy and religious perpetrators by way of cover-up, clandestine re-assignment and sheltering the accused from accountability in the secular community.

The damage done to the many thousands of victims is profound, complex and lasting. One noted psychologist with years of experience treating Catholic clergy perpetrators and their victims has said that sexual molestation of a Catholic child by a Catholic priest is not only different from other forms of such abuse, but much more destructive. *Why?* Because the Catholic child is taught that the Catholic priest (and often by extension the Catholic brother) is an exalted and unique person who takes the place of Christ. This identification of the priest with Christ has been so intimate, *and erroneous* for some victims that they believe the sexual molestation is somehow *a punishment dealt them by God*. This same psychologist used the term *soul murder* to describe sexual abuse by clergy.

The spiritual damage goes far deeper than the anger or fear evoked by the sight of a priest. Many victims expressed that they didn't even know they had a spiritual dimension "*until it was taken away.*" (words of a victim). There are several levels of spiritual damage. The first and often immediate effect of abuse is stunned shock that a cleric or religious would even do what he did to the victim. Many are so stunned they describe the reaction as "*emotional paralysis.*" The inevitable anger is directed not only at the physical and sexual violation but at the violation of the almost total trust placed in the cleric. The victims often believe that the perpetrator violated their trust but also the church authorities. When a victim discovers that the perpetrator's bishop or religious superior has tried to cover for the perpetrator, has broken promises made to them or has threatened them if they reveal the abuse, the rupture of the trust becomes deeper and the spiritual pain more intense. Most victims (from my experience) have rejected the institutional church with a mixture of anger, disappointment and sadness. The church that was a home to them and the clergy who were always a source of solace, comfort and hope have turned against them when they needed their support more than at any other time in their lives. The continued attitude of the church leaders has turned many victims against the institutional church, all it stands for and all who remain part of it. For many the final level of spiritual damage is almost inevitable – the rejection God or at least the denial of the existence of "*the Catholic God*" as many victims express it.

Many victims express the knowing emptiness in their being. It is an emptiness they search to fill *with something*. Many flounder, experiencing depression they cannot explain or resolve. Some become militant in their anger towards the church and thus still controlled in a very toxic way by the source of their abuse. Others in time find something to fill the spiritual void. Not all but many have expressed a deep sadness at the loss of the source of their Catholic spirituality, believing, often rightly, that it can never be replaced.

The rejection and duplicity of the church leaders, is for many, even more abusive and painful than the physical violation itself. So many are stunned by the destructive way they are treated by church leaders to whom they disclose their abuse.

It became apparent when the present era of revelations of abuse started in the mid- eighties that the church's leadership, diocesan and religious alike, either would not or could not respond with compassionate pastoral support. Initially the victims wanted very little: to be acknowledged and to be believed since so many had hidden their abuse due to shame, guilt or the perception that they would not be believed. Their single most important demand was that the cleric or religious who abused them be dealt with in such a way that he would not be able to harm others. Their primary concern has *never* been money.

In the early years of the present era of the scandal the victims approached the civil courts in reaction to the way so many have been treated by bishops and other religious leaders. For many their civil attorneys provided them the understanding, sympathy and support they *should* have received from the bishops but tragically did not.

As one victim said, "*they [bishops and religious superiors] outsourced the gospel to their lawyers.*" This statement is tragic but true. Perhaps the single most mystifying aspect of the entire scandal has been the inability or unwillingness of the church's leadership to comprehend the profound damage *and* to respond with unqualified compassion. The pattern of the church leadership's response, on all levels and in every country, has been to prioritize the image and power of the institution over the welfare, especially the *spiritual* welfare, of the victims. It is as if the chilling verse in Luke 17:2 did not exist.

Although popes, bishops and other religious leaders have issued countless pronouncements expressing their regrets and their sorrow for the harm done to victims, the actions of far too many have contradicted their words. They simply cannot publicly (or privately) state that they regret what has happened and pray for the healing of victims while at the same time they pay attorneys to wage war against them whenever they challenge them and demand accountability and transparency. The treatment meted out to victims by church-paid attorneys or by the attorneys representing their insurance carriers is all too often brutal, demeaning, dehumanizing and above all re-victimizing. They rightly feel they are being punished because they stood up to the institutional church or refused to accept the patronizing response to their disclosure of abuse.

In general Catholic clergy do not fully understand the nature of the damage done by sexual violation. Their understanding of sexual violation has traditionally been in terms of sin, moral fault and weak will. The proliferation of cases of abuse by clergy has brought a more profound knowledge of the psychological/pathological dimension and the criminal dimension as well.

People in general but especially clergy understand little about the multi-level impact of sexual violation on the victim. When confronted about why he had permitted a prolific abuser to remain in ministry as long as he did, his bishop said “*little boys heal.*” Little boys and little girls do *not* readily heal, nor do adult men or women who have experienced such violation. The scars are deep and continue to inflict emotional and spiritual pain on the victim throughout life. Those who derisively refer to adults who have come forward with reports of “*old cases*” often exclaiming “*but that happened years ago. It’s in the past*” betray a woeful ignorance of the true violence of sexual abuse. The professional studies show that the average age of a person who is sexually abused is twelve and the average time that elapses before they are *able* to publicly disclose is *thirty years*. It is common to accuse adult victims of coming forward only to “get the money.” Such crude and heartless accusations are not only baseless but are reflective of an attitude that is sharply antithetical to the spirit of Christ.

Far too many in church leadership think that a proliferation of programs and policies, audits or liturgical services are the answer and that the sharp reduction of contemporary reports means the “problem” is behind us. This is mistaken to say the least but worse, it is revelatory of the still existing fatal flaw in the institutional church. As long as there are men and women who are in pain because of the sexual abuse perpetrated on them or worse, because of the spiritual abuse they endured, the church’s worst nightmare will go on.

The sexual abuse “crisis” that continues in our church and in our society has revealed a dark and toxic fault that runs to the very foundation of the institutional church. The inability of so many in the church — hierarchy, priests and lay people — to comprehend that in the adversarial way victims of the church’s own dysfunction are treated is the evidence that the elitist clerical culture is the locus of the fault. If this culture has such high value that victims are sacrificed for its stability and image, then it is truly a toxic virus in the Body of Christ.

Men and women inside and outside the church have been searching for the reasons for the “crisis” since it reared its head thirty years ago. We have blamed celibacy, materialism, the sixties pop culture, sexual freedom, the media, the lawyers and even the victims themselves. Perhaps the hypocritical way victims have been treated is rooted not in something without but something within – a false ecclesiology that sustains a stratified church with the clerical caste dominating the laity. Perhaps there is more truth than irony in the biting title of Jimmy Breslin’s book from over a decade ago, *The Church that Forgot Christ*.

*Appendix 3*  
*Group Conformity*  
*An Essay by Dr. James G. Freiburger, Psy.D.*

As the province is a group entity, it is important to have an understanding of group dynamics and how they can impede the ability and willingness of a group to think critically of itself, to look outside itself for help or assist, and to act in ways that might jeopardize the homeostasis or status quo.

The acknowledgment of group conformity, obedience, and protection dates back at least to the 17<sup>th</sup> century, including the philosopher Thomas Hobbes, all the way to the present, including best selling author Malcolm Gladwell. Studies such as the Stanford prison experiment and the Milgram experiment show how people engage in unhealthy behaviors and social situations, adapting to their roles and protecting the group above all else. Psychologists Solomon Asch, Irving Goffman and, more recently, Phillip Zimbardo have conducted experiments and studies demonstrating how group identification and pressure can become so dominant in a cohesive group that it can override realistic appraisal of alternative courses of thought and action.

Dr. Irvin Yalom described group cohesiveness as the resultant of all the forces acting on all members to remain in the group – or the attractiveness of a group for its members. It is the effective sharing of one's inner worlds and the acceptance by others in the group as paramount importance. Provided one adheres to the group's procedural norms, the group will accept an individual regardless of his or her life experiences, transgressions, or social failings. Yalom states that group membership, acceptance, and approval are of the utmost importance in the individuals' developmental sequence. Many social scientists support Yalom's assertion that individuals rely not only on group identification for approval and acceptance but also for continual validation of our important value systems.

*Groupthink* is a psychological phenomenon that occurs within a group of people, in which the desire for harmony or conformity in the group results in incorrect or deviant decision-making. Group members try to minimize internal conflict, protect secrets, and reach a consensus in decision-making without critical evaluation of alternative ideas or viewpoints. Loyalty to the group requires that its members avoid raising controversial issues or alternative solutions. The dysfunctional group dynamic can produce an illusion of invulnerability or an inflated certainty that the right decision has been made. Primary socially negative costs of group protection and elitism can be seen in the loss of individual creativity, uniqueness, independent thinking, and the lack of willingness to go outside of the group regardless of the situation, moral obligation, or duty to do so.

Groups that exhibit rigid uniformity oftentimes include an exclusive internal policymaking group, creating the danger that independent critical thinking will be replaced by dependent acceptance and group protection, which can result in irrational and dehumanizing actions

directed against others. Over-estimations of the group can include the belief in its exclusivity over power and morality, and the unquestioned belief in the morality of the group, causing members to ignore specific actions and potential consequences of members in the group. Close-mindedness can also occur, and group members can rationalize and minimize warnings that might challenge the group's assumptions, and they may stereotype, demean, or retaliate against those who attempt to oppose the group.

A pressure toward uniformity and protection can dominate, and a censorship of ideas that deviate from the apparent group consensus can occur. Under these conditions, group members are hesitant to look outside of the group for help, support, or expertise, often times to their detriment. Silence from individual group members is most times viewed as an agreement and acknowledgment of the greater good of the group. Direct and indirect pressure can be placed on any members who question the group or the actions of any individual member, as they can be seen as disloyal or a traitor.

Structural faults within these groups include an insulation of the group, a lack of impartial leadership, a lack of norms requiring methodological procedures, and a homogeneity in members' ideology. Only with an open, honest, objective, and multi-disciplinary approach can groups effectively monitor and ensure healthy decision-making. Group members, especially those in positions of leadership, need to be willing to look outside of the group and seek out individuals and organizations with expertise, abilities, and ideas; even when they differ from or challenge historical protocol, functioning, and beliefs.

As described in the recommendations section, for the province to replace a closed and protected culture with an open and healthy culture, it will need to challenge group conformity and groupthink, look outside itself for help, and risk changing some traditional practices to ensure the protection and safety of all those served or affected by the province.

**Appendix 4**  
**Sample of a Public Statement**

*“On \_\_\_\_\_, 20\_\_\_, we received an allegation of sexual abuse against Fr. \_\_\_\_\_, a Capuchin friar of the Province of St. Joseph. Fr. \_\_\_\_\_ has been assigned to ministry as [title] at [parish/school/other] since [date] . In accordance with state mandatory reporting laws and the province’s Sexual Misconduct Policy, the allegation was reported to the appropriate law enforcement agency in the county where the abuse is alleged to have occurred. Fr. \_\_\_\_\_ was immediately placed on administrative leave, pending investigation of the allegation. Fr. \_\_\_\_\_ was in ministry at the location during the time period of the alleged abuse. Thus, it is within the realm of possibility that the alleged abuse could have occurred. Consistent with the Sexual Misconduct Policy, the provincial will place the accused friar on administrative leave pending completion of an independent investigation into the allegation which is submitted to the Review Board for review. In addition, consistent with the Sexual Misconduct Policy, Fr. \_\_\_\_\_ has been removed from the premises and ordered to have no contact with the complainant and his family. The bishop of [diocese/archdiocese], where [parish/school/other] is located has been notified of the allegation against Fr. \_\_\_\_\_ and the actions taken by the province. Fr. \_\_\_\_\_ has been placed in a location where he will be monitored and have no unsupervised access to minors or vulnerable adults, pending completion of the investigation. These steps insure the safety of the complainant and community, the rights of Fr. \_\_\_\_\_, and the integrity of the independent investigation. We also take these steps to err on the side of caution, and thus ask that nobody view these measures as an indication that the province has determined Fr. \_\_\_\_\_ to be guilty of the allegation against him. At this early juncture, until the investigation concludes, we render no judgments about the veracity of the allegation or about the guilt or innocence of Fr. \_\_\_\_\_ . We remind everyone that an accused is entitled to the presumption of innocence unless and until such time as the accused may be found guilty after an adjudication or deliberative process. If anybody has a reasonable suspicion that a Capuchin friar, employee or volunteer has sexually abused a minor or vulnerable adult, please report the suspected abuse to the appropriate law enforcement agency in your county or to Amy Peterson, Director of the Office of Pastoral Care and Conciliation of the Capuchin Province of St. Joseph.*

*Appendix 5  
Forms Adopted for the Opcc*

This appendix sets forth two forms recently adopted by the province's Office of Pastoral Care and Conciliation.

*Notice to a Friar Accused of Sexual Abuse of a Minor  
Province of St. Joseph of the Capuchin Order*

The province has received an allegation that you sexually abused a minor. This alleged abuse occurred at [PLACE] on [DATE(S)] against [Name], who was a minor at the time, and involved the following misconduct [Describe]

Per the provinces' *Policies and Procedures Regarding Sexual Misconduct with Minors*, the appropriate law enforcement agency was notified of this allegation. We have been informed that (check one):

- They have completed their investigation.
- They have not completed their investigation.
- You are being placed on administrative leave pending investigation of allegations, effective immediately.

Once law enforcement has given us permission for us to do so, the province will be retaining the services of an independent investigator, [Name], to further investigate the allegations as quickly and thoroughly as possible. The results of the investigation will then be submitted to the Provincial Review Board, which will make recommendations to the provincial minister.

I will notify the Minister General of these allegations, per the policies of the Capuchin Order. He in turn will notify the Congregation for the Doctrine of the Faith if you are a cleric. Members of the Provincial Council have already been notified. In addition, I have also notified [list applicable bishop(s) and ministry director(s)].

If you are a priest, the (Arch)diocese of [Name] has been or will be notified of these allegations and your faculties to function as a priest will be temporarily suspended. You are not permitted to engage in any public ministry, including but not limited to Masses, confessions, hospital and home visits, spiritual counseling, speaking engagements, weddings, funeral services, etc., effective immediately. You are, however, able to say Mass privately. The province will assist you in getting substitutes for your existing pastoral commitments.

Please be advised that you have the following rights:

- The right to remain silent in response to the allegations.

- The right to a support person provided by the province (see attached list) to offer pastoral care to a friar accused of misconduct.
- The right to legal counsel, both criminal/civil and canonical, who can advise you of your rights under the applicable law. [See attached list.] The province will pay for your legal representation, but as the client your lawyers' duty of loyalty is to you.
- The presumption of innocence unless guilt is established by the applicable standard of proof.
- You may, either in person, through your support friar or through your counsel, choose to respond in writing to the allegations made against you.
- The right to continued support from the province to meet your basic needs in a manner that is consistent with our vows.
- The right to live in a friary with the support of your Capuchin brothers, although you may have to move from your current residence until the final disposition of this matter.

Please be advised of the following:

- You are not to have any contact whatsoever with the complainant, the complainant's family, or any other person involved with the alleged misconduct. (This includes indirect contact through e-mails, Facebook, or similar media.)
- With due regard to the rights that you as an accused person may have under the United States Constitution or any other applicable law, when civil authorities are investigating sexual misconduct:
  - A minister, including the provincial minister and the OPCC director, is free to disclose and all non-confidential information that he or she possesses to any person authorized under civil law to investigate such matters;
- Each minister and ministry is expected to cooperate with such an investigation.
- No minister shall do anything calculated to interfere with or impede any investigation(s).

Provincial Minister \_\_\_\_\_ Date \_\_\_\_\_



I have received this *Notice to a Friar Accused of Sexual Abuse of a Minor* form and understand its contents.

Friar Signature \_\_\_\_\_ Date \_\_\_\_\_

*Appendix 6*  
*Recommendations from Various Reports: 1993-1998*  
*The Kersten Report, 1993*  
*Project Samuel*  
*Provincial Policies from 1996 and 1998*

Recommendations from the *Kersten Report* re:

- Definitions of “misconduct,” “complainant,” “named friar,” and “aftercare,” and recommendations based on criminal codes;
- Avoiding conflicts of interest by separating the provincial minister from the named friar and complainant, as the provincial minister was designated as final arbiter of the complaint;
- Sharing complaint responsibility, such that a Capuchin or lay employee would serve as the complainant support person and would be isolated from the friar support person and review board;
- Providing pastoral care for victims and families, without the goals of persuading them to forego litigation and sign legal releases;
- Appointing a friar support person as liaison between the named friar and order and as supervisor of the friar’s aftercare;
- Independent, objective provincial investigators experienced in sexual assault matters, to take statements from complainants and named friars and witnesses, and present evidence to the provincial minister and review board;
- Establishing a review board to serve as an independent consultative body that provides advice and counsel and recommendations to the provincial minister;
- A review board that advises on “reasonable cause” and whether circumstances support the complaint, and on administrative actions against offending friars, and on friars’ aftercare, and on review and improvement upon sexual misconduct policies;
- Retaining an education coordinator responsible for educating students, parishioners, friars and staff about sexual abuse and about developments in mandatory reporting laws;

- Distributing a new policy to all friars, each of whom would certify his review and understanding of the policy;
- Advising a victim and family of the sexual abuse policy and its terms, the complainant support person, the role of the provincial investigator, paid-for counseling, and disposition of the offending friar;
- The provincial investigator's contact with a victim and family within 24 hours of the complaint;
- Immediate notice of alleged sexual abuse to the provincial minister, who is responsible for mandatory reporting to authorities and verifying the report to the originating reporter;
- Deferring formal internal investigations and taking of statements until other civil investigations are complete;
- A reasonable cause inquiry by the review board at the initial stage of review, based on the provincial investigator's reports;
- Interim placement of a named friar if reasonable cause is found;
- Provincial minister's acceptance of the review board's recommendation, and if he finds reasonable cause, the friar is placed on administrative leave and advised to stay away from the complainant;
- Due process guarantees for the named friar, including early notice of the claim, a friar support person and a legal advocate;
- A subsequent review board hearing (after a reasonable cause hearing) as to whether substantial and credible circumstances support the claim, with protections for the complainant and due process guaranteed to the named friar;
- An aftercare friar shall have psychological evaluation and treatment, no unsupervised contact with children or vulnerable adults, reassignment to a ministry that avoids contact with vulnerable persons, and shall live in a Capuchin community, not alone;
- Bishops and local ministers shall be notified of an offending friar's new assignment;

- Continue the policy of addressing inappropriate behavior that is not criminal, and is not technically misconduct or substantiated misconduct;
- Maintain complete documentation of the claim, disposition and process; and,
- Determine if the province has a moral responsibility to publicize information on names friars and, if so, to do so.

*Recommendations from Project Samuel - 1993*

Two days after the May 27, 1993 publication of the *Kersten Report*, members of Project Samuel, a group of survivors sexually abused by Capuchins, submitted a list of written recommendations to provincial leaders. These included:

- Acknowledgment of Capuchins' sexual wrongdoing;
- Compassionate treatment of all victims;
- Permanent removal of all Capuchin sex offenders from active ministry and church-operated psychological treatment facilities;
- Resignation of all SLS and provincial officials who may have concealed sexual abuse at SLS, including the president, rector, dean of discipline, provincial minister, and all then-current provincial council members;
- Public retraction of a December 10, 1992 directive ordering Capuchins to report allegations of sexual abuse to the provincial minister rather than civil authorities;
- Public retraction of the policy requiring victims to sign confidentiality agreements in exchange for treatment payment;
- Public disclosure to benefactors and SLS alumni regarding sums spent for legal defenses in criminal and civil actions and to support offending friars;
- Removal from the Capuchin criminal defense team former Milwaukee police officers who pled guilty to misconduct when interviewing an adolescent abuse victim;
- Cooperation with civil authorities investigating sexual abuse by Capuchins;
- Independent investigation of Capuchin sexual abuse in the U.S. and abroad;
- Paid psychological treatment for victims;

- Appointment of Capuchin Friar Fr. Michael Sullivan as victims advocate;
- Release of SLS alumni addresses to Project Samuel so that Project Samuel victims could contact potential SLS abuse victims;
- An annual retreat for victims and families conducted by Fr. Michael Sullivan;
- Swift and just settlement of all criminal and civil cases against Capuchins for sexual abuse;
- Written apologies to victims and families;
- Independent review board to investigate sexual abuse claims after immediate reports of the allegations to civil authorities, at least one member to be a Project Samuel member;
- Appointment of consultants to advise Capuchins about sexual abuse, at least one of which would be a Project Samuel member; and,
- Implementation of sexual abuse norms and training at SLS.

*Recommendations from 1996*

By August 1996, the province's written sexual misconduct policy and related policies incorporated almost all of the special counsel's recommendations in the May 27, 1993 *Kersten Report*. The policy also included additional improvements:

- Creation of a Sexual Abuse Response Coordinator (SARC) to be the point person for responding to sexual abuse claims on behalf of the provincial, and insuring compliance with the policy, including the 1993 Special Counsel's recommended protocols;
- Prompt notice of sexual abuse allegations to the province's attorneys and the bishop where the accused resided. (However, the revised policies made notice to local Capuchin ministers discretionary if the provincial "deem[ed] it appropriate," rather than mandatory as special counsel had recommended.);
- Notice to civil authorities even if not required by state law;
- Mandatory establishment of a permanent file on the incident;

- Where an accused was not a friar, the provincial could take actions against the person consistent with his or her contractual and common law rights, including suspension or termination from employment;
- Mandatory action to clear an accused's name when evidence did not substantiate an allegation;
- After investigation and consultation with provincial leaders and the province's corporate attorneys, the SARC would determine if the province's then-insurer, Catholic Mutual, would be notified of the alleged abuse;
- Minors' and adults' privacy must be respected when they change into swim suits and are showering;
- No adults and minors are to share accommodations;
- No minors are to stay overnight in a rectory;
- At least two adults were to be present with minors on trips and outings;
- Physical contact with minors was only to be "under appropriate public circumstances;"
- Adults were to refrain from use of alcohol when working with minors;
- Adults "should avoid developing intimate relationships with minors;" and,
- Minors were to be educated as to their right to privacy, to resist unwanted touches and inappropriate demands, to report improper behavior.

#### *Recommendations Made in 1998*

Revisions were made in August of 1998 to the province's sexual misconduct policies. Some of the recommendations set forth that were incorporated into the sexual abuse and related policies included:

- New "Guidelines for Management of Provincialate Personnel Files" that mandated retention of documents that could lead to litigation, including sexual matters, and maintaining separate envelopes for psychological evaluations and treatment records (June 1994);
- Recommendations for maintaining provincial minutes, including writing them in a manner sensitive to the fact that they may be read from a different

perspective, such as for litigation, other than the purpose for which they were originally written (July 1994);

- Recommendations that therapists' recommendations be followed "no matter what" and that updates be noted in the minutes, and that every intervention for a friar's sexual or other misconduct be reported in the minutes and follow-up be noted, and actions recorded in the minutes (July 1994);

- Capuchin Friar Fr. Marty Pable, Ph.D., a psychologist and the first SARC for the province, noted in a July 1994 memo that in his role he made sure the provincial received immediate notice of alleged sexual abuse, and directed the provincial investigator to investigate, provided support persons for the claimant and accused, convened the review board if directed by the provincial, and supervised the evaluation and treatment and aftercare of accused friars (July 1994);

- In his role as the SARC, Fr. Pable also kept records of sexual abuse claims, data compiled by the investigator, minutes of review board meetings, letters of referral to evaluation centers, letters of referral to therapists, therapy progress reports (destroyed after completion of therapy), offending friars' restrictions and aftercare and supervision contracts. (updated August 1994 Marty Pable memo).

An August 10, 1994 document - the revised "Guidelines for Management of Provincialate Personnel Files" - discussed documents to be maintained in personnel files so that successive provincial administrations would have the information to guide their handling of friars. It discussed legal protections of psychological evaluations and maintenance of summaries of treatment even when treatment reports may be destroyed.

*Appendix 7*  
*Case Study: Gale Leifeld*

Fr. Gale Leifeld served as rector of St. Lawrence Seminary (SLS) from 1976 until 1982. Prior to serving as rector, he had been on the faculty of SLS since 1955. He had held no other Capuchin assignment other than at SLS. There were more reports of sexual abuse perpetrated by Fr. Leifeld than any of the other accused friars. Fifteen of the twenty-nine known SLS victims had been abused by Fr. Leifeld. Reports of sexual abuse of students by Fr. Leifeld date to at least the 1965-1966 school year. For years, faculty and administrators who knew about Fr. Leifeld's activities did not report him to provincial leadership, civil authorities, or parents. In 1974, a parent made a direct report to Fr. Joe O'Connor, rector at the time. Apparently nothing happened because Fr. Leifeld was appointed rector in December 1976, after this report had been made. There were at least three other reports of sexual abuse perpetrated by Fr. Leifeld in 1976 and another in 1977. Fr. Leifeld admitted several students' allegations in the 1970s and early 1980s.

Provincial Minister Fr. Ron Smith clearly was aware of reports about Fr. Leifeld at least by the beginning of 1981. He wrote a three-page letter to Fr. Leifeld on Feb. 8, 1981. Although the words "sexual abuse" or "sex" are not in the letter, it is clear that Fr. Smith was using veiled or coded language. Fr. Smith says he discussed the matter with Fr. Leifeld on Dec. 26, 1980 and that he was satisfied there were no more "behaviors or activities such as I brought to your attention in December." He went on to tell Fr. Leifeld that "I now feel assured that such behaviors have ceased."

It appears there may have been no investigation into any of the accusations against Fr. Leifeld beyond the conversations between Fr. Leifeld and Fr. Smith. If any sort of investigation was carried out, no record of it was produced. Fr. Leifeld was removed as rector at the end of the 1981-1982 school year. There is no written record that indicates he was removed as a punitive measure or as a result of his sexual abuse of several students, even though the provincial knew about this at the time. On the contrary a letter from Fr. Leifeld to Fr. Smith gives the distinct impression that his departure from the office of rector was a move mutually agreed upon by the two (Letter 8-6-1981). No records of the investigation that led to Fr. Leifeld's 1982 removal from SLS exist (*Kersten Report*, p. 12).

In spite of his knowledge of Fr. Leifeld's activities, Fr. Smith allowed him to live on his own with his ailing father. On May 25, 1983 he wrote to Fr. Leifeld and told him that he would continue inquiring of bishops within the province seeking a parish for him. He wrote a letter of recommendation on his behalf to Bishop Melczek of the Gary diocese on June 8, 1983. In the letter he says that "Fr. Gale is a priest in good standing with us." He does *not* say that, by 1983, Fr. Leifeld had been reported at least seven times for sexual abuse of minor students.



Despite Fr. Leifeld's history of sexual abuse, in 1984 he was reassigned to a parish and became director of vocations at Sacred Heart School of Theology. He was promoted to dean of students at Sacred Heart in 1985.

The first psychological evaluation of Fr. Gale Leifeld took place in April 1989, mandated by the provincial minister, Fr. Ken Reinhart. Leifeld was evaluated by Anthony Gillette, Ph.D., a clinical psychologist. By that time, there had been at least seven reports of sexual abuse, some of which resulted in consultation with the province's lawyers. In his letter to Dr. Gillette, Fr. Reinhart stated that the lawyers recommended the psychological evaluation. He went on to state "While we have no firm basis to accept or deny any allegations of past activities, we also feel responsible to assure that if there is any struggle in Gale's life in relation to sexuality, that it be addressed for his own personal sake." (Letter, March 9, 1989). Quite the contrary, there indeed *was* firm basis to accept the allegations as truthful, including the fact that Fr. Leifeld had admitted abusing some students.

Dr. Gillette's lengthy and detailed report was sent to Fr. Reinhart on May 18, 1989. He recorded that Fr. Leifeld had admitted to molesting 5 boys while he was teaching at SLS.

Fr. Reinhart wrote a confidential memo on June 6, 1989 as a result of communications with and about Peter and Paul Isely, twin brothers who had been sexually abused by Fr. Leifeld. In this memo Fr. Reinhart clearly misrepresented the conclusions of Dr. Gillette:

*The comprehensive evaluation indicated that there was no major dysfunctional behavior in relation to any type of child sexual abuse tendencies. Any history of such activities or other similar activities are related to stress behaviors and inadequate ways to cope with these in relation to situations.*

Dr. Gillette's report gave a significantly different impression. The section that summarizes the psychological interview says that when asked to explain his sexual behavior with students at SLS "the examiner found Father Leifeld to be unusually circumspect and evasive." In the concluding summary section the report says "...it was difficult for the evaluation team to formulate a clear picture of Father Leifeld's sexual orientation, sexual functioning and the probability of inappropriate sexual behavior occurring in the future." It goes on to state "There is some reason to believe that impulsive sexual activity could occur again if Father Leifeld does not learn to deal with his sexual impulses differently. Unfortunately Father Leifeld might be resistive to such a recommendation because his normal way of dealing with such problems is to simply deny their existence."

The provincial minister's minimization of Fr. Leifeld's extensive sexual abuse of minors in his letter to Dr. Gillette is consonant with his consistent support of Fr. Gale Leifeld while he was rector of SLS and afterward. Fr. Leifeld continued in active ministry with no restrictions and no monitoring until 1993 when he was sent to the Paraclete facility in New Mexico.

The files do not reveal precisely why Fr. Gale Leifeld was sent to the Paraclete facility at that time but it is possible to surmise that the accusations that surfaced after the stories in the *Milwaukee Journal*, the civil actions and the *Kersten Report* all were strong factors influencing the provincial minister's decision. Fr. Leifeld never served in ministry after 1993, and he died in 1994.

The absence of proper protocols enabled Fr. Leifeld to continue abusing SLS students for almost two decades after notice of his sexual abuses first surfaced, and then to be reassigned to ministries that again gave him access to minors and young adults in parish and school settings.

*Appendix 8*  
*Case Study: Thomas Gardipee*

The case of Br. Thomas Gardipee compels detailed scrutiny, because the province's responses to his sexual misconduct became a turning point that resulted in the promulgation of the province's first sexual abuse policy in May 1988. In 1985, Br. Tom Gardipee, a teacher and coach at St. Lawrence Seminary (SLS), admitted that he gave alcohol and pornography to five 18 year old SLS seniors, went nude streaking with them, displayed condoms to them, and solicited at least two of them to masturbate with him. The students reported the incidents to SLS administrators. Their statements were taken. An informal hearing was held. Br. Gardipee acknowledged his misconduct, and he was ordered to go to the homes of each of the five students and personally apologize to the students. The process was well documented.

Br. Gardipee was evaluated by a psychiatrist who was also a former Capuchin, and he determined that Gardipee was fit to remain at SLS. The provincial minister, Fr. Myron Kowalsky, assessed that he had acted immaturely, not sexually. However, there was strong disagreement and reservations among Provincial Council members as to whether Br. Gardipee's actions constituted sexual misconduct. Nevertheless, he was permitted to return to SLS, and was even elevated to the position of athletic director.

At the time, no provincial guidelines defined "sexual misconduct," "sexual abuse," "sexual harassment," "boundary violations," "minor," "vulnerable adult" or "power differential." Thus, there was ambiguity as to whether Br. Gardipee's behavior with 18 year olds constituted actionable sexual misconduct. No formal investigatory protocols compelled investigation into whether Gardipee engaged in similar misconduct with minors at SLS, had unhealthy sexual attractions to adolescent boys, or had abusive proclivities. No policies mandated compliance with legal proscriptions against providing alcohol to underage persons and indecent exposure, or spelled out consequences for Br. Gardipee's failure to comply with such laws. (In 1985, the legal drinking age in Wisconsin was 19, and it was illegal for an adult to serve alcohol to persons under the age of 19.)

No policy required independent, professional and objective assessments. Although they have no reason to believe that the evaluation in this case was anything other than professional and objective, the auditors are concerned about the appearance of subjectivity or a conflict of interest when a former friar conducts an assessment of a friar accused of misconduct. In addition, although Br. Gardipee had to apologize to the students, no formal policy existed to mandate disclosure of sexual misconduct to students' parents.

In 1987, the provincial minister, Fr. Ken Reinhart, requested that all sexual abuse be reported to him. However, the lack of a formal policy diluted the force of his request from that of a mandate to that of a suggestion. There was no formal consequence for failure to report sexual abuse. During the 1987-1988 school year, Br. Gardipee became infatuated with an SLS student, showering him with unwanted and inappropriate attention, starting in approximately

September 1987. Br. Gardipee sent the boy letters that were inappropriate and appeared to be love letters. In March 1988, the boy's parents complained to a teacher and the SLS local minister, Fr. Ron Jansch.

Br. Gardipee was told to stay away from the boy, but the incidents were not reported to the provincial minister, Fr. Ken Reinhart, as had been requested. The boy's parents were not told of Br. Gardipee's prior misconduct in 1985.

When the provincial minister learned of Br. Gardipee's behavior and the parents' complaint in late March, he terminated Br. Gardipee effective at the end of the school year, in June. Br. Gardipee agreed to undergo another professional assessment. However, at the end of June, when the provincial minister was in Rome, the Provincial Council reversed his decision and reinstated Br. Gardipee after the SLS president, Fr. Keith Clark, and the SLS rector, Fr. Joe Diermeier, recommended that he return. Among other things, they advanced Br. Gardipee's argument that the "love letters" were actually part of a retreat exercise. Br. Gardipee continued his unsupervised contact with the boy the following school year, even taking him on unsupervised athletic trips and trips for medical treatment.

Br. Gardipee was finally removed from SLS in 1993, in the wake of the SLS sexual abuse scandal that erupted in December 1992, when the former student who had been the object of his infatuation reported that Br. Gardipee had masturbated in front of him in the late summer of 1987, when the student was only 16 or 17 years old; a minor.

No formal policies mandated the immediate removal of Br. Gardipee in 1985 and 1988. Hence, similar to the Fr. Gale Leifeld experience, a friar whose sexual misconduct was serious enough to merit termination in March 1988 was permitted to remain among students until the end of the school year, almost two more months. There was only limited investigation. No policies guided the Provincial Council when they considered and then agreed to reinstate Br. Gardipee at SLS after Fr. Ken Reinhart had terminated him. As a result, a friar who had engaged in sexual impropriety with teenage boys at a boarding school was enabled to remain in ministry there for another four-and-a-half years.

Despite Br. Tom Gardipee's multiple reported boundary violations (what the special counsel would later call "qualified acts") and incidents of sexual misconduct in 1985 and 1987-1988, for many years SLS leaders repeatedly supported him and made recommendations on his behalf, prioritizing him over the students he scandalized and abused. The SLS local minister (Fr. Ron Jansch) did not report him to Fr. Ken Reinhart, the provincial minister, when a student's parents complained in early 1988, despite Fr. Reinhart's explicit request that such misconduct be reported to him.

These events, in part, led to the province's promulgation of the first sexual abuse policy in May 1988. Yet even after Fr. Ken Reinhart terminated him from SLS in June 1988, recommendations

by the SLS president, Fr. Keith Clark, and the SLS rector, Fr. Joe Diermeier, led to the Provincial Council's reinstatement of him. Only after the SLS sexual abuse scandal in December 1992 and investigations by civil authorities in 1993 did SLS finally remove Br. Gardipee.

Another SLS friar, Fr. Paul Craig, sent a January 4, 1993 letter to the provincial minister, Fr. Ken Reinhart, which set forth the following: he was rector in 1985-1986, and he disagreed with Fr. Kowalsky's decision in 1985 to keep Br. Tom Gardipee at SLS. Fr. Craig subsequently went on sabbatical. When he returned, he observed that Br. Gardipee was again heavily emotionally invested in a few students, and he felt that it was "tolerated" by the rector and president.

Fr. Paul Craig learned of Br. Gardipee's letters and behavior toward the SLS student during the 1987-1988 school year, and observed that Br. Gardipee behaved similar to how he had before the 1985 incident with the 18 year old seniors. Fr. Paul Craig met separately with Fr. Keith Clark (SLS president), and Fr. Joe Diermeier (SLS rector), and told them he observed Br. Gardipee's attachment to some students, told them Br. Gardipee had not improved, and told them Gardipee's presence at SLS was unhealthy. The two SLS officials "listened politely" but had no real response.

Fr. Paul Craig suggested that SLS administrators "endangered students" by allowing Br. Gardipee to stay when they knew about his problems. He also stated that, "the biggest embarrassment and failing here is...the inability of the community as represented by those in charge to deal with it." Soon thereafter Br. Gardipee was reinstated upon those administrators' recommendations. He remained at SLS for another four-and-a-half years.

*Appendix 9*  
*Case Study: Jude Hahn*

Clarence Jude Hahn joined the Capuchin Franciscans in 1950. He was ordained in 1958. He spent his entire career as a priest in various staff and administrative positions at St. Lawrence Seminary (SLS) and as an assistant pastor at Holy Cross Parish in Mount Calvary, Wisconsin.

Fr. Hahn is known to have sexually abused at least four boys from Holy Cross Parish in Mt. Calvary, in the 1970s. Although Fr. Hahn admitted this in his deposition on November 11, 1994, the auditors could find no documented evidence that the Capuchin leadership knew this at the time.

Fr. Hahn also abused students at SLS. Notes from an interview taken by one of the plaintiff lawyers claimed that a former lay teacher at SLS informed Br. Dismas Seward during the school year of 1981 and 1982 that Hahn had been sexually abusing students. Something happened at SLS in 1984 because Fr. Hahn requested an immediate transfer from the community. The provincial minister at the time, Fr. Ron Smith, granted it, and in his letter to Fr. Hahn, admitted it was unusual: *"Because this request is apparently urgent I am granting it without consultation with the provincial council."* (Letter, Smith to Hahn, May 23, 1984).

There is no available information to indicate precisely *why* Fr. Hahn wanted this quick transfer or *why* the provincial so willingly gave it. There is also no information on Fr. Hahn's next move which, according to this letter, was to Brindisi House. In any event even if Fr. Hahn went to another community he was eventually back at SLS.

Under questioning in a deposition, Fr. Hahn claimed he did not know why the provincial minister was concerned with the urgency of the situation and denied it had anything to do with reports of sexual abuse.

Provincial Minister Fr. Ken Reinhart wrote to Fr. Hahn in August 1990 ordering him not to take any more trips with young people. In August 1992, Fr. Reinhart was informed that Fr. Hahn had propositioned an adult male. This motivated him to send Fr. Hahn for treatment at the Paraclete Facility in St. Louis. In January 1993, while Hahn was in treatment, the late Fr. Ken Reinhart, then-provincial minister, wrote to him and informed him that a number of incidents of *"alleged sexual abuse on your part have been brought to our attention by people who have been minors. Everything that I have to this date deals with your role as Associate Pastor at Holy Cross Parish in Mt. Calvary."* (memo by Fr. Reinhart, 1-14-93).

Fr. Hahn did not benefit from treatment and in fact resisted it. He admitted to Fr. Reinhart that he did not know if he would act out with "small children" again. Fr. Reinhart had also received information from the director of the facility that Jude Fr. Hahn was no longer cooperating with the program.

At the beginning of March 1993, Fr. Reinhart intended to transfer Fr. Hahn to Detroit and have him work in an internal ministry. At that point (March 1993), he had possibly known since the early 1980s that Fr. Hahn had sexually abused students at SLS and had also abused small children and minors from the local community of Mount Calvary. In assessing the situation in March 1993, Fr. Reinhart wrote in a summary of his relationship with Fr. Hahn, "*While there is no immediate public scandal, there was much talk about his behavior in the village [of Mount Calvary, Wisconsin] in which he had done these behaviors [sexual abuse] in the 80's.*"

According to Fr. Reinhart, Fr. Hahn suggested that he leave the priesthood and religious life when told by the provincial minister that the *Milwaukee Journal* had threatened to print stories about his sexual activities with minors. Fr. Reinhart did *not* encourage Fr. Hahn to leave at that time (January 1993): "*I said that [leaving] would not be necessary, that we could find ways for him to function in a different area of the province and in an internal ministry where he was not in contact with children.*" ("Summary of Pastoral Attempts by the Religious Ordinary of Jude Hahn", March 1993, Fr. Ken Reinhart).

In the same paragraph where Fr. Reinhart offered to find a way for Fr. Hahn to remain in the order, he also admits that he was aware of the fact that Fr. Hahn's past behavior, of which he had been aware, was criminal in nature and "*punished by prison time.*" (Ibid).

Fr. Hahn refused to accept the transfer to Detroit. He apparently communicated this to Fr. Reinhart, who then switched from trying to keep him in the order to urging his departure. On March 29, 1993, Fr. Hahn sent his signed petition for laicization to Fr. Reinhart. This petition, addressed to Pope John Paul II, contained his reason for seeking the laicization and dispensation from the pope: "*At a time when I needed acceptance from my religious community, I received what I perceived as rejection. I was working with the teen-aged community and found that acceptance and intimacy which I did not find with my religious community. I am now facing allegations of sexual misconduct for incidents that happened before 1981 with young people under the age of 18. My superiors have questioned my ability to function publicly as a priest. I have gone through legal counseling. Because of the situation in our country, legal counsel has suggested restrictions for legal purposes and my superiors have suspended my faculties which means I cannot function publicly as a priest. I cannot live a meaningful and fruitful life under these circumstances.*" His obvious denial of any wrong-doing is consistent with the findings at the facility where he had been sent for treatment.

The decision to leave and the provincial's acceptance of this happened within a two-week period. On March 29, 1993, Fr. Hahn's petition, along with the *votum* or opinion of the provincial minister, was sent to the Holy See. In this *votum*, Fr. Reinhart acknowledged that Fr. Hahn's condition was serious and had "*high moral and legal implications.*" He further acknowledged that Fr. Hahn posed a continuing threat to small children and "*further actions by a priest and Capuchin in the church would be a serious scandal to the public.*"

It appears that the immediate motivation for this rush to get rid of Fr. Hahn was Fr. Reinhart's fear of adverse publicity, especially from the *Milwaukee Journal*: "I also was aware that the *Milwaukee Journal* was aware of these allegations and was threatening to print them and make them public." (Summary of Pastoral Attempts – Fr. Ken Reinhart – March 1993)

Fr. Reinhart's *votum*, his opinion as Hahn's superior, an essential document that accompanied Fr. Hahn's petition to the Holy Father, contains the reason for requesting the laicization and dispensation: "I think it is most appropriate that this dispensation be granted for the sake of protecting the church and the order from scandal and for preserving the good name of Jude Hahn."

Fr. Reinhart wrote to Fr. Jude Hahn on March 30, 1993 and said he did not want to engage in any scandal in the Mt. Calvary area or any other area. He acknowledged that Fr. Hahn was planning to move to the west coast and then said, "It is our hope that we can safeguard your public reputation..." (Letter from Fr. Reinhart, 3-30-1993). Fr. Reinhart's "hope" does not mention nor did not take into account Fr. Hahn's own admission that he did not know if he would "repeat these actions against small children again." (*Votum*, 3-29-1993).

Fr. Reinhart also requested in the *votum* that the essential requirement of corroborative witnesses be waived by the Holy See. Such a request is highly unusual, and what is even more unusual was the apparent affirmative response to the request. The final part of the laicization process was initiated by the Holy See most probably upon receipt in April 1993. On November 17, 1993, the dispensation was granted. It was sent to the new provincial minister (Fr. Anthony Scannell) on December 22, 1993 for communication to Jude Hahn.

In spite of what he knew about Jude Fr. Hahn's behavior, Fr. Reinhart never made a report to the police or child protective services, nor did he warn the people of the Mt. Calvary community. Shortly after the December 20, 1993 news story, he met with lay members of the local community of Mt. Calvary and said nothing about Fr. Jude Hahn and the fact that he knew Fr. Hahn had abused children in the community.

The *Milwaukee Journal* did not include information about Fr. Hahn in its December 20, 1992 article, not because Fr. Hahn's name as an accused perpetrator had not surfaced, but because the corroborative witnesses required by the newspaper would not allow their names to be made public.

The files provided to the auditors did not contain the full documentation that constituted the Fr. Hahn dispensation/laicization case. It is remarkable and inexplicable that this request was granted as quickly as it was in light of the fact that in that period such requests normally took one to two years to process and never proceeded without corroborative evidence. There is no indication known to the auditors as to how the Capuchins managed this most unusual feat. It appears to the auditors however that provincial leadership or at least SLS leadership was probably aware of reports of sexual abuse by Fr. Hahn in 1981 and 1982 yet did nothing. Fr.



Reinhart warned Fr. Hahn in 1990. The 1992 incident with the adult prompted the provincial minister, Fr. Reinhart, to take some action, but it is not clear *why* this event, and not prior reports about abuse at SLS, prompted a response. From the auditors' review of materials from an outside source, it has been asserted that Fr. Reinhart knew of Fr. Hahn's history, or at least part of it, and that he became alarmed after the December 20, 1992 story came out in the *Milwaukee Journal* because he was aware that the reporter also had information about Fr. Hahn. Fearful that there might be another disclosure about Fr. Hahn which would be more devastating than those already disclosed, he very quickly initiated the process to have Fr. Hahn definitively separated from the Capuchin Order and the priesthood. The unusual circumstances of the laicization process, i.e., the request to waive witness testimony, the petition which lacked the reason for the request for laicization; and the speed from start to finish (seven months and two weeks) suggests that there may be more about the Fr. Jude Hahn story than was available in the documents reviewed by the auditors.

Fr. Reinhart made the following statement in an article that appeared in the *Milwaukee Journal* on June 5, 1993:

*As distressful as this is to the Church and all the good people involved, I believe it is healthy to have these incidents [of sexual abuse] made public, and I deeply respect those who are victimized for their courage in coming forward. Unless all of us -- students, alumni, Capuchin staff and the public - are fully informed we cannot take the constructive actions to deal with it.*

This statement stands in stark contrast to certain other facts that have emerged from the documentation and have been reviewed by the auditors:

- Provincial or SLS leadership probably knew that Fr. Jude Hahn was sexually active in the 1980s and neither reported it nor took action to curtail it.
- Fr. Reinhart was aware that Fr. Jude Hahn had sexually abused children in the Mt. Calvary community when he met with the community shortly after the *Milwaukee Journal* story broke (December 20, 1992) yet he never warned the community or sought out victims.
- In spite of his professed respect for those victims who came forward, he spoke disparagingly about at least one of the victims in correspondence with Fr. Gale Leifeld, blaming him and another victim for the lawsuits (Letter of January 19, 1993).

- Fr. Reinhart feared the news media would publicize information about Fr. Hahn (Opinion, March 29, 1993) and so may have accelerated the process to have him laicized.

*Appendix 10*  
*Biographies of the Auditors*

**Michael Thomas Burnett, J.D.**, was born at Whiteman AFB, Missouri, in 1962, and lived in numerous places throughout the United States and Europe as a member of an Air Force family. He is a graduate of the University of Notre Dame (B.A. Government, 1985). He served for a year in a lay ministry program, the Holy Cross Associates, in Avondale, Arizona, from 1985 to 1986. He then returned to and graduated from Notre Dame Law School (J.D., 1989). His legal practice and experience is that of insurance coverage counsel, representing a variety of domestic and international insurers, as well as a variety of other legal practices.

Burnett has been actively involved in the issue of sexual abuse since 1995. Through his company, Burnett Risk Control International, he has consulted on a variety of matters related to sexual abuse since 2003, with a goal toward expedited and compassionate resolution of sexual abuse claims, among other consulting services related to sexual abuse. He has served as coverage counsel for both insurers and policyholders in claims arising out of sexual abuse of minors and vulnerable adults. He has also served in a variety of other capacities in sexual abuse claims, including as a consultant, mediator and expert witness.

Burnett has authored a number of articles on a variety of topics involving sexual abuse, including insurance coverage, prevention, risk control, and proper and compassionate handling and resolution of sexual abuse claims. He also regularly gives speeches and presentations to a variety of groups on issues related to sexual abuse.

Burnett and his family lived in Chicago, Illinois, for many years. He currently lives with his wife and four daughters in Charlotte, North Carolina.

**Thomas Patrick Doyle** is a native of Wisconsin, born in Sheboygan in 1944 and a graduate of the University of Wisconsin (Madison, Political Science, M.A., 1971). He was ordained a priest in the Dominican Order in 1970. He served in a variety of church administrative positions including the tribunal of the Archdiocese of Chicago and the Vatican Embassy (nunciature) in Washington D.C. He also served as a chaplain and officer in the U.S. Air Force from 1986 to 2005. He has master's degrees in philosophy, theology, administration, canon law and political science and a doctorate in canon law. He is also a licensed addictions therapist. He studied addictions and counseling at the University of Oklahoma and graduated from the Naval School of Health Sciences in 1999.

Doyle has been actively involved in the issue of clergy sexual abuse since 1984. He has provided support and spiritual counseling for victims throughout the U.S., in Canada, the U.K., Ireland and Belgium. He has also served as a canonical counsel and support person for priests and religious accused of sexual abuse. He has served as a consultant and expert witness in civil and criminal trials in the U.S., Canada, Ireland and Australia. He has also been a consultant and expert witness for several U.S Grand Juries, for the four investigative commissions in Ireland, for the Cornwall Inquiry in Canada and in 2010 he addressed the Belgian Parliament at their request.

Doyle is the author of several articles on various aspects of sexual abuse and is co-author of *Sex, Priests and Secret Codes* (2006) along with Richard Sipe and Patrick Wall.

**James Garrett Freiburger, Psy.D.**, is a licensed psychologist and a certified alcohol and drug counselor (CADC). He is also a Diplomate of the Board, Clinical Forensic Counseling (DCFC).

Freiburger received his bachelor's degree in psychology and journalism from the University of Wisconsin-Whitewater; his master's degree in marital and family counseling, and his doctorate in clinical psychology from the Adler School of Professional Psychology in Chicago. He has provided direct service, consultation and education for religious orders, dioceses and organizations, especially in areas of sexual abuse and mental health. He is owner and clinic director of Allied Counseling Services and co-director of Nursing Home Enhancement Professionals. In addition to his private practice; he is an author and provides forensic expert witness evaluation, testing, and testimony, has lectured at area colleges, and provides consultation and supervision to county agencies and corporations. He has been providing direct service, consultation, evaluation, and community education for over 25 years.

Freiburger is also active in patient and professional education regularly providing in-services, workshops, and seminars. His work in hospital, inpatient, residential, nursing home, and outpatient settings extends to children, adolescents, and adults didactically and clinically. He has worked extensively with the mentally ill, the elderly, and perpetrators/survivors of abuse, and their families for many years. At the center of his philosophy is the importance of ethics and integrity. Dr. Freiburger is the author of *Clergy Pedophiles: A Study Of Sexually Abusive Clergy And Their Victims*. (Bloomington, In. Authorhouse. 2010.)

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