



Whereas the United States Attorney for the District of Massachusetts ("U.S. Attorney") and the Roman Catholic Archbishop of Boston, a Corporation Sole ("Archdiocese of Boston" or "RCAB") have a shared commitment to the protection of children from abuse and exploitation of any form, and a shared interest in ensuring that the policies and practices of the Archdiocese of Boston with respect to the care and protection of children are effective, durable and transparent; and

Whereas, the Archdiocese of Boston has for many years allowed priests to serve as chaplains in the employment of the United States of America, by releasing them to the Archdiocese of Military Services, USA, which arranges for the assignment of priests to agencies of the United States of America, including the United States Armed Services and the Department of Veterans Affairs; and

Whereas, priests serving with the United States Armed Services and Department of Veterans Affairs minister to active duty personnel, military veterans and their families, including children; and

Whereas, the United States of America seeks to employ chaplains who are of the highest personal integrity and reputation and thus conducts background investigations seeking adverse information about prospective and recently hired chaplains, so as to obtain and then independently investigate such adverse information. Among other things, these background investigations seek to determine whether there exists any information which could lead to the conclusion that a chaplain or prospective chaplain could pose a risk to the children of active duty military personnel or veterans.

Factual Allegations

The United States Attorney alleges as follows:

1. In or about June 1998, a priest of the Archdiocese of Boston, hereinafter referred to as "Father John Doe," applied for a position as a chaplain with the United States Department of Veterans Affairs. Prior to being considered for employment as a chaplain, Fr. Doe was required to obtain an Ecclesiastical Endorsement from the Archdiocese of Military Services, USA. As a condition to issuing an Ecclesiastical Endorsement, the Archdiocese of Military Services, USA required that the Archdiocese of Boston complete and forward to it a "Statement

of the Ordinary" ensuring Fr. Doe's suitability for employment by the United States government. The Archdiocese of Military Services, USA also required Fr. Doe to complete a "confidential questionnaire" which sought information about Fr. Doe's background including whether he had ever been accused of sexual misconduct or had been the subject of any investigation regarding sexual misconduct.

2. For many years prior to 1998, the Archdiocese of Boston maintained a series of files known as "secret files," "confidential files" or "locked files" regarding priests ordained in the Archdiocese of Boston. These files contained, among other things, allegations of sexual misconduct by individual priests as well as other adverse information about those priests. The Archdiocese of Boston maintained these secret files in a locked cabinet, and separate and apart from the general personnel files on individual priests. Access to the secret files was limited to the Archbishop, the Moderator of the Curia, and a few other persons who worked directly with the Archbishop and the Moderator of the Curia.

3. Beginning at some time prior to October 1993, the Archdiocese of Boston created and maintained a secret file regarding Father Doe. That secret file contained, among other things, notes from a Bishop who at the time the notes were written in 1987 was serving in a senior level position in the Archdiocese of Boston. Those notes contained allegations from another priest made in 1987 that, among other things, Father Doe had "fooled around with kids" during his assignment at a home for troubled adolescent boys, and allegations that Father Doe's conduct had been reported to a District Attorney's Office. Those notes also revealed that the Bishop had personally conducted an inquiry in 1987 regarding the allegations of sexual misconduct and had confronted Father Doe with the allegations. Father Doe denied these allegations. The "secret file" also contained a 1987 evaluation from a residential psychiatric treatment facility, which indicated, among other things, that Father Doe had become infatuated with one of the boys in that home, and which also contained other adverse information about Father Doe's mental health and suitability for employment.

4. In or about June 1998, while the Archdiocese of Boston maintained a secret file on Father Doe containing adverse information about his suitability as a priest, a senior official at the Archdiocese of Boston executed a "Statement of the Ordinary" regarding Father Doe and forwarded that Statement to the Archdiocese of Military Services, USA. In that Statement, the senior official asserted that Father Doe was "of good character and reputation . . . and qualified to minister in an effective and suitable manner as a military chaplain. . . [and] I am unaware of anything in his background which would render him unsuitable to work with minor children.'"

5. In or about June 1998, Father Doe executed a "confidential questionnaire" issued to him by the Archdiocese of Military Services, USA, in which he falsely claimed that he had never been accused of sexual misconduct and had never been the subject of any investigation regarding sexual misconduct.

6. In or about September and November, 1998, the Archdiocese of Military Services, USA, acting on the recommendation of the Archdiocese of Boston and Father Doe's written statements, sent to the Department of Veterans Affairs an Ecclesiastical Endorsement, certifying that Father Doe was a priest in good standing in the Roman Catholic Church and was suitable for employment by the United States of America.

7. In or about December 1998, on the representations of the Archdiocese of Military Services, USA, Father Doe was hired by the Veterans Administration as a chaplain at a Department of Veterans Affairs medical facility. Father Doe became an employee of the United States government and his salary and benefits were paid for by the United States Department of the Treasury.

8. As a condition of his employment with the Department of Veterans Affairs, Father Doe was subject to an independent background investigation by the United States Office of Personnel Management. The Office of Personnel Management sought adverse information about Father Doe from the Archdiocese of Boston by sending a form labeled "INV Form 41" to the Personnel Office at the Archdiocese of Boston. The Office of Personnel Management also sought adverse information about Father Doe directly from his former supervisor at the Archdiocese of Boston by sending a form directly to a Bishop in a senior management position at the Archdiocese of Boston.

9. On or about April 21, 1999, a priest authorized by the Archdiocese of Boston to respond to the United States of America on behalf of the Office for Clergy Personnel in the Archdiocese of Boston executed the INV Form 41. In that form, the priest certified that the Archdiocese had no adverse information about Father Doe. The priest did not review the secret file maintained by the Archdiocese on Father Doe in which there was such adverse information. Indeed, despite being authorized to respond to the United States of America, the priest did not know that such secret files existed at the time he completed the INV Form 41 for Father Doe.

10. On or about May 12, 1999, a Bishop executed an INV Form 41 issued to him by the United States of America. In that form, the Bishop falsely certified that the Archdiocese of Boston had no adverse information about Father Doe. At the time and previously, the Bishop had access to the secret file regarding Father Doe.

11. In or about June 1999, during his employment as a chaplain with the Department of Veterans Affairs, Father Doe sought permission from a local archdiocese to reside and perform part-time ministry at a parish near the Veterans Affairs facility at which Father Doe was employed. That parish included an elementary school. Prior to approving this arrangement, the local archdiocese sought assurances from the Archdiocese of Boston that Father Doe was a suitable candidate to live in such a parish. On or about June 7, 1999, a Bishop with the Archdiocese of Boston completed a Request for Faculties which falsely stated:

I have reviewed the personnel file and other records that we maintain . . . Based

on this review, I assure you to the best of my ability that [Fr. Doe] is a person of good moral character and reputation . . . [Fr. Doe] has . . . manifested no behavioral problems in the past that would indicate that he might deal with minors in an inappropriate manner . . . never been involved in an incident or exhibited behavior which called into question his fitness or suitability for priestly ministry due to alcohol, substance abuse, sexual misconduct or other causes . . . no other particular mental or physical attribute, condition, and/or past situation which would adversely affect performance of his sacred ministry.

The Request for Faculties was transmitted to the local archdiocese. As a result of this certification, Father Doe was permitted to live in the parish rectory and perform a limited ministry there.

12. In or about May 2000, new allegations of sexual misconduct were made against Father Doe. The Archdiocese of Boston recalled Father Doe, and suspended his ministry pending an investigation. Neither Father Doe nor the Archdiocese of Boston informed Father Doe's supervisor at the Veterans Affairs facility that his faculties as a priest had been suspended. In fact, Father Doe falsely represented that his faculties as a priest had not been suspended, and recommenced his ministry at the Veterans Affairs facility before his faculties as a priest were restored. The new allegations were found unsubstantiated by the Archdiocese of Boston's Review Board, and no criminal charges were subsequently filed against Father Doe. However, the Review Board made specific recommendations regarding mental health treatment and monitoring of Fr. Doe. None of those recommendations were implemented by the Archdiocese of Boston.

13. The U.S. Attorney alleges that the Archdiocese of Boston committed a violation of 18 U.S.C. §1001 as set forth in the previous paragraphs.

14. The Archdiocese of Boston disputes that there is a legal or factual basis for a false statement charge against the Archdiocese of Boston and denies that any violation of law has occurred.

NOW THEREFORE, for good and valuable consideration, it is hereby agreed by the U.S. Attorney and the Archdiocese of Boston that:

A. Protocol Pertaining to the Transfer of RCAB Priests into Federal Service

1. By January 31, 2006, the RCAB will submit to the U.S. Attorney, for his review and approval, a detailed protocol on: (i) the specific types of information that will be submitted by the RCAB to all federal authorities and the Archdiocese of Military Services, USA as part of a priest's application for federal employment; (ii) the entities to which such information is to be submitted, and a timeline for submitting such information; and (iii) a sub-protocol to address information/allegations which arise or become known while the priest is in federal service. The

protocol will be consistent with Paragraphs 2 and 3 of this Agreement.

2. The RCAB will provide information on any priest of the Archdiocese of Boston who applies for or is assigned to federal service (whether full-time, part-time, intermittent, fee based, or contract), including, but not limited to, the U.S. Military, the Department of Veterans Affairs and the Federal Bureau of Prisons. Such information shall include, without limitation:

- a) any information regarding the priest's known or alleged behavior that would indicate that he might deal with minors in an inappropriate manner;
- b) any information that calls into question his fitness or suitability for priestly ministry due to alcohol, substance abuse, sexual misconduct or other causes;
- c) any information regarding an accusation or investigation of sexual misconduct, regardless of the outcome of the allegation or investigation; and
- d) any information regarding a priest's known or alleged: arrests, violations of law, financial dishonesty, misuse or abuse of alcohol and/or drugs, mental or emotional instability, dishonesty, untrustworthiness, or other relevant behavior.

The information provided shall be in sufficient detail for the United States to perform an independent evaluation of information.

3. The information outlined in Paragraph 2 of this Agreement shall be submitted to the U.S. Attorney by January 31, 2006, for each priest of the Archdiocese of Boston currently serving in federal service. With respect to new candidates, such information shall be submitted:

- a) to the Archdiocese for Military Services, USA at the time the priest applies for a chaplain's position and seeks an Ecclesiastical Endorsement;
- b) to the agency or department considering the priest's application at the time of his application; and
- c) to the Office of Personnel Management or other entity in response to a request for background information on a candidate or newly hired chaplain.

4. If an allegation of misconduct becomes known to the Archdiocese of Boston during a priest's tenure in federal service, in addition to applicable reporting requirements under federal and state law, within 10 days of receiving such an allegation, the RCAB shall provide a complete written statement of that allegation to the priest's immediate federal supervisor, to the federal personnel office responsible for the priest's personnel file, the U.S. Attorney's Office, and the Archdiocese of Military Services, USA. If a priest is placed on restricted or suspended ministry, has his faculties suspended, restricted or revoked, or has his Ecclesiastical Endorsement suspended or revoked, the RCAB shall provide written notice of such action within 48 hours to the priest's immediate federal supervisor, to the federal personnel office responsible for the priest's personnel file, the U.S. Attorney's Office, and the Archdiocese of Military Services, USA.

5. The RCAB shall implement the final protocol submitted and approved pursuant to Paragraph 1 of this Agreement. That protocol shall be made available to the public.

6. The RCAB will, for a period of three years commencing on January 31, 2006, submit an annual written report to the U.S. Attorney identifying the names and assignments of all Archdiocese of Boston priests designated for federal service in the previous calendar year, as well as a report documenting when and to whom information was provided under the protocol.

B. Reporting of Federal Crimes

7. The RCAB shall report in writing to the Chief of the Public Corruption and Special Prosecutions Unit at the U.S. Attorney's Office and the supervisor of the Civil Rights and Public Corruption Desk at the Boston Office of the Federal Bureau of Investigation any suspected or alleged violations of federal criminal law involving the abuse or exploitation of children (persons under 18 years of age) including violations of 18 U.S.C. §§ 1460-1466, 1470, 1591, 2251- 2252A, 2260, 2421-2423, and 2425, within 48 hours of learning of such suspected violations. The RCAB shall cooperate fully in the investigation of such reported incidents.

8. This reporting shall be in addition to the RCAB's obligation to report suspected incidents of child abuse and neglect to state authorities pursuant to M.G.L.c. 119 §51A, and to comply with the letter agreement dated March 1, 2002, reached with the Attorney General of the Commonwealth of Massachusetts and other law enforcement authorities.

9. By March 31, 2006, the RCAB will submit to the U.S. Attorney for review and approval, a proposed training module regarding the reporting of federal crimes by RCAB personnel. The training module will address: (a) the scope and meaning of the criminal statutes identified in Paragraph 7 of this Agreement; and (b) procedures to be followed in the event that any RCAB personnel discover information concerning a suspected violation of one of these statutes. By June 30, 2006, the RCAB will certify in writing to the U.S. Attorney that these training materials have been distributed to all Archdiocesan personnel who have been trained concerning reporting of potential violations of state criminal laws, and will incorporate instruction on these federal crimes into all future training sessions for new personnel.

C. Continuing and Enhanced U.S. Conference of Catholic Bishops (USCCB) Audits

10. Through its Office of Child and Youth Protection, an independent auditor retained by the USCCB conducted an annual audit in 2003 and 2004 of the RCAB's compliance with the provisions of the USCCB's Charter for the Protection of Children and Young People. Pursuant to USCCB policies, as a result of its performance on the 2004 audit, the RCAB is exempt from being required to submit to a complete annual audit in 2005. The RCAB agrees to submit voluntarily to a full annual audit by the independent auditor retained by the USCCB in

each of the next three years. As part of the 2006 and 2007 audits, the RCAB agrees that it will contract with the independent auditor to audit the implementation of the RCAB's Policies and Procedures for the Protection of Children at the parish and school level, to determine whether those policies and procedures are being fully implemented at these levels throughout the Archdiocese. These audits shall include, at a minimum, interviews with pastors, principals, teachers, members of the CAP teams, parents, and parishioners in a representative sample of parishes and schools. To the extent that the 2006 audit reveals that the Policies and Procedures for the Protection of Children have not been fully implemented at the parish/school level, that audit shall make specific recommendations to be undertaken before the 2007 audit, including an identification of those parishes/schools which have not fully implemented the RCAB's policies and procedures.

11. The RCAB will provide the completed audit instruments and final audit reports of the 2005, 2006, and 2007 USCCB annual audits to the U.S. Attorney within thirty (30) days after they are received by the RCAB. The RCAB has permitted the U.S. Attorney to interview the outside auditor who directed the 2003 and 2004 audits of the RCAB. The RCAB further agrees that it will allow the U.S. Attorney to interview the outside auditor who directs the USCCB audits in each of the following audit years. In addition to making the executive summary of the audits publicly available, the RCAB shall make the complete 2006 and 2007 parish and school level final audits publicly available.

12. The final 2005 USCCB audit shall be completed and issued by February 1, 2006. The final 2006 USCCB audit (including the parish/school level enhancement) shall be completed and issued by February 1, 2007. The final 2007 USCCB audit (including the parish/school level enhancement) shall be completed and issued by February 1, 2008.

D. IOAC and Review Board Audits and Recommendations

13. The Archdiocese of Boston has designated the primary task of overseeing the implementation of its Policies and Procedures for the Protection of Children to two boards made up of professionals with expertise in child protection and advocacy, community representatives and representatives of the Archdiocese: the Implementation and Oversight Advisory Committee ("IOAC") and the Review Board. The primary mission of the IOAC is to assist and advise the RCAB's Director of the Office of Child Advocacy, Implementation and Oversight in maintaining oversight of how existing Archdiocese of Boston policies, procedures, and practices are implemented and evaluated, and performing periodic assessments of the effectiveness of the RCAB's policies and procedures. The primary mission of the nine-member Review Board is to assess complaints of child abuse by a cleric.

14. The IOAC, in conjunction with the Review Board, is currently completing the first formal assessment of the implementation of the RCAB's Policies and Procedures for the Protection of Children. That assessment shall be a candid and in-depth look at the success of the implementation of the Policies and Procedures, from the Chancery to the parish/school level, and

shall include specific and detailed recommendations for improvement. The July 26, 2005 draft of the first phase of that assessment was provided to the U.S. Attorney. Between this draft and the proposed final assessment, the Archdiocese will take steps to ensure that all parishes and schools respond to the surveys and questions posed by the IOAC/Review Board in preparation for the final assessment. The final assessment, which shall include a summary of all recommendations made in the July 26, 2005 draft, will be made publicly available by March 31, 2006.

15. By May 31, 2006, the IOAC/Review Board will develop and make publicly available a schedule for continuous quality improvement, specifying which portions of the implementation of the Policies and Procedures for the Protection of Children shall be assessed and improved in each six month period for a three year period. That schedule shall include a status update, no less than every six months, which summarizes the Archdiocese's progress on implementing the recommendations made by the IOAC/Review Board in March 2006, and developments in continuous quality improvement. Each summary report shall be made publicly available, through posting on the Archdiocese Internet site or other means.

16. The RCAB will continue to facilitate access to members of the IOAC to discuss the completed final assessment report, and the development of the continuous quality improvement schedule.

E. Effectiveness Assessment of Child Abuse Prevention Programs

17. The RCAB's Office of Child Advocacy, Implementation and Oversight("OCA"), in conjunction with the IOAC, shall continue to examine and prepare methods for measuring the effectiveness of the RCAB's policies and procedures designed to protect children from abuse. The OCA and the IOAC will oversee this effort, provide technical support, and will augment the current involvement of representatives from the academic, research and business communities.

18. The U.S. Attorney and the RCAB recognize the need for the development of a methodology for evaluating the effectiveness of multi-faceted programs -- such as that being implemented by the RCAB -- aimed at the protection of children from abuse and exploitation in educational and religious settings. Over a two year period the RCAB shall develop a methodology for measuring the effectiveness of such programs, pilot the essential elements of this methodology in assessing the RCAB's Policies and Procedures for the Protection of Children, and make its work product in this area available without costs to others. The RCAB shall coordinate its efforts with the USCCB. Among the steps the RCAB shall take in this area:

- a) By January 1, 2006, the RCAB shall form an IOAC subcommittee, or other group, specifically tasked with the preparation of a methodology for measuring the effectiveness of multi-faceted programs for the protection of children;
- b) This subcommittee or group will consist of the Director of the OCA, selected members of the IOAC, as well as experts drawn from higher education, child advocacy organizations, government, the USCCB, private industry and other relevant professions or

agencies;

c) By March 31, 2006, the subcommittee shall develop and make publicly available an action plan for preparing such a methodology, including a budget, specific deliverables and timeline, and assignment of responsibilities to meet the goals plan. The action plan will call for the preparation of a methodology by March 31, 2008, and shall require publicly available status updates every six months;

d) If consistent with the action plan, the subcommittee will host one or more conferences or forums to convene leaders from higher education, advocacy, business, government, the USCCB and other dioceses to study and discuss best practices and innovations in the study of the effectiveness of programs implemented to protect children from abuse. At the conclusion of each conference/forum, the committee will make publicly available a summary of the results of each such conference; and

e) If consistent with the action plan, the subcommittee will seek supplemental funding for its efforts through grant applications and other means.

19. The RCAB agrees to provide or obtain funding of at least \$100,000 to commence the work of this subcommittee, and to provide or obtain additional funding to complete the work of the subcommittee. An inability to obtain funding from outside sources shall not be grounds for a delay in the completion of the work of the subcommittee. The funds used to commence this effort shall not be taken from those funds necessary to carry out the implementation of the RCAB's Policies and Procedures for the Protection of Children, and shall be used to further the work of the committee, including but not limited to funding grant applications, graduate student work, research projects and conferences.

20. By March 31, 2008, the Archdiocese will make publicly available a final report summarizing the work of the subcommittee or group in this area, including its conclusions with respect to a methodology for measuring the effectiveness of a multi-faceted program for the protection of children from abuse and exploitation. This methodology shall be published in a form that is widely available, such as an Internet web site, and is of practical use in evaluating such programs.

F. Waiver of Limitations

21. The RCAB is subject to prosecution for possible criminal violations, including violations of Title 18, United States Code, §1001.

22. The applicable statute of limitations for such an offense is ordinarily five (5) years. The statute of limitations in this case has already been extended beyond five years pursuant to tolling agreements dated May 11, 2004, July 21, 2004, October 15, 2004, December 14, 2004, February 14, 2005, May 4, 2005 and August 24, 2005 and October 26, 2005.

23. The RCAB further agrees, with respect to any possible criminal violations of Title 18, United States Code, not barred by the statute of limitations as of May 7, 2004, to an extension

of the statute of limitations for such charges until April 15, 2008. Should any such charges under Title 18, United States Code, be filed against the RCAB prior to April 15, 2008 relating to Father Doe's application for a position as a chaplain with the United States Department of Veterans Affairs, the RCAB agrees to waive any and all defenses based upon the expiration of the statute of limitations.

24. At any time between the execution of this Agreement and April 15, 2008 (or a date extended under Paragraph 25 of this Agreement), the U.S. Attorney may commence criminal prosecution of the Archdiocese of Boston for any offense tolled by this Agreement, if the U.S. Attorney concludes that the Archdiocese of Boston has materially breached this Agreement. The determination whether the Archdiocese of Boston has materially breached this Agreement rests solely in the discretion of the U.S. Attorney. Should the U.S. Attorney determine that the Archdiocese of Boston is in material breach of this Agreement, the U.S. Attorney shall provide written notice of such determination to the Archdiocese of Boston, and shall provide the Archdiocese of Boston with a three week period in which to make a presentation to the U.S. Attorney to demonstrate that no such breach has occurred or to cure the reported breach. The U.S. Attorney's final determination and exercise of discretion under this paragraph is not subject to review in any court or tribunal. Those provisions of this Agreement which toll the statute of limitations shall be severable from the remainder of this Agreement and will continue in full force and effect in the event the U.S. Attorney determines that the Archdiocese of Boston has materially breached this Agreement.

25. In the event that any report or document required to be made publicly available or provided to the U.S. Attorney under this Agreement is more than 30 days late, the statute of limitations waiver set forth in Paragraph 23, shall be automatically extended by the number of days late. If the U.S. Attorney provides written notice of a material breach as set forth in Paragraph 24, the statute of limitations waiver set forth in Paragraph 23 shall be automatically extended by three weeks. In no event shall the operation of this paragraph toll the statute of limitations beyond December 31, 2008.

G. General Provisions

26. A copy of any document to be made publicly available under this Agreement shall be provided to the U.S. Attorney's Office at the same time it is made publicly available.

27. This document shall constitute the entire agreement between the parties. The parties agree that this Agreement may be executed by counterpart signature pages. This Agreement shall be final and binding only upon signing by both parties hereto.

28. The signatories to this Agreement on behalf of the RCAB represent that they have the full power and authority to enter into this Agreement and to perform the obligations set forth herein.

29. Neither this Agreement as a whole, nor any of the contents of this Agreement shall constitute an admission of facts or an admission of guilt or liability of any kind by the RCAB, nor does this Agreement constitute a fine, punishment or other punitive action.

IN WITNESS WHEREOF, the United States of America, by its attorneys, and Roman Catholic Archbishop of Boston, A Corporation Sole, individually, and by its attorney, hereby execute this agreement as of the dates hereinafter set forth.

11-17-05
Date

[Redacted Signature]

MICHAEL J. SULLIVAN
United States Attorney

[Redacted Signature]

JOHN T. McNEIL
Assistant U.S. Attorney

11/17/05
Date

THE ROMAN CATHOLIC ARCHBISHOP OF
BOSTON, A CORPORATION SOLE

[Redacted Signature]

The Most Rev. SEAN P. O'MALLEY OFM Cap
Archbishop of Boston

11/17/05
Date

[Redacted Signature]

Counsel to the Roman Catholic Archbishop
of Boston, a Corporation Sole