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Papal butler could face six years in Italian prison if found guilty

by Cindy Wooden by Carol Glatz by Catholic News Service

VATICAN CITY -- Paolo Gabriele, the papal assistant, has been accused of aggravated theft, a crime that under Vatican laws is punishable with a prison term of 1 to 6 years, a Vatican judge said.

Paolo Papanti-Pelletier, the judge, said under the terms of the Vatican's 1929 treaty with Italy, a person found guilty and sentenced to jail time by a Vatican court would serve his term in an Italian prison.

The judge also said that while Gabriele remains detained in a 12-foot-by-12-foot room in the Vatican police station, he was allowed to attend Mass June 3 in an unspecified "Vatican church." Two gendarmes accompanied Gabriele to the church, but he was not required to wear handcuffs, the judge said.

The judge briefed reporters June 5 on how the Vatican criminal justice system works, particularly in view of the investigation currently under way regarding Gabriele and his alleged involvement in the publication of hundreds of private letters and notes to or from Pope Benedict XVI and top Vatican officials.

Life inside the Vatican is regulated by the Code of Canon Law, but also by a set of civil and penal laws and processes adopted from Italian law and partially adapted to fit Vatican circumstances, he said.

Papanti-Pelletier said that after an initial investigation by the Vatican gendarmes led to Gabriele's arrest May 23, the butler was questioned by a Vatican investigative judge and formally accused of aggravated theft. A more formal questioning of the suspect by the investigating judge, Piero Antonio Bonnet, began June 5, said Papanti-Pelletier, who has not been involved directly in the case.

While the investigating judge serves as the chief investigator, whose responsibilities include questioning witnesses, he must also make the critical determination of whether there is enough evidence to bring the

accused to trial. If he decides there is not, the case is dismissed. Otherwise, he formally indicts the accused.

Papanti-Pelletier said there are several factors that make a theft "aggravated" under Vatican law. The first is that the person committing the crime steals from someone with whom he had a relationship of trust. A second factor would be if the accused worked with another person to commit the crime.

If two or more aggravating factors are found to be present, Papanti-Pelletier said, the possible prison term would be from 2 to 8 years. Additional charges -- like receiving stolen goods or revealing state secrets -- could be added as the formal questioning proceeds, he said.

The initial questioning stages of the investigation are conducted behind closed doors to protect the privacy and reputation of the accused and to "guarantee the rights of others who may be implicated," the judge said.

However, he said, if the case goes to trial, the hearings in the Vatican's Tribunal Palace, behind St. Peter's Basilica, would be open to the public and the press. However, he added, the courtroom is not enormous, so only a limited number of people could get in.

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The public trial would be held before three judges, just as Italian trials are, he said. There is no jury of one's peers.

While all witnesses testifying at the trial take a formal oath to tell the truth, Papanti-Pelletier said under Vatican law a defendant is not asked to swear to tell the truth and he may refuse to answer questions on the grounds that the response could incriminate him.

Papanti-Pelletier said that while the Vatican has no jail, it does have four "secure cells" -- the 12-by-12 rooms, which are equipped with a bed, desk and bathroom. There is a crucifix on the wall, but no television. And those detained eat the same meals prepared for the gendarmes on duty.

According to Vatican law, a person accused of a crime can be detained for 50 days before being formally indicted and the period can be extended another 50 days if the investigation is deemed sufficiently complex, he said. While the Vatican code does not speak specifically of "house arrest," it does say the accused could be detained anywhere on Vatican property, so it is possible the 46-year-old Gabriele eventually could return to his Vatican apartment with his wife and three children.

Papanti-Pelletier said Pope Benedict XVI can intervene at any time to halt the process and release or forgive the accused, although it would be unusual for a pope to intervene before the investigatory phase has been completed.

The judge said the investigatory phase is taking time because of the amount of documents that have been leaked and because Vatican investigators are still determining whether or not all of them are authentic.

Papanti-Pelletier said Vatican law treats all laypeople, religious and clergy equally, unless they are cardinals. "Princes of the church can only be judged by their peers," which would be the Vatican's supreme court. The president of the three-member court is U.S. Cardinal Raymond L. Burke and the members are French Cardinal Jean-Louis Tauran and Italian Cardinal Paolo Sardi.

A note from Cardinal Burke to Cardinal Tarcisio Bertone, Vatican secretary of state, was among leaked documents published by Italian newspapers after Gabriele was arrested. The cardinal's letter, published June 3, complained about reports that the pope was going to confirm the unique liturgical practices of the Neocatechumenal Way; in the end, the pope approved some of the movement's prayer services, but not their Mass. On the top of the leaked letter, in Pope Benedict's handwriting, is a note saying the letter should be returned to Cardinal Bertone, who should consult with Cardinal Burke.

On June 4, Cardinal Bertone told Italian state television that the leaks were "attacks," which he described as "carefully aimed" and as "ferocious, destructive and organized."

Jesuit Father Federico Lombardi, Vatican spokesman, told reporters June 5, "With the large number of documents that already are out there, we should not be surprised that there are more in circulation and that they are being used to maintain the tension or keep attention on this matter."

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