

# Bishop Accountability

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## Text of settlement agreement

Following is the text of the settlement agreement between Paul J. Marcoux, Archbishop Rembert Weakland and the Archdiocese of Milwaukee.

Milwaukee Journal Sentinel

<http://www.jsonline.com/news/metro/may02/45573.asp>

## SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Settlement and General Release Agreement (hereafter "Agreement") is made by and between Paul J. Marcoux, (hereafter "Marcoux"), the Archdiocese of Milwaukee (hereafter "Archdiocese"), Archbishop Rembert Weakland, both individually and as representative of the Archdiocese (hereafter "Archbishop"), and all of the affiliated personnel and entities of the Archdiocese.

WHEREAS, Marcoux alleges certain claims against the Archdiocese and the Archbishop, including, without limitation, intentional interference with contractual relations, breach of fiduciary duty and trust; reckless hiring, retention, supervision, and training; sexual assault and battery; and intentional infliction of emotional distress; and

WHEREAS, the Archdiocese and the Archbishop deny Marcoux's claims, and there is a dispute between the parties; and

WHEREAS, the parties to this Agreement wish to settle and compromise all claims of Marcoux against the Archdiocese, the Archbishop, and all the Archdiocese's employees, agents, officers, directors and assigns and affiliated and successor corporations and individuals, including, without limitation, all members of the Roman Catholic clergy and all parishes, schools and religious orders, and any person or entity affiliated with the Roman Catholic Church, whether in the territory of the Archdiocese or otherwise, anywhere in the world, including, without limitation, the Benedictine order, the Benedictine Confederation, and all Abbeys, Pories, and personnel wherever located who belong to or are affiliated in any respect with the Benedictine Order or the Benedictine Confederation, (hereafter collectively referred to as "the Released Parties"), without the necessity of formal litigation and expense, and all parties wish to generally release one another from all liability for any claims that may exist to the date of the signing of this Settlement Agreement;

NOW, THEREFORE, in consideration of the mutual promises herein provided and other valuable consideration, receipt of which is hereby acknowledged, the parties to this Agreement hereby agree as follows:

1. The Archdiocese and the Archbishop jointly agree to pay to Marcoux the total sum of \$450,000, receipt of which is hereby acknowledged. All parties will bear their own costs and attorneys fees associated with this settlement. Paul J. Marcoux agrees that the payment of \$450,000 referenced in this paragraph will be complete, and will be satisfied, when these settlement funds are wire transferred into the following account at the head office of the Bank of Montreal, Quebec, Canada.

(account number deleted by the Journal Sentinel)  
Brent D. Tyler in Trust for Paul Marcoux

Paul J. Marcoux specifically agrees and acknowledges that receipt of the funds in that account constitutes receipt of the funds by him.

2. In return for the payment in paragraph 1 above, and for the mutual promises contained herein, and for other good and valuable consideration, receipt of which is hereby acknowledged, Paul J. Marcoux agrees to release and forever discharge the Archdiocese and Archbishop Rembert Weakland, both individually and as representative of the Archdiocese, and all the Archdiocese's and the Archbishop's employees, agents, officers, directors and assigns, and affiliated and successor corporations and individuals, including, without limitation, all members of the Roman Catholic Clergy, and all parishes, schools, and religious orders anywhere in the world, and any person or entity affiliated with the Roman Catholic Church anywhere in the world, including without limitation the Benedictine Order, the Benedictine Confederation, and all Abbeys, Pories, and personnel wherever located who belong to or are affiliated in any respect with the Benedictine Order or the Benedictine Confederation, and all Released Parties from, and covenants not to sue them for, all claims, causes of action, charges and demands, whether in tort, contract, or otherwise, of any nature that Marcoux may have had at any time up to and including the date of signing of this Agreement, including without limitation any claim of any nature arising from any intentional or negligent interference with contractual relations; breach of fiduciary duty and trust; reckless hiring, retention, supervision and training; sexual assault and battery; intentional infliction of emotional distress; and any other claim

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of any nature.

3. It is hereby understood and agreed that this Agreement is intended to constitute a full and final release by Paul J. Marcoux of all of his claims of any nature against the Archdiocese and the Archbishop, both individually and in his capacity as representative of the Archdiocese and all Released Parties and all their affiliated and successor personnel and corporations. Pursuant to this Agreement, the Archdiocese and the Archbishop and all Released Parties are, and shall be, discharged from any and all liability whatsoever.

4. Paul J. Marcoux further agrees and covenants not to sue the Archdiocese, the Archbishop, both personally and in his official capacity, and any of the Released Parties, for any reason and for any claim in the future.

5. The Archbishop and the Archdiocese hereby release and forever discharge Paul J. Marcoux from all claims, demands, and causes of action of any nature that they may have had that were in existence up to and including the date of the signing of the Agreement.

6. Paul J. Marcoux agrees to return the originals and all copies of any correspondence or other document that he has received at any time from anyone connected with the Archdiocese of Milwaukee, including, without limitation, Archbishop Rembert Weakland. Paul J. Marcoux further represents that he has retrieved all copies of any such correspondence and other documents from any individuals, including lawyers, to whom he has previously given them, and that all copies of these correspondence and documents are being returned in connection with this Agreement. Paul J. Marcoux further agrees to turn over to counsel for the Archdiocese, at the meeting where signed originals of this Agreement are exchanged, (hereafter "the Closing"), all of the above-mentioned correspondence and documents. Paul J. Marcoux further agrees to turn over to the counsel for the Archdiocese at the Closing all copies of any correspondence or other documents that he himself has sent to anyone connected with the Archdiocese of Milwaukee, including, without limitation, Archbishop Rembert Weakland, and he further represents that he has retrieved all copies of any such correspondence and other documents from any individuals, including lawyers, to whom he has previously given them, and that all copies of such correspondence and documents are being returned in connection with this Agreement. Paul J. Marcoux further agrees to turn over at the Closing the original and all copies of any draft complaints, pleadings, affidavits, and other documents and tapes, prepared by him or his counsel, or by or for potential expert or lay witnesses in connection with his claim against the Archdiocese and the Archbishop, and further represents and agrees that he has retrieved all copies of such documents in the possession of any individuals, including lawyers, who may have them, and has returned all such documents and copies to the counsel for the Archdiocese at the Closing.

7. As a condition precedent to the payment of the sum set out in paragraph 1, Paul J. Marcoux agrees not to publish and not to disclose to any third party, including, without limitation, any newspaper, any electronic media, reporters, and any other individual, or to release for publicity any of the allegations which he has made against the Archdiocese and the Archbishop, and the terms of this Agreement. Paul J. Marcoux understands and agrees that the confidentiality required in this Agreement is material consideration for the payment to be made pursuant to this Agreement, and in the event that he breaches this confidentiality requirement, upon such a finding by an arbitrator pursuant to paragraph 9 below, he will return to the Archdiocese all sums paid to him under this Agreement.

8. The parties agree that this Agreement is not an admission of liability on the part of any party.

9. There is a dispute among the parties as to the veracity and good faith of the claims asserted by Paul J. Marcoux. Paul J. Marcoux, the Archdiocese and the Archbishop, both individually and as representative of the Archdiocese, further agree that in the event of any further dispute between them or involving the Released Parties after the signing of this Agreement, whether arising from the Agreement itself, or by any claims alleged by Paul J. Marcoux based on events occurring after the signing of the Agreement, they will resolve any and all such claims on the following basis. Any claim asserted by any party arising after the signing of the Agreement will be arbitrated in accordance with the rules and procedures of the American Arbitration Association in New York City. The parties agree that in the event of any further claim by Paul J. Marcoux against the Archdiocese or the Archbishop, whether personally or as a representative of the Archdiocese, or the Released Parties, he will first inform Attorney Matthew J. Flynn of the law firm of Quarles & Brady, privately and confidentially about that claim. He will direct his communication to Mr. Flynn at the following address:

Matthew J. Flynn, Esq.  
Quarles & Brady  
411 East Wisconsin Avenue  
Milwaukee WI 53202

In the event that Mr. Flynn is no longer at the firm of Quarles & Brady, Paul J. Marcoux agrees that he will direct such communication as follows:

Chairman, Management Committee  
Quarles & Brady

411 East Wisconsin Avenue  
Milwaukee WI 53202

10. Paul J. Marcoux agrees that he will have no further contact or communication with the Archdiocese or the Archbishop, other than as set out above. In the event that the claim is not resolved, Paul J. Marcoux agrees that he will submit the claim for binding arbitration to the American Arbitration Association in New York City. Paul J. Marcoux further agrees that any such claims will be governed by the confidentiality provision of paragraph 7 above. He further agrees that any documents or materials filed in connection with such arbitration will be confidential, and he agrees not to disclose them to any third party, including, without limitation, any newspaper, any electronic media, reporters, and any other individual, or to release for publicity any future claims made against the Archdiocese or the Archbishop. The parties further agree that the arbitrator on such a claim will award the prevailing party his reasonable attorney's fees, along with costs and disbursements.

11. Paul J. Marcoux further represents and agrees that he has instructed all counsel and expert witnesses that he has consulted in connection with his claims against the Archdiocese and the Archbishop, to observe the confidentiality provisions set out in paragraph 7 above.

12. This writing is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms and conditions of their agreement.

13. This Agreement may be modified or rescinded only by a writing signed by all of the parties or their duly authorized agents.

14. In witness of this Agreement, we have signed our names on the dates respectively set out below.

Date: Oct. 8, 1998  
Paul J. Marcoux  
In presence of:  
(signature of Brent D. Tyler)

Date: Oct. 6, 1998  
Archbishop of Archdiocese of  
Milwaukee, both individually and in  
his capacity as representative of  
the Archdiocese

In presence of:  
(signature of Matthew J. Flynn)

#### AFFIDAVIT

I, the undersigned, Brent D. Tyler, attorney, exercising my profession at 83 St-Paul W., Montreal, Quebec, H2Y 1Z1, after having been duly sworn, do declare and say:

1. In August 1997, I was retained by Paul Marcoux in connection with a claim for sexual abuse against Archbishop Rembert Weakland of the Archdiocese of Milwaukee;

2. By letter dated August 29, 1997, I wrote to Archbishop Weakland to advise him of my client's claim and to invite him to instruct local counsel to enter into negotiations with a view to concluding a settlement of said claim; a copy of said letter is annexed hereto as Exhibit A;

3. On or about September 8, 1997, I received a telephone call from Attorney Matthew J. Flynn, of the firm Quarles & Brady, Milwaukee, requesting that I provide a copy of my client's letter to Archbishop Weakland dated July 20, 1997, to which my letter dated August 29, 1997 referred;

4. By letter dated September 8, 1997, I wrote to Attorney Flynn and provided him with a copy of my client's letter dated August 29, 1997; copies of both letters are annexed hereto as Exhibit B;

5. By letter dated September 12, 1997, Attorney Flynn provided copies of certain cases recently decided by the Supreme Court of Wisconsin and advised that he would call me upon receipt of my client's letter dated July 20, 1997; a copy of said letter is annexed hereto as Exhibit C;

6. On or about October 6, 1997, Attorney Flynn telephoned me and during the course of our telephone conversation, he mentioned on several occasions that if my client filed civil proceedings in Milwaukee, then his

client would lay criminal charges for extortion with the District Attorney of Milwaukee against both my client and myself, on the grounds that my client's claim was statute-barred; he also mentioned that that he had discussed the matter with the District Attorney and that the District Attorney shared his view that the filing of civil proceedings by my client would constitute the felony of extortion;

7. By letter dated October 20, 1997, I advised Attorney Flynn of my client's position that his claim was not statute-barred until a judge said that it was and I suggested that if the District Attorney was prepared to confirm in writing his understanding of the applicable law, then my client would certainly have to re-examine his position in this regard; a copy of said letter is annexed hereto as Exhibit D;

8. By letter dated October 28, 1997, Attorney Flynn acknowledged receipt of my letter dated October 20, 1997 and stated that he did not believe that my letter fully or accurately set out all the matters that we had discussed; he did not provide further particulars of the alleged inaccuracies; a copy of said letter is annexed hereto as Exhibit E;

9. On at about November 6, 1997, I telephoned Attorney Flynn with my client listening in, but not speaking: during the course of my conversation with Attorney Flynn, he reiterated his threat that if my client filed civil proceedings in Milwaukee, then his client would lay criminal charges for extortion with the District Attorney of Milwaukee against both my client and myself;

10. I responded, as I had done before, that his attempt to obtain an advantage in a civil dispute by making threats of criminal proceedings was itself the crime of extortion under the Criminal Code of Canada;

11. I demanded of Attorney Flynn, as I had done before, that he cease making threats of filing criminal charges or my client would not participate in any further negotiations;

12. Further negotiations took place between Attorney Flynn and myself, but they did not result in a settlement;

13. On or about November 26, 1998, my client retained Attorney Robert L. Elliott, of the firm, Hausmann-McNally, Milwaukee, with a mandate to continue negotiations with Attorney Flynn;

14. On or about December 18, 1998, I was advised by Attorney Elliott that Attorney Flynn had repeated the threat of filing criminal charges against him, my client and myself;

15. In particular, Attorney Elliott advised me that Attorney Flynn had informed him of a discussion Attorney Flynn had had with the District Attorney of Milwaukee, during which the District Attorney indicated that that if my client filed civil proceedings in Milwaukee, then criminal charges for extortion would be laid against Attorney Elliott, my client and myself;

16. Attorney Elliott further advised me that, given the nature of my client's allegations against Archbishop Weakland and statements made by Attorney Flynn, he feared that his representation of my client would have a negative impact on his family and his relationship with his partners and would affect his ability to continue to practice law in Milwaukee;

17. The facts alleged in this, my affidavit, are true;

AND I HAVE SIGNED,

BRENT D. TYLER

SWORN before me at Montreal,  
the 6th day of July 1998.

(signature of Commissioner of Oaths)

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June 1, 2002

## Apology Cites 'Contrition, Shame and Emptiness'

Following is an excerpt from the apology that Archbishop Rembert G. Weakland of Milwaukee offered yesterday, as posted on the Web site of The Milwaukee Journal Sentinel. A full transcript is online at [nytimes.com/national](http://nytimes.com/national).

I come before you today to apologize and beg forgiveness. I know, and I am sure you do too, that the church to be authentic must be a community that heals. But I also know, and you do too, that there is no healing unless it is based on truth. In my remarks I will do my best.

I apologize to all the faithful of this archdiocese which I love so much, to all its people and clergy, for the scandal that has occurred because of my sinfulness. Long ago, I placed that sinfulness in God's loving and forgiving heart, but now and into the future I worry about those whose faith may be shaken by my acts.

The early church was wise to declare that God can use imperfect instruments to build the kingdom and that the effectiveness of the sacraments does not depend on the holiness of the minister. For me that thought brings some, though meager, consolation. It does not in any way diminish my need to beg forgiveness of all of you.

I acknowledge and fully accept my responsibility for the inappropriate nature of my relationship with Mr. Paul Marcoux. I apologize for any harm done him. At that time, 1979, I did not understand that responsibility in the same way as I do now. I have come to see and understand the way in which the power of the Roman collar can work in such relationships and, even more so, a bishop's miter.

There is an understandable concern about the money paid out in the settlement agreement of 1998. I understood the settlement agreement in question as compensation for Paul Marcoux because of the claim that I had interfered with his ability to earn income. Rather than spend the money litigating this claim, I agreed to an out-of-court settlement. In hindsight I can see why it has the appearance of hush money. Perhaps I should have handled this situation differently. If I had done so, there would still have been sizeable costs to the church, but at least it would have been out in the open. One of my fears in not accepting the settlement was the prospect of scandal and embarrassment for myself and for the church. For that lack of courage, I apologize.

This money did not come from the Stewardship Appeal or from any diocesan funds designated for charitable or pastoral work. In my mind, the money I had given the archdiocese was more than the settlement amount. To my continued embarrassment, I now am told that is not true. In my remaining years I will continue to contribute to the archdiocese whatever I can and, of course, the archdiocese will receive whatever effects I own on my death.

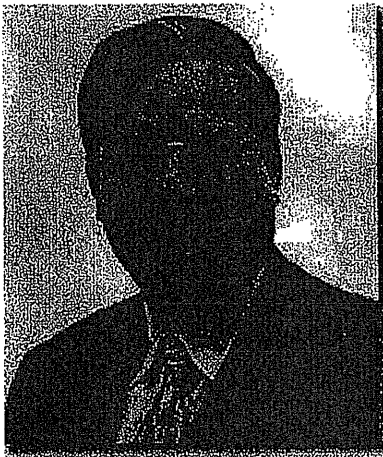
People who are concerned about me ask how I feel at this moment. The best nouns to describe those feelings would be: remorse, contrition, shame and emptiness.

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## Howard Eisenberg's Legacy

Howard Eisenberg joined the Marquette faculty as Dean and Professor in July, 1995 after an unusually varied legal career. A native of Chicago, Dean Eisenberg was a Phi Beta Kappa graduate of Northwestern University. He attended the University of Wisconsin Law School after which he clerked for Wisconsin Supreme Court Justice Horace Wilkie. From 1972 until 1978 he served as the chief State Public Defender of the State of Wisconsin and wrote the current State Public Defender statute. Dean Eisenberg left Wisconsin in 1978 to become Executive Director of the National Aid and Defender Association in Washington, D.C. From 1983 to 1991 he was Professor and Director of Clinical Education at Southern Illinois University School of Law in Carbondale, Illinois. He served as Dean and Professor of Law at the University of Arkansas at Little Rock from 1991 until he joined the Marquette faculty.



Howard Eisenberg

Dean Eisenberg argued more than 300 appellate cases before state and federal courts, including two cases before the United States Supreme Court. He wrote widely and presented dozens of continuing legal education programs in the areas of criminal procedure, legal ethics, elderlaw, and civil rights. Dean Eisenberg received many awards including the 1989 Outstanding Achievement Award from the Governor of Illinois for his work in combating elder abuse and the first Walter J. Cummings Award in 1992 as the outstanding court appointed attorney in the Seventh Federal Judicial Circuit. He received the award a second time in 2002. Dean Eisenberg received several awards recognizing his commitment to pro bono legal services. He served as a member of the Wisconsin Board of Bar Examiners from 1996-2001, and served as Chair of the Board during 2001. He was immediate past chairperson of the

Appellate Practice Section of the State Bar of Wisconsin, and he served as Chair of the Seventh Circuit Rules Advisory Committee since 1998. In 2002 Dean Eisenberg was appointed Chair of a Special Commission to advise the Archbishop of Milwaukee on issues relating to sexual abuse by priests. Later in 2002, the Governor of Wisconsin appointed him to co-chair a special committee to recommend changes to the Wisconsin corrupt practices act. Dean Eisenberg was a fellow of the American Academy of Appellate Lawyers, the Wisconsin Law Foundation, and the American Bar Foundation. Dean Eisenberg taught criminal law, criminal procedure, professional responsibility, and appellate advocacy.

### Related Links

[Dean Eisenberg's Memorial](#)

[Remembrances of Dean Eisenberg](#)

[Memorial Photo Gallery](#)

[Dean's devotion to people shows in letters to inmates.](#)

[What's a Nice Jewish Boy Like Me Doing in a Place Like This?](#)

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Howard B. Eisenberg  
Dean and Professor of Law

Direct Line (414) 288-1768  
E-Mail Howard.Eisenberg@marquette.edu

April 26, 2002

Most Reverend Rembert G. Weakland, O. S. B  
Archbishop of Milwaukee  
Archdiocese of Milwaukee  
3501 S. Lake Drive  
Milwaukee, WI 53207

RE: *Preliminary Report and Recommendations of Special Commission to Study  
Allegations of Sexual Abuse by Priests in the Milwaukee Archdiocese*

Dear Archbishop Weakland:

You have requested that we submit to you a preliminary report and recommendations on three matters:

1. Our observations of the current policies followed by the Archdiocese of Milwaukee in cases in which allegations have been made of sexual abuse by diocesan priests, and any recommendations we might have for improving those procedures.
2. Our recommendations for the placement of six priests, now in active ministry, against whom credible allegations of sexual abuse of children have been made, and whether information regarding those six cases should be made public, and, if so, what information should be released to the public.
3. Whether the Archdiocese should adopt a "Zero Tolerance" policy whereby priests credibly accused of sexual abuse of children are permanently removed from the active ministry.

While we are pleased to give you our preliminary recommendations and observations in these matters, we must emphasize that these are preliminary observations. We hope to have a complete report to you or your successor, by the end of summer. With one exception, these recommendations represent the unanimous view of the Special Commission. One member of the Special Commission is not prepared at this time to agree to recommendation 12.

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## **CURRENT PROCEDURES IN THE ARCHDIOCESE FOR ADDRESSING ALLEGATIONS OF SEXUAL ABUSE OF CHILDREN BY PRIESTS.**

We believe that the Archdiocese of Milwaukee currently has in place excellent procedures for handling cases in which allegations of sexual abuse of children by priests have been made. These procedures, which have been followed for approximately ten years, include prompt notification of civil authorities of any such allegation. While we think these procedures are excellent, we respectfully make the following recommendations for improving the processes.

1. The procedures of the Archdiocese should be made more accessible to the public.

The current policies of the Archdiocese, while excellent, are contained in several different documents. Often these documents include substantial discussion for the theological and legal bases for such policies. We recommend that the policy be reduced to no more than two pages, and preferably one, and that such policy be made generally available to persons throughout the Archdioceses, so that the procedure is well known and clear to everyone. The policy should be included on the Archdiocesan web page. The procedures should be reviewed on a regular basis.

2. Immediate reporting to civil authorities.

A hallmark of any procedure to address allegations of sexual abuse of children by priests should be that the Archdiocese report all allegations to the civil authorities, without any preliminary screening, investigation, or legal judgment relating to those cases. The victims of such abuse should also be encouraged to report such incidents to civil authorities. We emphasize that this is currently the policy of the Archdiocese. Nevertheless, the procedure should be explicitly stated. Additionally, the Archdiocese should work with the district attorneys and law enforcement agencies in each county within the Archdiocese to ensure that such cases are promptly reported and investigated.

3. Involvement of victim assistance organizations.

We believe that the Archdiocese should contract with one or more victim assistance organizations, not otherwise affiliated with the Archdiocese, to provide assistance to victims of childhood sexual abuse by priests. Such an agency would be available to accept complaints regarding priests when the victim feels uncomfortable making such reports directly to the Archdiocese or civil authorities. The agency would also be available to work with any victims of alleged sexual abuse to ensure that the victims receive adequate counseling and support throughout the processes. Such services should be supplemental and alternative to the services currently offered by the Archdiocese itself.

4. Assuring that Priests within the Archdiocese report information to the Archdiocese.

In several of the cases we reviewed, other priests within the Archdiocese had knowledge of allegations of sexual abuse of children long before it was actually reported to the Archbishop. While some view "The Church" as one entity, the fact is that not all information has been promptly reported to your office. We recommend that when another priest or deacon has information suggesting that a priest has been inappropriately involved with children, the alleged perpetrator should be informed of such information and urged to provide any relevant information to the Archdiocese immediately. If the alleged perpetrator does not self-report to the Archdiocese, the priest or deacon having such information shall immediately report such information to your designee.

5. Concern about priests' legal rights.

The files we have reviewed affirms that the Archdiocese has shown enormous compassion and understanding for the psychological and religious trauma that allegations of sexual abuse cause both the victims of that abuse and the priest who is the alleged perpetrator. However, the Archdiocese must also recognize that the priests who are alleged to have committed these acts have important legal rights which sometimes may be in conflict with the legal interest of the Archdiocese. Sexual assault of children is a serious crime carrying significant periods of confinement. Even if no criminal action is taken, allegations of sexual abuse have grave consequences for priests. For those reasons, the Archdiocese should ensure that all priests against whom such allegations are made receive independent legal information and advice and take no action to discourage a priest from obtaining independent legal representation.

6. Adjudicating cases not resolved by civil authorities.

In most cases we reviewed, the matter was referred to the appropriate district attorney or law enforcement agency for investigation or prosecution. In most cases the matter was not pursued either because the statute of limitations had expired or because the case presented other legal difficulties, including the lack of adequate proof. For that reason, in none of the six cases we reviewed has there been a final determination of the truth of the allegations. In at least one case, the priest vehemently denied most, if not all, of the allegations. We believe that it is necessary and appropriate for the Archdiocese to develop an internal adjudicatory process for determining the facts in cases which are not pursued to a final determination of guilt or lack of guilt by civil authorities. In such cases, independent and impartial adjudicators should be retained to assist the Archdiocese in such factual findings. Such internal adjudications should occur only after the criminal investigation or prosecution has ended.

In cases in which a guilty plea or adjudication of guilt has been made by a civil court, that should be dispositive of the factual matter for the Archdiocese. In cases in which prosecution is declined for any reason, or in the cases that are dismissed without a determination of guilt, the Archdiocese should invoke its internal process. While normally an acquittal after a trial will be dispositive of the matter, in unusual cases the Archdiocese should conduct an internal adjudication even after an acquittal, particularly if it appears that *reliable* evidence was excluded from the criminal case.

Such a process would be closed with utmost concern shown for the rights of the victims and the priest. While it is not anticipated that the internal Archdiocese adjudication procedure will have the same evidentiary restrictions or the same burden of proof as a criminal trial in circuit court, the internal procedure must comply with fundamental fairness, which includes the right of a priest to be represented by independent legal counsel and the right to question all persons having evidence relating to the matter. We hope to provide additional recommendations regarding this procedure in our final report.

7. All cases involving allegations of sexual misconduct by priests should have ultimate factual determinations made of whether those allegations are true.

In none of the cases we reviewed was there a formal determination that the allegations of sexual abuse were true and, if true, exactly what occurred and when. We think it is advisable that in every case in which allegations of sexual abuse are made, that there be a determination of what occurred. A detailed inculpatory statement or stipulation by a priest, voluntarily given, would constitute an admission of the

facts set forth in such statement without additional adjudication. However, such statement should include specific facts relating to the sexual misconduct.

8. Assuring files contain all relevant factual information.

The Archdiocese has voluminous files on the six cases that we reviewed. Nevertheless, in several cases the specific factual allegations remain unclear. It would be helpful, we believe, if more care were taken to ensure that a comprehensive factual account of what occurred is included. Of course, if our preceding recommendations are adopted, the adjudication process within the Archdiocese might well provide the type of factual databases we believe are absent in some of the files.

9. The Archdiocese should act proactively in identifying and addressing priests' psychological problems.

In each of the cases we reviewed, the priests were struggling with significant psychological problems. In some of the cases, the use of alcohol or alcohol abuse was a factor in the misconduct. Several of the priests are identified at times as suffering from clinical depression. While our review affirms that the Archdiocese has shown extraordinary compassion and concern for the physiological well being of their priests, we believe it is important to act more proactively on an on-going basis to screen and identify priests who have significant psychological problems, or who simply need independent counseling to assist them in resolving issues in their lives which, if unaddressed, may contribute to inappropriate behavior. While we recognize that the Archdiocese itself provides substantial spiritual assistance and support to its priests; there would be a distinct benefit to encouraging supplemental assistance before any issues or problems arise.

## DISPOSITION OF THE SIX CASES.

We make four specific recommendations regarding the disposition of the six cases we reviewed of priests who are in active ministry in the Archdiocese, against whom allegations of sexual abuse of children have been made:

10. The identities of the victims and the files themselves should remain confidential.

Although no one has suggested that the identity of the victims be made public, we simply state the obvious that utmost concern for protecting the identities of the victims should continue to be shown. It is important that if the victim wishes his or her identity to remain confidential, those wishes should be respected. As for the files themselves, we see no purpose to be served by making them public. These files contain a range of materials from the priests' seminary grades to detailed psychological evaluations of the priests and a range of communications relating to the priests, some of which are of dubious reliability. Additionally, much of this material has been made available to the Archdiocese under a promise of confidentiality that should be honored.

11. As soon as possible, the Archdiocese should make public generic information regarding the allegations made against the six priests.

By "generic" we mean specifically the date, general descriptions of the alleged misconduct, a description of the action taken by the Archdiocese to address the problem, and a generic description of the

position each priest now holds. We see this information as prefatory to the identification to the priests themselves. We believe that providing this material will assist the public in understanding the nature of these cases, as well as the appropriateness of the response of the Archdiocese. The Commission stands ready to assist you and your staff to compile this information.

12. By September 1, 2002 the identities of the six priests should be disclosed.

Although good arguments can be made for maintaining the confidentiality of the identification of these priests, we think, on balance, public disclosure is the best course, now and in the future. We believe there continues to be concern in the community regarding the identity of these priests, which will not abate until and unless the identity of the six is made known. Disclosure of the identities of these priests will lift the cloud of suspicion from other priests within the Archdiocese. We do not think it is not in the best interest of the Archdiocese or community in general to constantly fear the disclosure of this information, which inevitably causes embarrassment to the Archdiocese. We also note that when these disclosures have been made for the first time in the media, the identities of the victims have also been made public. Public disclosure of the identities of the priests by the Archdiocese or by the priests themselves would protect the identity of the victims. We believe that special compassion and care should be exercised in precisely how this disclosure process take place. In some instances we believe that it would be beneficial if the priest himself discloses this information to the persons with whom he interacts. We recommend that each priest receives assistance and support from you and the other leaders in the Archdiocese during a period which will probably be a very difficult. Similar concern should be shown for the victims during that period. We are confident, however, that by identifying these six priests, a cloud over these matters can be substantially removed.

13. Additional Testing and Review is Necessary to Determine Whether the Six Priests Should Remain in Active Ministry.

There remains the question of whether these six priests should remain in active ministry. We are not prepared to make a recommendation on this issue at the present time. We are submitting to you today a separate report prepared by Commission member, Dr. Donald Hands, who analyzed these six cases using accepted clinical instruments which seek to evaluate the likelihood of future sexual misconduct. In three cases he has recommended additional testing of the individual priests, and in the other three cases he concluded there was a low risk of future misconduct. Nevertheless, we are not prepared at this time to make a recommendation regarding any of the six priests against whom allegations have been made. We will submit such recommendation to you or your successor before September 1, 2002.

### **“ZERO TOLERANCE” POLICY.**

We have several recommendations to make regarding the future policy of the Archdiocese when priests are alleged to have sexually abused children:

14. Whenever a non-frivolous allegation is made to civil authorities or the Archdiocese that a diocesan priest has been involved in any sexual misconduct with a child, that priest should be immediately removed from active ministry pending conclusion of either the civil or internal Archdiocese adjudication of the matter. We emphasize, however, that an allegation or charge is

not the same thing as proof of guilt. Thus, this initial transfer should be temporary, pending the outcome of the investigation.

15. Upon conviction, plea of guilty, or determination by the internal archdiocese adjudication process that a priest has sexually abused the child, the priest should be permanently removed from active ministry and divested of authority to perform priestly duties. Thus we advocate a "Zero Tolerance" policy when the allegations have been admitted or proved. While the experience of these six priests might suggest that such an extreme remedy is not appropriate, we believe the best interest of the Archdiocese and the protection of the children within the Archdiocese require such action.
16. Upon adjudication that the priest did *not* commit the offense, the priest should be returned to his prior position without prejudice, and the Archdiocese and the accused priest should determine on an individual basis whether the result of the adjudication and the facts leading to that process should be made public. Where the allegations have been made public, but later found to be unfounded, the Archdiocese should ensure all reasonable steps are taken to restore the reputation of the priest and the confidence in him by the members of the community.

As I indicated at the outset, these are preliminary recommendations, which are subject to further study and possible revision over the summer. As you know, you have asked us to review the files of priests who are no longer in active ministry, and that review might well generate additional recommendations, or cause us to modify recommendations and observations we have made in this report to you. The members of the Commission, both individually and collectively, stand ready to assist you with implementation of the foregoing recommendations. It is our intention, for example, to suggest to you specific procedures for the internal investigation process and to work with you to develop information that can be generally disseminated to members of the Catholic community.

We would respectfully recommend that the entirety of this letter be made public, although it is submitted to you alone. We believe that the credibility of the process you have set in motion would be enhanced by release of this preliminary report and our recommendations.

Respectfully submitted,

HOWARD B. EISENBERG  
Chairman of Special Commission  
Dean and Professor of Law

HBE:mas





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## Eisenberg Commission releases final re

Includes procedure that considers 'rights of the victim-survivors,

By Sam Lucero  
CATHOLIC HERALD STAFF

**MILWAUKEE** -- In its final report to Milwaukee Archbishop Timothy M. I special commission recommended that the archdiocese seek written assurance from religious orders that their members serving here have no records of sexual abuse of minors.

In addition, the commission -- appointed by former Archbishop Rembert G. Weakland last March to review how the archdiocese handles allegations of sexual abuse by priests -- recommended that the archdiocese "act proactively in identifying and addressing any psychological problems of clergy."

Dolan accepted the commission's report during a meeting Sept. 12 at the Cou Center. A media briefing followed to discuss the report.

Many of the recommendations submitted by the commission were included in preliminary report submitted April 26 by the late Howard Eisenberg, dean of Marquette University Law School, who died June 4. Eisenberg agreed to chair a five-member commission, which is now referred to as the Eisenberg Commission.



VICTIMS' ADVOCATE MEETS  
DOLAN -- Peter Isley, Midwest  
regional director of SNAP (Survivors

### Tribute paid to Eisenberg

During the press briefing, Dolan and Kuchan, who succeeded Eisenberg as commission chairman, paid tribute to Marquette professor for his service.

"Howard worked with great diligence report," stated Kuchan. "In fact, he was one who crafted the original preliminary report, and the final report basically was

Exh. 1002

Network of those Abused by Priests)  
talks to Archbishop Timothy M.  
Dolan following a press briefing at  
the Cousins Center Sept. 12. (Photo  
by Sam Lucero)



upon the work that he did in the early

Dolan said that on the previous day he  
visited Phyllis Eisenberg, expressing  
sympathy upon her husband's sudden  
and appreciation for his work on the  
commission. "I assured Phyllis that D

Eisenberg would indeed remain alive in this archdiocese with the implement  
the recommendations of the commission that inherited his name."

Dolan said he accepted the commission's report "with immense gratitude and  
sense of urgent responsibility."

"The protection and care of our children is the number one priority for me as  
archbishop of Milwaukee," he stated. "Our policy is sound, yes. Our past  
implementation of it has, at times, not been effective. We will enforce the  
archdiocesan policy with vigor."

Dallas Charter resolved some issues

The final report summarized the three matters  
it was asked to review:

- Observe the current archdiocesan policies  
on sexual abuse by diocesan clergy and make  
recommendations for improving the  
procedures.
- Offer recommendations on the cases of six  
priests who, at the time, had credible  
allegations of sexual abuse of minors in their  
past and were still in active ministry.
- Whether the archdiocese should adopt a  
zero tolerance policy in which clergy who  
have abused minors are removed from active  
ministry.

The last two items were resolved without  
need of the commission's final input when the  
U.S. bishops in June passed their Charter for  
the Protection of Children and Young People.  
The charter called for the removal of clergy  
with even one credible allegation of sexual  
abuse, and for zero tolerance.

In April, when the commission's preliminary  
report was issued, it was recommended that the archdiocese disclose the six  
names by Sept. 1. All six priests -- Fr. Franklyn W. Becker, Fr. David J. Han  
Michael G. Krecji, Fr. Daniel J. Massie, Fr. Thomas A. Trepanier, and Fr. Je  
Wagner -- have since left active ministry.

### Listening and supp sessions for abuse vi to be held in Octol

**MILWAUKEE** -- The Archdio  
Milwaukee will hold two listeni  
support sessions for victims of c  
sexual abuse. The meetings will  
at the Midwest Express Center i  
downtown Milwaukee on Tuesc  
22, 6:30 to 9 p.m., and Saturday  
26, 1 to 3:30 p.m.

Archbishop Timothy M. Dolan .  
Auxiliary Bishop Richard J. Skl  
attend both sessions.

Victims/survivors, victim advoc  
community representatives, Pro  
Benjamin advisory board memb  
archdiocesan representatives ha  
planning the sessions since mid-  
Lina Juarbe of The Healing Cen  
Milwaukee's Aurora Sinai Medi  
Center has facilitated the efforts  
planning group.

For more information about the  
contact Juarbe at (414) 219-347

In addition, two other priests, whom allegations of sexual abuse of minors were verified after the commission's formation, have also stepped down, Fr. James Godin and Fr. James Jablonowski.

**Procedure in place for future**

Kuchan said the commission saw as its main objective "to establish a procedure that ... would give appropriate consideration to the rights of the victim-survivor, the rights of clergy who would be accused of minor abuse.

"We think we now have a procedure in place that will do justice to both sides of the issue," added Kuchan.

In recommending a proactive approach to identifying and addressing psychological problems of clergy, the commission offered three suggestions:

- That the archdiocese continue its policy of screening clergy candidates for psychological, addictive, and sexual disorders.
- That an ongoing program on prevention of sexual abuse be established as mandatory for all clergy and church professionals.
- That the archdiocese provide independent professional assistance for clergy by psychological, addictive, and sexual disorders so that problems can be resolved before destructive behavior occurs.

☐ **Policies should be shared with religious**

With over 330 religious order priests (according to the 2002 Wisconsin Pastoral Handbook) serving in the Milwaukee Archdiocese, the commission recommended the archdiocese share its policies on sexual abuse with religious communities.

In addition, religious superiors must provide the archdiocese with written documentation that no credible allegations of sexual abuse exist against any of its members serving or seeking to serve here.

"If the archdiocese receives a report ... the archdiocese should immediately notify civil authorities and then notify the individual's appropriate superior about the allegation," the report states.

In response to a question about religious order priests serving locally, Barbara Cusack, chancellor, said the archdiocese has documentation on all religious order clergy who have served here over the past 10 years.

"Now we're going to go back and say any one who has served longer than that and did not supply documentation, that they would do that," she said, adding that the archdiocese is planning to request updated information on all religious order priests now serving in the diocese.

**Outside investigator reviewing one case**

Cusack, in response to a question about new allegations of priests in the archdiocese said three cases were referred to the archdiocese by the district attorney that are outside the statute of limitations. "They were reviewed by (former Milwaukee County) Judge John Fiorenza."

Fiorenza was appointed by the archdiocese in July to serve as an outside investigator in sexual abuse cases that are not pursued by district attorneys' offices.

"There was one allegation that both the district attorney and Judge Fiorenza found without merit. The (second) individual has since stepped down from ministry," Cusack said. "The other (case) is still with Judge Fiorenza being examined.... no other cases he's looking at."

Dolan has asked the commission to reassemble next Sept. 12 to review how the archdiocese has implemented its recommendations. Commission members, in addition to Kuchan, include: Arthur Derse, director of ethical and legal affairs; associate director of the Center for the Study of Bioethics at the Medical College of Wisconsin, the Rev. Donald R. Hands, Episcopal priest and psychologist-supervisor at the Milwaukee Secure Detention Facility, and Sinsinawa Dominican Sr. M. Howard Johnstone, an attorney and victim advocate.

The church has learned much about sexual abuse of children over the past eight months, Dolan told reporters.

"For one, we have learned that sexual abuse of a minor by anybody is a crime, a sin and a tragedy. When the abuser is a trusted representative of the Lord, the sin is even more great," he said. "There is no room in the ministry, to quote Pope Paul II, for such a priest."

A second lesson learned, he said, "is that we can never say 'I'm sorry' enough

**Dolan apologizes to victim-survivors**

"Since this is the first time you have heard me speak on this dreadful matter, say from my heart, I apologize to the victim-survivors for the immense suffering you have endured," said Dolan.

He said that healing for victims is at the forefront of the church's outreach and encouraged anyone abused by a priest to come forward.

A final lesson, he said, is that the church "can never again do business as usual to keep our children safe." It must "hold abusers accountable both within the church and in society, by reporting all allegations to proper civil officials."

Peter Isley, Midwest regional director of SNAP (Survivors Network of those Abused by Priests) and outspoken critic of the church's response to the abuse scandal, took the lead for the press conference. He raised concerns about the report because the commission did not seek input from victims.

He also criticized the archdiocese's failure to involve outside agencies in its c to victims.

Kuchan responded that while all four commission members attended listening sessions held in May, input from victims was outside the realm of the commission's charge. Bishop Richard J. Sklba said the archdiocese is looking at the possibility of contracting with an outside agency.

Response should include 'outside counseling'

In an interview, Isley said the church's response should include access to outside counseling.

"There should be an agency, not an individual, so that any victim that comes to the archdiocese ... is referred to an independent agency," he said. "Just as the church realized that it cannot conduct criminal investigations ... they should not be doing mental health treatment. It's inappropriate to be doing that within church. It's a structural flaw that needs to be fixed."

Dolan assured Isley that a review board -- which all U.S. dioceses have been required to form in compliance with the bishops' charter -- will address victims' needs. That review board will be in place by Oct. 15, added Dolan.

The archbishop said he and Sklba will attend two listening sessions for survivors of clergy sexual abuse, slated for Oct. 22 and 26 (see [sidebar](#)).

Isley, who met briefly with Dolan after the press briefing, said he found the archbishop "personable and warm."

"It seems like he wants to get on this (issue) decisively and quickly," said Isley. "One of the things I appreciated was what he said about ... the distinction between forgiveness and tolerance. That's a message that needs to be widely spread at the archdiocese."

Dolan, in response to a question about abusive priests returning to ministry, said the church can forgive the sin of sexual abuse through the sacrament of penance. "forgiveness and tolerance are two different things."

Dolan said his experience as spokesman for the St. Louis Archdiocese in dealing with the sexual abuse scandal taught him a few lessons.

"I have learned that, sometimes it's tough to know what we can do" for victims, Isley said. "One of the things we can always do is give reverent and sincere attention to what they say. We need to exercise the ears here, because part of the burden, the sorrow that these people carry is they know they haven't been listened to in the past."

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## May 16 Listening Sessions Materials - May 10, 2002

The Archdiocese of Milwaukee has made available materials for people to review prior to the May 16 listening sessions.

[Summary of the Report by the Special Commission to Study Sexual Abuse Allegations](#)

[Resumen del Reporte Preliminar y Recomendaciones de la Comisión Especial](#)

[Questions and Answers Regarding the Sexual Abuse of Minors by Priests](#)

[Preguntas y Respuestas Abuso Sexual de Menores por Parte de Sacerdotes](#)

The sessions will be held from 7 p.m. to 9 p.m. at the following parishes:

St. Eugene Parish, 7600 N. Port Washington Rd., Fox Point; 414-918-1100

St. Gregory the Great Parish, 3160 S. 63rd St., Milwaukee; 414-543-8292

Holy Angels Parish, 126 N. 8th Ave., West Bend; 262-334-3038

St. John the Baptist Parish, 115 Plymouth St., Plymouth; 920-892-4006

St. John Vianney Parish, 1755 N. Calhoun Rd., Brookfield; 262-796-3940

St. Mary Parish, 108 McHenry St., Burlington; 262-763-1500

Designed to address and hear concerns of the Catholic community, the listening sessions will include opportunities for information sharing, small group discussion, structured feedback, and general comments and observations. Diocesan staff will serve as moderators and a representative from Project Benjamin, the archdiocese's office for response to sexual abuse, will assist.

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## Restricted Diocesan Priests due to Substantiated Reports of Sexual Abuse of a Minor

July 9, 2004

In line with the assurances given in the Charter for the Protection of Children and Young People, these are the names of diocesan priests of the Archdiocese of Milwaukee who have been (or would be if they were still alive) restricted from all priestly ministries, may not celebrate the sacraments publicly, or present themselves as priests in any way. In addition, in accordance with the canonical norms that have been established, the allegations against any living priest are sent to the Congregation for the Doctrine of the Faith in Rome.

### Questions and Answers about this information

- Raymond A. Adamsky, Fully Restricted from Priestly Ministry
- James L. Arimond, Laicized
- Ronald J. Bandle, Deceased
- James W. Beck, Left Priestly Ministry
- Franklyn W. Becker, Laicized
- Michael C. Benham, Fully Restricted from Priestly Ministry
- Frederick J. Bistricky, Deceased
- Daniel A. Budzynski, Laicized
- Peter A. Burns, Laicized
- S. Joseph Collova, Excommunicated
- Andrew P. Doyle, Laicized
- William J. Effinger, Deceased
- George A. Etzel, Deceased
- William J. Farrell, Deceased
- James M. Flynt, Laicized
- James M. Godin, Fully Restricted from Priestly Ministry
- Edmund H. Haen, Deceased

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- David J. Hanser, Laicized
- Harold A. Herbst, Deceased
- George S. Hopf, Deceased
- James N. Jablonowski, Fully Restricted from Priestly Ministry
- Marvin T. Knighton, Fully Restricted from Priestly Ministry
- John T. Knotek, Deceased
- Michael J. Krejci, Fully Restricted from Priestly Ministry
- Eugene T. Kreuzer, Deceased
- Oswald G. Krusing, Deceased
- Jerome E. Lanser, Fully Restricted from Priestly Ministry
- Eldred B. Lesniewski, Deceased
- Daniel J. Massie, Fully Restricted from Priestly Ministry
- Lawrence C. Murphy, Deceased
- Michael T. Neuberger, Dismissed from clerical state (case in appeal)
- Richard W. Nichols, Deceased
- George A. Nuedling, Deceased
- John A. O'Brien, Fully Restricted from Priestly Ministry
- Donald A. Peters, Laicized
- Roger W. Schneider, Left Priestly Ministry
- Clarence J. Schouten, Deceased
- Vincent A. Silvestri, Deceased
- Thomas A. Trepanier, Fully Restricted from Priestly Ministry
- Jerome A. Wagner, Laicized
- John C. Wagner, Fully Restricted from Priestly Ministry
- Charles W. Walter, Fully Restricted from Priestly Ministry
- Siegfried F. Widera, Deceased

For information on **Reporting Incidents of Sexual Abuse**, visit [this link](#) or call the Sexual Abuse Prevention and Response Services Office at (414) 769-3436.

For a list of **Programs that Provide Free Services to Sexual Abuse**