

1 STATE OF MINNESOTA IN DISTRICT COURT  
2 COUNTY OF RAMSEY SECOND JUDICIAL DISTRICT

3  
4 -----  
5 DOE 1,  
6 Plaintiff,  
7 vs.,  
8 ARCHDIOCESE OF ST. PAUL AND  
9 MINNEAPOLIS, DIOCESE OF WINONA  
and THOMAS ADAMSON,  
10 Defendants.

11 -----  
12  
13 Deposition of FATHER KEVIN MCDONOUGH,  
14 taken pursuant to Notice of Taking Deposition,  
15 and taken before Gary W. Hermes, a Notary  
16 Public in and for the County of Ramsey, State  
17 of Minnesota, on the 16th day of April, 2014,  
18 at 30 East 7th Street, St. Paul, Minnesota,  
19 commencing at approximately 9:06 o'clock a.m.

20  
21  
22  
23  
24 AFFILIATED COURT REPORTERS  
25 2935 OLD HIGHWAY 8  
ST. PAUL, MN 55113 (612)938-4348

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1 APPEARANCES:

2 JEFFREY R. ANDERSON, ESQ., MICHAEL G.  
3 FINNEGAN, ESQ., SARAH ODEGAARD, ESQ.,  
4 Attorneys at Law, 366 Jackson Street, Suite  
5 100, St. Paul, Minnesota 55101, appeared for  
6 Plaintiff.

7 DANIEL A. HAWS, ESQ., Attorney at  
8 Law, 30 East 7th Street, Suite 3200, St. Paul,  
9 Minnesota 55101, appeared for Archdiocese of  
10 St. Paul and Minneapolis.

11 THOMAS B. WIESER, ESQ., Attorney at  
12 Law, 2200 Bremer Tower, 445 Minnesota Street,  
13 St. Paul, Minnesota 55101, appeared for  
14 Archdiocese of St. Paul and Minneapolis.

15 THOMAS R. BRAUN, ESQ., Attorney at  
16 Law, 117 East Center Street, Rochester,  
17 Minnesota 55904, appeared for Diocese of  
18 Winona.

19 ANDREW S. BIRRELL, ESQ., Attorney at  
20 Law, 333 South 7th Street, Suite 300,  
21 Minneapolis, Minnesota 55402, appeared for  
22 Father Kevin McDonough.

23 ALSO PRESENT:

24 Gary Leeane, videographer

25 \* \* \*

1 PROCEEDINGS

2 \* \* \*

3 MR. ANDERSON: Let's go on the  
4 transcribed record. First, as it pertains to  
5 the deposition of Father Kevin McDonough,  
6 we're all present and we'll make our  
7 appearances on the record once the deposition  
8 begins.

9 As a preliminary to it, however, we  
10 need to note on the record that it's our  
11 belief and understanding that the defendants,  
12 the Archdiocese of St. Paul and Minneapolis in  
13 particular, were required to turn over a  
14 number of documents, a number of files,  
15 including e-mails, all of which had been  
16 requested by us many, many months ago, I think  
17 probably back in November.

18 MR. FINNEGAN: November.

19 MR. ANDERSON: And that in  
20 anticipation of this deposition, there have  
21 been some disclosures made, some files  
22 disclosed, but far from complete. It is our  
23 view that the disclosures made to this point  
24 in time render this deposition an open matter  
25 and one we'll take up with the court at the

1 appropriate time.

2 There was a call last night from  
3 counsel requesting that the deposition be  
4 postponed, or at least a part of it, because  
5 there were some e-mails yet to be turned over  
6 that they were unable to either assemble or  
7 turn over to us. I said no. That should have  
8 been done long before five o'clock last night.  
9 So I thought that was worth putting on the  
10 record.

11 It's our belief that there's been a  
12 less than complete and full disclosure for  
13 purposes of preparation of this deposition,  
14 and in light of that, it's our position that  
15 it will remain an open deposition. But we do  
16 intend to move forward and use the eight hours  
17 allotted, at least so far, by the court.

18 MR. HAWS: Just from our  
19 perspective, number one, we argued this in  
20 front of the judge and pointed out all of the  
21 voluminous records that we had and that we had  
22 to go through and explained the difficult task  
23 it was to produce all of those things  
24 responsive. The timing of it is well set out  
25 in all of our filings. We have been working

1 extremely hard to get information to you.  
2 We've tried to work with plaintiff's counsel's  
3 office by asking what files in particular do  
4 you need prior to the deposition. Mr.  
5 Finnegan wrote a letter on April 9th, setting  
6 out certain files that they wanted, you wanted  
7 in particular, those files have all been  
8 delivered to you prior to this deposition.

9 The electronically stored  
10 information has been in the works to get and  
11 we did make the call yesterday, not to request  
12 the deposition be continued, but to offer it  
13 to be continued to a date of April 21, which  
14 is Monday, just three days difference in terms  
15 of work days here, so that we could get that  
16 information compiled and to you to avoid this.

17 We also offered to the plaintiffs,  
18 in an effort under the rules, Rule 36, Rule 37  
19 -- not Rule 36, Rule 37, in an effort to  
20 cooperate and work with plaintiffs to try to  
21 deal with this. We said we'd even offer to do  
22 four hours today and then get the information,  
23 hopefully be able to get that assembled and  
24 produced to you by no later than Friday so  
25 that you could then have another four hours on

1 Monday, the 21st, and that offer was rejected  
2 as well.

3 Our position is that you're  
4 proceeding accordingly and we will not agree  
5 to any other deposition. The fact of the  
6 matter is, is that the court extended  
7 discovery by a couple of months in order to  
8 accommodate some of these very issues. And  
9 counsel already know very well the difficult  
10 task it is to produce these documents, having  
11 been part of the Milwaukee Diocese issues, and  
12 that was also discussed with their counsel and  
13 raised with the court.

14 So we just have a fundamental  
15 disagreement on where we're at on this, and we  
16 have been trying extremely hard and trying to  
17 cooperate, as I believe the rules require us  
18 to do, to try to accommodate both parties  
19 here, and we have not been met with any kind  
20 of accommodation or reasonable response to  
21 assist us in trying to get information to  
22 plaintiffs.

23 MR. ANDERSON: Briefly, our response  
24 is that these are all requests that were made  
25 back as early as November of last year. These

1 are all arguments that have been made by the  
2 archdiocese as to why it was too difficult.  
3 The reality is that many and most of what we  
4 have received so far has only been turned over  
5 days before this and we've had to scramble  
6 just to begin to try to review those, much of  
7 which would be impossible to review. And the  
8 proposal given us by counsel yesterday to turn  
9 over more voluminous documents in a short  
10 turnaround is equally burdensome and  
11 impossible to accommodate.

12 So we're going to move forward with  
13 the disclosures that have been made and it's a  
14 matter that we obviously cannot agree upon and  
15 have not agreed upon and have never agreed  
16 upon because you've always refused to  
17 disclose, and we'll all be before the court on  
18 that at a later date.

19 MR. BRAUN: On behalf of the Diocese  
20 of Winona, I would just like to say that we've  
21 been working diligently to compile all of the  
22 records and documents requested by plaintiff's  
23 counsel. We have made that submission via  
24 U.S. mail yesterday afternoon. I confirmed  
25 with Mr. Finnegan three weeks ago that the

1 Diocese of Winona is not in possession of any  
 2 documents or records associated with Father  
 3 McDonough. My office did a thorough review of  
 4 all the priest files in this case in  
 5 association with the document production, so  
 6 the Diocese of Winona's position is that all  
 7 documents relevant to this hearing have been  
 8 disclosed and that our position is that if  
 9 plaintiffs are unable to fully conduct the  
 10 deposition today, that the matter should be  
 11 rescheduled, but the Diocese of Winona is  
 12 doing everything it can to fully meet the  
 13 deadlines imposed by the court.

14 MR. ANDERSON: Yeah, we have not at  
 15 this point detected any deficiencies in the  
 16 disclosures made by the Diocese of Winona, as  
 17 far as I can tell.

18 MR. FINNEGAN: We haven't gotten  
 19 them yet --

20 MR. ANDERSON: Well, we haven't  
 21 gotten them yet --

22 MR. FINNEGAN: So we haven't gotten  
 23 them to review them, so we'll deal with that  
 24 when we get them.

25 MR. BIRRELL: And, of course, Father

1 McDonough is not a party to the case and has  
 2 no ability to control any of these  
 3 disclosures, but he's the one that's being  
 4 inconvenienced here.

5 MR. ANDERSON: Well, I don't think  
 6 this is convenient for anybody, so let's go.

7 MR. LEEANE: Today's date is April  
 8 16th, 2014, the time is approximately 9:06  
 9 a.m. This is the video deposition of Father  
 10 Kevin McDonough. Will counsel please identify  
 11 themselves for the video record?

12 MR. ANDERSON: For the plaintiff,  
 13 Jeff Anderson.

14 MR. FINNEGAN: For the plaintiff,  
 15 Mike Finnegan.

16 MS. ODEGAARD: For the plaintiff,  
 17 Sarah Odegaard.

18 MR. BIRRELL: My name is Andy  
 19 Birrell. I represent Kevin, not Kenneth,  
 20 McDonough.

21 MR. HAWS: Dan Haws for the  
 22 archdiocese.

23 MR. WIESER: Tom Wieser for the  
 24 archdiocese.

25 MR. BRAUN: Thomas Braun on behalf of

1 the Diocese of Winona.

2 MR. LEEANE: And would the court  
 3 reporter please swear in the witness?

4 FATHER KEVIN MCDONOUGH,  
 5 called as a witness, being first duly sworn,  
 6 was examined and testified as follows:

7 MR. LEEANE: You may proceed.

8 EXAMINATION

9 BY MR. ANDERSON:

10 Q. Father, would you please state your full name  
 11 for the record?

12 A. **Kevin Michael, both standard spelling,  
 13 McDonough, M-c-D-o-n-o-u-g-h.**

14 Q. You've been through this process before, you  
 15 know you're under oath and it's being recorded  
 16 both by videotape and transcription?

17 A. **I do know that.**

18 Q. Father, has any law enforcement agency, police  
 19 agency interviewed you or attempted to  
 20 interview you concerning your role in the  
 21 handling of priests in the archdiocese at any  
 22 time to this day?

23 MR. BIRRELL: Now, you're not  
 24 required to reveal any information you learned  
 25 from your lawyers when you answer this

1 question.

2 A. **I -- I have over a number of the last 20 or  
 3 more years spoken with law enforcement  
 4 officials regularly, so, yes, in -- in various  
 5 occasions I've spoken with law enforcement  
 6 about one or another clergy-related matter.  
 7 BY MR. ANDERSON:**

8 Q. My question to you is, has any law enforcement  
 9 agency recently contacted you and attempted to  
 10 interview you concerning their investigation  
 11 of you and other archdiocesan officials in  
 12 your and their role in the handling of clergy  
 13 sex abuse?

14 A. **I don't know the nature of their inquiry, but  
 15 not long ago, perhaps before Christmas, I  
 16 don't recall exactly, two St. Paul police  
 17 officers reached out, left a letter for me  
 18 because I wasn't absent -- I -- I wasn't  
 19 present, I was saying Mass at the time. I  
 20 turned the letter over to my attorney and  
 21 asked my attorney --**

22 MR. BIRRELL: Don't tell him what  
 23 you told me.

24 BY MR. ANDERSON:

25 Q. Did you talk to the law enforcement officers

1 that sought to speak to you?

2 **A. I did not.**

3 **Q.** Did you refuse?

4 **A. I did not.**

5 **Q.** Was that Sergeants Urbanski and Skoog?

6 **A. I don't remember their names.**

7 **Q.** From St. Paul Police Department?

8 **A. There were -- there were people from St. Paul**

9 **Police, that's right. I was not there when**

10 **they came, so I don't know who they were.**

11 **Q.** What reason was given to law enforcement as to

12 why you chose not to speak to them?

13 MR. BIRRELL: Don't tell anything

14 that you and I talked about.

15 BY MR. ANDERSON:

16 **Q.** No. But what reason was given to them?

17 **A. I don't know.**

18 **Q.** Why didn't you speak to them?

19 MR. BIRRELL: Don't answer that.

20 **A. I asked --**

21 MR. BIRRELL: Don't answer the

22 question. It calls for privilege.

23 (Discussion out of the hearing of

24 the court reporter)

25 BY MR. ANDERSON:

1 **Q.** Did you read the letter?

2 **A. I don't recall whether I read the letter or**

3 **not.**

4 **Q.** The letter was sent to you by them, was it

5 not?

6 **A. Yes, it was.**

7 **Q.** And it said, "Father McDonough, we want to

8 speak to you concerning our investigation of

9 your role and others in an ongoing

10 investigation concerning the role of you and

11 other archdiocesan officials in this

12 investigation," correct?

13 **A. I don't recall the content of the letter.**

14 (Discussion out of the hearing of

15 the court reporter)

16 BY MR. ANDERSON:

17 **Q.** Did you give that letter to anybody else

18 besides your lawyer, Mr. Birrell?

19 MR. BIRRELL: Don't answer the

20 question because it assumes there was a

21 communication between you and me.

22 BY MR. ANDERSON:

23 **Q.** Well, did you give that letter to anybody

24 besides a lawyer for you?

25 **A. I did not.**

1 **Q.** Did you give it to Archbishop Nienstedt?

2 **A. I believe I did not.**

3 **Q.** Did you tell him the police were attempting to

4 contact you and interview you?

5 **A. Almost certain I did not.**

6 **Q.** Did you ever discuss with Archbishop Nienstedt

7 the fact that the police were trying to

8 interview you?

9 **A. I believe I did not.**

10 **Q.** Never discussed that with him at any time?

11 **A. I believe I did not.**

12 **Q.** Did you ever discuss that with the chancellor?

13 **A. And which chancellor would that be?**

14 **Q.** That would be either Eisenzimmer or Kueppers.

15 **A. I may have told Kueppers that I had received a**

16 **letter.**

17 **Q.** And what did you tell him?

18 **A. I believe I told him I'd received a letter.**

19 **Q.** And did you tell him that you intended not to

20 discuss it with the police?

21 **A. I don't believe I discussed the matter in any**

22 **length with him.**

23 **Q.** What did Kueppers say when you told him about

24 the letter?

25 **A. I don't recall what he said.**

1 **Q.** The police have reported in the newspapers

2 that you had refused to cooperate with them.

3 Is that correct?

4 MR. BIRRELL: Is what correct?

5 BY MR. ANDERSON:

6 **Q.** That you had refused to cooperate with law

7 enforcement in their investigation.

8 **A. I can't speak to whether they indicated this**

9 **in the newspapers because I've not been**

10 **reading the great majority of newspaper**

11 **reports related to any of these matters in**

12 **recent months.**

13 **Q.** When you say "recent months," how many?

14 **A. Since last fall.**

15 **Q.** Well, you talked to MPR before last fall,

16 didn't you?

17 **A. I did. Actually, I talked to them right at**

18 **the very end of September.**

19 **Q.** And so why did you stop reading news accounts

20 and make a decision not to follow what is

21 going on?

22 **A. I had other work I thought was more important**

23 **-- important and required my full attention.**

24 **Q.** And so do you agree or disagree with the

25 characterization that you refused to cooperate

1 with law enforcement in their ongoing and  
 2 current investigation?  
 3 **A. I disagree with it.**  
 4 **Q.** And how have you worked with them, then,  
 5 recently in their investigation? What have  
 6 you done?  
 7 **A. There's been no further contact from St. Paul**  
 8 **in recent months, so --**  
 9 **Q.** What efforts have you made to cooperate with  
 10 them?  
 11 **A. There have been no further contact from them**  
 12 **in recent months, so --**  
 13 **Q.** Have you ever reached out to them to provide  
 14 them information?  
 15 **A. No.**  
 16 **Q.** Why not?  
 17 **A. That's -- I don't see what would -- what would**  
 18 **be appropriate about that.**  
 19 **Q.** You don't want them to know what you know?  
 20 **A. One doesn't simply call the police and say,**  
 21 **"I'd like to come in for a chat, ladies and**  
 22 **gentlemen."**  
 23 **Q.** If you had evidence of a crime or crimes being  
 24 committed, either past or current, don't you  
 25 think that's something they could and should

1 know?  
 2 **A. I'm imagining we'll have a chance to address a**  
 3 **number of those things today.**  
 4 **Q.** Yeah, but don't you think it's also a matter  
 5 for the police, not just us?  
 6 **A. I'm also imagining you'll have a chance to**  
 7 **pass the information along to the police.**  
 8 **Q.** So it is your expectation that you would wait  
 9 till this deposition and be required to sit  
 10 for this deposition that the police would get  
 11 the information?  
 12 **A. The police have been in a position to reach**  
 13 **out to me insofar as they wanted to. I've had**  
 14 **no reach-out from them for multiple months.**  
 15 **Q.** But you chose not to talk to them, right?  
 16 **A. That's correct.**  
 17 **Q.** So them reaching out to you isn't going to get  
 18 them anywhere because you're not going to talk  
 19 to them, right?  
 20 **A. I'm -- I'm not in their head. I can't tell**  
 21 **you what they're thinking.**  
 22 **Q.** Well, if they come over here today at the end  
 23 of this deposition and ask to talk to you, are  
 24 you going to talk to them?  
 25 **A. Do you want me to speculate about that sort of**

1 **thing?**  
 2 **Q.** I'm going to ask you if you're going to tell  
 3 them, if you're going to talk to them.  
 4 **A. I have -- I don't want to deal with a**  
 5 **hypothetical. I'll deal with the police when**  
 6 **they contact me.**  
 7 **Q.** Well, the police investigation is not  
 8 hypothetical, you know it's ongoing, right?  
 9 **A. I don't know that.**  
 10 **Q.** I'm telling you it is.  
 11 **A. Okay.**  
 12 MR. BIRRELL: Are you going to  
 13 testify today?  
 14 BY MR. ANDERSON:  
 15 **Q.** And I don't think it's any secret to you that  
 16 there's an ongoing investigation, is it?  
 17 **A. I don't know the status of the police work.**  
 18 **Q.** Well, the letter to you said there was,  
 19 correct?  
 20 **A. I don't recall reading the letter at any**  
 21 **length.**  
 22 **Q.** Is that the first time you ever had received a  
 23 letter or a request from the police to  
 24 interview you concerning your role in an  
 25 ongoing investigation?

1 **A. Hum. I've spoken with the police many times**  
 2 **over my years in -- in church leadership, but**  
 3 **-- so I'm not sure. Perhaps you can help me**  
 4 **understand. You're underlining the words**  
 5 **"your role." Could you help me understand**  
 6 **what you're asking?**  
 7 **Q.** Your role as a top official in the archdiocese  
 8 and the coverup of sexual abuse by priests.  
 9 **A. I don't believe there's ever been a coverup,**  
 10 **so I don't recall ever being approached by the**  
 11 **police with any allegation from them about a**  
 12 **coverup.**  
 13 **Q.** Well, then, why do you think the police are  
 14 investigating or chose to send you a letter to  
 15 interview you concerning an investigation?  
 16 Why do you think that is?  
 17 **A. I -- sorry, I'm not their counselor nor am I**  
 18 **in their mind.**  
 19 **Q.** Okay. Father, you've been a priest of the  
 20 Archdiocese of St. Paul and Minneapolis since  
 21 your ordination in 1980, correct?  
 22 **A. That's correct.**  
 23 **Q.** And served in many official capacities, and  
 24 when I look at your history, it looks like  
 25 there's about four years, approximately, where

- 1 you weren't in some position appointed by the  
2 archbishop in the Chancery. Is that about  
3 right?
- 4 **A. Yeah, so if I could just clarify, any position**  
5 **I was in I was appointed by the archbishop, so**  
6 **that's the first part of your question. But,**  
7 **yes, since 1984 when I first was appointed,**  
8 **I've had various appointments through the**  
9 **archdiocese.**
- 10 **Q.** Beginning as vice chancellor, then chancellor,  
11 correct?
- 12 **A. That's correct.**
- 13 **Q.** And then vicar general, and you also referred  
14 to the position of vicar general as kind of  
15 like a chief of staff?
- 16 **A. That's correct.**
- 17 **Q.** I think when I asked you about that position  
18 earlier, I think when I -- I think you  
19 described that as kind of the implementer of  
20 the archbishop's practices and the archbishop  
21 would be described as the legislator. Do you  
22 recall that descriptor?
- 23 **A. I don't recall saying it to you, but the**  
24 **archbishop is both the chief legislator and**  
25 **the chief implementer, the chief executive,**

- 1 **but I was his chief executive officer, one**  
2 **might say.**
- 3 **Q.** And as vicar general, you would be his  
4 delegate, you would be delegated to be his  
5 implementer?
- 6 **A. That's a fair characterization.**
- 7 **Q.** Kind of a liturgical term?
- 8 **A. Yes, the term delegation has a technical**  
9 **meaning in church law, but for today's**  
10 **conversation, let's proceed with it.**
- 11 **Q.** You're also a canonist, trained in canon law?
- 12 **A. That's correct.**
- 13 **Q.** Worked as the archivist for a period of time  
14 as well?
- 15 **A. I was chancellor and one of the roles of the**  
16 **chancellor is to supervise the archives --**  
17 **archives. I would not consider myself,**  
18 **however, an archivist, which is a -- which is**  
19 **a technical skill for which I'm not trained.**
- 20 **Q.** Basically, the role of chancellor gives you  
21 access to the archives is really what it  
22 means, correct?
- 23 **A. That's correct.**
- 24 **Q.** And you, then, worked under Archbishops Roach,  
25 Flynn and Nienstedt?

- 1 **A. (Nods head).**
- 2 **Q.** Correct?
- 3 **A. That is correct.**
- 4 **Q.** In 2008, you were appointed to be the delegate  
5 for safe environment by Archbishop Nienstedt,  
6 is that correct?
- 7 **A. That's correct.**
- 8 **Q.** At the same time, it looks like you were  
9 promoted to be the promoter of justice. Is  
10 that correct?
- 11 **A. No.**
- 12 **Q.** Tell me about when you were promoted to be a  
13 promoter of justice.
- 14 **A. The term promoter of justice is something**  
15 **parallel in church law to a prosecutor in --**  
16 **in civil law, and one's appointed a promoter**  
17 **of justice for particular cases.**
- 18 **Q.** So that's designated on certain cases?
- 19 **A. That's correct.**
- 20 **Q.** For example, in the Wehmeyer case, you were  
21 appointed to be the promoter of justice --
- 22 **A. I don't --**
- 23 **Q.** -- by the archbishop?
- 24 **A. I don't recall that that's true. It could be,**  
25 **but I don't recall that that's true.**

- 1 **Q.** And as the prosecutor, at least in canon law  
2 internal church protocol, the prosecutor is  
3 required to both protect the rights of the  
4 priests as well as abide by the internal canon  
5 protocols, correct?
- 6 **A. I'm not sure -- I don't understand the**  
7 **question. Could you help me with it?**
- 8 **Q.** As a prosecutor and promoter of justice under  
9 canon law, aren't you required to make sure  
10 the priest is afforded their rights under  
11 canon law?
- 12 **A. Yes.**
- 13 **Q.** Father McDonough, would you agree that the  
14 archdiocese has a very grave responsibility to  
15 make sure the children in the archdiocese are  
16 safe?
- 17 **A. Absolutely.**
- 18 **Q.** Would you also agree that the archdiocese and  
19 in your own experience as a priest in it has  
20 promised the people of the archdiocese that  
21 the children in it are safe?
- 22 **A. Insofar as I've been involved, we've promised**  
23 **that we would make our efforts to -- to keep**  
24 **children safe. I've often said myself that,**  
25 **of course, parents have to remain attentive**

1 and all people should remain attentive, since  
2 no one person can see that all children remain  
3 safe. But, yes, I've promised personally my  
4 own best efforts as a pastor, for example.

5 Q. Would you agree that the archdiocese and its  
6 officials should not gamble and take known  
7 risks with the safety of the children?

8 A. All human activity, of course, includes some  
9 risk. The very -- to offer to educate  
10 children or otherwise be engaged in children  
11 involves some risk that public institutions of  
12 all sorts take. But I wouldn't -- the word  
13 "gamble" is, of course, a loaded word and one  
14 ought to take every reasonable precaution in  
15 the inherently sensitive work of educating,  
16 forming, promoting the good of children.

17 Q. Would you agree that the archdiocese should  
18 make every possible effort to protect children  
19 from sexual abuse?

20 A. Yes.

21 Q. Is it correct to say that the Archdiocese of  
22 St. Paul and Minneapolis has promised  
23 repeatedly that there are no offenders in  
24 ministry in the Archdiocese of St. Paul and  
25 Minneapolis?

1 A. When you say "offenders," could you help me  
2 understand that word?

3 Q. Priests who have offended children.

4 A. Against minors. Then against minors. I  
5 believe that's true, yes, the archdiocese has  
6 said that.

7 (Discussion out of the hearing of  
8 the court reporter)

9 MR. FINNEGAN: (Handing documents).

10 (Discussion off the record)

11 BY MR. ANDERSON:

12 Q. Father McDonough, would you agree that it is  
13 and always has been the stated policy of the  
14 archdiocese to not allow offenders to work in  
15 public ministry?

16 A. No.

17 Q. When did that become a policy, if it ever did?

18 A. It did become a policy as part of the  
19 archdiocese's response to the Charter for the  
20 Protection of Children and Young People, so  
21 sometime in 2002.

22 Q. Okay. And I'm going to show you what we've  
23 marked as Exhibit 101. It's way in the back.

24 MR. FINNEGAN: Way at the back of  
25 that, Father.

1 A. So the numbers you're offering correspond to  
2 these numbers here (Indicating)?

3 BY MR. ANDERSON:

4 Q. Yes. And while you're retrieving that, just  
5 to contextualize it for you, I'm referring to  
6 a St. Paul Pioneer Press and Dispatch article  
7 of February 16th, 1987, and on the first page  
8 of it, the headline is, "Coverup of Priest Sex  
9 Misconduct Denied," and there's a picture of  
10 Robert Carlson, Father Robert Carlson.

11 On the second page, I'll direct your  
12 attention to the second column and the top of  
13 it. And the second sentence, and I'll read it  
14 and then ask you if you understood this to be  
15 correct. It states: "Carlson said,  
16 'Therefore it's our current policy that a  
17 minister would never return to parish because  
18 how can you separate working with adults and  
19 working with children since families make up  
20 that parish community?'" And it begins with,  
21 and I quote him, "It's our policy today that  
22 there really is no cure for someone with the  
23 disease of pedophilia, but only a chance for  
24 some recovery." Was that the policy as you  
25 understood it to be in 1987?

1 A. At the time this article was produced,  
2 February of 1987, I wasn't resident in the  
3 archdiocese, but rather at -- I was away at  
4 graduate school, so I was not part of these  
5 discussions and, frankly, rather wrapped up in  
6 the work of completing my doctoral studies.

7 Q. When you returned from studies in Rome in 1980  
8 -- I think it was in '87?

9 A. It was in '87, it was later that same year.

10 Q. -- what did you understand the policy of the  
11 archdiocese then to be?

12 A. The -- the best statement of it, I think, came  
13 in early 1988 when then Archbishop Roach  
14 published a statement on sexual abuse of  
15 minors. And, you know, I'm not recalling that  
16 in any great detail, that's probably available  
17 to you, it might be in the documentation, Mr.  
18 Anderson, you have here, but that would be the  
19 most thorough statement of it.

20 Q. We have that somewhere and I think, to  
21 paraphrase it, it in effect says that priests  
22 who have offended will not be returned to  
23 ministry. Does that sound --

24 A. You know, I don't think so. We might as well  
25 engage this directly.

- 1 **Q.** Okay. We'll look at the policy together  
2 then --
- 3 **A. Right. Good.**
- 4 **Q.** -- when we have it.  
5 Let's look at Exhibit 102. And  
6 Exhibit 102, Father, is dated October 30th,  
7 1998, and it states, "Church Updates Sex Abuse  
8 Policy." And at the second page, you are  
9 quoted in caps, and I'll read it and then ask  
10 you if this is what you said. It states:  
11 "Priests who molested children are not allowed  
12 to work in a parish setting or have any  
13 contact with children, McDonough said."  
14 First, did you say that?
- 15 **A. Of course, I don't recall specifically, it was  
16 a long time ago, but I have no reason to think  
17 that they misquoted me in that regard.**
- 18 **Q.** And when you said that, did you believe that  
19 to be in fact the stated policy of the  
20 archdiocese?
- 21 **A. Again, not recalling specifically what I said,  
22 that would have been my understanding then,  
23 yes.**
- 24 **Q.** When did you first have such an understanding?  
25 **A. I think it was clarified after the 1988**

- 1 **publication of the -- of the policy by  
2 Archbishop Roach.**
- 3 **Q.** So this ultimately could have been a  
4 restatement of what you believed the policy to  
5 have been for many years as written in '88?  
6 **A. Yes.**
- 7 **Q.** You did mention a policy change that came  
8 about in 2002 as a result of the Charter for  
9 Protection of Children. And how was the  
10 policy then changed in 2002 as a result of the  
11 charter?
- 12 **A. And may I ask you, because the charter, as I  
13 presume you know, is quite extensive, is there  
14 a specific part of it you'd like me to  
15 address?**
- 16 **Q.** Well, you had said there was a change in  
17 policy in 2002 and I was referring to what you  
18 were referring to.
- 19 **A. Oh, all right. Thank you. As -- in the  
20 period from 1988 until 2002, men who had  
21 committed crimes against young people were  
22 still retained in what we understood to be  
23 administrative capacities in the archdiocese.  
24 And after 2002, that permitting -- and -- and  
25 were still allowed to practice as priests, for**

- 1 **example, saying Mass to convents of sisters.  
2 And after 2002 and the -- the change, that was  
3 no longer permitted.**
- 4 **Q.** And those were priests who had committed  
5 crimes against children, weren't they?
- 6 **A. Right, committed crimes or at least -- because  
7 the -- it wasn't always a complete  
8 determination of the criminal status of their  
9 activity, given how old some of the complaints  
10 were. Committed actions that -- that  
11 reasonable people would think were crimes. I  
12 don't want to -- I don't want to convict  
13 someone who didn't have a judge or jury to do  
14 so, but --**
- 15 **Q.** So do you believe a judge and jury has to  
16 convict a priest before you can deem them to  
17 be a danger to the public?
- 18 **A. No.**
- 19 **Q.** In this same Exhibit 102, at the second page  
20 of it, in the second-to-the-last column in the  
21 bottom paragraph there's a quote from you and  
22 I'll read it, then ask you a question, Father.  
23 It states, in quotes, "In a case when an  
24 individual appears to have faced the  
25 underlying casualties (sic), is generally

- 1 sorry, where the victims are comfortable with  
2 this and where there is disclosure, then we  
3 will put a person with specific skills back to  
4 work,' said McDonough. That that is a lot of  
5 hoops to go through." You're talking here to  
6 the public about disclosure. What was and is  
7 at that time the policy of the archdiocese  
8 pertaining to disclosure of clerics who have  
9 been accused of sexual abuse of minors who are  
10 still in ministry?
- 11 **MR. BIRRELL:** You know, I'm going to  
12 object to your question, or ask you to clarify  
13 it because you said "was" and "is" and I'm not  
14 sure that he understands what your time frame  
15 is.
- 16 **BY MR. ANDERSON:**
- 17 **Q.** Well, did you understand the question?  
18 **A. Well, actually, I do want to point out a  
19 couple things in your question. One is the  
20 word, I think, is "causalities" rather than  
21 "casualties."**
- 22 **Q.** Okay.  
23 **A. But the other is, as you notice from the  
24 preceding paragraph, that all of this material  
25 refers to priests who exploited adults, so**



1 **that's that portion of the -- so I'm not sure**  
 2 **that the last sentence you asked me about**  
 3 **connects to the material here.**  
 4 **Q.** Okay. Well, let's do this. Let's talk about  
 5 disclosure and let's talk about minors and  
 6 let's talk about priests accused of abusing  
 7 minors and the policy as it existed in 1998 at  
 8 the time of this article. What was the policy  
 9 of disclosure concerning what the archdiocese  
 10 knew about priests who had been accused of  
 11 abuse of minors, concerning priests who were  
 12 in ministry at that time?  
 13 **A.** **Throughout the 1990s, the practice, or at**  
 14 **least after 1992 for certain, perhaps even**  
 15 **before that, may I mention 1992? Is when the**  
 16 **1988 specific policy on sexual abuse of minors**  
 17 **was, then, further imbedded in a broader set**  
 18 **of policies we referred to commonly as sexual**  
 19 **issues in ministry policies.**  
 20 **Throughout the 1990s, the practice**  
 21 **was if someone were -- if a -- if a priest**  
 22 **were working in a ministry setting of any**  
 23 **sort, and as I say, in the '90s that would**  
 24 **have been -- if we knew he was such a man, he**  
 25 **were working in a -- in administrative -- in**

1 **an administrative capacity or even providing**  
 2 **pastoral care on some stable basis, for**  
 3 **example, saying Masses for sisters, that we**  
 4 **would tell for certain the leadership involved**  
 5 **in the local setting and often others, not**  
 6 **always, but often others that this man had**  
 7 **this history.**  
 8 **Q.** You said that was the practice that was begun  
 9 to be employed in 1992. Is that the word you  
 10 used, "practice"?  
 11 **A.** **Yes.**  
 12 **Q.** Was that a policy?  
 13 **A.** **The -- the sexual issues in ministry document**  
 14 **that we published in 1992, which we can spend**  
 15 **time on it, if you'd like to do that, it is**  
 16 **largely a listing, a public listing to the**  
 17 **whole world of what our expected practices**  
 18 **would be. I've never particularly liked the**  
 19 **word "policy" because it's a confusing word**  
 20 **somewhere between law, which bishops can give,**  
 21 **we talked earlier already today about the**  
 22 **bishop as a legislator, and administrative**  
 23 **practice. So policy -- it's difficult to say**  
 24 **sometimes what the intention is between law**  
 25 **and practice. So the -- this set of**

1 **statements is about practice.**  
 2 **Q.** Well, Archbishop Nienstedt commissioned some  
 3 new folks, another commission headed by  
 4 Reverend Witt, to develop some new policies  
 5 and, as you know, were announced, I think,  
 6 yesterday, right?  
 7 **A.** **Once again, I have not looked carefully. I**  
 8 **believe, however, my friends have said there**  
 9 **was some sort of announcement on Monday, so**  
 10 **it's probably two days ago.**  
 11 **Q.** All right. Two days ago. Did you decline or  
 12 refuse to speak to Father Witt and those doing  
 13 the investigation, the internal investigation  
 14 of the archdiocese? Yes or no?  
 15 **A.** **Let me -- yes, I did say that I was not**  
 16 **interested in that time being interviewed. I**  
 17 **don't believe it was an internal**  
 18 **investigation, but rather a -- an inventory of**  
 19 **their -- of the practices again.**  
 20 **Q.** Well, it was an investigation being done by  
 21 the archbishop, reported publicly to have been  
 22 by Father Witt. You're aware of that?  
 23 **A.** **Well, actually, you know, I don't know what**  
 24 **the term "investigation" means here, so I --**  
 25 **I'm not gonna agree with you, Jeff -- Mr.**

1 **Anderson, on that.**  
 2 **Q.** Well, you knew that the archbishop had  
 3 impaneled some folks to look at the policies  
 4 and practices in the archdiocese, correct?  
 5 **A.** **Yes.**  
 6 **Q.** And when they contacted you, who contacted  
 7 you?  
 8 **MR. BIRRELL:** Well, be sure that you  
 9 don't answer the question by talking about  
 10 anything you and I discussed.  
 11 **BY MR. ANDERSON:**  
 12 **Q.** These are archdiocesan officials. Who  
 13 contacted you from the archdiocese?  
 14 **A.** **I don't believe -- I don't believe any**  
 15 **archdiocesan official contacted me.**  
 16 **Q.** Well, who contacted you that they conducted --  
 17 **A.** **I believe one or another of the volunteers on**  
 18 **the committee contacted me. I don't recall.**  
 19 **Q.** When was it?  
 20 **A.** **Sometime last fall.**  
 21 **Q.** What month?  
 22 **A.** **I don't recall.**  
 23 **Q.** You indicated that you basically stopped  
 24 reading about this in September sometime?  
 25 **A.** **I believe in October.**

- 1 Q. Okay. So the contact, then, was in October  
2 or --
- 3 A. **I don't -- I don't know when the contact was.**
- 4 Q. And you don't know who it was that contacted  
5 you --
- 6 A. **That's correct.**
- 7 Q. -- to get the information that you had or  
8 didn't have concerning what they wanted to  
9 know about?
- 10 A. **That's correct -- well, I don't know. They**  
11 **said, "Will you come and talk with us?" And I**  
12 **said, "Not now."**
- 13 Q. And why did you refuse to cooperate with them  
14 and talk with them, give them the information?
- 15 A. **From the very beginning, I felt that there was**  
16 **a media frenzy about all of this, some of it**  
17 **stirred up by inaccurate statements from**  
18 **yourself. And so I decided very early on that**  
19 **it would be better that folks who were doing**  
20 **whatever studies they were doing would proceed**  
21 **and at some point I'd have an opportunity to**  
22 **offer my input. Since most of my activity was**  
23 **heavily documented publicly for many, many**  
24 **years, didn't see any particular pressing need**  
25 **to defend my record.**

- 1 Q. Well, you knew this was something that was  
2 being done by the archbishop, not by me,  
3 right?
- 4 A. **That's correct.**
- 5 Q. Okay. So it had nothing to do with me, did  
6 it?
- 7 A. **The media frenzy had a good deal to do with**  
8 **you.**
- 9 Q. Well, that may be, but the investigation that  
10 the archbishop was doing was one you knew to  
11 have been empowered by him, correct?
- 12 A. **Yes.**
- 13 Q. And you also knew that you were under an  
14 obligation of obedience to him at that time  
15 and all times, correct?
- 16 A. **That's correct.**
- 17 Q. And you also knew that the person that  
18 contacted you in the fall to get information  
19 from you was his delegated representative to  
20 conduct this investigation, correct?
- 21 A. **No.**
- 22 Q. What did you --
- 23 A. **So let's back --**
- 24 Q. What did you understand it to be then?
- 25 A. **I've already disputed the -- the**

- 1 **characterization of this as an investigation.**
- 2 Q. Well, let's call it an audit then.
- 3 A. **All right.**
- 4 Q. Do you want to call it an audit?
- 5 A. **I call it a study.**
- 6 Q. Okay. Then let's call it a study.
- 7 A. **Call it a study, yes.**
- 8 Q. They were studying the problem, right?
- 9 A. **Right.**
- 10 Q. And they wanted to know what you knew about  
11 the problem and they contacted you to find out  
12 your role in it, correct?
- 13 A. **They contacted me for purposes left**  
14 **unspecified initially: "Would you come and**  
15 **speak with us?"**
- 16 Q. And you knew that the material -- and are you  
17 telling us you don't know who it was who  
18 contacted you?
- 19 A. **I don't remember who it was, that's what I**  
20 **told you.**
- 21 Q. Was it a cleric or non-cleric?
- 22 A. **Sorry, I don't remember.**
- 23 Q. And what was the reason you gave that person  
24 for refusing to cooperate with the  
25 archbishop's study?

- 1 A. **Right. So I -- let's roll back a little bit**  
2 **of your question there. The archbishop did**  
3 **not order me to participate. At no time has**  
4 **anyone indicated to me that the archbishop was**  
5 **placing me under obedience to do so. So I had**  
6 **no such -- no such summons or legitimate**  
7 **exercise of obedience in my regard. I don't**  
8 **recall that I gave any particular reason, but**  
9 **I don't recall the conversation in any depth,**  
10 **I'm sorry.**
- 11 Q. So, in any case, you do recall refusing to  
12 give the information requested, correct?
- 13 A. **Well, once again, I believed and believe to**  
14 **this day that there's tons and tons and tons**  
15 **of information that I think I heard the**  
16 **lawyers here talking before we began about the**  
17 **voluminous information. My belief to today is**  
18 **that I was -- I was likely to be asked to**  
19 **offer my opinion on a variety of things rather**  
20 **than information because the information's**  
21 **well documented.**
- 22 Q. You knew it was the archbishop's study, so  
23 what was the reason, then, you gave to not  
24 cooperate with the archbishop's study?
- 25 A. **Well, again, I don't recall giving any reason**

1 **because I don't recall the conversation.**  
 2 **Q.** Well, was it an e-mail or a phone call or a  
 3 letter requesting the information?  
 4 **A.** **I'm almost certain it was -- again, wasn't**  
 5 **requesting information, but requesting my**  
 6 **appearance, and I believe it came in the form**  
 7 **of a phone call.**

8 **Q.** And after you refused to give the information  
 9 requested by whomever it was delegated by the  
 10 archbishop, did the archbishop ever contact  
 11 you and say, "Father McDonough, you're  
 12 required to cooperate with this investigation,  
 13 I empowered this investigation, I'm trying to  
 14 get to the bottom of this problem and I've  
 15 convened a commission to do so and I'm  
 16 ordering you to do -- to answer the questions  
 17 that are asked of you"?

18 MR. HAWS: I will object to the  
 19 misstatement and characterization of the facts  
 20 and --

21 BY MR. ANDERSON:

22 **Q.** Or anything like that.

23 MR. HAWS: -- description. But this  
 24 is an independent task force that was  
 25 retained, but --

1 **A.** **If I could just address the first portion of**  
 2 **what you said and you may choose to continue,**  
 3 **you'll do what you wanna do, I don't believe I**  
 4 **ever refused to give information, so let me**  
 5 **start with that. I think that's a**  
 6 **mischaracterization, Mr. Anderson.**

7 **Nonetheless, to the latter part of**  
 8 **your question, the latter part which was a**  
 9 **question, no. Archbishop never approached me**  
 10 **and ordered me to appear before anyone.**

11 **BY MR. ANDERSON:**

12 **Q.** Well, when you say you -- when you contend  
 13 that you refused -- you didn't refuse to give  
 14 information, you did refuse to give an  
 15 interview, correct?

16 **A.** **Yes.**

17 **Q.** Okay. And you did refuse to answer any  
 18 questions asked of you by those that were  
 19 seeking it, right?

20 **A.** **I don't recall that latter portion, if they**  
 21 **ever reached out with questions or not, but I**  
 22 **did refuse to be interviewed, that's right.**

23 **Q.** Well, an interview is questions asked and  
 24 questions answered and you refused to do that,  
 25 didn't you?

1 **A.** **Yes, I did.**

2 **Q.** So it was a refusal to do an interview?

3 **A.** **Right.**

4 **Q.** Okay. What were you afraid of?

5 **A.** **I'm not afraid of much. Let me say what I**  
 6 **said right at the very beginning. The last**  
 7 **several months have been characterized by a**  
 8 **media frenzy, a significant amount of it, from**  
 9 **my perspective, generated by, among other**  
 10 **things, misstatements of law from your own**  
 11 **office.**

12 **Q.** But this was the archbishop's investigation,  
 13 not the media investigation and not one being  
 14 done by me.

15 MR. HAWS: Again, I object to the  
 16 characterization.

17 BY MR. ANDERSON:

18 **Q.** So why were you afraid? Why were you afraid  
 19 then to give an interview to the archbishop's  
 20 delegate?

21 **A.** **I -- I do not characterize my stance as fear,**  
 22 **but my prudent choice was in the current -- in**  
 23 **the then current environment, that my**  
 24 **participation would add nothing not already**  
 25 **available in the records possessed by the**

1 **archdiocese.**

2 **Q.** At some point in time, you're aware that we  
 3 took the deposition of Archbishop Nienstedt a  
 4 couple weeks ago?

5 **A.** **I've heard that, yes.**

6 **Q.** Have you read it, the transcript of that?

7 **A.** **No.**

8 **Q.** Archbishop Nienstedt indicated at some point  
 9 in time a decision was made to not record some  
 10 conversations between at least yourself and  
 11 him because there was a concern they could be  
 12 discovered in litigation.

13 **A.** **Hum.**

14 **Q.** When in time, if you did, make a decision to  
 15 not record some conversations with Archbishop  
 16 Nienstedt concerning childhood sexual abuse  
 17 and the handling of it so that they would not  
 18 be discovered in litigation?

19 MR. HAWS: Again, I object to the  
 20 characterization of what archbishop testified  
 21 to, it's in the record and that will stand.  
 22 But with that objection, go ahead.

23 **A.** **If -- if what you've said accurately**  
 24 **characterizes what the archbishop said, then**  
 25 **I'd have to be in a position to disagree with**

1 him because, to my knowledge, first of all, he  
2 and I would never have been in a position for  
3 much casual conversation. Archbishop  
4 Nienstedt managed largely by memo. And so  
5 just about any communication Archbishop  
6 Nienstedt and I have ever had probably is  
7 already available to you, especially if it's  
8 about these matters. But I don't recall the  
9 question ever being asked about recording  
10 conversations with -- between the archbishop  
11 and myself. So if he did in fact characterize  
12 things, Mr. Anderson, the way you've said  
13 them, I think he's wrong, but it sounds to me  
14 like that's a mischaracterization of his  
15 remarks.

16 **BY MR. ANDERSON:**

17 **Q.** Did you ever suggest to Archbishop Nienstedt  
18 that it would be best not to document some of  
19 the conversations had between yourself and  
20 others concerning the problems of childhood  
21 sexual abuse and how they were being handled?

22 **A.** I believe not.

23 **Q.** No conversation ever with him about that topic  
24 and not recording things, correct?

25 **A.** I believe that's correct, yes.

1 **Q.** You're sure of that?

2 **A.** Well, I'm telling you that's my recollection  
3 at this point, yeah.

4 **Q.** Did you, yourself, ever make a choice not to  
5 record certain things because you were  
6 concerned that our office would get them in  
7 litigation?

8 **A.** Actually, my stance usually -- you probably  
9 didn't ever hear this because I didn't call  
10 you, but when I produced records, my tendency  
11 was to mentally invite Jeff Anderson into the  
12 office, presuming that I would be held  
13 accountable in the years ahead for my  
14 activity. So my general stance was to -- to  
15 think in terms of what I was producing as one  
16 day being publicly available. And you were --  
17 and you, by the way, I offer you as a  
18 compliment, were the -- were part of the  
19 imagination I had in that regard.

20 **Q.** Well, thank you for that compliment.

21 When did you formulate that view  
22 that you should do that in that way with me in  
23 mind?

24 **A.** Sometime perhaps about 20 years ago.

25 **Q.** Was there any particular instance or event

1 that triggered that particular formulation?

2 **A.** Of course, you and I have had a great deal of  
3 interaction over the years and I don't recall  
4 any specific event.

5 **Q.** All right. Now, the charter in 2002 announced  
6 quite publicly that there would now be, if  
7 there hadn't already been, a so-called zero  
8 tolerance, correct?

9 **A.** That was the -- the way it was often  
10 characterized. I don't know the charter  
11 itself said that, but, nonetheless, that's an  
12 accurate public characterization.

13 **Q.** That was certainly the public perception and  
14 the way it was promoted across the country and  
15 in this archdiocese, zero tolerance?

16 **A.** I did not particularly use those words, but I  
17 -- I recall it quite vividly, yes.

18 **Q.** Did you believe there to have been a zero  
19 tolerance in this archdiocese before that  
20 time?

21 **A.** No. Just as I've testified, during the 1990s,  
22 we continued to engage men, even with proven  
23 criminal histories of sexual abuse of minors,  
24 in administrative and some limited pastoral  
25 capacity. So I did not believe, no, that we

1 had a zero tolerance stance prior to that.

2 **Q.** Okay. And did you, yourself, have any  
3 participation in the Catholic Conference of  
4 Bishops that formulated the policy ultimately  
5 known as zero tolerance in 2002?

6 **A.** So I'm gonna answer with two things. I  
7 believe that the practices in the Archdiocese  
8 of St. Paul and Minneapolis, which I helped,  
9 although I was not fundamentally in charge of,  
10 but I helped to formulate, informed the work  
11 of the bishops. But, no. Because I am not  
12 now nor ever have been a Roman Catholic  
13 bishop, I was not part of that work at all.

14 **Q.** Were you there at the conference in Dallas?

15 **A.** I was, yup.

16 **Q.** And at that time as an advisor to Archbishop  
17 Flynn?

18 **A.** I was -- well, I would -- always was an  
19 advisor of Archbishop Flynn, of course, so --  
20 but my particular purpose to be there was our  
21 presumption that he would be involved with  
22 national media conversations and that I could  
23 be available -- we had just had a turnover in  
24 -- in communications personnel -- so that I  
25 could be available to local media, given the

1 **fact that he was likely to be tied up**  
 2 **throughout the meeting with -- with other**  
 3 **folk.**

4 (Discussion out of the hearing of  
 5 the court reporter)

6 **A. Would it be useful to take a little break?**

7 **BY MR. ANDERSON:**

8 **Q.** Would you like to?

9 **A. I would like to if I could for just maybe --**

10 **Q.** Sure.

11 **A. -- three minutes is all --**

12 **Q.** Oh, no. I mean, take whatever you need.

13 **A. Thank you.**

14 MR. LEEANE: Off the video record at  
 15 9:56 a.m.

16 (Recess taken)

17 MR. LEEANE: Back on the video  
 18 record at 10:04 a.m.

19 **BY MR. ANDERSON:**

20 **Q.** Father, have you ever told any official of the  
 21 archdiocese or staff, for that matter, to not  
 22 document matters pertaining to childhood  
 23 sexual abuse for any reason?

24 **A. No.**

25 **Q.** Have you always considered yourself a mandated

1 reporter while a priest?

2 **A. This is, of course, mandated reporter of child**  
 3 **abuse --**

4 **Q.** Yes.

5 **A. -- or endangerment?**

6 **Q.** Yes.

7 **A. Well, always -- I think I only learned of that**  
 8 **sometime in the first few years after**  
 9 **ordination.**

10 **Q.** And what, as a mandated reporter, do you  
 11 consider the criterion for having to make a  
 12 report as required by law to be?

13 **A. Perhaps I can give some history.**

14 **Q.** Well, just what your understanding of what the  
 15 criterion is for triggering a report.

16 **A. Right.**

17 **Q.** What do you understand that to be?

18 **A. My understanding from the law is that if we**  
 19 **have reason to think that a young person is in**  
 20 **danger now, which would include, my**  
 21 **understanding, criminal activity or**  
 22 **potentially criminal activity that's happened**  
 23 **in the last three years, that we don't try to**  
 24 **establish the veracity or not of that, we**  
 25 **simply turn that over to the public officials.**

1 **Q.** So where did you get that last three years as  
 2 a criterion?

3 **A. That's my understanding from the law, but**  
 4 **that's years ago since I --**

5 **Q.** Is that your interpretation of it or an  
 6 interpretation given you by somebody else?

7 **A. I think I might have even seen -- well, yes,**  
 8 **actually, so you'll get the history, in about**  
 9 **1988 or '89, Father O'Connell and I met with**  
 10 **the head of the sex crimes unit for St. Paul,**  
 11 **a fellow who subsequently went on to be the**  
 12 **sheriff in Washington County. I'm sorry, I**  
 13 **don't remember his name. And we asked him,**  
 14 **"What do you want to know? What format do you**  
 15 **want to know it in? How do we report to you?"**  
 16 **That was a very useful conversation that**  
 17 **formed our practice thereafter. So --**

18 **Q.** Let me interrupt you because the question was  
 19 when did you come to that interpretation. Was  
 20 that '89?

21 **A. I think it was '88 or '89. Then thereafter in**  
 22 **the -- sometime in the first half of the**  
 23 **1990s, I don't recall the exact time, but my**  
 24 **colleague then, Bill Fallon, who was**  
 25 **chancellor, contacted the -- the dis -- the**

1 **county attorneys in the 12 counties that the**  
 2 **archdiocese served -- serves and asked for**  
 3 **similar clarification, direction, instruction.**  
 4 **And so I wasn't part of those calls, but I**  
 5 **encouraged him to make them and then heard the**  
 6 **reply back. And I believe about seven or so**  
 7 **of the counties gave us something similar to**  
 8 **what I've just said to you.**

9 **Q.** So is it your belief today that a report is  
 10 triggered only if there's a current danger or  
 11 one that has existed in the last three years?

12 **A. You were asking about mandated.**

13 **Q.** Yes.

14 **A. Yes.**

15 **Q.** For a mandated reporter.

16 **A. So for man -- mandating, my understanding is**  
 17 **that, yes.**

18 **Q.** What do you understand the timing to be for  
 19 making such a report?

20 **A. Immediately, which means, as I understand it,**  
 21 **within 24 hours.**

22 **Q.** Have you ever not made such a report?

23 **A. When I was mandated to do so, I have never not**  
 24 **made such a report. Would have positively --**  
 25 **I've been aware of my responsibility as a**

1 **mandated reporter and have always followed**  
 2 **through on that responsibility. I've also**  
 3 **advised as many people as I've had the**  
 4 **opportunity to do so to do the same thing.**  
 5 **Q.** Have you ever advocated for the continuation  
 6 of any priest in ministry who you have known  
 7 to have had histories of sexual molestation of  
 8 minors, yes or no?  
 9 **A. Well, I'm going to give you a longer answer**  
 10 **than than yes -- yes or no. When the**  
 11 **archbishop would ask me, under the previous**  
 12 **policy, about whether he ought to -- what kind**  
 13 **of assignment he ought to give to a fella, I**  
 14 **had -- I did provide advice at various times**  
 15 **about -- about the kind of policy -- pardon**  
 16 **me, kind of assignment to be consistent with**  
 17 **the policy he -- he -- Archbishop Roach had**  
 18 **approved. So, yes, I did. I wouldn't call**  
 19 **that advocate, but, rather, I responded to my**  
 20 **archbishop's request for --**  
 21 **Q.** And in connection with what priest and what  
 22 archbishop?  
 23 **A. Again, this would be primarily with Archbishop**  
 24 **Roach, I don't recall that it ever happened**  
 25 **with Archbishop Flynn.**

1 **Q.** And do you recall what priest?  
 2 **A. Do you know, I don't. I do re --**  
 3 **Q.** Have you --  
 4 **A. I do recall one, Jerome Kern.**  
 5 **Q.** Did you advocate his removal from ministry or  
 6 his continuation in ministry?  
 7 **A. I eventually advocated his removal from**  
 8 **ministry in 2002. Some handful of years**  
 9 **before then, I suggested when Archbishop**  
 10 **Roach, I believe, wanted to move him from a**  
 11 **pastor position to an associate pastor**  
 12 **position, the conditions under which the**  
 13 **archbishop ought to do that.**  
 14 **Q.** I took the deposition of Jerome Kern  
 15 yesterday. Are you aware of that?  
 16 **A. I am.**  
 17 **Q.** What documents did you review in preparation  
 18 for this deposition today?  
 19 **A. I didn't review any documents to help my**  
 20 **memory for this.**  
 21 **Q.** Have you reviewed anything in preparation of  
 22 this deposition?  
 23 **A. Other than --**  
 24 **MR. BIRRELL: You don't have to**  
 25 **answer that. He's answered the question.**

1 **A. Yeah.**  
 2 **BY MR. ANDERSON:**  
 3 **Q.** Well --  
 4 **MR. BIRRELL: He told you that he**  
 5 **didn't review anything to refresh his memory,**  
 6 **which is what he's obligated to disclose.**  
 7 **BY MR. ANDERSON:**  
 8 **Q.** Well, the question is, in preparation for this  
 9 deposition, what have you reviewed?  
 10 **A. I spent time in prayer. That's it.**  
 11 **(Discussion out of the hearing of**  
 12 **the court reporter)**  
 13 **BY MR. ANDERSON:**  
 14 **Q.** Have you spoken with any of your fellow  
 15 priests or any officials from the archdiocese  
 16 about it or what you're expected to be asked?  
 17 **A. No.**  
 18 **MR. BIRRELL: Would you say what**  
 19 **"it" is, please?**  
 20 **BY MR. ANDERSON:**  
 21 **Q.** Yeah, the deposition.  
 22 **A. No. I've not spoken with fellow priests or**  
 23 **with archdiocesan officials in anticipation of**  
 24 **the -- anticipation of this deposition.**  
 25 **Q.** When you made mention of Jerome Kern, it's

1 correct that he was removed or allowed to  
 2 resign or retire in 2002 from active ministry,  
 3 correct?  
 4 **A. Yes.**  
 5 **Q.** And did you advocate for that at that time?  
 6 **A. I did. I advocated for his removal,**  
 7 **resignation, retirement.**  
 8 **Q.** You did not advocate for his removal from  
 9 ministry before that, however, did you?  
 10 **A. I did re -- advocate for his restriction in**  
 11 **ministry. I don't recall that I advocated**  
 12 **specifically that he be permanently removed.**  
 13 **Q.** There is no record of him having been  
 14 restricted in his ministry before 2002, is  
 15 there?  
 16 **A. I don't have access to the records, but I**  
 17 **would be surprised that there would -- if**  
 18 **there were no such record.**  
 19 **Q.** Do you recall that in 1987, Al Michaud made an  
 20 appointment with you and reported to you that  
 21 he had been sexually abused by Jerome Kern,  
 22 specifically, Kern had been with him at the  
 23 seminary, put his hand on his genitals?  
 24 **A. I don't recall the specific year, but I do**  
 25 **recall speaking to, listening to Al Michaud,**

- 1 **yes.**
- 2 **Q.** And do you recall meeting with him in your  
3 office where you had the Kern file in front of  
4 you and reviewed some of the material with Al  
5 Michaud, telling him something about Kern's  
6 history?
- 7 **A. I don't recall that, but sounds like what I**  
8 **would have done.**
- 9 **Q.** Okay. He reports and the file reflects that  
10 there were reports that Kern had abused in  
11 1969 made by two parents when Kern was at St.  
12 Mark's and that was reflected in the file.  
13 Are you aware of that?
- 14 **A. I'm -- I'm gonna just dispute one word that**  
15 **you used and that's the word "abuse." And, in**  
16 **fact, what I do recall, and this is now from**  
17 **memory, I've not had a chance to review**  
18 **documents or files, so there's probably much**  
19 **more material about it, but what I recall is**  
20 **that while clearly Kern's behavior with these**  
21 **young people, and my recollection is the Al**  
22 **Michaud behavior was very similar to the '60s,**  
23 **late '60s report, that it was disturbing**  
24 **enough for people to call it out; that a**  
25 **question at the time was, did that in fact**

- 1 **constitute child abuse? Now, it's years later**  
2 **and I think we all have greater clarity about**  
3 **those things. The question at the time, as I**  
4 **recall, Jerome Kern characterized this as**  
5 **wrestling, like what he had done with his**  
6 **siblings.**
- 7 **So in 19 -- when -- when my**  
8 **predecessor, Father O'Connell, in the late**  
9 **1980s rediscovered the 1960s information, my**  
10 **recollection is that he asked a local Twin**  
11 **Cities expert, Gary Schoener, to review the**  
12 **behavior and help us understand how credible**  
13 **was Kern's denial that this constituted abuse,**  
14 **but rather was roughhousing or play.**
- 15 **Q.** So did you believe Kern when he claimed it was  
16 roughhousing?
- 17 **A. You know, I -- I don't know that I believed it**  
18 **particularly. My -- my concern was to**  
19 **understand it.**
- 20 **Q.** You also knew that offenders of childhood  
21 sexual abuse deny, minimize and blame,  
22 correct?
- 23 **A. Yes.**
- 24 **Q.** You knew that?
- 25 **A. Yes.**

- 1 **Q.** You've long known that?
- 2 **A. I've long known it.**
- 3 **Q.** You've dealt with a lot of it?
- 4 **A. Yes.**
- 5 **Q.** Right.
- 6 **A. So, again, when --**
- 7 **Q.** Did you see Kern's description of roughhousing  
8 or wrestling with these kids as reported by  
9 him to be a denial of sexual abuse?
- 10 **A. Yes, I did see his -- his report as a denial.**
- 11 **Q.** And so you believed him?
- 12 **A. I did not.**
- 13 **Q.** Did you believe he had committed sexual abuse  
14 then?
- 15 **A. I was not sure how to characterize, so in --**  
16 **when Al came to see me -- when Mr. Michaud**  
17 **came to see me, I sent the additional**  
18 **information -- information to Gary Schoener to**  
19 **ask Gary once again, "Look it, here's another**  
20 **story like the one from," at that point**  
21 **perhaps 25 years ago, this one goes back at**  
22 **this point nearly, well, 15 years, "How do we**  
23 **characterize this today?"**
- 24 **Q.** Did you tell -- did you send to Gary Schoener  
25 what Al Michaud had reported to you, what Kern

- 1 had done to him or not, do you know?
- 2 **A. I -- I think the file will establish what was**  
3 **there, but I believe I did, yes.**
- 4 **Q.** Okay. But you don't know that as we speak?
- 5 **A. I don't recall it, yes.**
- 6 **Q.** In the file, you recorded that Al Michaud  
7 reported to you, and I quote, "He was grabbed  
8 by the crotch and the kid was aroused and Kern  
9 reached inside the bathing suit after the kid  
10 was aroused." That's sexual abuse, isn't it?
- 11 **A. I certainly would report that to the police**  
12 **today.**
- 13 **Q.** You didn't report it then, did you?
- 14 **A. I did not. Wasn't consistent with what I**  
15 **understood to be the matters that the public**  
16 **officials had told us they wanted to hear,**  
17 **so --**
- 18 **Q.** So in '87, are you telling us that that is not  
19 something the public officials wanted to know  
20 about a priest having done to a kid?
- 21 **A. In 1987, I -- I was not part of that -- or**  
22 **1988 or whatever, that was Father O'Connell,**  
23 **but, yes, in the -- after our consultations**  
24 **with the sex crimes person here and with the**  
25 **county attorneys took place at about this**

1 **time, probably somewhat before, I had the**  
 2 **understanding that they did not want to know**  
 3 **about older matters. I'm certainly aware,**  
 4 **I've heard now, that they'd like to know about**  
 5 **older matters. But the instructions under**  
 6 **which I was operating from the public**  
 7 **officials was, "We can't do anything with**  
 8 **that. We don't want to know about it."**

9 **Q.** Do you recall telling Al Michaud, after  
 10 reviewing the file with him and hearing his  
 11 reports of January '90 -- excuse me, after  
 12 hearing his report that you promised him you'd  
 13 get back to him and never did?

14 **A.** **Because that -- that's a compound question. I**  
 15 **think did I -- do I recall that I promised to**  
 16 **get back to him?**

17 **Q.** Yes.

18 **A.** **That promise I never did -- or do I recall**  
 19 **that I ever did. I don't recall promising to**  
 20 **get back to him, although I presume I would.**  
 21 **And I do recall that there was subsequent --**  
 22 **subsequent interaction with him, so I think**  
 23 **it's inaccurate to say that I never got back**  
 24 **to him.**

25 **Q.** Did you weep during the meeting with Al

1 Michaud about the history that you saw  
 2 reflected in the file and what he reported to  
 3 you?

4 **A.** **I don't recall that specifically.**

5 **Q.** Have you ever wept, hearing the reports of  
 6 victims like him?

7 **A.** **Rather seldom. I -- I didn't want to mislead**  
 8 **people with false displays of emotion, so my**  
 9 **-- my approach would generally be fairly**  
 10 **sober.**

11 **Q.** Did you demonstrate to him in that meeting  
 12 that you were upset about what you learned  
 13 from the file, having reviewed it with him?

14 **A.** **I don't recall that, Mr. Anderson.**

15 **Q.** The records do reflect that in August 1993 --  
 16 (Discussion out of the hearing of  
 17 the court reporter)  
 18 BY MR. ANDERSON:

19 **Q.** I misspoke on a date, Father McDonough. The  
 20 meeting with Michaud was in 1993. 1987 -- I  
 21 said '87, I think.

22 **A.** **Thank you. And I think I responded suggesting**  
 23 **it was a little later, so I think we're on --**

24 **Q.** That was my mistake, I want to correct it, the  
 25 records reflect that he actually met with you

1 on January 22nd, 1993, and made the report.

2 **A.** **Thank you.**

3 **Q.** Okay. My apologies for that.

4 The records also reflect that same  
 5 year in August, Al Michaud, unhappy about the  
 6 response or lack thereof, as he reported it,  
 7 hired us and I brought suit and that was  
 8 public. Do you recall that?

9 **A.** **Actually, had you asked me if -- if you had**  
 10 **been involved in the suit, I -- I honestly**  
 11 **would have forgotten that, but I do recall**  
 12 **that Al was unhappy -- Mr. Michaud was unhappy**  
 13 **and that there was a suit. I had forgotten**  
 14 **that you represented him.**

15 **Q.** And at that time, Kern was still in ministry  
 16 unrestricted, correct?

17 **A.** **That's correct.**

18 **Q.** And at that time, do you recall drafting a  
 19 letter for Archbishop Roach to be read to the  
 20 parishioners at Immaculate Heart of Mary where  
 21 he was then the pastor?

22 **A.** **I think you may have some things out of**  
 23 **sequence there. Because I believe the**  
 24 **sequence -- this is my memory of it. Again,**  
 25 **the file -- the files will establish it. But**

1 **after we'd consulted with Gary Schoener,**  
 2 **archbishop, then, directed that Kern should**  
 3 **remain in ministry, but Archbishop Roach said,**  
 4 **"We need to talk to the people in the parish**  
 5 **and let them know what's going on." So -- and**  
 6 **I'll tell you the factoid that has this burned**  
 7 **in my memory. I went out for a meeting, some**  
 8 **several hundred parishioners were there. We**  
 9 **said, "Here's our assessment, but you need to**  
 10 **understand that there have been these**  
 11 **complaints, we're told by experts that they**  
 12 **don't constitute child abuse, that he's not a**  
 13 **danger today, but we want you -- abundance of**  
 14 **caution -- we want you to know about this."**

15 **Now, here's the factoid that has --**  
 16 **why I think your -- your timing is incorrectly**  
 17 **stated, is that I believe that the very next**  
 18 **day, the meeting was on a Sunday, as I recall,**  
 19 **and that someone who had been at the meeting**  
 20 **went to his workplace and said something**  
 21 **stupid like, "There was a meeting at my church**  
 22 **and some crazy person is accusing our nice**  
 23 **priest," and the co-worker he was talking to**  
 24 **was Mr. Michaud.**

25 **Q.** In any case, it was reported to the



1 parishioners that Kern had been assessed, and  
 2 it was also reported by Archbishop Roach and I  
 3 think a letter prepared by you that Kern had  
 4 denied it and gave the impression that Kern  
 5 was innocent of having committed sexual abuse  
 6 against Al Michaud or any other kids.  
 7 Correct?

8 **A. I don't think you're characterizing anything**  
 9 **differently than I've already said, so I think**  
 10 **just hold -- hold that up to -- to what I've**  
 11 **said.**

12 **Q.** And are you aware that the parishioners, then,  
 13 rallied around Father Kern, believing that he  
 14 had been assessed and determined to have been  
 15 safe?

16 **A. Actually, my recollection is, but this is a**  
 17 **long time ago now, this is 20--some years ago,**  
 18 **my recollection is that there was a rather**  
 19 **robust debate among folks in the parish about**  
 20 **whether he's trustworthy, are they to trust**  
 21 **him. And, in fact, for some time he was**  
 22 **assigned in a team ministry with another very**  
 23 **well-thought-of priest named Father Custodio.**  
 24 **And my recollection is that either Father**  
 25 **Custodio or one of the trustees reported there**

1 **was some serious questioning about whether he**  
 2 **ought to remain among the people, so --**

3 **Q.** He was ultimately allowed to continue in  
 4 ministry and there was consideration of  
 5 several options, and one of those was to make  
 6 him an administrator versus a pastor so that  
 7 he could be removed quickly if there was any  
 8 public -- further public disclosure. Do you  
 9 recall that?

10 **A. I think you're con -- conflating a couple of**  
 11 **things, that the appointment is -- as**  
 12 **administrator permits -- permits the**  
 13 **archbishop to remove a pastor without due**  
 14 **process. That part I acknowledge.**

15 **The notion that it was further**  
 16 **public disclosure that would trigger that, I**  
 17 **don't recall that that was the issue. This --**  
 18 **this, of course, was all very, very broadly**  
 19 **reported in the media at the time, so I don't**  
 20 **think there was -- and, in fact -- well, I'll**  
 21 **stop there and you can ask.**

22 **Q.** Let's talk about the public disclosure then  
 23 made to the parishioners. It is correct that  
 24 no public disclosure was made to the  
 25 parishioners at that time, that there had been

1 earlier complaints concerning Kern as  
 2 reflected in the file, other than the one  
 3 being discussed by, made by Al Michaud,  
 4 correct?

5 **A. I'm almost certain that's not true.**

6 **Q.** Okay. Did you draft the letter for Archbishop  
 7 Roach where he states, "I do not believe Kern  
 8 abused anyone"?

9 **A. I don't recall whether -- whether I drafted**  
 10 **that or not.**

11 **Q.** Is your position today that either the file or  
 12 the history known to you at any time  
 13 concerning Kern was that there was never  
 14 anything that reflected actual sexual abuse by  
 15 him of any minor?

16 **A. I think I already said, and I'll say it again,**  
 17 **I would characterize today his actions as**  
 18 **abuse. I'm not informed enough about the law**  
 19 **to say whether he would have been prosecuted**  
 20 **at the time or not, but I would certainly**  
 21 **would say it's absolutely unacceptable for a**  
 22 **priest. But my understanding through the**  
 23 **1990s was that Kern was representing his**  
 24 **activity as -- as a family pattern of -- of**  
 25 **roughhousing, and that Gary Schoener's opinion**

1 **was that that was consistent with the man's**  
 2 **current -- then current psychological**  
 3 **functioning. You know --**

4 **Q.** It was also your understanding that you and  
 5 Archbishop Roach were choosing to believe  
 6 Kern's account of the events versus the  
 7 'Heutmakers', who had reported in '69, and  
 8 Michaud, who had made a later report?

9 **A. No. No. That's not my understanding.**  
 10 (Discussion out of the hearing of  
 11 the court reporter)

12 BY MR. ANDERSON:

13 **Q.** You did know that even by Kern's account, he  
 14 had placed the hands -- his hands on the  
 15 genitals of Al Michaud?

16 **A. Do you know, I don't recall those details at**  
 17 **this point. I'm sorry.**

18 **Q.** Your understanding of mandatory reporting, had  
 19 that been either recorded or heard by you,  
 20 would have required a report, correct?

21 **A. At --**

22 **Q. -- or not?**

23 **A. At any time during this relevant period, had**  
 24 **Mr. Michaud or someone else come in and said**  
 25 **that this had happened to him recently, I**

1 would have got up -- got out of the room and  
2 called the police myself. This was at -- by  
3 that point a matter that was some 15 or so  
4 years previous.

5 (Discussion out of the hearing of  
6 the court reporter)

7 BY MR. ANDERSON:

8 Q. What priests, other than Freddy Montero, have  
9 you -- and I think you reported Montero,  
10 didn't you?

11 A. I did, yes.

12 Q. Other than Montero, who have you reported to  
13 law enforcement directly --

14 A. Right. Let me just back up and say --

15 Q. -- as a mandated reporter.

16 A. Let me say that I'm not sure that I -- I made  
17 the call myself, I may have, or I may have  
18 walked down the hall because I was talking  
19 with the mother of -- of this unfortunate  
20 child, and so I may have asked the chancellor  
21 at the time, either Bill Fallon or -- or Andy  
22 Eisenzimmer, I can't recall, to make the call,  
23 but -- so, I mean --

24 Q. Let me just restate my question. So other  
25 than Montero, if you made a report on Montero,

1 let's not quibble over that, but let's get an  
2 answer to this question, what priests have you  
3 personally reported to law enforcement --

4 A. Yeah.

5 Q. -- for suspicions of childhood sexual abuse as  
6 required by statute?

7 A. Right.

8 Q. Give me the names --

9 A. Right.

10 Q. -- if any.

11 A. Do you know, I -- I'm not recalling right now  
12 whom. I believe I did in a couple of cases,  
13 but I don't recall right now.

14 Q. What priest, if any, have you instructed  
15 somebody else to make a mandated report on  
16 your behalf --

17 A. Do you know, I am recalling --

18 Q. -- if any?

19 A. -- I am recalling -- now, there's a priest by  
20 the name of Mark Weymann, W-e-y-m-a-n or two  
21 n's, I'm not sure. And in one case, I believe  
22 I called the South St. Paul police myself, and  
23 in the second -- a second matter, I then -- I  
24 got word from one of our education staffers  
25 that the principal of the school where he was

1 assigned had expressed concern, and I said,  
2 "Don't call us. Call the police."

3 Q. Okay. Now, my question was restricted to what  
4 either you reporting --

5 A. Right.

6 Q. -- or you were instructing somebody else --

7 A. Right.

8 Q. -- to make the mandated report.

9 A. Right.

10 Q. So I think if I'm hearing your answer correct,  
11 you're saying in connection with Mark Weymann,  
12 you instructed somebody to make a report, is  
13 that what your testimony is?

14 A. Well, I -- I think my testimony is two things.  
15 I made one report, and then the second, I  
16 didn't have the information directly, so I  
17 instructed the other education -- mandated  
18 reporter to communicate that directly to the  
19 police, which in fact happened.

20 Q. So you made the report in the case of whom?

21 A. Of Wehmann.

22 Q. And you instructed or -- and the other one  
23 you're referring to is whom?

24 A. Is Wehmann.

25 Q. Okay. So both reports are in connection with

1 Wehmann?

2 A. That's right.

3 Q. Any others?

4 A. In regard to this --

5 Q. Where you --

6 A. Right.

7 Q. -- instructed somebody to make the mandated  
8 report.

9 A. Do you know, I'm not recalling right now, but  
10 I'm sure my memory will refresh.

11 Q. When did you first compile lists of priests  
12 who were accused of abuse, credibly or  
13 otherwise?

14 A. My general practice was not to -- to compile  
15 lists.

16 Q. Okay.

17 A. So --

18 Q. When did you first compile a list, if you ever  
19 did?

20 A. I think what I said is responsive. I don't  
21 think that I ever compiled lists. That -- and  
22 that "you" was addressed to me in the  
23 singular, I presume. Is that right?

24 Q. Well, you or others working with you, I mean,  
25 when were lists begun to be compiled?

- 1 **A. Oh, okay. That's a little different question.**  
 2 **Q.** Okay.  
 3 **A. Yeah. I think the first time there was an**  
 4 **attempt to sit down and really list all of**  
 5 **these was in regard to the John Jay study in**  
 6 **2002 or 2003 and it -- do you want to talk**  
 7 **about this?**  
 8 **Q.** Well, we'll get to that. If it was 2002 or  
 9 2003, I'm going to ask you about something  
 10 earlier.  
 11 First, why didn't you, as the guy  
 12 most in charge, at least as vicar general, for  
 13 handling sexual abuse issues compile such a  
 14 list?  
 15 **A. Let me deal briefly with the assertion in the**  
 16 **beginning of that and then I will respond to**  
 17 **the question.**  
 18 **Q.** If I was mistaken, you're not the guy in  
 19 charge --  
 20 **A. No.**  
 21 **Q.** -- of handling sexual abuse?  
 22 **A. I was not the one most in charge. We -- a**  
 23 **number of us worked together in a team under**  
 24 **the archbishop's direction, so the**  
 25 **archbishop's in charge.**

- 1 **Q.** Okay.  
 2 **A. That being said, why did I not do this work?**  
 3 **Because it was a matter of going through the**  
 4 **records, and so I turned to the chancellor,**  
 5 **who was the chief record officer of the**  
 6 **archdiocese, and said --**  
 7 **Q.** Got it.  
 8 **A. Yeah.**  
 9 **Q.** I'm going to go back to the Exhibit 102 that  
 10 we referred to earlier, which was the 1998  
 11 article where you're quoted and I'll just read  
 12 a part of it because I'm going to ask you a  
 13 question. On the first page of it, it says --  
 14 MR. BIRRELL: Wait a second.  
 15 **A. Could I ask you to hold just a second till I**  
 16 **find it?**  
 17 **BY MR. ANDERSON:**  
 18 **Q.** Sure.  
 19 **A. Yeah. Okay. I'm there now.**  
 20 **Q.** And in the first page of the last paragraph,  
 21 it is written, "For the first time McDonough  
 22 revealed the extent of the problem in an  
 23 interview this week. 15 priests in the  
 24 archdiocese have been 'credibly accused' of  
 25 molesting minors during the past 50 years,

- 1 McDonough said." So how did you get the  
 2 number 15 in 1998 if a list had not been made?  
 3 **A. I was regularly accessing the files, and so I**  
 4 **think that was my own memory from accessing**  
 5 **the files.**  
 6 **Q.** You go on to state and I'll read it, "The  
 7 number is higher than the national average,  
 8 McDonough said, but corresponds to experts'  
 9 predictions." When you say that number is  
 10 higher than the national average, what are you  
 11 relying upon here as your baseline for that  
 12 assertion?  
 13 **A. And in regard to the national average or in**  
 14 **regard to the characterization of the local**  
 15 **number? I'm not sure what you're -- what**  
 16 **you're asking me there, Mr. Anderson.**  
 17 **Q.** Well, when you're saying that it's higher than  
 18 the national average, what do you mean?  
 19 **A. Right.**  
 20 **Q.** On what do you base that --  
 21 **A. Right.**  
 22 **Q.** -- at that time?  
 23 **A. Through the 1980s and '90s, actually into the**  
 24 **2000s, I and my colleagues regularly**  
 25 **participated in a variety of regional national**

- 1 **trainings, forums and so on, and so somewhere**  
 2 **along the line, perhaps even from the print**  
 3 **media, I learned that prediction. Now, I**  
 4 **don't recall specifically where I got it from**  
 5 **because I was, as were my colleagues,**  
 6 **regularly participating in a variety of**  
 7 **trainings and -- and seminars and following**  
 8 **literature.**  
 9 (Discussion out of the hearing of  
 10 the court reporter)  
 11 BY MR. ANDERSON:  
 12 **Q.** To your knowledge, did the archbishops here or  
 13 the bishops across the country in your  
 14 meetings with them ever make an effort to  
 15 compile lists before the efforts made and  
 16 reported widely in 2002?  
 17 **A. Not to my knowledge.**  
 18 **Q.** So is it your testimony --  
 19 **A. Could I also -- well, just while it's on the**  
 20 **table, I'm not sure it's implicit, so I don't**  
 21 **want to -- I don't want to let it get past,**  
 22 **that the effort in 2002 was an effort to**  
 23 **compile a list and I think that's inaccurate.**  
 24 **It's been an issue, Mr. Anderson, I've had**  
 25 **with you for some time, although, again, in my**

1 **own head, there was no attempt even then to**  
 2 **compile a list. There was a survey to**  
 3 **understand the extent of a problem, but not**  
 4 **the compiling of a list.**  
 5 **Q.** So when did you first see a list?  
 6 **A.** **I'm sorry, what kind of a list?**  
 7 **Q.** Of priests accused or credibly accused of  
 8 abusing minors --  
 9 **A.** **Right.**  
 10 **Q.** -- in the archdiocese.  
 11 **A.** **Probably in -- in -- so I was seeing the files**  
 12 **regularly, perhaps most every day.**  
 13 **Q.** The question is when.  
 14 **A.** **Yes. Throughout the time I worked at the**  
 15 **archdiocese, I saw the files. That was not a**  
 16 **list, but I saw the files of which had names**  
 17 **on them, okay?**  
 18 **Q.** When did you see a list?  
 19 **A.** **In -- in -- in making his report to the -- to**  
 20 **the John Jay study, I have a vague**  
 21 **recollection that Bill Fallon checked with me**  
 22 **to see that we were not missing anybody from**  
 23 **the list, that -- or the numbers he was**  
 24 **submitting, not a list, but the numbers, and**  
 25 **it was in that context that I would have seen**

1 **whatever compilation he had done.**  
 2 **Q.** And when was that?  
 3 **A.** **That would -- I don't recall if it was 2002 or**  
 4 **2003.**  
 5 **Q.** You told MPR that the archdiocese didn't have  
 6 a list of abusers. Was that correct when you  
 7 told them that?  
 8 **A.** **Yes.**  
 9 **Q.** Why wouldn't and why didn't the archdiocese  
 10 keep such a list and track who they knew to  
 11 have been accused of, credibly or otherwise,  
 12 of abuse before 2003?  
 13 **A.** **So there's two parts to your question. We're**  
 14 **talking here about the specific mechanics of a**  
 15 **list. We had active files that were regularly**  
 16 **accessed by all those who had responsibilities**  
 17 **in these -- in these areas, so there was no**  
 18 **need to compile a list because the information**  
 19 **was immediately available.**  
 20 **Q.** Yeah, but who has access to all of those  
 21 files? And those files are extremely  
 22 voluminous. My question is, is knowing that  
 23 there are voluminous files and you say "we had  
 24 access," that doesn't mean a lot of people,  
 25 right? It just means the archbishop and his

1 delegates. So my question to you is, why  
 2 didn't the archdiocese, before 2003, make a  
 3 conscious decision to determine who those were  
 4 that had been accused, credibly and otherwise,  
 5 so that you could know and it could be shared  
 6 with others that needed to know?  
 7 **A.** **Right. Well, for the latter portion of that,**  
 8 **again, my belief then and to today is that**  
 9 **that information was widely dispersed among**  
 10 **those who had the need to know. I'll mention**  
 11 **that briefly. The files were kept on the main**  
 12 **floor of the archdiocesan office, easily**  
 13 **accessible through my secretary or**  
 14 **administrative assistant. And in the working**  
 15 **files of the individual priests, a note, a**  
 16 **card was inserted, which indicated there's**  
 17 **other information kept under lock and key, see**  
 18 **so-and-so to get access to it. So that's in**  
 19 **terms of access to the information.**  
 20 **I was concerned, I'm guessing, the**  
 21 **last few months probably convinced reasonable**  
 22 **people that this is so and you're talking to a**  
 23 **judge about it, lists just with names on them**  
 24 **are notoriously difficult to -- to make**  
 25 **accurate and they -- they imply clarity of**

1 **information where clarity of information is**  
 2 **nonexistent. I indicated, for example, and I**  
 3 **regret this now, of course, looking back, but**  
 4 **during the 1990s, we didn't consider Jerome**  
 5 **Kern to have actually abused children. Again,**  
 6 **I regret that, but I don't think Jerome Kern's**  
 7 **name would have shown up on a list had we made**  
 8 **a list, so --**  
 9 **Q.** Well, if it had been recorded in the file by  
 10 you or others that he had put his hands upon  
 11 the genitals of Al Michaud and/or similar  
 12 reports had been made by others, it should  
 13 have been, correct?  
 14 **A.** **That's certainly my opinion today. Once**  
 15 **again, the expert advice we were receiving**  
 16 **independent, as I recall litigation, witness**  
 17 **for you, was that these -- these matters that**  
 18 **were reported about Kern did not constitute**  
 19 **sexual abuse of a minor.**  
 20 **Q.** For the John Jay study, didn't you or Fallon  
 21 have to write the names down and find the  
 22 actual number?  
 23 **A.** **I -- I'm sure that's so, yes.**  
 24 **Q.** You make mention of the files. Let me ask you  
 25 about that. You say these files are readily

- 1 available to those that need to know, is that  
2 what you said?
- 3 **A. That's -- I believe that is, we can check the**  
4 **record if you'd like, but it sounds like what**  
5 **I said.**
- 6 **Q. Who are those that need to know about what's**  
7 **in those files?**
- 8 **A. Well, of course, you're asking the present**  
9 **tense and so today I'm not in a position to**  
10 **say that, it's been some years since I was in**  
11 **the position. You want to talk about the**  
12 **past?**
- 13 **Q. Well, let's talk about the files.**
- 14 **A. Yeah.**
- 15 **Q. First, who needed to know, when you were vicar**  
16 **general, what was in those files?**
- 17 **A. Right. The -- the normal access would have**  
18 **been to the archbishop, any of the assistant**  
19 **bishops, and there were differing numbers at**  
20 **various times. The chancellors or anyone they**  
21 **would designate and there were, I think,**  
22 **throughout all the time I was vicar general --**  
23 **no. For one year there was one chancellor,**  
24 **but, otherwise, there were two. Priest**  
25 **personnel director or later the clergy**

- 1 **personnel director. Communications. The --**  
2 **any of the folks working with priest benefit**  
3 **matters. The chief financial officer. There**  
4 **may be a few others, but those are the ones I**  
5 **can think of right now.**
- 6 **Q. When you mentioned that -- a priest benefit**  
7 **officer and the CFO, is that because they**  
8 **needed to know because extra payments -- there**  
9 **has been a practice of making extra payments**  
10 **to known offenders in the archdiocese?**
- 11 **A. I certainly wouldn't characterize our practice**  
12 **that way. If you'd like, I'll characterize it**  
13 **the way I would, but I don't agree with you in**  
14 **the characterization.**
- 15 **Q. Well, Kapoun was receiving extra payments,**  
16 **wasn't he?**
- 17 **A. Kapoun was receiving transitional assistance.**
- 18 **Q. And he's not the only one who's receiving**  
19 **extra payments who was known to have been an**  
20 **offender, was he?**
- 21 **A. I'm disputing your characterization of extra**  
22 **payments. I will stand by my characterization**  
23 **of transitional assistant -- assistance. And**  
24 **it is correct as you assert, however, that**  
25 **Kapoun is not the only one.**

- 1 **Q. And how many accused or known offenders were**  
2 **receiving additional funds beyond the ordinary**  
3 **provided a priest?**
- 4 **A. Right.**
- 5 **Q. How many?**
- 6 **A. I don't know the number. Any -- any priest**  
7 **who was removed under the Charter for the**  
8 **Protection of Children and Youth received some**  
9 **sort of transitional assistance. Beyond that,**  
10 **it had been our practice for many years that**  
11 **any man, any priest leaving the priesthood for**  
12 **just about any reason whatsoever received**  
13 **transitional assistance. So fellas who were**  
14 **leaving -- priests who were leaving because of**  
15 **psychological disability, depression,**  
16 **alcoholism, we would assist them as well in**  
17 **making their transition.**
- 18 **Q. Were you aware, Father, that there's a**  
19 **separate account kept at the archdiocese where**  
20 **payments are being made to offenders and**  
21 **accused offenders for additional assistance?**
- 22 **A. For transitional assistance, yes, I was, I**  
23 **think --**
- 24 **Q. A 515 account, do you recall that?**
- 25 **A. Might be 1515.**

- 1 **Q. 1515.**
- 2 **A. I believe we did that at the direction of the**  
3 **finance council so that they would know what**  
4 **the activities were.**
- 5 **Q. And that was a practice begun what year?**
- 6 **A. I believe in the context of the charter, but I**  
7 **don't recall that specifically. We may have**  
8 **accounted for it separately before then.**  
9 (Discussion out of the hearing of  
10 the court reporter)
- 11 BY MR. ANDERSON:
- 12 **Q. Was that discussed in finance council minutes?**
- 13 **A. I don't recall if it appeared in minutes or**  
14 **not.**
- 15 **Q. Was it discussed in finance council?**
- 16 **A. I'm guessing it probably was. I don't recall**  
17 **that specifically.**
- 18 **Q. Do you have actual knowledge that beyond**  
19 **yourself, the archbishop, the auditor and the**  
20 **CFO, anybody else knew that such payments were**  
21 **being made to these known offenders?**
- 22 **A. Yes -- well, I shouldn't say actual knowledge.**  
23 **I have -- I can speak to the likelihood, but I**  
24 **don't have actual knowledge.**
- 25 **Q. Let's go back to the files for a moment.**

1 (Discussion out of the hearing of  
2 the court reporter)  
3 BY MR. ANDERSON:  
4 **Q.** When you talk about the files that people that  
5 needed to know had access to and you've  
6 identified those, what files are you talking  
7 about when you said that the archbishop and  
8 all these other people you identified had  
9 access to --  
10 **A. Right.**  
11 **Q.** -- concerning the offenders?  
12 **A. The files -- I would -- I would have**  
13 **characterized then, I believe, I certainly**  
14 **characterize today, is files about**  
15 **disciplinary matters.**  
16 **Q.** Name the files, though, that you're talking  
17 about. What do you call those files?  
18 **A. I call them the disciplinary files.**  
19 **Q.** And in your discussions with your colleagues  
20 who have knowledge of these files, is that  
21 what you called them when you referred to  
22 them? Because we need a name here.  
23 **A. Right. Well, I'm calling them disciplinary**  
24 **files. I don't recall what -- I have -- I**  
25 **have heard some people refer to them some**

1 **years ago as restricted files.**  
2 **Q.** Well, there are priest files that are the  
3 ordinary personnel matters that pertain to  
4 assignments and any -- you know, all matters  
5 pertaining to where they are and what they're  
6 doing and all that kind of stuff. Those are  
7 maintained, are they not?  
8 **A. They were during my time, yes.**  
9 **Q.** And they're called like just priest files, is  
10 that correct?  
11 **A. That would be the term of art, I presume,**  
12 **something like that.**  
13 **Q.** Okay. And you're referring to another  
14 category of files called disciplinary files,  
15 correct?  
16 **A. That's correct.**  
17 **Q.** And disciplinary files contain what?  
18 **A. Okay. So, again, recognize you're talking --**  
19 **you're talking the present tense. I've not**  
20 **worked in these matters with any authority**  
21 **since 2008.**  
22 **Q.** Well, let's talk about if you have -- well,  
23 you were the delegate for safety in 2008, you  
24 had access to files since then, haven't you?  
25 I mean, that's your role?

1 **A. You know, actually, generally I did not make**  
2 **access. Whether I had access or -- or not, I**  
3 **don't know. My fundamental responsibility**  
4 **after June 15th of 2008 was the prevention**  
5 **programs. So I probably did have access. I**  
6 **don't recall that I ever attempted to access**  
7 **after 2008.**  
8 **Q.** Well, as a delegate for safe environment by  
9 the archbishop in 2008 and for the years that  
10 you were, doesn't it seem important to know  
11 about what has happened in the past as  
12 reflected in the files to know what to do to  
13 prevent it into the future? I mean --  
14 **A. My -- of course, most of my work was in regard**  
15 **to the -- our educational efforts.**  
16 **Q.** Monitoring?  
17 **A. Well, hold on a second. 80,000 or so kids**  
18 **each year receiving safe environment training,**  
19 **to the work of publicizing our activities**  
20 **within church and letting people know.**  
21 **Q.** Okay. So --  
22 **A. And also monitoring.**  
23 **Q.** I don't want to be rude, but I have limited  
24 time, so I don't want -- you know, I need to  
25 -- so you didn't go back to the files after

1 2008 is what you're saying?  
2 **A. Yes.**  
3 **Q.** Okay. So the disciplinary files contain what?  
4 **A. They would be -- they would include whatever**  
5 **reports we made and what then whatever --**  
6 **pardon me, were made to us, archdiocesan**  
7 **officials, and then what we did about those**  
8 **reports. They might include press clippings**  
9 **and a variety of other things as well.**  
10 **Everything relevant to the complaint about**  
11 **disciplinary problems.**  
12 **Q.** And where would anything that would be deemed  
13 to be scandalous under canon law be  
14 maintained?  
15 **A. I don't know that there's a particular**  
16 **determination under canon law of scandal.**  
17 **Q.** Well, 489, section 489 of the code talks about  
18 the maintenance of archives for scandalous  
19 materials, does it not?  
20 **A. I don't recall the specific use of that term.**  
21 **But you're probably referring to the canons,**  
22 **which would be in the three hundreds**  
23 **somewhere, about a secret archives.**  
24 **Q.** Yes. So are the secret archives a part of the  
25 the disciplinary file or separate?

- 1 **A. I don't believe the archdiocese has**  
 2 **maintained, at least when I was chancellor, we**  
 3 **did not maintain one. When I was vicar**  
 4 **general, we did not maintain secret archives.**
- 5 **Q.** So the files that you said that those that  
 6 needed to know would be the disciplinary files  
 7 that you're referring to?
- 8 **A. Correct.**
- 9 **Q.** Any other files?
- 10 **A. There are probably multiple files on priests.**  
 11 **There's the main -- the main files in the**  
 12 **vault, which include a reference to this other**  
 13 **-- the priest --**
- 14 **Q.** My interest, of course, is the files  
 15 pertaining to priests who offend kids, so you  
 16 know what we're talking about.
- 17 **A. Oh, okay.**
- 18 **Q.** I'm not talking about, you know, other  
 19 matters --
- 20 **A. Their pension matters and that sort --**
- 21 **Q.** -- child safety, child protection, prevention  
 22 and/or failure to do so. So when it comes to  
 23 kids and priests abusing kids and the files  
 24 maintained by the archdiocese, you say there  
 25 are disciplinary files apart from the priest

- 1 file, correct?
- 2 **A. Correct.**
- 3 **Q.** And they're maintained by whom?
- 4 **A. Well, again, past tense now because I haven't**  
 5 **been involved with that since 2008. They were**  
 6 **maintained by the chancellor's office and by**  
 7 **me, mostly by my administrative assistant,**  
 8 **Judy Delaney. The -- and the -- the file --**  
 9 **but let me go to your specific question about**  
 10 **child abuse matters.**
- 11 **Q.** Okay. First, two different locations, you're  
 12 talking about, then, the chancellor's office  
 13 and by you?
- 14 **A. No. You said by -- by whom, so, yes, two --**  
 15 **two different groups of people would send**  
 16 **materials there and maintain them. The --**
- 17 **Q.** Now, just a minute. I got to get this file  
 18 understood so we're talking about the same  
 19 thing.
- 20 **A. Yes.**
- 21 **Q.** There are files in the chancellor's office,  
 22 right?
- 23 **A. There are files in what's in common Chancery**  
 24 **practice referred to as the vault.**
- 25 **Q.** The vault?

- 1 **A. The vault. And the vault is, if you will,**  
 2 **owned, and I'm putting that between exclamation --**  
 3 **between quotation marks, owned by the**  
 4 **chancellor's department.**
- 5 **Q.** And, basically, under canon law, the vault --  
 6 isn't it just the archbishop and his designee  
 7 have access to the vault?
- 8 **A. Those folks do and pretty much all the staff**  
 9 **working there would have access as they**  
 10 **needed.**
- 11 **Q.** Is there a file or files maintained that are  
 12 designated secret?
- 13 **A. Not during my time. I can't say what's**  
 14 **happened in the last six years.**
- 15 **Q.** Were there files maintained designated  
 16 restricted?
- 17 **A. These are the ones I call disciplinary, some**  
 18 **might have referred to them as restricted.**
- 19 **Q.** And they are restricted to whose eyes?
- 20 **A. You know, that's --**
- 21 **Q.** Those you named or --
- 22 **A. Basically those I named, but, again,**  
 23 **restricted is less a matter of who can see**  
 24 **them and simply to have access to -- to**  
 25 **someone -- to them one would have to go**

- 1 **through another person, so one would not**  
 2 **access them all by him or herself. That's the**  
 3 **reason. The restriction's not so much about**  
 4 **who, it's simply about how, in my time.**  
 5 **That's a nice tie, by the way.**
- 6 **Q.** Where were the disciplinary files kept?
- 7 **A. My -- I don't have a specific memory for all**  
 8 **of the years, but largely during the majority**  
 9 **of the time that I was there they were kept in**  
 10 **my secretary -- or my administrative**  
 11 **assistant's office.**
- 12 **Q.** That's Judy Delaney?
- 13 **A. Judy Delaney, yes.**
- 14 **Q.** And were there files that were restricted  
 15 pertaining to sexual abuse kept anywhere else?
- 16 **A. Probably two other places, not restricted.**  
 17 **One is that some of that material remained in**  
 18 **the general file of a priest. And then when**  
 19 **priests died, sometime in the year or two**  
 20 **after his death, his file would be transferred**  
 21 **to what was often referred to as the**  
 22 **downstairs vault. It was simply a locked**  
 23 **archives room in the basement. And so those**  
 24 **files also would have materials related to a**  
 25 **priest.**

- 1 **Q.** Only those that were deceased, is that your  
2 belief?
- 3 **A.** **That was my -- that was the practice in my**  
4 **time.**
- 5 **Q.** Did Archbishop Flynn maintain separate files  
6 in a fireproof closet or cabinet?
- 7 **A.** **Not to my knowledge.**
- 8 **Q.** Did you keep files on your own in some place?
- 9 **A.** **I often had working files and I tried with**  
10 **some regularity, then, to clean those and send**  
11 **the material to the -- to the vault or to --**  
12 **into the chancellor's department for their**  
13 **assignment.**
- 14 **Q.** Did you keep files that you did not share with  
15 others or direct into either the vault or the  
16 disciplinary file?
- 17 **A.** **No.**
- 18 **Q.** Did you have the practice of taking notes of  
19 various reports and then destroying the notes?
- 20 **A.** **My practice was to, yes, to not -- not**  
21 **maintain loose paper floating around, if**  
22 **that's what you mean. My -- the -- the very**  
23 **extensive archdiocesan files, because I'd been**  
24 **their supervisor for a number of years, I'd**  
25 **come to recognize there was a very extensive**

- 1 **documentation, a lot of which I think you**  
2 **shared over the years.**
- 3 **Q.** Were the disciplinary files kept under lock  
4 and key?
- 5 **A.** **They were.**
- 6 **Q.** And who had a key?
- 7 **A.** **The key was kept in the top middle drawer of**  
8 **Judy Delaney's desk.**
- 9 **Q.** And who knew it was there?
- 10 **A.** **All of the people I've just mentioned and**  
11 **their secretaries.**
- 12 **Q.** Before 2008, did you use e-mail?
- 13 **A.** **Very, very little.**
- 14 **Q.** Why not?
- 15 **A.** **I didn't consider myself competent. I had**  
16 **very extensive secretarial support, but that**  
17 **-- that began to change in the last 18 months**  
18 **or so that I was vicar general, we went**  
19 **through a very significant staff downsizing,**  
20 **and so I believe it was in the context of that**  
21 **downsizing sometime in 2007 or 2008 that I**  
22 **learned to use e-mail.**
- 23 **Q.** Are there any other files pertaining to  
24 childhood sexual abuse and priests and records  
25 of that maintained by the archdiocese, to your

- 1 knowledge, that you have not identified,  
2 either by name or location?
- 3 **A.** **Again, given that I -- I don't know what the**  
4 **current practice is, I'd have to say -- direct**  
5 **answer to your question is no.**
- 6 **Q.** What about electronic files, how, then, are  
7 they stored and kept?
- 8 **A.** **That practice -- the issue of electronic**  
9 **filing was very, very nascent when I was chief**  
10 **of staff, and I don't recall that any**  
11 **determination was made about that at the time.**
- 12 **Q.** Was it -- at some point in time, did you stop  
13 keeping electronic copies or printed copies of  
14 e-mails because you were concerned about them  
15 being discovered?
- 16 **A.** **Okay. So let me say -- underline the fact, I**  
17 **don't recall ever keeping paper copies of**  
18 **e-mails.**
- 19 **Q.** Would you have Judy print them out?
- 20 **A.** **Yes.**
- 21 **Q.** Okay.
- 22 **A.** **Yeah.**
- 23 **Q.** And you'd direct that they be put someplace?
- 24 **A.** **I'd use them as needed and either destroy them**  
25 **or send them to the file.**

- 1 **Q.** And did you at some point express the view  
2 that you chose to destroy some of those  
3 because you believed they could be or may be  
4 discovered in litigation?
- 5 **A.** **I don't believe I did, no.**
- 6 **Q.** Did anyone ever tell you that they were going  
7 to do that or you should do that?
- 8 **A.** **I don't recall that, if that -- I don't recall**  
9 **anyone ever telling me that. I do have a**  
10 **recollection from a friend in the 1980s who**  
11 **told me never destroy records from a file**  
12 **because records archeologists can reconstruct**  
13 **them. And that became for me a kind of an**  
14 **operating principle from 1987 or eight on,**  
15 **that it was better to have as full a file as**  
16 **possible.**
- 17 **Q.** Any other files --  
18 (Discussion out of the hearing of  
19 the court reporter)  
20 BY MR. ANDERSON:
- 21 **Q.** When you developed -- the archdiocese  
22 developed a monitoring program, had there been  
23 files that were developed specific to it?
- 24 **A.** **Do you know, I don't know.**
- 25 **Q.** Yes or no.



- 1 **A. I don't know that, no.**
- 2 **Q.** You were in charge of monitoring program,  
3 weren't you?
- 4 **A. I was -- supervised the fellows, yes.**
- 5 **Q.** And you have been the supervisor or had been  
6 the supervisor for how many years?
- 7 **A. From the initiation of the program I began in**  
8 **2004 or five until last September of -- that**  
9 **is, September of 2013.**
- 10 **Q.** And in 2013, what happened that caused you not  
11 to have the responsibilities concerning  
12 childhood sexual abuse that you'd had for so  
13 many years before?
- 14 **A. I'm grateful to say that finally Archbishop**  
15 **Nienstedt followed through on his promise that**  
16 **he would find a replacement for me.**
- 17 **Q.** Did you ask for out of this whole thing  
18 because of the pressures?
- 19 **A. You know, not particularly, because when --**  
20 **when I stepped down as vicar general, which**  
21 **happens always at the change of an**  
22 **administration, archbishop asked me --**  
23 **Archbishop Nienstedt, pardon me, asked me to**  
24 **stay on as his vicar general for a very short**  
25 **period of time, he'd already determined who**

- 1 **the new vicar general would be. He'd also**  
2 **asked that I would assist the archdiocese with**  
3 **the safe environment matters until he would**  
4 **name a successor. From time to time I checked**  
5 **with -- with my colleagues to see how we were**  
6 **doing on -- on getting me a successor, but my**  
7 **concern was not primarily volume.**
- 8 **Q.** Were the files kept on those priests that were  
9 being monitored?
- 10 **A. I don't --**
- 11 **Q.** Yes or no.
- 12 **A. I don't know what the practice was.**
- 13 **Q.** Going back to --  
14 (Discussion out of the hearing of  
15 the court reporter)  
16 BY MR. ANDERSON:
- 17 **Q.** -- did you keep any?
- 18 **A. No. Correction. I may have kept notes when I**  
19 **had a meeting to make sure I followed up. I**  
20 **don't think I kept those sorts of things in a**  
21 **file. When I would send recommendations to**  
22 **Archbishop Flynn -- pardon me, Archbishop**  
23 **Nienstedt in the last few years, I sometimes**  
24 **kept files, no consistent pattern in that**  
25 **regard.**

- 1 **Q.** Did you, yourself, keep any documents, files  
2 or records pertaining to sexual abuse apart  
3 from those maintained by your secretary, Judy  
4 Delaney?
- 5 **A. No.**
- 6 **Q.** Or her successor was Patty, wasn't it?
- 7 **A. No. Her assistant was Patty.**
- 8 **Q.** Her assistant was Patty.
- 9 **A. I was fortunate to have two assistants. Those**  
10 **were the days.**
- 11 **Q.** So you kept nothing yourself?
- 12 **A. That's correct.**
- 13 **Q.** The payments to the priests accused of sexual  
14 abuse, I think the account that included that  
15 was 1-515. Does that sound right?
- 16 **A. In my mind, I have two accounts, 1515 and**  
17 **1516.**
- 18 **Q.** One was for childhood sexual abuse and one was  
19 for adult exploitation?
- 20 **A. Adult exploitation and other behavioral**  
21 **issues.**
- 22 **Q.** Okay. Let's talk about the childhood sexual  
23 abuse account. You're aware that they were  
24 paid extra and -- monies out of this account  
25 and these were priests identified as having

- 1 sexually abused kids, correct?
- 2 **A. There's a lot of things mixed up in -- in your**  
3 **question. I will say this. We set up the**  
4 **account because we were being asked to let the**  
5 **finance council, and from time to time the**  
6 **general public, know what we were spending on**  
7 **these problems. So the 15 -- whichever one it**  
8 **was, and I can't remember which one was 1515,**  
9 **which one was 1516, what we tried to do was**  
10 **include in there all transitional help to**  
11 **these fellows; any, I believe, payments for**  
12 **counseling for victims or other pastoral care**  
13 **for victims; probably legal settlements,**  
14 **although that may have been elsewhere, I don't**  
15 **know that portion of it. But what we were**  
16 **trying to do is to provide as full an**  
17 **accounting as possible of the financial costs**  
18 **of our dealing responsibly with clergy sexual**  
19 **misconduct with minors. The parallel account**  
20 **was for all the other special assistance to**  
21 **priests, some of whom had offense histories of**  
22 **one sort or another, stole money, for example;**  
23 **others of whom simply were psychologically**  
24 **incapable of continuing their work.**
- 25 **Q.** And how many accused offenders are receiving

1 these payments out of this account, offenders  
 2 of childhood sexual abuse?  
 3 **A. Do you have a specific time in mind? I don't**  
 4 **know what the current practice is.**  
 5 **Q.** At the time that you were involved in these  
 6 accounts being maintained and payments made.  
 7 **A. Okay. Early on, 2002 or three in the**  
 8 **implementation of the charter, I would be**  
 9 **surprised if any of the priests we've**  
 10 **identified, or by then former priests we've**  
 11 **identified, was not receiving help. That was**  
 12 **part of the -- the process we used was**  
 13 **transition. Now, those transitional payments**  
 14 **were to have ceased and at various timing with**  
 15 **different priests. Of course, you may have**  
 16 **heard -- and this is -- this is after my time,**  
 17 **but we discovered that one of our employees at**  
 18 **the archdiocese was stealing funds.**  
 19 **Q.** That was the auditor, right?  
 20 **A. I think he was the controller.**  
 21 **Q.** Okay.  
 22 **A. Was stealing the funds.**  
 23 **Q.** Did you have discussions with him about these  
 24 accounts and concerns raised by him about  
 25 whether -- the fact that these offenders were

1 being paid?  
 2 **A. Never did, which surprised me because he**  
 3 **claimed that. Let me just -- if I could just**  
 4 **finish the thought I was on, Mr. Anderson.**  
 5 **Q.** Well, I guess the answer to the last question  
 6 was, you didn't have any discussions --  
 7 **A. With him.**  
 8 **Q.** -- with him about that?  
 9 **A. That's correct. Let me just finish up this.**  
 10 **Q.** Well, whose question are you answering?  
 11 **A. The last one before that about payments. You**  
 12 **asked about during the time I was responsible.**  
 13 **Q.** Okay. The question was, how many were being  
 14 paid?  
 15 **A. How many, yes. So, as I say, initially in**  
 16 **2002 or 2003, probably everybody. I don't**  
 17 **know the exact number at this point. Probably**  
 18 **everybody. Those payments were to have**  
 19 **diminished and then the fellow would either**  
 20 **become self-supporting or be paid from his**  
 21 **accrued retirement benefits. Somewhere along**  
 22 **the line, and I believe our felonious thief**  
 23 **may have been involved with this, some of my**  
 24 **agreements with these priests and former**  
 25 **priests appeared to have been countermanded,**

1 **but I have that in third party, I don't have**  
 2 **that directly myself. So I don't know how**  
 3 **many were paid. My guess is more than I**  
 4 **authorized.**  
 5 **Q.** What do you mean by that, counter -- what did  
 6 you say, counter --  
 7 **A. Countermanded.**  
 8 **Q.** Countermanded. What do you mean?  
 9 **A. That my suspicion is, it's a suspicion, that**  
 10 **someone in the finance office continued**  
 11 **payments, charging them to those accounts, but**  
 12 **may or may not have been paying them to the**  
 13 **individual men. This is purely my suspicion.**  
 14 **So I can't give you an accurate number,**  
 15 **summary, conclusion of my answer to you.**  
 16 **Q.** Would this be a good time to take a break?  
 17 **A. I like it.**  
 18 MR. LEEANE: Off the video record at  
 19 11:12 a.m.  
 20 MR. LEEANE: Back on the video  
 21 record at 11:28 a.m.  
 22 BY MR. ANDERSON:  
 23 **Q.** All right. Father, in the case of Freddie  
 24 Montero, you became aware that he -- there was  
 25 suspicion of his having abused a child, became

1 the subject of a police investigation, and you  
 2 were in contact with the police, correct?  
 3 **A. That's correct.**  
 4 **Q.** And in that connection, you had some  
 5 discussions with a detective investigating  
 6 that about whether you could or should contact  
 7 Freddie Montero before the police contacted  
 8 him, correct?  
 9 **A. I don't recall that.**  
 10 **Q.** The police records seem to reflect that or the  
 11 records seem to reflect that you were  
 12 instructed not to contact Montero before they  
 13 could. Do you remember that?  
 14 **A. If that's what the record says, I believe it.**  
 15 **I don't recall it.**  
 16 **Q.** They gave you some credit for not having done  
 17 that.  
 18 **A. Very nice. Thank you.**  
 19 **Q.** Do you remember? Do you remember?  
 20 **A. I honestly don't recall that. My general --**  
 21 **my general notion was that once a matter went**  
 22 **to the police, the police were in charge of it**  
 23 **and that I would not enter in to -- to**  
 24 **interfere with their work.**

(Discussion out of the hearing of

1 the court reporter)  
 2 BY MR. ANDERSON:  
 3 **Q.** In other words, you let them do their job and  
 4 investigate it and not tip off the accused or  
 5 get in the way of the investigation?  
 6 **A.** **Yeah, that's exactly right.**  
 7 **Q.** In the case of Curtis Wehmeyer, you made  
 8 contact with him personally with Deacon  
 9 Vomastek before the police could or did,  
 10 didn't you? Yes or no.  
 11 **A.** **No. But I'm gonna, first of all, correct it.**  
 12 **Q.** If the answer is no, then I'll ask you about  
 13 it.  
 14 MR. BIRRELL: Let him answer the  
 15 question.  
 16 **A.** **Deacon Vomastek, just so -- V-o-m-a-s-t-e-k.**  
 17 **And I did not -- I did not make contact with**  
 18 **Curtis Wehmeyer without police permission to**  
 19 **do so.**  
 20 **BY MR. ANDERSON:**  
 21 **Q.** What police officer gave you permission to  
 22 contact him?  
 23 **A.** **Deacon Vomastek, in my presence --**  
 24 **Q.** What police officer?  
 25 **A.** **-- spoke with the police officer. I don't**

1 **know the name of the police officer. Deacon**  
 2 **Vomastek was actually speaking.**  
 3 **Q.** Is that a conversation on the way to the  
 4 parish?  
 5 **A.** **It is.**  
 6 **Q.** And it's your claim that a police officer gave  
 7 you permission to go there and interview  
 8 Curtis Wehmeyer, is that your position?  
 9 **A.** **The first half of what you said is true. I**  
 10 **had permission from the police officer. I was**  
 11 **not going to interview Curtis Wehmeyer, but to**  
 12 **serve a decree on him.**  
 13 **Q.** And do you know what police officer you claim  
 14 gave such permission for you to do that?  
 15 **A.** **I do not.**  
 16 **Q.** Was that directly from the police officer to  
 17 you?  
 18 **A.** **It was to Deacon Vomastek.**  
 19 **Q.** In the car on the way there?  
 20 **A.** **That's correct. I was ordered by Archbishop**  
 21 **Nienstedt, through Jennifer Haselberger, to**  
 22 **serve a decree of removal as pastor on this**  
 23 **fellow, on Wehmeyer. I objected that we ought**  
 24 **not to do this till we had the support of the**  
 25 **police department. I was assured by**

1 **archdiocesan colleagues that the police were**  
 2 **already involved and that we could indeed do**  
 3 **this. I was not satisfied by the assurance of**  
 4 **my colleagues and so --**  
 5 **Q.** What colleagues assured you?  
 6 **A.** **Yes, that they had made -- that they had made**  
 7 **the call. Ms. Haselberger,**  
 8 **H-a-s-e-l-b-e-r-g-e-r; Father Laird,**  
 9 **L-a-i-r-d, and Mr. Eisenzimmer,**  
 10 **E-i-s-e-n-z-i-m-m-e-r, assured me that the**  
 11 **police had been notified and that we could**  
 12 **proceed. That was not good enough for me, so**  
 13 **I asked Deacon Vomastek, who's himself a**  
 14 **retired St. Paul police officer, to ensure**  
 15 **that the -- that the assurances I had from my**  
 16 **colleagues were in fact accurate.**  
 17 **Q.** Okay. Let's back up. First you said you were  
 18 ordered by Archbishop Nienstedt to serve the  
 19 decree?  
 20 **A.** **That's correct.**  
 21 **Q.** What date were you ordered to do that?  
 22 **A.** **I don't know the date. It was a Wednesday.**  
 23 **Q.** Okay. How long before you went to the parish  
 24 to serve the decree upon Curtis Wehmeyer were  
 25 you ordered by Nienstedt to do so?

1 **A.** **About an hour.**  
 2 **Q.** Did you talk to Archbishop Nienstedt about  
 3 that?  
 4 **A.** **I did not.**  
 5 **Q.** How did you know you were to serve the decree  
 6 then?  
 7 **A.** **Ms. Haselberger told me that I should.**  
 8 **Q.** Did she give you a decree?  
 9 **A.** **I have a vague memory she did.**  
 10 **Q.** And at that point, to serve the decree, were  
 11 you now acting as the promoter of justice?  
 12 **A.** **I believe I was at that point.**  
 13 **Q.** And you were delegated to be the promoter of  
 14 justice, then, at that point?  
 15 **A.** **Now, there's where that term delegations. I**  
 16 **was appointed.**  
 17 **Q.** Appointed?  
 18 **A.** **Appointed, yes.**  
 19 **Q.** And that would be by archbishop?  
 20 **A.** **That's correct.**  
 21 **Q.** And before you were appointed and instructed  
 22 to serve the decree, what did you know or what  
 23 were you told about the reason for the decree?  
 24 **A.** **I was contacted the evening before, my**  
 25 **recollection is it was very late in the**

- 1 **workday, but I don't recall, again, if -- when**  
 2 **that was exactly, either by phone call or**  
 3 **e-mail, and asked to appear at a meeting the**  
 4 **next morning in Father Laird's office.**  
 5 **Q.** So this was the evening of Tuesday you're  
 6 talking about?  
 7 **A. That's correct.**  
 8 **Q.** Because you know you went to serve the decree  
 9 on Wednesday --  
 10 **A. That's right.**  
 11 **Q.** -- that's what you know?  
 12 **A. Yes.**  
 13 **Q.** And so on that evening, you're contacted by  
 14 whom?  
 15 **A. I believe by Andrew Eisenzimmer.**  
 16 **Q.** And he's the chancellor and you're told what?  
 17 **A. I don't know if in the initial communication**  
 18 **or subsequently, so I don't know if I spoke to**  
 19 **him once or more than once, told that Curtis**  
 20 **Wehmeyer has committed abuse and we have to**  
 21 **meet the following morning --**  
 22 **Q.** Of a child?  
 23 **A. Of a child, yes, pardon me, abuse of a**  
 24 **child -- we had to meet the following morning**  
 25 **to -- to take the follow-up steps. I asked**

- 1 **Mr. Eisenzimmer, "Have the police been**  
 2 **notified?" He said, "Yes, they have."**  
 3 **Q.** Do you have a direct recollection of that,  
 4 asking him that by phone?  
 5 **A. I do.**  
 6 **Q.** Okay. And the initial contact was an e-mail  
 7 with a telephone follow-up, is that what it  
 8 was?  
 9 **A. I -- I honestly don't recall, Mr. Anderson.**  
 10 **Did I have two phone calls, a phone call, an**  
 11 **e-mail, two e-mails? I don't recall.**  
 12 **Q.** But your recollection is that on that Tuesday  
 13 evening, Eisenzimmer told you the police had  
 14 been report -- this had been reported to the  
 15 police?  
 16 **A. That's correct. Let me just say, I -- now, as**  
 17 **soon as I give you that answer, I realize I**  
 18 **had some back and forth with Eisenzimmer. So**  
 19 **I must at one point have been on a phone,**  
 20 **although I could imagine that could have**  
 21 **happened by e-mail, I don't know that for**  
 22 **certain.**  
 23 **Q.** So Eisenzimmer's declaration to you that led  
 24 you to the belief that it had been reported to  
 25 the police, to the best of your recollection,

- 1 was his lips to your ears by phone or how?  
 2 **A. Either -- yes, from him to me, either by phone**  
 3 **or by e-mail, and I don't recall which.**  
 4 **Q.** Well, that's kind of a startling thing to hear  
 5 and I'm confused why you wouldn't remember if  
 6 he told you or you saw it in an e-mail. Can  
 7 you clarify that for me, why you can't clarify  
 8 that more?  
 9 **A. Well, I'm not a psychologist, but I will say**  
 10 **it's so startling, I recall clearly learning**  
 11 **it, I honestly can't recall the mode by which**  
 12 **I learned it. The fact itself is, as you've**  
 13 **-- I agree with your characterization, it's a**  
 14 **very startling, horrific fact.**  
 15 **Q.** Especially when you already knew a lot about  
 16 Wehmeyer and his history, right?  
 17 **A. That's correct.**  
 18 **Q.** When you first heard the allegation or that  
 19 Wehmeyer had abused that child, what was your  
 20 reaction?  
 21 **A. Tremendous sadness that -- that this crime had**  
 22 **happened.**  
 23 **Q.** And did you also reflect on what you had known  
 24 about Wehmeyer going back many years and how  
 25 he had been permitted to be in ministry at

- 1 that time?  
 2 **A. I don't recall that I did that evening. I**  
 3 **certainly did the following day.**  
 4 **Q.** Did you feel a sense of dread and fear that  
 5 you and others had really blown it?  
 6 **A. I did not, no.**  
 7 **Q.** Have you ever thought that?  
 8 **A. So as to myself?**  
 9 **Q.** Yes.  
 10 **A. I have -- I do not believe, I still do not to**  
 11 **today believe that the information I had was**  
 12 **any precursor to the sexual abuse of minors.**  
 13 **I do -- I have learned subsequently as a**  
 14 **result I think of the MPR interview, it's the**  
 15 **first time I heard that other archdiocesan**  
 16 **officials had other information about Curtis**  
 17 **Wehmeyer.**  
 18 **Q.** What archdiocesan officials had other  
 19 information that you didn't?  
 20 **A. I don't know the --**  
 21 **Q.** Who?  
 22 **A. I don't know the whos. I know the information**  
 23 **was about a DWI and about a camping trip,**  
 24 **that's what I had.**  
 25 **Q.** So you are led to believe by Eisenzimmer a

1 report has been made as required by law,  
 2 correct?  
 3 **A. That's correct.**  
 4 **Q.** Did Eisenzimmer tell you that he had reported  
 5 or that -- did he tell you that he had  
 6 reported?  
 7 **A. I don't recall that.**  
 8 **Q.** So all you thought at that point in time is  
 9 that it had been reported as mandated because  
 10 it was child sexual abuse?  
 11 **A. That's correct.**  
 12 **Q.** So, anything else happen on that Tuesday  
 13 evening besides the exchange and/or telephone  
 14 conversation with Eisenzimmer pertaining to  
 15 this that you haven't told us?  
 16 **A. No. At least not to my recollection, but, no.**  
 17 **I would say more definitively no.**  
 18 **Q.** The following Wednesday morning, what happened  
 19 pertaining to this or what was done by you and  
 20 others knowing what you now have heard the  
 21 night before?  
 22 **A. Okay. I arrived at the Chancery at the**  
 23 **appointed time for the meeting. I do not**  
 24 **recall what the appointed time was. I believe**  
 25 **that's recorded. I sat in and -- and learned**

1 **the sad facts of this crime.**  
 2 **Q.** Who convened the meeting, by the way?  
 3 **A. I believe Father Laird did. It took place in**  
 4 **his office.**  
 5 **Q.** And at that time Laird was your successor as  
 6 vicar general?  
 7 **A. He was my successor plus two, but, yes, he was**  
 8 **my successor.**  
 9 **Q.** And was Archbishop Nienstedt informed of the  
 10 meeting and the need for it?  
 11 **A. I have to presume so because I received a**  
 12 **decree or at least I was told the decree was**  
 13 **signed by him, but I was not part of informing**  
 14 **him.**  
 15 **Q.** Okay. And who told you the decree had been  
 16 signed?  
 17 **A. Ms. Haselberger.**  
 18 **Q.** She's the chancellor of canonical affairs?  
 19 **A. She was the chancellor for canonical affairs**  
 20 **at that time.**  
 21 **Q.** And who was in attendance at the meeting  
 22 besides Laird, yourself?  
 23 **A. I believe Eisenzimmer and Haselberger.**  
 24 **Q.** And the purpose of the meeting was to decide  
 25 what are we gonna do with this report of

1 Wehmeyer --  
 2 **A. (Nods head).**  
 3 **Q.** -- having abused a child?  
 4 **A. Yes, I believe that's -- that's a fair**  
 5 **summary. I think it was perhaps narrower than**  
 6 **that, what do we do next with this report?**  
 7 **Q.** In that meeting, did anybody alert or discuss  
 8 that a report had been made or was it your  
 9 assumption a report had been made?  
 10 **A. My recollection is that I was reassured again**  
 11 **that the report had been made.**  
 12 **Q.** By whom?  
 13 **A. By at least one and probably by all three of**  
 14 **the people present because I asked -- I do**  
 15 **recall asking once again: "This has been**  
 16 **reported as required, is that true?" And I**  
 17 **remember that because I objected to our**  
 18 **immediate application of the decree, delivery**  
 19 **of the decree is what I mean by application,**  
 20 **because my own concern was that it could, in**  
 21 **this short period of time, it could interfere**  
 22 **with the police investigation.**  
 23 **Q.** Was Deacon Vomastek at the meeting?  
 24 **A. He was summoned into the meeting at the very**  
 25 **end of it, as I recall.**

1 **Q.** By whom?  
 2 **A. When I -- when I objected -- pardon me, that I**  
 3 **would not go to see this priest alone.**  
 4 **Q.** Did you object to even going and seeing the  
 5 priest at this stage, knowing that -- knowing  
 6 what you had learned from the Montero  
 7 experience, that, you know, stay away, let the  
 8 police do their job?  
 9 **A. I raised that very objection.**  
 10 **Q.** Who insisted that you go over your objection?  
 11 **A. Ms. Haselberger particularly indicated that it**  
 12 **was critical that this decree be administered**  
 13 **immediately.**  
 14 **Q.** Anyone else?  
 15 **A. I believe not.**  
 16 **Q.** Were you aware that Laird had been placed in  
 17 charge of the investigation?  
 18 **A. I -- I'm not aware of that to today, so --**  
 19 **Q.** Well, you were handed -- were you handed a  
 20 copy of the decree?  
 21 **A. I believe I was.**  
 22 **Q.** The decree states that it had been reported  
 23 that there had been a sexual abuse by Wehmeyer  
 24 of a child on June the 18th. What do you know  
 25 about that having been reported to the

- 1       archbishop?
- 2 **A. I know -- to -- to the day know nothing about**
- 3 **that.**
- 4 **Q.** At the meeting that was held that morning, was
- 5 there discussion of interviewing the child and
- 6 whether or not the child had been interviewed
- 7 and should be interviewed, if he hadn't?
- 8 **A. I don't recall any discussion about that.**
- 9 **Q.** Do you know if the child had been interviewed
- 10 at that time?
- 11 **A. I don't know that.**
- 12 **Q.** Was there discussion of Greta Sawyer's
- 13 involvement in the investigation at that
- 14 meeting?
- 15 **A. You're bringing up Greta's name is first**
- 16 **impression for me, so my memory is blank in**
- 17 **her regard.**
- 18 **Q.** Are you aware that Greta Sawyer interviewed
- 19 the child and the mother?
- 20 **A. I'm not.**
- 21 **Q.** At the meeting, was there discussion of how
- 22 and when officials of the archdiocese became
- 23 aware of the child abuse?
- 24 **A. While it strains my own credulity to think**
- 25 **there wasn't some sort of discussion, I don't**

- 1 **recall any.**
- 2 **Q.** Did Andy Eisenzimmer ever tell you in the
- 3 calls or the e-mails how the information had
- 4 been reported and by whom?
- 5 **A. I don't recall that.**
- 6 **Q.** Do you recall receiving from Eisenzimmer or
- 7 anybody in the meeting the fact that the
- 8 mother had called Father Erickson and reported
- 9 it to Father John Erickson that her son had
- 10 been abused by Curtis Wehmeyer?
- 11 **A. I don't recall that, no.**
- 12 **Q.** Do you have any recollection of Erickson
- 13 having been identified or involved at all at
- 14 that time of the meeting?
- 15 **A. I don't think I learned anything that involves**
- 16 **Father John Paul Erickson's name at that time.**
- 17 **Q.** And so after you expressed your reservation --
- 18 I think you said objection, actually, to
- 19 actually going there, correct?
- 20 **A. That's correct.**
- 21 **Q.** Your objection was overridden, by your
- 22 account, by Jennifer Haselberger?
- 23 **A. By Jennifer, who said it had to be**
- 24 **administered immediately.**
- 25 **Q.** And that is the simple delivery of the decree?

- 1 **A. That's correct.**
- 2 **Q.** And that puts Wehmeyer on notice of -- of both
- 3 his rights, correct?
- 4 **A. Yes, he -- well, I don't recall the details of**
- 5 **the decree, but one of the reasons for giving**
- 6 **a decree is to, I suppose like giving a**
- 7 **Miranda warning or some other parallel that I**
- 8 **don't know very well in civil war -- civil**
- 9 **law.**
- 10 **Q.** And under canon law it says he doesn't have to
- 11 talk, but give him notice that he's a suspect
- 12 of a canonical crime and he's now under
- 13 investigation under decree of the archbishop,
- 14 correct?
- 15 **A. That's correct. That's a very exact**
- 16 **description of a -- of a -- of the decree the**
- 17 **promoter serves. Nicely done.**
- 18 **Q.** How long was the meeting?
- 19 **A. It was less than an hour, but I can't say how**
- 20 **much less than an hour.**
- 21 **Q.** And any notes made or recording of that, as
- 22 far as you know?
- 23 **A. Not to my knowledge. Later that same day I**
- 24 **produced a memorandum summarizing my**
- 25 **involvement, which I presume you've had access**

- 1 **to, but --**
- 2 **Q.** We do.
- 3 **A. Yeah.**
- 4 **Q.** And your instruction was to simply present the
- 5 decree and not get information, wasn't it?
- 6 **A. It was to present the decree, that was my**
- 7 **instruction. There was no non-instruction**
- 8 **with it. There was no, "Don't do X, Y or Z."**
- 9 **There was simply, present the decree.**
- 10 **Q.** Why did you tell Wehmeyer that the police were
- 11 on to him and that a report had been made?
- 12 **A. Of course, he had to know that because we're**
- 13 **mandated reporters, if we had the information,**
- 14 **the police were notified.**
- 15 **Q.** Why did you tell Wehmeyer that, though,
- 16 because that tipped him off?
- 17 **A. He, of course, knew that. As soon as he knew**
- 18 **that we were accusing him of sexual abuse of**
- 19 **minors, he knew that he was --**
- 20 **Q.** Well, how do you know that he knew that? The
- 21 decree didn't say that.
- 22 **A. He said, "I guess I'm in trouble, aren't I?"**
- 23 **And I said, "I think you are, Curtis. Would**
- 24 **you like to go with me to the police station**
- 25 **and make a statement to them?"**

- 1 **Q.** Father, are you assuming that he knew that the  
2 police were on their way and investigating  
3 this or do you actually know that he knew  
4 that?
- 5 **A.** **I knew -- I know that he knew that he was**  
6 **about to be arrested and about to be -- we**  
7 **didn't discuss any terms. I offered to take**  
8 **him to the police so that he could make a**  
9 **statement.**
- 10 **Q.** You were instructed by the archbishop, were  
11 you not, to protect his rights --
- 12 **A.** **I don't re --**
- 13 **Q.** -- under canon law?
- 14 **A.** **I don't recall any specific instruction to**  
15 **that regard.**
- 16 **Q.** You were instructed by the archbishop to also  
17 make sure he was safe, that is, Wehmeyer was  
18 safe, were you not?
- 19 **A.** **I don't think -- I don't think the archbishop**  
20 **gave me any instruction in that regard, no.**
- 21 **Q.** And when you went to the parish at Blessed  
22 Sacrament where Wehmeyer was, you spent an  
23 hour with him, did you not?
- 24 **A.** **It was close to an hour. I'm not sure it was**  
25 **a full hour, but it was close to an hour.**

- 1 **Q.** If your instruction is to simply serve the  
2 decree and put him on notice and not do an  
3 investigation, why did you spend as much time  
4 with him as you did?
- 5 **A.** **Yes, so let me again say, my instruction was**  
6 **to serve the decree. I had no instruction not**  
7 **to do anything further.**
- 8 **Q.** So --
- 9 **A.** **So the instruction was to serve the decree.**
- 10 **Q.** So you're now working as an investigator?
- 11 **A.** **Not working as an investigator.**
- 12 **Q.** Well, what are you doing, then, spending as  
13 much time with a suspect --
- 14 **A.** **Right.**
- 15 **Q.** -- at that point in time as you did?
- 16 **A.** **Either at the end of the meeting or from**  
17 **Deacon Vomastek in the car, but I believe at**  
18 **the end of the meeting in the Chancery, I**  
19 **learned that he had a gun. This I believe was**  
20 **reported to us by our staff -- by the staff in**  
21 **the parish. I don't recall the source of it.**  
22 **I was concerned not to leave a man -- and let**  
23 **me add, I believe I also, although I don't**  
24 **know when I learned the identity of the abuse**  
25 **victim, subsequently probably victims, I**

- 1 **believe I knew that the complaint by that had**  
2 **come from a member of the staff. And I had**  
3 **reason to suspect that person was in the**  
4 **building. I don't think I knew her identity.**  
5 **So I was afraid that having served the decree**  
6 **to a man who had committed a horrific crime,**  
7 **at least allegedly, and who had a gun could**  
8 **pose a danger for the other people in the**  
9 **room, in the house. So I convinced him -- I**  
10 **sought to and then successfully convinced him**  
11 **to turn over his gun to me. I sold that to**  
12 **him on the notion that a person who's been**  
13 **accused of some serious failing is likely to**  
14 **harm himself. And so I got him to agree to**  
15 **give me the gun. He said, "I'm not gonna hurt**  
16 **myself." "Why don't you give me the gun**  
17 **anyway, Curtis," I told him.**
- 18 **Q.** You also had information that he had a  
19 computer and on the computer he had  
20 pornography, child pornography, correct?
- 21 **A.** **No.**
- 22 **Q.** You took his computer, did you not?
- 23 **A.** **I did. But your question was about**  
24 **information. I walked into his office and**  
25 **there was a computer open on the top of his**

- 1 **desk.**
- 2 **Q.** Did you look at the computer once you took it  
3 back to the Chancery?
- 4 **A.** **I did not.**
- 5 **Q.** Who did you turn it over to?
- 6 **A.** **To Jennifer Haselberger.**
- 7 **Q.** And did you --
- 8 **A.** **Actually, could I say, I asked John Vomastek**  
9 **to do so and John told me subsequently he did,**  
10 **so I did not turn it over to Jennifer.**
- 11 **Q.** The same day that you retrieved it from him?
- 12 **A.** **Yes.**
- 13 **Q.** Did you order that he give it to you?
- 14 **A.** **I said, "I think the archbishop would like to**  
15 **have your computer. Could I take it for you?"**  
16 **And he immediately said yes.**
- 17 **Q.** Why? Why did you think the archbishop wanted  
18 his computer?
- 19 **A.** **Well, of course, I said the archbishop because**  
20 **I wanted him to turn over the computer. I**  
21 **wanted to -- I presumed that the computer**  
22 **would be useful to the police and thought it**  
23 **best that having now notified him that he was**  
24 **in imminent -- imminent trouble, that we'd be**  
25 **better to preserve the chain of evidence.**

- 1 Q. And when you returned to the Chancery, what  
2 did you report and do, very briefly, did you  
3 report to? To whom did you report?
- 4 A. **I don't think I actually went into the  
5 Chancery when I returned. I believe I just  
6 dropped off Deacon Vomastek and went on my  
7 way. It's possible that I did go in, but I  
8 have no memory of that.**
- 9 Q. And you did ultimately prepare a memo that  
10 basically recounts what you did and when you  
11 did it?
- 12 A. **I did, and "ultimately" meaning that -- that  
13 afternoon, I believe.**
- 14 Q. And you said there was a meeting that  
15 afternoon pertaining to this?
- 16 A. **I don't recall that.**
- 17 Q. Okay. The memo --
- 18 A. **I mean, I didn't say that, no. I produced the  
19 memo that afternoon.**
- 20 Q. And to whom did you produce the memo?
- 21 A. **Do you know, I don't recall. I presume it's  
22 on the -- written in the -- in the memo.**
- 23 Q. You spent up to an hour with Wehmeyer. Did  
24 you discuss with him the fact that he had used  
25 -- or you knew and it was known that he had

- 1 used the trailer to travel with at least this  
2 child and abuse him?
- 3 A. **I don't think I knew that at the time, so the  
4 answer to the question is no.**
- 5 Q. Did you see the trailer parked outside Blessed  
6 Sacrament?
- 7 A. **I don't recall that. Of course, I had no  
8 information about the trailer at the time, so  
9 I don't think I had any reason to be concerned  
10 about it, look for a trailer.**
- 11 Q. Did you order him to leave the parish?
- 12 A. **I suggested it would be better if he not stay  
13 around, yes.**
- 14 Q. And did you effectively read him his rights  
15 under canon law that he didn't have to talk to  
16 you?
- 17 A. **I don't recall that.**
- 18 Q. Did you ask him if he had abused the child?
- 19 A. **I don't recall that, either --**
- 20 Q. Why not?
- 21 A. **-- if I asked him.**
- 22 Q. Why didn't you want to know?
- 23 A. **Well, I already presumed he had, of course.**
- 24 Q. Why did you presume that?
- 25 A. **Because reliable people were telling me that**

- 1 **they believed the complaint.**
- 2 Q. Did you ask him -- you knew the complaint was  
3 pertaining to one child. Did you ask him how  
4 many kids he had abused at that point in time  
5 beyond the one that you believed he had?
- 6 A. **I did not.**
- 7 Q. Why not? Isn't that something that you would  
8 want to know?
- 9 A. **My job, of course, was to -- to deliver the  
10 decree. I was not particularly comfortable,  
11 even then, with the process, recognizing that  
12 he was going to address the public authorities  
13 and eventually the canonical authorities. So  
14 I had no particular interest in exploring my  
15 own questions with him. That wasn't my job  
16 and not a good idea.**
- 17 Q. Actually, as a promoter of justice, you have  
18 an obligation to preserve his right not to  
19 talk to you about what he actually did,  
20 correct?
- 21 A. **I -- we don't have in church law the same  
22 specific Supreme Court thing, but we do have a  
23 law -- a specific canon that says that no one  
24 can be compelled by authority to manifest his  
25 or her conscience. That's as close as we come**

- 1 **to a Miranda-like warning.**
- 2 Q. You believed that Archbishop Nienstedt knew  
3 you were going to the parish to deliver the  
4 decree?
- 5 A. **I believe that archbishop knew someone was  
6 going to the parish to deliver the key -- the  
7 decree. I don't know when he came to know  
8 that I and John Vomastek had actually carried  
9 it out.**
- 10 Q. Were you designated to do this because of your  
11 experience with this issue?
- 12 A. **I believe so. I believe, as a matter of fact,  
13 being asked for -- for specifically that  
14 reason.**
- 15 Q. It is recorded somewhere that Laird designated  
16 you for two reasons: One, your experience --  
17 well, actually three: Your experience in the  
18 area, but your goals were, one, to protect  
19 Weymeyer's safety and that he might be  
20 suicidal, do you remember that?
- 21 A. **Part of why I removed the gun, of course.**
- 22 Q. And the second one is to protect his canonical  
23 rights. Do you remember being told that?
- 24 A. **I don't recall that specifically. May I ask  
25 where that comes from, Mr. Anderson?**



- 1 Q. That's a memorandum that is prepared  
2 pertaining to the meeting in June 21.  
3 A. **Okay. That sounds like the kind of thing a**  
4 **canon lawyer might have prepared. Would that**  
5 **have been Ms. Haselberger prepared it?**  
6 Q. I can't speak to that, but I can if we need to  
7 address it.  
8 A. **No. That's just curiosity.**  
9 Q. Now, there is other documentation that shows  
10 that officials of the archdiocese -- a  
11 decision had been made to actually interview  
12 the child who was the subject of the complaint  
13 and the abuse by Wehmeyer and the mother and  
14 they had been asked to come to the archdiocese  
15 and give a recorded statement, which they did,  
16 before this meeting that you described.  
17 Before I told you that today or represented  
18 that to today, to you today, did you know  
19 that?  
20 A. **I did not.**  
21 Q. Did you know when you went to the Blessed  
22 Sacrament that pornography had been utilized,  
23 that marijuana had been supplied to the child  
24 and the trailer had been used for both?  
25 A. **I did not.**

- 1 Q. Did you make any effort to turn the computer  
2 that had been taken by you or the gun over to  
3 law enforcement?  
4 A. **I did not, no.**  
5 (Discussion out of the hearing of  
6 the court reporter)  
7 BY MR. ANDERSON:  
8 Q. Why not bring it to police?  
9 A. **I was bringing it to the archdiocesan people**  
10 **who were in communication directly with the**  
11 **priest -- with the police, and certainly my**  
12 **expectation was that it would be delivered --**  
13 **both items would be delivered as soon as**  
14 **possible to the police.**  
15 Q. Now, you had been dealing with problems  
16 concerning Wehmeyer for some time, had you  
17 not, before this report was made to you?  
18 A. **I had dealt with -- I had dealt with Curtis**  
19 **Wehmeyer on a couple of occasions, yes. I**  
20 **also was supervising the monitor who was**  
21 **working with him.**  
22 Q. When you were on your way there and you  
23 believed this call was made to a police  
24 officer, whose name you don't know, and you  
25 were, thus, permitted to continue to proceed,

- 1 did Vomastek tell the police officer that a  
2 report had already been made?  
3 A. **I believe he did.**  
4 Q. How long was the conversation with Vomastek  
5 and the police officer while you were in the  
6 car with them?  
7 A. **I can see where it happened and -- and it was**  
8 **right out the window here on -- on I94**  
9 **eastbound. Took the time going from the I35E**  
10 **commons here up until we were by 61.**  
11 Q. What did Vomastek tell the police you and he  
12 were going to do?  
13 A. **I don't recall that specifically.**  
14 Q. Did you and Deacon Vomastek get permission  
15 from the police to take the gun and the  
16 computer --  
17 A. **No.**  
18 Q. -- and tell him you were intending to seize  
19 them?  
20 A. **No.**  
21 (Discussion out of the hearing of  
22 the court reporter)  
23 BY MR. ANDERSON:  
24 Q. Did Vomastek tell the police a report had  
25 already been made -- tell you that a report

- 1 had already been made to law enforcement?  
2 A. **I don't -- I don't think he knew that until**  
3 **the meeting. He was called in at the end of**  
4 **the meeting at Father Laird's office that**  
5 **morning, and so I believe Vomastek -- Vomastek**  
6 **-- Vomastek learned in that context of -- of a**  
7 **report already having been made.**  
8 Q. I'll get it right eventually.  
9 A. **Hardly anyone does.**  
10 Q. So, to this day, do you know who made the  
11 report?  
12 A. **I do not.**  
13 Q. Now, your history with Wehmeyer went back to  
14 many years where some problems had arisen,  
15 correct?  
16 A. **I wouldn't characterize it many years, but I**  
17 **believe it went back to about 2004.**  
18 Q. In 2004 you got a report about Wehmeyer and 19  
19 and 20-year-olds and him trying to cruise them  
20 and have a party with them that caused enough  
21 concern. Is that --  
22 A. **Yeah, I think there's some details there that**  
23 **are -- that are confused. Let me tell you,**  
24 **what I received was a phone call, I don't**  
25 **recall from whom, saying that two young men**

- 1 around 20 years old had been in, I believe,  
 2 the Barnes & Noble in Har Mar, that stands out  
 3 for me because I shop there from time to time,  
 4 and that it was a -- I believe a Sunday  
 5 evening. And that Wehmeyer had spoken to each  
 6 of them separately when they -- they were  
 7 friends, they'd gone there, but they were  
 8 separate from one another. When they put  
 9 their heads together after the conversation,  
 10 they both found it weird.
- 11 Q. You made some record of that, in any case?
- 12 A. I believe I did, Jeff.
- 13 Q. And as a result of the information received, a  
 14 decision was made to send him to St. Luke's,  
 15 wasn't it?
- 16 A. I don't recall the timing because there's  
 17 several interactions, but somewhere along that  
 18 point, we did send him for assessment for  
 19 certain.
- 20 Q. Then before Wehmeyer was sent to St. Luke's,  
 21 what were all the concerns that caused him to  
 22 be sent there, that you are aware of?
- 23 A. From my point of view, it was this particular  
 24 -- this particular incident and it -- it  
 25 struck me as a -- so this is my own opinion, I

- 1 can't speak to what the others in the  
 2 archdiocese may or may not have thought, but  
 3 it was my belief that this fellow was dealing  
 4 with -- with homosexual adult attractions and  
 5 that he was not doing so with kind of  
 6 acknowledged integrity that's good for a  
 7 person who's going to live as a celibate.
- 8 Q. And in sending him to St. Luke's, you were the  
 9 one that was basically handling this under the  
 10 authority of the archbishop?
- 11 A. I believe that's true, yes.
- 12 Q. And before you sent him to St. Luke's, then,  
 13 based on the history that you've just  
 14 described, did you go back and look at the  
 15 actual file that had been made?
- 16 A. I don't recall.
- 17 Q. Did you interview Wehmeyer and ask him  
 18 specifically, "Are there any kids involved in  
 19 your history here?" And, "What is your sexual  
 20 history involving children?"
- 21 A. I did not.
- 22 Q. Why not? Isn't that something you would want  
 23 to know?
- 24 A. Well, Mr. Anderson, I think, you know, I was  
 25 dealing with a -- a man I thought to be an

- 1 adult gay male, and unless you're representing  
 2 to me that -- that people who are gay  
 3 constitute a threat to -- to kids, that was  
 4 certainly not my thinking.
- 5 Q. Well, you know I would never make that  
 6 representation to you and you know that, but  
 7 you also know that you have behavior  
 8 suspicious enough of sexual misconduct with  
 9 teenager-aged young men, 19 or 20, as  
 10 described at least, that is enough concern for  
 11 the safety of others, correct?
- 12 A. I have to say I was not -- I did not think  
 13 that this rose to the level of a concern for  
 14 the safety of others. And I don't mean that I  
 15 was unmindful of the safety of others, but  
 16 what was quite apparent to me was this was a  
 17 man with some form of internal conflict.
- 18 Q. But you --
- 19 A. So I did not view this as fundamentally a  
 20 misconduct issue, but as an adjustment issue.
- 21 Q. You didn't bother to go back and look at what  
 22 was reflected in the file about his history  
 23 prior to that date, however, did you?
- 24 A. I think what I testified is that I don't  
 25 recall whether I did or not.

- 1 Q. You did know that the archdiocese and you as  
 2 the implementer had a practice of sending  
 3 priests who had offended children to St.  
 4 Luke's for assessment and treatment  
 5 recommendations, correct?
- 6 A. That's true.
- 7 Q. How many had you been involved in or aware of  
 8 that had been sent to that as of that point in  
 9 time to St. Luke's?
- 10 A. So you're conflating a couple of things here.  
 11 We used St. Luke's for a variety of  
 12 psychological assessments.
- 13 Q. This is for child sexual abuse.
- 14 A. For child sexual abuse.
- 15 Q. Your best estimate.
- 16 A. Right. And let me just underline clearly that  
 17 I was not sending Wehmeyer because I had any  
 18 fear whatsoever about child sexual misconduct.
- 19 Q. You told us that. I'm talking about prior to  
 20 sending Wehmeyer there in 2004, how many would  
 21 you estimate had been sent for suspicions of  
 22 childhood sexual abuse?
- 23 A. I believe it would be a number less than five,  
 24 but I don't know.
- 25 Q. And the archdiocese required that they be

1 given access to his information compiled by  
 2 St. Luke's?  
 3 **A. Actually, no.**  
 4 **Q.** Okay. When he was sent to St. Luke's, the  
 5 archdiocese paid for that?  
 6 **A. That's correct.**  
 7 **Q.** And St. Luke's sent the bills back for  
 8 whatever services they provided?  
 9 **A. I presume so. I would not have been involved**  
 10 **directly in that. I don't -- oh, no. I**  
 11 **actually -- I probably did sign off on the**  
 12 **bills, so if they were paid, almost certainly**  
 13 **I approved them at some point.**  
 14 **Q.** Did you get a written report from St. Luke's  
 15 concerning their findings?  
 16 **A. I must surely have done so. I don't recall**  
 17 **it.**  
 18 **Q.** And had St. Luke's been involved in aftercare  
 19 concerning a number of other offenders that  
 20 had been sent there before?  
 21 **A. I can't speak specifically about it -- so**  
 22 **aftercare is one service provided by St.**  
 23 **Luke's; assessment another, treatment a third.**  
 24 **They were involved in all of those with some**  
 25 **of our priests. How many of them -- you asked**

1 **specifically about aftercare and how many**  
 2 **cases that are involved in aftercare with a**  
 3 **priest accused of sexual misconduct with a**  
 4 **child, I can't speak to that. I -- I don't**  
 5 **remember.**  
 6 **Q.** In the case of Wehmeyer, you asked them, St.  
 7 Luke's, to provide a limited amount of  
 8 information to you concerning him and address  
 9 a very narrow set of questions, did you not?  
 10 **A. I don't think that's probably an unfair**  
 11 **characterization.**  
 12 **Q.** Why did you limit the inquiry? Why didn't you  
 13 want to know more?  
 14 **A. Well, what I may have wanted to know is one**  
 15 **thing. The -- by this time, there was a great**  
 16 **deal of canonical concern expressed about the**  
 17 **misuse by church officials of treatment**  
 18 **records for clergy, and I was concerned both**  
 19 **about the protection of the rights of every**  
 20 **priest and also, frankly, concerned that**  
 21 **treatment -- the more treatment is viewed as**  
 22 **self-incriminating, the less likely it is to**  
 23 **be useful.**  
 24 **Q.** After he was returned from St. Luke's, he was  
 25 placed on restrictions so that he was allowed

1 to continue in ministry, but not to have  
 2 contact with youth, correct?  
 3 **A. I don't recall the specific restrictions.**  
 4 **Q.** In 2004, do you recall having a meeting with  
 5 the principal at St. Joseph's, Jane Nordin,  
 6 N-o-r-d-i-n, about lifting the restrictions  
 7 involving those imposed on him with youth?  
 8 **A. I don't recall that.**  
 9 **Q.** Do you recall that the restrictions were  
 10 looked at?  
 11 **A. I don't recall that.**  
 12 **Q.** At least as to you.  
 13 **A. Again, I don't recall.**  
 14 **Q.** Do you recall that he was placed on  
 15 monitoring?  
 16 **A. Eventually, yes.**  
 17 **Q.** Do you recall when?  
 18 **A. I don't.**  
 19 **Q.** And do you recall receiving in 2005  
 20 information from Father Rohlfig,  
 21 R-o-h-l-f-i-n-g, who reported almost identical  
 22 circumstances concerning Wehmeyer and young  
 23 people like those at Barnes & Noble when  
 24 Wehmeyer was in seminary?  
 25 **A. Do you know, I don't recall it. I -- it seems**

1 **to me at some point I -- I became aware of**  
 2 **that, but I don't recall when Father -- what**  
 3 **is his first name? Father Rohlfig, Corey,**  
 4 **when Father Corey Rohlfig would have spoken.**  
 5 **Is that documented in the record?**  
 6 **Q.** Yes. He brought that to you, didn't he?  
 7 **A. Okay. I don't know that, but it would be**  
 8 **recorded if it were so.**  
 9 **Q.** In 2006, you became aware, did you not, that  
 10 Wehmeyer was now a parochial administrator in  
 11 a parish?  
 12 **A. I'm sure I did, yes.**  
 13 **Q.** And the restrictions imposed on him, both by  
 14 monitoring and otherwise, were not known to  
 15 the public, correct?  
 16 **A. I believe that's true. I don't recall that**  
 17 **specifically.**  
 18 **Q.** You recall receiving from Ramsey County Deputy  
 19 Sheriff Leyben, L-e-y-b-e-n, that he saw  
 20 Wehmeyer hanging around the parking lot,  
 21 cruising for sex.  
 22 **A. I would agree with everything you said except**  
 23 **for the last part. As I recall, the -- he's a**  
 24 **deputy, is that right? I believe it's a**  
 25 **deputy.**

- 1 Q. Yes.
- 2 **A. The deputy said, "He's hanging around in a**
- 3 **place that's known to be a pickup zone," and**
- 4 **he said, "While I did not see him get out of**
- 5 **his vehicle or speak to anyone, I was**
- 6 **concerned that he was either going to do that**
- 7 **and get himself in trouble or he was going to**
- 8 **get beat up."**
- 9 Q. He expressed to you, did he not, that Wehmeyer
- 10 was exhibiting behaviors consistent with
- 11 sexual addiction?
- 12 **A. I don't recall that particularly.**
- 13 Q. Do you recall describing Wehmeyer as playing
- 14 on the edge and describing him as being out of
- 15 control?
- 16 **A. I don't recall that, but I know that's what I**
- 17 **thought of him.**
- 18 Q. Do you recall meeting with Tim Rourke, his
- 19 monitor, the next day and describing some of
- 20 these problems?
- 21 **A. I do not recall that meeting. I'm pleased**
- 22 **that I did it, though.**
- 23 Q. Did you have concerns at that time about some
- 24 -- about publicity and Wehmeyer and what he
- 25 had been doing and that there might be bad

- 1 publicity because of it?
- 2 **A. I don't believe that was my concern, no.**
- 3 Q. Do you agree that if Wehmeyer was restricted
- 4 as to his activities with youth, that there
- 5 was enough of a concern that he posed a risk
- 6 to children?
- 7 **A. No. He was an adult gay man, whose concerns**
- 8 **were -- were hanging around the edge of places**
- 9 **where adult men pick each other up.**
- 10 Q. Well, why have a restriction on him as to kids
- 11 if he doesn't pose a risk of danger to kids?
- 12 **A. I don't recall that. I don't recall the**
- 13 **restriction.**
- 14 (Discussion out of the hearing of
- 15 the court reporter)
- 16 BY MR. ANDERSON:
- 17 Q. Well, then assume that the records reflect
- 18 that he was restricted as to youth and that
- 19 was at some point considered to be removed or
- 20 was removed. Doesn't that change what either
- 21 should have been done at that point in time
- 22 and isn't that something you should have
- 23 known?
- 24 **A. I'm having a hard time unraveling the various**
- 25 **moves there. Help me just a little bit.**

- 1 Q. Well, while he's on monitoring, he had a
- 2 restriction that said he was to have no
- 3 contact with youth as reflected in the records
- 4 and it's being discussed with the principal at
- 5 St. Joseph's and that's being -- considering
- 6 being lifted. You're seeing at this point in
- 7 time Wehmeyer as a pure homosexual adult
- 8 problem, right?
- 9 **A. That's correct.**
- 10 Q. But there's a restriction on youth, somebody
- 11 put that on him, right?
- 12 **A. I'm -- if -- if that's true, that must be so.**
- 13 Q. You should have known that, right?
- 14 **A. And chance -- there's a chance that I did. I**
- 15 **don't recall it at this point.**
- 16 Q. In 2009, he's --
- 17 (Discussion out of the hearing of
- 18 the court reporter)
- 19 BY MR. ANDERSON:
- 20 Q. What else did you learn about Wehmeyer, then,
- 21 after the Ramsey County Sheriff while he's on
- 22 monitoring?
- 23 **A. I would receive reports from -- from Tim**
- 24 **Rourke from time to time about all the people**
- 25 **he was visiting. And my understanding from**

- 1 **Tim, which would have been my, essentially,**
- 2 **only interaction with this matter, was that**
- 3 **Wehmeyer was cooperative with the monitoring**
- 4 **program.**
- 5 Q. In April of 2009, Haselberger is now the
- 6 chancellor and there's discussions about
- 7 making Wehmeyer a pastor versus an
- 8 administrator. You're involved with that,
- 9 aren't you?
- 10 **A. No.**
- 11 Q. You have no knowledge of that?
- 12 **A. That's correct.**
- 13 Q. When you're discussing the new information
- 14 that had been emerging about Wehmeyer and the
- 15 monitoring with Rourke, who was his monitor,
- 16 had you gone back to the file to see what was
- 17 actually known by the archdiocese or giving
- 18 the file to Rourke to know so he could really
- 19 see what danger was posed here?
- 20 **A. So --**
- 21 MR. HAWS: Object to the form.
- 22 **A. Yeah, the first -- you asked two questions and**
- 23 **I think the first one was did I ever go back**
- 24 **to the file. I don't recall doing so.**
- 25 **BY MR. ANDERSON:**

- 1 **Q.** And did you ever make the file available to  
 2 Rourke, as the head of the monitoring program,  
 3 knowing that he was his monitor?  
 4 **A. I believe so, yes.**  
 5 **Q.** How did you do that and when did you do that?  
 6 **A. I believe that he would -- had carte blanche**  
 7 **access to the files and was allowed to read**  
 8 **them as he chose. Part of his orientation**  
 9 **process, and I don't recall if Curtis Wehmeyer**  
 10 **was already on monitoring in any formal way**  
 11 **before we brought Tim Rourke on, but part of**  
 12 **Tim Rourke's orientation process was to read**  
 13 **the files, at least I urged that he would do**  
 14 **so.**  
 15 **Q.** In 2011, there was some discussion --  
 16 (Discussion out of the hearing of  
 17 the court reporter)  
 18 BY MR. ANDERSON:  
 19 **Q.** Excuse me, in 2009, in the summer and fall of  
 20 2009, Bishop Scerba gets some information  
 21 about Wehmeyer and children. Do you become  
 22 aware of that?  
 23 **A. No.**  
 24 **Q.** Bishop Wehmeyer -- excuse me, Father, I guess  
 25 it's then Bishop Scerba, now Bishop Scerba,

- 1 makes a call to the mom of this child and  
 2 discusses perceptions of scandal. Are you  
 3 aware that a call had been made to the mom of  
 4 the child who had been abused?  
 5 **A. No. I think this is the first time I'm**  
 6 **hearing it right now.**  
 7 **Q.** In September of 2009, Wehmeyer is arrested for  
 8 DUI. Did that come to your awareness?  
 9 **A. I believe not.**  
 10 **Q.** And in the police report it's reflected that  
 11 he is asking teens if they want to go back to  
 12 his campsite and party. Is that behavior  
 13 suspicious of a danger here?  
 14 **A. What a sick person. I don't -- I don't think**  
 15 **I've ever heard that.**  
 16 **Q.** He called the now chancellor, Joe Kueppers, to  
 17 represent him and Kueppers is reflected as  
 18 being the lawyer for him. Did you ever  
 19 receive information about the September 2009  
 20 arrest and the circumstances surrounding it?  
 21 **A. To today, I believe I have not.**  
 22 **Q.** In a document there is a suggestion, and I  
 23 can't say that it's clear, that Father Piche  
 24 suggested that the archdiocese call you  
 25 because you are the handler. Do you recall

- 1 ever receiving a call from anybody about the  
 2 information emerging about Wehmeyer in 2009?  
 3 **A. I'm sorry, I don't.**  
 4 **Q.** You're still in charge of the monitoring  
 5 program and he's still in it, right?  
 6 **A. That's correct.**  
 7 **Q.** In 2011, in a memo to Rourke, you raised  
 8 concerns about whether there should be a  
 9 disclosure of Wehmeyer's history to the  
 10 parish, don't you, and make a decision not to  
 11 disclose?  
 12 **A. Well, so I believe there's a 2011 memo, I'm**  
 13 **taking your word on that. My recollection is**  
 14 **that -- and this is part of the MPR, I think I**  
 15 **first saw this back in the front of MPR, so it**  
 16 **has certain searing quality in my memory -- in**  
 17 **my memory, that some archdiocesan leader,**  
 18 **probably the archbishop or someone acting for**  
 19 **him, was saying, "Ought there to be further**  
 20 **disclosure about the fellow?" Someone, I**  
 21 **don't know whom, directed that question to Tim**  
 22 **Rourke. Tim Rourke came to me, asked my**  
 23 **opinion. Now, as I recall the memo, what I**  
 24 **did was, I reflected what was clearly by then**  
 25 **outdated information, and my conclusion based**

- 1 **on that outdated information, as I famously**  
 2 **told Minnesota Public Radio, and did, as I**  
 3 **recall, fortunately at the end of the memo,**  
 4 **say that I was copying it to the then vicar**  
 5 **general because I always think it's possible**  
 6 **there would be new information of which I**  
 7 **wouldn't be aware.**  
 8 **Q.** Well, you in fact recommended against any  
 9 disclosure in the workplace, did you not?  
 10 **A. I think that's correct, yes. Since I figured**  
 11 **he was an adult-interested gay man, I did not**  
 12 **believe that any such disclosure was either**  
 13 **necessary, useful on the one hand, nor likely**  
 14 **to be anything but prejudicial to him on the**  
 15 **other.**  
 16 (Discussion out of the hearing of  
 17 the court reporter)  
 18 BY MR. ANDERSON:  
 19 **Q.** Don't you think it's a problem, you're in  
 20 charge of the monitoring and you're not  
 21 getting the information and hearing about a  
 22 lot of this for the first time today?  
 23 **A. Yes.**  
 24 **Q.** You knew he was a sex addict, didn't you?  
 25 **A. No. Did St. Luke's -- did St. Luke's**

1 **characterize him as a sex addict?**  
 2 **Q.** A diagnosis of sexual disorder.  
 3 **A.** **That's, of course, not sex addiction.**  
 4 **Q.** It's referred to in documents as sex  
 5 addiction.  
 6 **A.** **By St. Luke's? I mean, I don't recall that**  
 7 **Mr. Eisenzimmer -- sorry, Mr. Eisenzimmer I**  
 8 **called you, Mr. Anderson. You both begin with**  
 9 **vowels. I don't recall that, Mr. Anderson.**  
 10 **Q.** All right.  
 11 **A.** **I think that's the first time I've mixed you**  
 12 **up with Andy Eisenzimmer.**  
 13 (Discussion out of the hearing of  
 14 the court reporter)  
 15 MR. ANDERSON: I've got 12:30. I  
 16 suppose this would be a good time for a lunch  
 17 break. Should we do that?  
 18 THE WITNESS: I'm in favor.  
 19 MR. ANDERSON: Okay.  
 20 THE WITNESS: Thank you.  
 21 MR. LEEANE: Off the video record at  
 22 12:28 p.m.  
 23 (Recess taken)  
 24 MR. LEEANE: Back on the video  
 25 record at 1:24 p.m.

1 BY MR. ANDERSON:  
 2 **Q.** Father, I'd like to go back to the Wehmeyer  
 3 events and as you experienced them and direct  
 4 your attention back to 2004. Do you recall  
 5 receiving a letter from a Patrick Menke,  
 6 M-e-n-k-e? Do you recall that?  
 7 **A.** **Do you know, I believe Pat Menke was how I got**  
 8 **to those two young men who -- from the Barnes**  
 9 **& Noble, I believe that's how I got --**  
 10 **Q.** Okay.  
 11 **A.** **-- or they got to me or whatever.**  
 12 **Q.** Why don't you -- I'm going to give you an  
 13 exhibit to look at in a moment about that  
 14 letter, but before I do -- well, let's just  
 15 give it to you.  
 16 MR. FINNEGAN: (Handing documents)  
 17 I'm going to give you guys some, too.  
 18 BY MR. ANDERSON:  
 19 **Q.** This is Exhibit 111, a letter to --  
 20 MR. FINNEGAN: Jeff, hold on  
 21 (Handing documents).  
 22 BY MR. ANDERSON:  
 23 **Q.** Before we go through this, Father, I had  
 24 recalled that you were saying that before you  
 25 got the actual report of the molestation and

1 the events that followed that, you really were  
 2 thinking that Wehmeyer was more attracted to  
 3 adults and homosexual activity, right?  
 4 **A.** **That's right.**  
 5 **Q.** Okay. Let's look at October 8 in 2004, the  
 6 letter addressed to you from Pat Menke. And  
 7 it begins by saying, "Dear Father Kevin, I am  
 8 writing to you with regards to our  
 9 conversation a few weeks ago relating to  
 10 Father Curtis Wehmeyer. Since visiting with  
 11 you, I've been troubled with what was  
 12 communicated and thought it would be  
 13 appropriate for me to write."  
 14 And then at the third paragraph,  
 15 this Pat Menke -- Patrick, is a man, isn't it?  
 16 **A.** **Yes.**  
 17 **Q.** Okay. At the third paragraph he writes to  
 18 you, "The plan or approach that you  
 19 communicated to us with regards to Father  
 20 Curtis included the following: Point one,  
 21 "Full disclosure with key leadership staff at  
 22 St. Joseph's." Did you do full disclosure?  
 23 **A.** **Well, I'm looking down here, he says, "I did**  
 24 **talk with the principal, DRE and youth**  
 25 **minister," so that's --**

1 **Q.** But talking with is different than full  
 2 disclosure, so my question to you is is, full  
 3 -- what disclosure was actually made about  
 4 what you knew about Curtis Wehmeyer to  
 5 leadership staff at St. Joseph's?  
 6 **A.** **Do you know, I have no recollection, no**  
 7 **independent recollection of that.**  
 8 **Q.** At the second page of the letter from Patrick,  
 9 he states at the third-to-the-last paragraph,  
 10 "I'm troubled that no indication has been  
 11 given with regard to any group therapy." Had  
 12 a promise been made that there were would be  
 13 group therapy for Wehmeyer?  
 14 **A.** **I don't recall that.**  
 15 **Q.** He goes on to state, "I'm troubled by the fact  
 16 that no restrictions have been imposed upon  
 17 Father Curtis in his ministry." He goes and  
 18 then states, "I am troubled by the fact that  
 19 my son went to ValleyFair this summer with St.  
 20 Joseph's and Father Curtis was one of the  
 21 chaperones. I'm troubled when my two teenage  
 22 sons came home from a Mass on Sunday at St.  
 23 Joseph's and speak of betrayal and hypocrisy."  
 24 Is it correct in reading this letter that you  
 25 received that she's talking -- or he's talking

- 1 about concerns about Wehmeyer and youth, not  
2 adults and you know it?
- 3 **A. Say, first of all, Patrick Menke was then and**  
4 **at least until recently was a friend of mine,**  
5 **worshipped at St. Peter Claver from time to**  
6 **time with his kids, we consulted regularly on**  
7 **things. Patrick shared with a lot of people**  
8 **in the Catholic Church concerns about**  
9 **homosexuality.**
- 10 **Q.** Yeah, but let's --
- 11 **A. Yes, so --**
- 12 **Q.** -- what is written in this letter. This  
13 letter says "teenage kids," right?
- 14 **A. Right. Right. And I think -- let me tell you**  
15 **what my understanding was then and I've had a**  
16 **chance to refresh this because at some point,**  
17 **maybe in the MPR interview, I saw a letter**  
18 **that Menke then wrote to Archbishop Nienstedt**  
19 **in the last year or two, and my understanding**  
20 **that Patrick did not like the idea of there**  
21 **being gay men in the priesthood.**
- 22 **Q.** Yeah, but let's get back to your knowledge --
- 23 **A. Right.**
- 24 **Q.** -- at this time in 2004, because your  
25 assertion is that it just had to do with

- 1 homosexuality and adult males and that's what  
2 you represented to us under oath before.  
3 We're now looking at this letter where it is  
4 written to you on October 8th of 2004, and  
5 it's being expressed in vivid terms, "I'm  
6 concerned and troubled by the fact that he's  
7 having contact with my kids," who are  
8 teenagers, minors, correct?
- 9 **A. Right.**
- 10 **Q.** Okay. So you do know that he's around kids  
11 and there's concerns being expressed to you in  
12 writing about that, correct?
- 13 **A. That's correct.**
- 14 **Q.** Okay. Good. And then he goes on to say, "As  
15 difficult as it is to say, I cannot help but  
16 get a sense that this is just going to  
17 'quietly go away.'" And that's what happened,  
18 isn't it?
- 19 **A. No. Let's go back to his letter.**
- 20 **Q.** Okay.
- 21 **A. He -- his son --**
- 22 **Q.** Okay. Well, wait a minute.
- 23 **A. -- I'm concerned that my --**
- 24 **Q.** I'm going to ask a question, Father, and I'm  
25 gonna move on.

- 1 **A. Well, I'd just point to the letter, he says**  
2 **they speak of betrayal and hypocrisy, very**  
3 **common -- very typical of the kind of culture**  
4 **wars in the Catholic Church about**  
5 **homosexuality, which our archbishop, of**  
6 **course, has taken a strong position as well,**  
7 **and that's what I read this about.**
- 8 **Q.** This has nothing to do with adults, this has  
9 to do with his kids and Wehmeyer being with  
10 them as a priest, as a chaperone, and he's  
11 telling you about the kids, right, not about  
12 adults?
- 13 **A. I don't -- I do not agree with your conclusion**  
14 **from this text.**
- 15 **Q.** Okay. But you don't dispute that this is  
16 written to you and received by you?
- 17 **A. Correct.**
- 18 **Q.** Okay. Then you did make --
- 19 **A. Would you -- would you guys like these back or**  
20 **can I keep that? Or do you want it?**
- 21 MR. FINNEGAN: He'll keep it.
- 22 BY MR. ANDERSON:
- 23 **Q.** You did reference that later on, you  
24 understood that a letter had been written to  
25 Archbishop Nienstedt reflecting upon this

- 1 situation and you had some -- you just made  
2 reference to that, right?
- 3 **A. That's correct.**
- 4 **Q.** What do you understand about what was written  
5 to Nienstedt and the reasons for that?
- 6 **A. I believe -- were you referring to a letter**  
7 **from Patrick Menke?**
- 8 **Q.** Yes.
- 9 **A. Then I believe that was shown to me by the MPR**  
10 **reporter --**
- 11 **Q.** Okay.
- 12 **A. -- in the midst -- so I think -- I don't think**  
13 **I even had the chance that you have graciously**  
14 **given me to read fully the document placed in**  
15 **front of me.**
- 16 **Q.** Well, I'm not going to have a chance to read  
17 the whole thing or have you read it, but I'm  
18 going to try to direct your attention to a few  
19 things.
- 20 First, Exhibit 113 I think you have  
21 before you, which should be the letter to  
22 Archbishop Nienstedt dated June 26, 2012, and  
23 he states, "Dear Archbishop Nienstedt, I am  
24 unfortunately writing to you with regard to  
25 the recent news of Father Curtis Wehmeyer."

- 1 Now, we know now that Wehmeyer has been  
2 arrested, right?
- 3 **A. I -- I -- I'm not reading the letter --**
- 4 **Q.** Well, it's public.
- 5 **A. Okay.**
- 6 **Q.** So I'm just conceptualizing that for you. At  
7 the fifth paragraph down, he writes, "I  
8 expressed to Father McDonough that even though  
9 the two young men approached by Father  
10 Wehmeyer were 19-year-old adults - they easily  
11 could have passed off as high school students  
12 - the very age group of my sons. These were  
13 very young looking men. Father McDonough  
14 tried to ease my concerns by suggesting the  
15 many studies that disassociate homosexuals and  
16 the abuse of minors." Is it correct when this  
17 writer reports to Archbishop Nienstedt that  
18 you had tried to dissuade Menke from being  
19 concerned about Wehmeyer and teenagers and  
20 direct the concern to only adults?
- 21 **A. Of course, this was from 2012, and now**  
22 **Patrick's reporting here --**
- 23 **Q.** What he was saying to you --
- 24 **A. -- what was in his mind at that time and what**  
25 **I said to him. My -- my understanding from**

- 1 **the beginning and as you can see from the rest**  
2 **of the -- rest of the record, is that this was**  
3 **a fellow who's having adult same-sex**  
4 **attractions and difficulty reconciling them**  
5 **with his religious faith.**
- 6 **Q.** Do you dispute that Menke told you otherwise,  
7 that this was concerns pertaining to teenagers  
8 and these other adult males could well have  
9 been her son's age -- or his son's age?
- 10 **A. I do not recall his ever saying -- and the**  
11 **record may reflect differently, but I don't**  
12 **recall his ever saying that he was worried**  
13 **that these were -- these could have been kids,**  
14 **I don't remember his ever saying that.**
- 15 **Q.** But you don't dispute that's what's being  
16 written here, do you?
- 17 **A. No question that's what is being written here.**
- 18 **Q.** He goes on to state, "Father McDonough  
19 informed me that Father Wehmeyer was sent away  
20 for a week of evaluation." Does that sound  
21 correct?
- 22 **A. Sounds correct.**
- 23 **Q.** And then it states, "Officials within the  
24 local church were notified and other efforts  
25 were being made to address the situation." He

- 1 states, "I specifically asked about any  
2 possible restrictions that might be imposed on  
3 his ministry. I orchestrated a personal  
4 meeting between Father McDonough and one of  
5 the young men to hear the story firsthand."  
6 Do you recall that?
- 7 **A. I don't recall that, but it seems likely it**  
8 **happened.**
- 9 **Q.** The next page, first paragraph he writes, "As  
10 the next months unfolded, I grew increasingly  
11 concerned that life was 'back to normal' at  
12 the church of St. Joseph. My wife and I were  
13 both shocked to hear of his continued  
14 involvement with the youth group, i.e.,  
15 chaperoning trips." Do you dispute that you  
16 were told that Wehmeyer had been chaperoning,  
17 had been the subject of these concerns raised  
18 earlier by -- by Mr. Menke and his family?
- 19 **A. Let me say again that my understanding was**  
20 **that Patrick, my friend, was concerned that a**  
21 **man he thought was a homosexual was involved**  
22 **in ministry at all and that that might cause**  
23 **his children some day, if they discovered that**  
24 **he was a gay man, to feel that we were**  
25 **undermining the teaching of the Catholic**

- 1 **Church about homosexuality. That was the**  
2 **extent of it. I never believed that -- that**  
3 **Curtis Wehmeyer constituted a danger to kids.**  
4 **I'm sorry I didn't believe that, I wish I'd**  
5 **believed it, I wish I could have acted on**  
6 **that. I did not believe it.**
- 7 **Q.** Well, you chose to believe that to protect  
8 Wehmeyer and you now realize that it was at  
9 the peril of these kids, don't you?
- 10 MR. HAWS: Object to form.
- 11 **A. I chose to believe what the predominance of**  
12 **the information I had pointed to.**
- 13 **BY MR. ANDERSON:**
- 14 **Q.** Well, you don't dispute that these concerns  
15 addressed teenage boys, do you?
- 16 **A. And his concern that they would feel betrayal.**
- 17 **Q.** And chaperoning them, traveling with them,  
18 being with them and not on restriction, right?
- 19 **A. And his concern that they would feel betrayed**  
20 **when they found out that there was a gay man**  
21 **involved in their life.**
- 22 **Q.** And that's the choice you made to interpret it  
23 that way at that time?
- 24 **A. That's a fair summary. And remained my**  
25 **conviction until I learned differently, sadly,**



- 1 **terribly tragically.**
- 2 **Q.** When you saw this in 2004, did you ever go  
3 back at that time and say, "Wait a minute, I'm  
4 thinking homosexual adults. This person's  
5 telling me, somebody I know and trust, there's  
6 teenage kids involved. I better go back and  
7 look at this file, I better get to the bottom  
8 of this and do some investigation"? Did you  
9 do anything responsive to this to investigate  
10 what is in that file and of record before 2004  
11 going back to the seminary?
- 12 **A.** **So let's -- let me just go to the underlying**  
13 **principle. My understanding that Pat Menke --**  
14 **what Pat Menke, my friend, was communicating**  
15 **to me was, he did not want a gay man in the**  
16 **priesthood. So rather than Pat was expressing**  
17 **concern about the safety of his kids, he was**  
18 **expressing concern about the potential**  
19 **delusionment of his kids, disillusioning of**  
20 **his kids.**
- 21 **And the answer to the second half of**  
22 **the question, so I want to separate the fact**  
23 **description, I did not think that Patrick was**  
24 **alerting me to concerns about this man hurting**  
25 **kids in any way. That being said, no. I did**

- 1 **not go back, to my knowledge, thereafter. The**  
2 **materials had all been sent to my knowledge to**  
3 **the people doing the assessment.**
- 4 **Q.** Okay. But it's your job to keep the kids  
5 safe, wasn't it?
- 6 **A.** You bet.
- 7 **Q.** And you agree that you blew it?
- 8 **A.** **Any time a kid is hurt, my heart's broken.**  
9 **Could I have acted differently based on the**  
10 **information I had? I don't think I had a**  
11 **right to do so. It angers me that I can't see**  
12 **more clearly, it angers me that I can't go**  
13 **back in a time machine and change it, Mr.**  
14 **Anderson, but I can't.**
- 15 **Q.** Well, you know --
- 16 **A.** **I don't -- I don't believe I blew it, no.**
- 17 **Q.** Okay. But you made the choice not to go back  
18 and look at the file in response to this  
19 information and you now know in that file  
20 there's information that goes back to seminary  
21 that raises that flag, don't you?
- 22 **A.** **Do you know, actually, I've let that pass a**  
23 **couple of times. I don't recall that I looked**  
24 **at his file, so I don't know any more about**  
25 **that. What is in the file, I don't recall,**

- 1 **either. It may be that there's a file at the**  
2 **seminary that suggests that this is a man with**  
3 **some homosexuality issues, I don't know.**
- 4 (Discussion out of the hearing of  
5 the court reporter)
- 6 BY MR. ANDERSON:
- 7 **Q.** So how many times before 2004 had you dealt  
8 with a priest who the initial concerns with  
9 were with adults and sexual misconduct that  
10 turned out to have been actually adults and  
11 children and sexual misconduct?
- 12 **A.** **My initial reaction is, I don't recall a**  
13 **similar situation. I may -- my memory may be**  
14 **refreshed, but I don't recall that.**
- 15 **Q.** Certainly, the adults that you knew about here  
16 were close enough to the age of minority that  
17 it would merit some inquiry, wouldn't it, 19  
18 years old?
- 19 **A.** **Nineteen or 20.**
- 20 **Q.** Yeah.
- 21 **A.** **And as I think the letter shows, I met with at**  
22 **least one of them. Did not appear to be a**  
23 **child to me.**
- 24 **Q.** So you do not agree with the June 26, 2012,  
25 observation that you and the archdiocese were

- 1 sweeping this under the rug?
- 2 **A.** **I have the advantage of seeing the letter and**  
3 **I think I wrote to him that, "I accept your**  
4 **perception that we might be trying to sweep**  
5 **all this under the rug, nonetheless, your**  
6 **perception is inaccurate," and I addressed**  
7 **that with Patrick in 2004.**
- 8 **Q.** You may have said it to him, but did you do  
9 any other -- take any other action responsive  
10 to this information or this concern, other  
11 than what you've told us? Whether it was  
12 giving him assurances or disagreeing with him  
13 or believing what you believed, did you take  
14 any affirmative action to really perceive what  
15 the danger was and known to the archdiocese at  
16 that time beyond what you told us?
- 17 **A.** **Send him for assessment, saw that he was**  
18 **participating in treatment and submitted him**  
19 **to a monitoring program.**
- 20 **Q.** And lifted the restrictions on contact with  
21 youth?
- 22 **A.** **That may be so. I don't recall that.**
- 23 **Q.** I'd like to ask you some questions about  
24 Father Shelley. And in seminary, there are  
25 some indications that while he was in seminary

- 1 in 1995, he had been reported for wrestling  
2 with boys in a swimming pool and not  
3 maintaining proper boundaries. Did that ever  
4 come to your attention, and if so, when?
- 5 **A. I don't believe it did. I have no memory of**  
6 **it.**
- 7 **Q.** And then in 1995, he was, according to the  
8 records, I think, ordained a priest of the  
9 archdiocese. You were vicar general?
- 10 **A. I'll accept that if the -- if the records show**  
11 **it.**
- 12 **Q.** And you received from Joe Ternus, T-e-r-n-u-s,  
13 did you not, some information about Shelley?
- 14 **A. I don't recall this.**
- 15 **Q.** Do you recall receiving --
- 16 **A. Oh, sorry. That was in 1995?**
- 17 **Q.** Yes.
- 18 **A. So now we're not in '90 --**
- 19 **Q.** We're talking about Shelley now --
- 20 **A. Okay.**
- 21 **Q.** -- and we're in 1995.
- 22 **A. Okay.**
- 23 **Q.** Okay. Excuse me. So in 2004, excuse me, I  
24 misspoke.
- 25 **A. There we go.**

- 1 **Q.** He's ordained in '95, but now we're in 2004,  
2 you received that report from Joe Ternus.
- 3 **A. Okay. Let me just, so that you understand my**  
4 **confusion. There is a priest in another**  
5 **diocese named Ternus and I was thinking 1995**  
6 **did I hear from Father Ternus?**
- 7 **Q.** Yeah, this would be a guy that was a  
8 parishloneer and somebody that knew Shelley  
9 from his parish in Mahtomedi.
- 10 **A. Okay.**
- 11 **Q.** So let me back this up. So we have him being  
12 ordained in '95, then in 2004, tell us what  
13 you learned about Shelley and possible  
14 possession of child porn. And would you first  
15 agree that the use or possession of child porn  
16 is a form of child abuse?
- 17 **A. Certainly the -- the production of it is a**  
18 **form of child abuse. And then any sort of**  
19 **possession is clearly a crime, yeah.**
- 20 **Q.** And subject to mandatory reporting?
- 21 **A. Of course.**
- 22 **Q.** Okay. So tell us what you learned from Joe  
23 Ternus in 2004.
- 24 **A. Okay. So let me address the specific question**  
25 **you raised about any suspicion of -- of child**

- 1 **pornography. Nothing. Joe Ternus never**  
2 **mentioned child pornography to me. I'll let**  
3 **you follow up, but I'll just say no one --**
- 4 **Q.** You did learn that he -- that Shelley had a  
5 computer?
- 6 **A. I did.**
- 7 **Q.** And he got it from Ternus, correct?
- 8 **A. What I received exactly, I'm not sure. A**  
9 **computer -- I think I received the whole**  
10 **computer, I don't know that.**
- 11 **Q.** What did you do with the computer?
- 12 **A. I at some early point entrusted it to our**  
13 **chancellor, Bill Fallon at the time. And I**  
14 **confronted Shelley about the report from Joe**  
15 **Ternus, which I had no reason to disbelieve,**  
16 **that there was indications on the computer**  
17 **that someone using the computer had accessed**  
18 **pornography.**
- 19 **Q.** It was child pornography, wasn't it?
- 20 **A. No.**
- 21 **Q.** It was never described as child pornography?
- 22 **A. Never described -- only by Jennifer**  
23 **Haselberger in 2012.**
- 24 **Q.** Okay.
- 25 **A. No one else ever described it as child**

- 1 **pornography.**
- 2 **Q.** So before you turned it over to Fallon, did  
3 you look at it?
- 4 **A. No.**
- 5 **Q.** Did Fallon ever tell you that he had?
- 6 **A. I don't think so. I don't think either of us**  
7 **was capable at the time.**
- 8 **Q.** You're aware that a private investigator firm  
9 was then hired to determine -- before we get  
10 to that, you said you confronted Shelley about  
11 it?
- 12 **A. Right.**
- 13 **Q.** What did you confront Shelley with and what  
14 did he say?
- 15 **A. I confronted him with the reported existence**  
16 **of pornography on the computer and said, "Are**  
17 **you downloading pornography?" And he said,**  
18 **"No. Or if any, very little."**
- 19 **Q.** And it turns out that his denial was a lie?
- 20 **A. That's what -- that's why we involved the**  
21 **investigator --**
- 22 **Q.** Okay.
- 23 **A. -- because I didn't particularly believe it.**
- 24 **Q.** And so the investigator was Richard -- did you  
25 ask him for his other computers?

- 1 **A. I did not.**  
 2 **Q.** Were you aware that he had others?  
 3 **A. I don't think I was.**  
 4 **Q.** And the investigative firm that was hired was  
 5 Richard Setter & Associates, they were a firm  
 6 that had been hired and retained by the  
 7 archdiocese before in matters such as child  
 8 sexual abuse, correct?  
 9 **A. I can't say that we had ever retained Setter &**  
 10 **Associates in regard to child sexual abuse.**  
 11 **We may have, I have no specific --**  
 12 **Q.** Okay.  
 13 **A. We -- we brought them on various clergy**  
 14 **discipline matters.**  
 15 **Q.** And, in any case, you were aware that it was  
 16 sent to Setter for his review and you're aware  
 17 that Setter had a forensic assessment done by  
 18 a computer expert?  
 19 **A. I -- yes.**  
 20 **Q.** And you're aware that they prepared a report?  
 21 **A. Yes.**  
 22 **Q.** And when Ternus turned this over to you and  
 23 expressed the concerns that he did, it's also  
 24 correct that you gave Ternus, "all manner of  
 25 assertions that this will be taken care of and

- 1 that Shelley will get counseling," didn't you?  
 2 **A. I don't recall that, but that would have been**  
 3 **typical of what I would have done, yes.**  
 4 **Q.** And it's also true that Ternus, at the time he  
 5 turned it over to you, having looked at it  
 6 himself, told you that he "didn't want it  
 7 swept under the rug like these other priests  
 8 that had been moved around," didn't he?  
 9 **A. I don't recall that.**  
 10 MR. HAWS: And, also, if you're  
 11 quoting from something, if you could show the  
 12 witness, that would be fair.  
 13 MR. ANDERSON: I'm quoting from  
 14 Minnesota Public Radio that interviewed him  
 15 that he said that, too.  
 16 **A. But there's no --**  
 17 **BY MR. ANDERSON:**  
 18 **Q.** Did you read that story?  
 19 **A. I did not. There's no contemporary --**  
 20 **contemporary record of his having said so.**  
 21 **Q.** No. He said he said that --  
 22 **A. Okay.**  
 23 **Q.** -- and that was reported to MPR.  
 24 **A. And he said that he said that several years**  
 25 **later.**

- 1 **Q.** He said that he said that to you when the  
 2 computer was turned over.  
 3 **A. Yeah, but he -- but his report about my having**  
 4 **said whatever I was reported to have said is**  
 5 **not contemporaneous with the actual meeting,**  
 6 **is that correct?**  
 7 **Q.** He says -- well, we'll see what the record  
 8 says about that.  
 9 **A. He says -- he says what he says, but --**  
 10 **Q.** No argument with that.  
 11 The archdiocese did start an  
 12 investigation and in it there's some  
 13 indication that Shelley is asked to turn over  
 14 two other personal computers. Do you have any  
 15 knowledge of that?  
 16 **A. I believe that's after the time I left the**  
 17 **archdiocese.**  
 18 **Q.** It's 2004.  
 19 **A. Oh. Okay.**  
 20 **Q.** Do you know, there's some indication of  
 21 Shelley having destroyed one computer, and do  
 22 you know anything about that?  
 23 **A. I don't believe I do.**  
 24 **Q.** There's some indication that Shelley turned  
 25 one computer over to his lawyer, Paul Engh.

- 1 Do you know anything about that?  
 2 **A. I must have known something at the time. I**  
 3 **have no recollection of it now.**  
 4 **Q.** There's indication that he referred -- refused  
 5 to give them to the archdiocese, however. Do  
 6 you remember anything like that?  
 7 **A. I do not. Are you conflating what happened in**  
 8 **2004 with what happened after I left the**  
 9 **administration?**  
 10 **Q.** Well, it's referring back to the events of  
 11 2004.  
 12 MR. HAWS: Is this, again, a report  
 13 from media, MPR, or is this a document that  
 14 you can show the father to refer to?  
 15 MR. ANDERSON: This is Exhibit 38,  
 16 but I'm not going to use that now.  
 17 BY MR. ANDERSON:  
 18 **Q.** I'm just asking you what you remember, Father,  
 19 and if you remember that, tell me, if you  
 20 don't, tell me.  
 21 **A. I can tell you I not only don't remember it,**  
 22 **it doesn't sound familiar.**  
 23 (Discussion out of the hearing of  
 24 the court reporter)  
 25 BY MR. ANDERSON:

- 1 **Q.** The report that you got from Setter and the  
2 forensic report done by a guy by the name of  
3 Johnson, you read that report, didn't you?
- 4 **A.** **I must have. I don't remember specifically**  
5 **reading it, but I -- I either read it or I got**  
6 **a verbal summary of it from Bill Fallon, one**  
7 **or the other. Permit me to mention that Bill**  
8 **Fallon was the link, the connection to Richard**  
9 **Setter and, hence, I turned over the --**  
10 **whatever I'd received to Bill and said, "We**  
11 **need to figure out if this -- we need to get**  
12 **evidence if my belief that this guy's lying to**  
13 **us about this porno is true or not, and so get**  
14 **to work with Setter."**
- 15 **Q.** The Setter report the archdiocese refused to  
16 turn over to the police and, thus, we haven't  
17 seen that, but there is accounts that say the  
18 Setter report comes back and that there are  
19 over 2,000 pornographic images, do you  
20 remember hearing that and reading that?
- 21 **A.** **I don't remember. I remember Jennifer telling**  
22 **me there were 1200 pornographic images.**
- 23 **Q.** There's also an account that says that "many  
24 could be borderline illegal." Does that --
- 25 **A.** **I'd be very surprised if any responsible**

- 1 **account says that.**
- 2 **Q.** The report reflects that there were search  
3 terms on the computer that said "free naked  
4 boy pictures." Do you recall receiving that  
5 information?
- 6 **A.** **I don't.**
- 7 **Q.** It also reflects records that the report  
8 indicated and lists search terms "hard core  
9 teen boys. European teen boys. Helpless teen  
10 boys." Do you recall receiving that  
11 information --
- 12 **A.** **I do not.**
- 13 **Q.** -- included in that report?
- 14 **A.** **I do not.**
- 15 **Q.** Does that concern you --
- 16 **A.** **Yes.**
- 17 **Q.** -- that such terms would be --
- 18 **A.** **Yes.**
- 19 **Q.** The Setter report also indicates that they  
20 found that, through their forensic work, that  
21 it was Shelley that had exclusive use of that  
22 computer. Did you learn that?
- 23 **A.** **I'm not sure that it was exclusive use, but**  
24 **predominant use, yes, which was responsive to**  
25 **my particular question.**

- 1 **Q.** So doesn't hearing those terms alone and  
2 knowing that he had exclusive or primary use  
3 of this computer in itself, in your view,  
4 trigger a mandated report at that point in  
5 time?
- 6 **A.** **No.**
- 7 **Q.** Why not?
- 8 **A.** **Because the FBI-related expert, whom Richard**  
9 **Setter himself, a retired police chief, hired**  
10 **in our name to report, said there is no child**  
11 **pornography on the computer.**
- 12 **Q.** First, he's not a mandated reporter, right?  
13 He's hired by the archdiocese as a private  
14 investigator, correct?
- 15 **A.** **I believe that's correct, yes.**
- 16 **Q.** You're a mandated reporter, correct?
- 17 **A.** **Correct.**
- 18 **Q.** And the other archdiocesan officials involved  
19 at this point are mandated reporters, correct?
- 20 **A.** **Right.**
- 21 **Q.** So, if you had received the information that  
22 these search terms were on there as I've  
23 described and it was described as having --  
24 could be borderline illegal, is it your view  
25 that that would trigger a mandated report?

- 1 **A.** **Not if two law enforcement-related people had**  
2 **told us that there was no child pornography.**
- 3 **Q.** Isn't that for the police to decide? Isn't  
4 that why we have the police and not you and  
5 others like you do an internal investigation  
6 such as this and hiring people to tell you  
7 certain things? Isn't that the police's job  
8 to decide if there's a crime?
- 9 **A.** **A former chief of police and an FBI-related**  
10 **investigator, it's hard to imagine more**  
11 **reliable preliminary screening about whether**  
12 **there's anything here. No one raised the**  
13 **issue of child pornography with us.**
- 14 **Q.** Why do you think the archdiocese is refusing,  
15 then, to turn over the Setter report to the  
16 police?
- 17 **A.** **I have no idea.**
- 18 **Q.** What did you do with the computer? What  
19 happened to it?
- 20 **A.** **I gave it to Bill Fallon.**
- 21 **Q.** And you don't know what happened to it?
- 22 **A.** **That's correct.**
- 23 **Q.** Did you hear from anybody what did happen to  
24 it and where it went and what was done with  
25 it?

1 MR. BIRRELL: When?  
 2 BY MR. ANDERSON:  
 3 Q. After it was turned over to Bill Fallon.  
 4 A. **When -- when I was called in by Archbishop**  
 5 **Nienstedt in the fall of 2012, I learned that**  
 6 **the computer disk's information had been**  
 7 **properly stored. Sometime thereafter, I think**  
 8 **in -- perhaps in a media report, I'm not**  
 9 **certain where, I learned there was a question**  
 10 **about a hard drive and its -- and its proper**  
 11 **archiving.**  
 12 Q. Now, the discs are different than the computer  
 13 that you originally got, right?  
 14 A. **Do you know, I don't.**  
 15 Q. You got the computer, not the computer  
 16 containing the disks?  
 17 A. **I don't know that. I mean, it could -- could**  
 18 **well be, I'm not disputing it, I just don't**  
 19 **recall.**  
 20 Q. It is true that Shelley was sent to St. Luke's  
 21 and you sent a letter to them?  
 22 A. **I don't recall that, but I'm sure the record**  
 23 **would demonstrate it.**  
 24 Q. And in the letter, there is a -- specific  
 25 questions you addressed and it is my read of

1 It that you only want to know two limited  
 2 things and not the whole picture, and the two  
 3 questions you put in the report to St. Luke's  
 4 are, number one, whether Shelley had a problem  
 5 with compulsive interests in pornography use  
 6 and, number two, whether he's being honest.  
 7 And my question to you is, do you recall  
 8 having directed those two questions to them?  
 9 A. **I don't. Do you have the document? Could we**  
 10 **look at it together?**  
 11 Q. I do, but if it does say that, do you recall  
 12 why you would limit their inquiry into Shelley  
 13 and not try to get to the bottom of the real  
 14 danger posed and have them do a complete  
 15 assessment as opposed to answer two questions  
 16 given?  
 17 MR. HAWS: I object to the form,  
 18 assuming facts not in evidence. And it's also  
 19 difficult without the witness to see the  
 20 report in context in its entirety to answer  
 21 the question. If you can answer without  
 22 guessing or speculating, Father.  
 23 A. **Yeah, I'm -- I'm not sure how I can do this**  
 24 **without speculating.**  
 25 BY MR. ANDERSON:

1 Q. Well, let me ask you, you recall limiting your  
 2 -- limiting their inquiry that you wanted St.  
 3 Luke's to make concerning Shelley?  
 4 A. **Let me say that I always specified the inquiry**  
 5 **I was making about any priest. I don't --**  
 6 **whether one calls that limiting or not, it's**  
 7 **against our church law for me to ask them, "Do**  
 8 **you have reason to think that this guy could**  
 9 **shoot the president or rob a bank?" I have to**  
 10 **respond to the information, the complaint I**  
 11 **have.**  
 12 Q. Before you sent him to St. Luke's and asked  
 13 them the questions you did, then, why didn't  
 14 you sit down with Shelley and say, "Father  
 15 Shelley, we have concerns about the safety of  
 16 our kids and we have a zero tolerance policy.  
 17 Tell me everything that you have done, either  
 18 to kids as a priest sexually or whatever you  
 19 have done to view kids that constitutes child  
 20 pornography, which in our view is sexual  
 21 abuse." Did you ever ask him his sexual  
 22 history concerning his compulsive interests in  
 23 youth?  
 24 A. **I'm confused here. Is there some allegation**  
 25 **I'm not aware of that Father Shelley ever**

1 **abused a child?**  
 2 Q. Well, we'll get to what we do know and what  
 3 the records reflect. My question is, did you  
 4 ask him if he ever abused a kid?  
 5 A. **I don't believe I ever asked him that.**  
 6 Q. Did you ask him if he had downloaded child  
 7 pornography?  
 8 A. **I don't recall asking him that. I may have.**  
 9 **The record would show that if I did.**  
 10 Q. Well, sure. You'd record that?  
 11 A. **Right.**  
 12 Q. And if he had admitted it to you, that would  
 13 constitute --  
 14 A. **Call the police.**  
 15 Q. Call the police.  
 16 A. **I would -- I would have called the police.**  
 17 Q. And you didn't call the police?  
 18 A. **Right.**  
 19 Q. So --  
 20 A. **But I had no reason to suspect that he had**  
 21 **child pornography.**  
 22 Q. So you didn't ask?  
 23 A. **That's right.**  
 24 Q. And it's really hard to find out something  
 25 about somebody's history if you don't ask

- 1 them, isn't it?
- 2 **A. I'm not in -- I'm not in the practice of**  
 3 **asking people on the street whether they've**  
 4 **ever downloaded child pornography. And when I**  
 5 **have a power relationship with a person, in**  
 6 **this case a priest who's responding to his**  
 7 **vicar general, to engage in a fishing**  
 8 **expedition would be contrary to the church law**  
 9 **in this regard.**
- 10 **Q.** What law says you can't ask a priest in  
 11 ministry about whether he has sexually abused  
 12 a child and how many or whether he has  
 13 downloaded child pornography, which is sexual  
 14 abuse of children? What law says you can't  
 15 ask the priest that?
- 16 **A. Fortunately, what we had was his computer, so**  
 17 **had he downloaded child pornography, we were**  
 18 **going to find it out.**
- 19 **Q.** I'm just asking --
- 20 **A. It was not -- it was not at the top of my**  
 21 **awareness at the time since no one had**  
 22 **mentioned child pornography.**
- 23 **Q.** I know it, but why didn't you ask him? Why --
- 24 **A. Jeff, why would I -- pardon me. Mr. Anderson,**  
 25 **why would I have asked?**

- 1 **Q.** Because we've got search terms all over the  
 2 place here in the Setter report that says he's  
 3 got a compulsive interest in pornography and  
 4 there are concerns about youth, teens, naked  
 5 boys. I mean, you told me you couldn't  
 6 because of church law. Tell me the law that  
 7 says you couldn't ask the question of Father  
 8 Shelley when confronted with this concern.
- 9 **A. The -- the specific restriction I'm under is**  
 10 **that we cannot use authority to require**  
 11 **someone to manifest his conscience.**
- 12 **Q.** Yeah, but if you don't ask, you can't know, so  
 13 there's nothing that kept you from asking the  
 14 question, you made the choice to not ask the  
 15 question, correct, Father?
- 16 **A. Many questions I didn't ask him.**
- 17 **Q.** You should have, shouldn't you?
- 18 **A. No.**
- 19 **Q.** There's nothing that kept you from doing that,  
 20 you made the choice?
- 21 **A. I don't regret the choice I made in this**  
 22 **regard.**
- 23 **Q.** Well --
- 24 **A. Especially since as far as I can tell, there's**  
 25 **no reason whatsoever to think that this man**

- 1 **ever misbehaved with children.**
- 2 **Q.** So you think he's safe to be a priest today?
- 3 **A. That's -- it's a long time since I've**  
 4 **interacted with him.**
- 5 **Q.** Think he's safe to be on sabbatical and  
 6 telling people that when he did leave, that he  
 7 was going on sabbatical without anybody  
 8 knowing his history until we made it public in  
 9 court?
- 10 **A. What's the -- I don't know how that becomes a**  
 11 **safety issue.**
- 12 **Q.** Well, let me put it this way. The information  
 13 that we're talking about was all kept within  
 14 the confines of the archdiocese and the  
 15 province of the archbishop and those working  
 16 with and for him, correct?
- 17 **MR. HAWS:** Well, I'll object to the  
 18 form. I'm not sure which information you're  
 19 speaking of. We've talked for half an hour  
 20 about it, and so I'm not sure --
- 21 **MR. ANDERSON:** Okay. Let's move on.
- 22 **A. Okay.**
- 23 **BY MR. ANDERSON:**
- 24 **Q.** Did you send the Setter report -- when -- when  
 25 Shelley was sent to St. Luke's, the Setter

- 1 report had not been received, correct?
- 2 **A. I don't recall the timing, I'm sure the record**  
 3 **would establish that.**
- 4 **Q.** The record establishes that it had not been  
 5 received. When he came back from St. Luke's  
 6 and they answered the questions you asked,  
 7 which they did, the Setter report had not been  
 8 received.
- 9 **A. Okay.**
- 10 **Q.** My question to you, then, is, when the Setter  
 11 report was received after St. Luke's had done  
 12 the evaluation and answered the questions you  
 13 asked, my question to you is, why didn't you  
 14 then send the Setter report back to St. Luke's  
 15 and say, "Hey, you better take a look at this,  
 16 there's more information that we have now that  
 17 you need to know in order to accurately give  
 18 us an assessment of the danger that exists"?
- 19 **A. You're characterizing it as "more relevant**  
 20 **information." I don't recall ever thinking**  
 21 **that myself. More and relevant information,**  
 22 **again, I don't recall ever thinking that.**
- 23 **Q.** So when Shelley was sent to St. Luke's, what  
 24 were the people in the parish told about his  
 25 departure?

1 **A. I think when he went to St. Luke's, very**  
2 **little was said because he was gone for five**  
3 **days.**

4 (Discussion out of the hearing of  
5 the court reporter)

6 BY MR. ANDERSON:

7 **Q.** That was a general practice, wasn't it, to  
8 tell the people that he was going on vacation  
9 or sabbatical or leave and not telling them  
10 that he was really going for assessment for  
11 suspicions of misconduct?

12 MR. HAWS: General practice as to  
13 Father Shelley?

14 BY MR. ANDERSON:

15 **Q.** As to all the priests.  
16 **A. The general practice as to all the priests?**  
17 **Generally speaking, if they would be absent**  
18 **for a very short period time and we were**  
19 **unsure of the kind of problem we had to deal**  
20 **with, you're correct, we would not -- we**  
21 **probably would have said nothing because a**  
22 **priest being out of his parish for five days**  
23 **is not an extraordinary event.**

24 **Q.** So he was left at the parish to continue in  
25 ministry?

1 (Discussion out of the hearing of  
2 the court reporter)

3 BY MR. ANDERSON:

4 **Q.** And that was the practice as you described it  
5 until you left your position as vicar general?

6 MR. BIRRELL: What was the practice?

7 BY MR. ANDERSON:

8 **Q.** That you just described.

9 MR. BIRRELL: Do you understand the  
10 question?

11 **A. I'm not sure. Help me understand what**  
12 **you're --**

13 BY MR. ANDERSON:

14 **Q.** In 2008, did you receive information that  
15 Shelley had allowed an 18-year-old parishioner  
16 to live with him in the parish?

17 **A. I believe I received that before 2008.**

18 **Q.** How did you receive that and from whom?

19 **A. I think I received it from Shelley.**

20 **Q.** What did he tell you about that?

21 **A. Presuming we're talking about the same thing,**  
22 **in 2004, when I received the material, he said**  
23 **that he had an extra room in the -- in the**  
24 **rectory and that this young man stayed for a**  
25 **time with him.**

1 **Q.** Did you --

2 **A. In fact, he suspected, he told me, I believed**  
3 **it to be lie when he was telling it to me, but**  
4 **he suspected that perhaps this man had**  
5 **accessed the computer for some -- the**  
6 **pornography use.**

7 **Q.** So you knew Shelley was lying to you at that  
8 point?

9 **A. Yes, I suspected it, I didn't know it, I**  
10 **suspected it, which is why I asked the**  
11 **experts.**

12 **Q.** And you also knew that he had an 18-year-old  
13 living in the parish?

14 **A. I'm not sure I knew the age was 18. I**  
15 **understood he was a young man.**

16 **Q.** Didn't that raise alarms for you?

17 **A. No.**

18 **Q.** And did you ask Shelley about his relationship  
19 to this 18-year-old or so and if he'd had any  
20 sexual contact with him?

21 **A. I did not ask him about sexual contact. He**  
22 **offered some particular excuse, which I don't**  
23 **recall, for why he welcomed the young man into**  
24 **the home. I believe he was part of an**  
25 **extended family in the parish and between**

1 **employment or something.**

2 **Q.** Well, you've been dealing with offenders and  
3 offending clerics for a long time now, Father,  
4 right, so you know about the denial business  
5 and how they lie, and you knew that Shelley  
6 was lying to you about some things here when  
7 you confronted him with that, didn't you?

8 **A. I did.**

9 **Q.** Don't you think that that right there was like  
10 red flags that were just like flashing and  
11 waving and screaming, "I got to ask more  
12 questions, I got to do an investigation, I got  
13 to know more"?

14 **A. We did do an investigation, yes. It raised no**  
15 **concern for me about the safety of kids.**

16 **Q.** Well, who was interviewed about that? You  
17 said "we did an investigation."

18 **A. We sent him away for assessment and we sent**  
19 **his computers to -- his computer to experts**  
20 **who could tell us what was on them. I made**  
21 **some inquiries with the staff about his -- I**  
22 **had actually already had some interaction with**  
23 **the staff about his leadership, knew that he**  
24 **was not universally liked among the staff. I**  
25 **heard nothing from them about expressions of**

1 **concern about his behavior with -- sexual**  
 2 **behavior with any sort of individual, male,**  
 3 **female, younger or older.**

4 (Discussion out of the hearing of  
 5 the court reporter)

6 BY MR. ANDERSON:

7 **Q.** Did you ask the staff about his sexual  
 8 behaviors or any red flags around it?

9 **A.** **I think later in the summer I did, later in**  
 10 **the year I did.**

11 **Q.** There's no documentation of that. Are you  
 12 sure of that?

13 **A.** **No.**

14 **Q.** If you had asked, you would have documented  
 15 it, wouldn't you?

16 **A.** **I might have, yes.**

17 **Q.** Well, you say you might have. Does that mean  
 18 that you're doing investigations concerning  
 19 safety and/or dangers that are not being  
 20 documented, whether they prove to be safe or  
 21 not?

22 **A.** **My concern was not about safety or danger. No**  
 23 **one had raised concerns about safety or**  
 24 **danger. My concern became whether this man by**  
 25 **-- by then the word that he had possessed**

1 **pornography was spreading around the parish, I**  
 2 **wanted to know how much was that around and**  
 3 **what was it doing to his effectiveness as a**  
 4 **pastor.**

5 **Q.** So you're concerned about the rumors spread  
 6 about the priest and some possible scandal of  
 7 the priest and pornography is what your main  
 8 focus at that point is?

9 **A.** **I'm concerned about whether this man can**  
 10 **effectively be a priest because he's clearly**  
 11 **looked at immoral material.**

12 **Q.** At this point you're the archbishop's delegate  
 13 for safe environment, aren't you?

14 **A.** **No. I was his vicar general.**

15 **Q.** Still responsible for implementing the safety  
 16 of the children?

17 **A.** **That's correct.**

18 **Q.** In 2012, in February, Jennifer Haselberger,  
 19 chancellor of canonical affairs, finds 48  
 20 restricted files archived and moved to the  
 21 basement without them being referenced to the  
 22 personnel files. Did you learn that?

23 **A.** **This is the first I'm hearing of that timing**  
 24 **and her particular role in it. Had you asked**  
 25 **me, I would have presumed that Jennifer had**

1 **moved the files there since she became the**  
 2 **archivist shortly after I left.**

3 **Q.** What do you know about 48 restricted files  
 4 being in the archives?

5 **A.** **Again, had you asked me without the prelude, I**  
 6 **would have said, "Well, of course Jennifer**  
 7 **moved them there when she became chancellor**  
 8 **that fall," so I -- I know nothing.**

9 **Q.** You know nothing about 48 restricted files  
 10 being in the archives of the archdiocese?

11 **A.** **That's correct. Those must be the files that**  
 12 **were in Judy Delaney's office, so someone made**  
 13 **a decision about locating them after I was no**  
 14 **longer there.**

15 **Q.** How many were in Judy Delaney's office?

16 **A.** **I have no idea. 48 sounds like the -- the**  
 17 **size of it. Sounds like Judy Delaney's office**  
 18 **was picked up and moved out of the files --**  
 19 **moved out of the --**

20 **Q.** And they were restricted because they  
 21 contained evidence of crimes or sexual abuse,  
 22 correct?

23 **A.** **Or alcohol abuse or theft of funds or anger**  
 24 **issues or a consensual adult sexual**  
 25 **involvement or nonconsensual adult sexual**

1 **involvement.**

2 **Q.** Haselberger reports also that she finds a  
 3 banker box in the archive with a three-ring  
 4 binder, including the Setter report and all of  
 5 the findings made by you and the archdiocese  
 6 in 2004. Do you know anything about a  
 7 three-ring binder?

8 **A.** **I do not.**

9 **Q.** Did you view a three-ring binder in 2004 --

10 **A.** **I don't --**

11 **Q.** -- that was compiled?

12 **A.** **I don't recall that. That may have been the**  
 13 **format in which Setter gave us the report, I**  
 14 **don't -- but I don't recall.**

15 **Q.** And just so I'm clear, you read the Setter  
 16 report, didn't you?

17 **A.** **I'm not certain whether I read it or received**  
 18 **a verbal summary from Bill Fallon.**

19 **Q.** Well, you relied on it in terms of the  
 20 decision you made that he wasn't a risk to  
 21 kids and you claim he is an expert and it's on  
 22 the basis of your reliance on him that no  
 23 report was made. Don't you think that it was  
 24 your job to read it?

25 **A.** **Once again, I was not investigating because**



1 I'd had no reason to investigate. I was not  
 2 investigating concerns about child pornography  
 3 or endangerment of children. That was not the  
 4 scope of my investigation.

5 Q. Because you weren't looking at that?

6 A. Because I wasn't asked, I had no reason to  
 7 think that that was in play.

8 Q. But the Setter report says it was.

9 A. I'm --

10 Q. So how do you reconcile that?

11 A. And where does the Setter report say that? I  
 12 mean, I'm not aware that it does say that.

13 Q. Jennifer Haselberger, there's a memo, Exhibit  
 14 38, in which she details that it says that,  
 15 okay?

16 It also has some reference to DVDs.  
 17 Do you know anything about DVDs involving  
 18 Shelley?

19 A. I do not.

20 Q. In 2012, the records reflect that the  
 21 archdiocese is looking at a future assignment  
 22 for Shelley, which is what caused her, I  
 23 believe, to go to the archive. In 2012, what  
 24 is your involvement with -- let's see, you're  
 25 still the delegate for safe environment,

1 aren't you?

2 A. That's right.

3 Q. And at St. Peter Claver?

4 A. Correct.

5 Q. And so are you involved with Shelley in 2012  
 6 at all?

7 A. I had one specific involvement, yes.

8 Q. What was it?

9 A. Apparently, this portion is reconstructed and  
 10 the record will have to -- will have to show  
 11 it. Sometime in the first part of 2012,  
 12 Jennifer Haselberger expressed to Archbishop  
 13 Nienstedt her belief that there was child  
 14 pornography in the material that was in the  
 15 archdiocese's possession at the time. I was  
 16 not aware of that at the time. I learned this  
 17 later in the fall when, I believe from  
 18 Jennifer herself, I learned that Archbishop  
 19 Nienstedt wanted a cover note drafted for him  
 20 to the Holy See, meaning the Vatican, about  
 21 the child pornography issues with -- with John  
 22 Shelley. I expressed my surprise. I said,  
 23 "There's no child pornography issue with John  
 24 Shelley." Jennifer reported to me that she  
 25 believed there was and that, in fact, at her

1 urging, Archbishop Nienstedt had gone to the  
 2 Holy See to initiate the process, disciplinary  
 3 process in that regard.

4 So I reported to Jennifer, not -- I  
 5 don't know that I ever spoke directly with  
 6 archbishop about this matter, but I reported  
 7 to Jennifer that I thought we'd had an FBI guy  
 8 review this stuff and that there was no  
 9 concern about child pornography. She said,  
 10 well, she'd reviewed it and that there was  
 11 child pornography.

12 Q. She showed you the images, didn't she?

13 A. She -- she then said -- I said, "Jennifer, I  
 14 don't believe you. The experts looked at it  
 15 and said it isn't so." So then she said,  
 16 "Well come and look at the images."

17 Q. And you did, didn't you?

18 A. I looked at about 450.

19 Q. And you saw some that were borderline enough  
 20 to be possible child porn, didn't you?

21 A. I did not. As a matter of fact, I was  
 22 disgusted after looking at about a third, a  
 23 little over a third of the files and went back  
 24 to Jennifer and said, "I don't see anything  
 25 here that is remotely child pornography. What

1 are you talking about?" She told me that I  
 2 was wrong. I said, "You're going to have to  
 3 demonstrate that to me." So, then, she took  
 4 the files and downloaded from the files the  
 5 images that she considered to be child  
 6 pornography. Curious practice, I thought,  
 7 but, nonetheless, when I, then, looked at  
 8 them, and I think there were about a dozen,  
 9 there might have been ten or 15, it was about  
 10 a dozen, it was quite apparent to me that they  
 11 -- these were not sexual images of children.

12 Q. So tell me about your training in determining  
 13 what is a sexual image of a child and the age  
 14 of the child when you look at it. Where did  
 15 you get this expertise, Father?

16 A. The -- so let me just say, these were not  
 17 sexual images, they were not sexual images.

18 Q. But they were in the pornography and you  
 19 didn't look at all of them, so you saw some  
 20 that were kids, right, but they weren't  
 21 sexually explicit is what you're saying?

22 A. That's correct.

23 Q. But others were?

24 A. There were sexually explicit images of adults.  
 25 There were no sexually explicit images of

1 **young people of any sort.**  
 2 **Q.** And Jennifer Haselberger was saying, "I  
 3 disagree, Father. There's child porn here.  
 4 We have to do something more with this," and  
 5 that's why she downloaded it and she was  
 6 urging you and the archbishop to report this,  
 7 wasn't she?  
 8 **A.** **Well, for a reporting point of view, of**  
 9 **course, Jennlifer is a mandated reporter as**  
 10 **well, so I was confident that if in fact there**  
 11 **were any child pornography, that she would**  
 12 **report it.**  
 13 **My particular role was to prepare**  
 14 **the cover letter for a dossier to the Holy**  
 15 **See. After these couple of investigations**  
 16 **with Jennifer, couple of looks with Jennifer,**  
 17 **I prepared a memorandum to archbishop saying,**  
 18 **"I believe we" -- "I believe that the report**  
 19 **from the FBI guy and from the retired police**  
 20 **chief -- police chief of eight years ago**  
 21 **stands up. I don't see any reason for me to**  
 22 **question the experts." And so I offered to**  
 23 **draft a letter to the Holy See, saying that**  
 24 **the -- this was misrepresented. That's when I --**  
 25 **that's when I stopped interacting with the**

1 **case.**  
 2 **Q.** Did you actually see the letter drafted to  
 3 Cardinal -- or Prefect Levada?  
 4 **A.** **I may have drafted it. I don't recall if I**  
 5 **did that or -- this would have been in**  
 6 **Januaryish of -- of 2013.**  
 7 **Q.** Well, there's a letter that was drafted that  
 8 evidently was not sent that said that, "My  
 9 advisors indicate to me that I may be in  
 10 violation of civil law by reason of possession  
 11 of child pornography or borderline child  
 12 pornography." Did you draft that letter?  
 13 **A.** **No.**  
 14 **Q.** What happened to the letter that you drafted?  
 15 **A.** **I have no idea.**  
 16 **Q.** Who did you give it to?  
 17 **A.** **I sent it to the archbishop and I think I**  
 18 **copied Jennifer and Father Laird, perhaps**  
 19 **Joseph Kueppers, K-u-e-p-p-e-r-s.**  
 20 **Q.** And this is a draft letter to the CDF, the  
 21 Congregation of the Doctrine of Faith?  
 22 **A.** **That's correct.**  
 23 **Q.** And under the SST, you knew that all reports  
 24 of child sexual abuse were now to go to the  
 25 CDF as of 2001?

1 **A.** **That's correct.**  
 2 **Q.** Now, Shelley is given a sabbatical or either  
 3 requests a sabbatical or is told to go on  
 4 sabbatical. Do you know if he requested it or  
 5 he was told?  
 6 **A.** **I'm -- I'm guessing it's the latter, but I do**  
 7 **not know. I was not part of that decision-**  
 8 **making or conversation.**  
 9 **Q.** And he reported to the people that he was  
 10 taking a sabbatical and given a farewell  
 11 party. Were you aware of that?  
 12 **A.** **No.**  
 13 **Q.** The people of the parish were not told  
 14 anything about what the archdiocese knew or  
 15 about these letters or about the reports or  
 16 about the evaluation or anything else that  
 17 we've discussed. Do you think there's  
 18 anything that we have discussed at least that  
 19 the parishioners should have been told or  
 20 warned about?  
 21 **A.** **No.**  
 22 **Q.** Do you know if Archbishop Nienstedt discussed  
 23 the matter of Shelley or any of the other  
 24 priests accused of having abused with the  
 25 Vatican officials at the ad limina visit?

1 **A.** **I don't know that.**  
 2 **Q.** Had you ever been a party to any of the  
 3 previous ad limina visits where this had been  
 4 discussed and reported?  
 5 **A.** **I'm gonna ignore the last part of your**  
 6 **question about where this had been discussed**  
 7 **and reported because I wasn't -- I will say to**  
 8 **that, I was not a party to any of the ad**  
 9 **limina visits.**  
 10 **Q.** Okay. That was the question I intended to  
 11 ask.  
 12 **A.** **Yes. Just for clarification, with the ad**  
 13 **limina visit each year, each time it happens,**  
 14 **which is approximately every five years, the**  
 15 **bishop is required to submit a report on the**  
 16 **state of the -- of the archdiocese.**  
 17 **Q.** The quinquennial report?  
 18 **A.** **The quinquennial, q-u-i-n-q-u-e-n-n-i-a-l.**  
 19 **And I often coordinated the development of**  
 20 **that report, but I never participated in the**  
 21 **ad limina visit.**  
 22 **Q.** And the quinquennial report would also, by its  
 23 nature, talk about the financial wellness and  
 24 affairs of the archdiocese as well as any  
 25 problems relating to sexual abuse?

1 **A. I don't recall. By the time sexual abuse was**  
 2 **on everyone's agenda, I don't think I was any**  
 3 **longer in charge of the preparation. During**  
 4 **the times when I coordinated the preparation**  
 5 **of the quinquennial report, I do not recall a**  
 6 **specific request from the Holy See in that**  
 7 **regard.**

8 **Q.** To your knowledge, Father, had you or any of  
 9 the other officials ever reported any sexual  
 10 abuse by any of the priests in the archdiocese  
 11 to the CDF?

12 **A. Yes.**

13 **Q.** Who?

14 **A. All of the charter priests.**

15 **Q.** When was that done?

16 **A. In about 2004 or five.**

17 **Q.** And what was that number at that time?

18 **A. I don't recall.**

19 **Q.** Okay. Would that have been the first, to your  
 20 knowledge, report to the CDF of sexual abuse?

21 **A. From the archdiocese, I believe so, yes.**

22 **Q.** And to your knowledge, any others made since?

23 **A. I -- I would not have been part of that since**  
 24 **then.**

25 THE WITNESS: Is this an okay time

1 to suggest a --

2 MR. ANDERSON: Sure.

3 THE WITNESS: -- break?

4 MR. ANDERSON: Sure. Sure.

5 MR. LEEANE: Off the video record at  
 6 2:28 p.m.

7 (Recess taken)

8 MR. ANDERSON: Okay. We've just  
 9 finished a break and we've had a discussion  
 10 about the amount of time allocated by the  
 11 court, and we have a disagreement as to the  
 12 actual time we have for the deposition. Our  
 13 reading of the order is that we have eight  
 14 hours for purposes of conducting the  
 15 questions, with the appropriate breaks not to  
 16 be included, which means that we have by that  
 17 calculation another --

18 MR. FINNEGAN: Almost four hours.

19 MR. BIRRELL: Three hours and 58  
 20 minutes.

21 MR. ANDERSON: -- four hours. And  
 22 defense counsel, however, read the order  
 23 differently, and perhaps you could state what  
 24 your reading it of is and then what your  
 25 intention would be given that.

1 MR. HAWS: My reading is from the  
 2 judge's transcript or his discussion within  
 3 the transcript, starting on page 62,  
 4 continuing on to page 63, which states, I  
 5 quote, "I would think one day for him," this  
 6 is referring to Father McDonough, "and by 'one  
 7 day' I mean no more than eight hours, with at  
 8 least an hour for lunch and with at least a  
 9 15-minute break in the morning and in the  
 10 afternoon at a time and place that everybody  
 11 can agree on." That's on page 63. So our  
 12 position is that it's a total of an eight-hour  
 13 day that he, he meaning Father McDonough, can  
 14 be deposed, including the breaks referenced.

15 As I indicated off the record when  
 16 we had our discussion in good faith here,  
 17 rather than taking just one 15-minute break in  
 18 the morning and one in the afternoon, we took  
 19 two in the morning, we may very well take two  
 20 or come to the end where we need another one  
 21 this afternoon, and we've agreed to add back  
 22 that half-hour. That puts us at about 5:30 to  
 23 coincide with the court's order. So I think  
 24 that's about the proper time, or Mr. Birrell  
 25 here has roughly 2:28 left of time as well, so

1 I think that puts us at about 5:30 with  
 2 another break. That's our position.

3 MR. ANDERSON: And it's your  
 4 position, then, at the conclusion of  
 5 two-and-a-half hours of questions that you'll  
 6 instruct the witness to not answer any further  
 7 questions?

8 MR. HAWS: Well, my position is that  
 9 we have now satisfied our obligation pursuant  
 10 to the court order to produce Father McDonough  
 11 for a full day of testimony and that's what  
 12 we've done. So if we don't say that there's a  
 13 time at which we stop, then you don't stop.  
 14 We saw that last time. So, yes.

15 MR. ANDERSON: Well, with Archbishop  
 16 Nienstedt's deposition, we treated it as we  
 17 have read the court order and that was that we  
 18 were given four hours of testimony to the  
 19 minute, not including breaks, and that's why  
 20 we think that that was the intention of the  
 21 court here, to give us eight hours testimony.  
 22 But we have a disagreement in how the order is  
 23 read, and as long as I know, according to the  
 24 instructions you're going to give us and the  
 25 witness, I've got two-and-a-half hours left --

1 MR. FINNEGAN: 2:28 according to --  
 2 MR. ANDERSON: 2:28.  
 3 MR. BIRRELL: Exactly correct.  
 4 MR. ANDERSON: I'll have to work  
 5 within that and take the position that the  
 6 deposition remains open and for reasons that I  
 7 already stated at the onset and a disagreement  
 8 on how much time the court gave us.  
 9 MR. HAWS: Fair enough.  
 10 MR. ANDERSON: Okay.  
 11 MR. LEEANE: Back on the video  
 12 record at 2:56 p.m.  
 13 BY MR. ANDERSON:  
 14 Q. So you'll make your thing. It's not my doing.  
 15 Father, I'd like to go back to the  
 16 Shelley situation, and at some point it's  
 17 correct to say that you did advocate his  
 18 return to ministry unrestricted, is that a  
 19 fair statement?  
 20 A. **I certainly advocated his return to ministry.**  
 21 **I don't recall about restrictions or not at**  
 22 **this point.**  
 23 Q. Is it correct to say that Jennifer Haselberger  
 24 advocated strongly against it?  
 25 A. **By the time Jennifer was -- was employed by**

1 **the archdiocese in the position of chancellor,**  
 2 **I was no longer at those senior conversations**  
 3 **or tables.**  
 4 Q. When it comes to the pornography and whether  
 5 or not it was borderline child pornography or  
 6 child pornography, did you characterize what  
 7 you viewed on Shelley's computer to have been  
 8 actually not child pornography because they  
 9 were pop-up ads and, thus, the kinds of things  
 10 that one would not intentionally search?  
 11 A. **I -- I -- I did use the term "pop-up ads."**  
 12 **What -- and that was purely guesswork on my**  
 13 **part. There were images that were nonsexual**  
 14 **images on the materials that Jennifer showed**  
 15 **to me, and so my speculation, purely**  
 16 **speculation, was that those might have been**  
 17 **pop-up ads.**  
 18 Q. Did you also advocate and take the position  
 19 that 60 percent of the child pornography sites  
 20 on the web are set up by the FBI, and because  
 21 Shelley had not been arrested by them, he must  
 22 not have access to child pornography?  
 23 A. **I don't recall that, but I -- I have had that**  
 24 **thought. I certainly have had the thought**  
 25 **that, from a training that I underwent in the**

1 **early 2000s, FBI and law enforcement people**  
 2 **said that this is what they were doing.**  
 3 Q. Well, that thought has been attributed to  
 4 you --  
 5 A. **Yes.**  
 6 Q. -- as one having been expressed that, because  
 7 he wasn't caught, he must not be guilty. Is  
 8 that your belief?  
 9 A. **My belief is that were he actually act -- what**  
 10 **do you call it? Act -- actively engaged with**  
 11 **such websites, there's a high likelihood he**  
 12 **would have been caught, that's my belief.**  
 13 Q. And that's your reasoning that, because he  
 14 wasn't, he didn't pose a danger of viewing  
 15 child pornography or, thus, engaging in sexual  
 16 abuse?  
 17 A. **Once again, from -- from the beginning, I had**  
 18 **no reason to think that he was -- that he had**  
 19 **downloaded or accessed child pornography.**  
 20 Q. What experience do you have or training in  
 21 determining whether images are sexual or not  
 22 and the ages of the individuals involved?  
 23 A. **None. Presumably the same as Jennifer**  
 24 **Haselberger.**  
 25 Q. Actually, that's for the police, isn't it, to

1 really discern?  
 2 A. **Right. Which is where she should have taken**  
 3 **the complaint if she had it, and eventually**  
 4 **she did, it's my understanding.**  
 5 Q. So by your comment, are you faulting Jennifer  
 6 Haselberger here?  
 7 A. **No. Jennifer and I had the same standing to**  
 8 **-- to make a guess as to the status of child**  
 9 **pornography. I was relying on the experts who**  
 10 **had already reviewed the material, who told us**  
 11 **there was no child pornography. So Jennifer's**  
 12 **assertion, which ran contrary to that of the**  
 13 **experts, was the one that I was called in to**  
 14 **write a comment on.**  
 15 Q. Well, you're not telling us that you actually  
 16 reviewed the expert's findings, are you?  
 17 A. **That's correct.**  
 18 Q. So how can you say what the experts said and  
 19 that there's a contrary view if you haven't  
 20 read what the experts found?  
 21 A. **As I've indicated, I either read it or was**  
 22 **given a summary by Bill Fallon, so I'm not**  
 23 **sure if I read it or if I received a summary.**  
 24 Q. Do you have any knowledge that in May of 2012,  
 25 she showed the images to Archbishop Nienstedt

- 1 or Laird?
- 2 **A. I --**
- 3 MR. BIRRELL: Who?
- 4 **A. Jennifer showed the -- the Shelley images?**
- 5 **BY MR. ANDERSON:**
- 6 **Q. Yes.**
- 7 **A. I don't. That actually surprises me, as I**
- 8 **think of it. I don't think I ever heard of**
- 9 **that.**
- 10 **Q. Just asking about your awareness.**
- 11 **A. Right.**
- 12 **Q. Are you aware that Haselberger was urging**
- 13 **Archbishop Nienstedt to not make the same**
- 14 **mistake that she believed you had made in not**
- 15 **reporting Wehmeyer when it comes to Shelley?**
- 16 **A. Someone's told me that she has.**
- 17 **Q. Do you know who?**
- 18 **A. I don't. Did that appear in a media report?**
- 19 **Q. It appears in documents.**
- 20 **A. Okay.**
- 21 **Q. That you were "proven to be tragically wrong."**
- 22 **A. (Nods head).**
- 23 **Q. I trust you haven't seen that?**
- 24 **A. Correct.**
- 25 **Q. What involvement, to your knowledge, did**

- 1 Chancellor Kueppers and his predecessor, Andy
- 2 Eisenzimmer, have in the matters pertaining to
- 3 Shelley here from your perspective?
- 4 **A. I don't believe Andy Eisenzimmer was with us**
- 5 **at the archdiocese at the time of the initial**
- 6 **concern. So during all time relevant, I don't**
- 7 **think Andy was involved.**
- 8 **I don't recall when the transition**
- 9 **from Andy Eisenzimmer to Joseph Kueppers**
- 10 **happened and where that overlaps with the time**
- 11 **lines that we've been talking about here. So**
- 12 **it may be that Andy Eisenzimmer was involved**
- 13 **in the late stages of this or that Joe**
- 14 **Kueppers was already employed at that point.**
- 15 (Discussion out of the hearing of
- 16 the court reporter)
- 17 BY MR. ANDERSON:
- 18 **Q. You're aware the police went to retrieve some**
- 19 **of these materials and after the police became**
- 20 **involved in Shelley, did Joe Kueppers or Andy**
- 21 **Eisenzimmer or any other official of the**
- 22 **archdiocese call you about what was unfolding?**
- 23 **A. Joe Kueppers called me once and -- and I**
- 24 **returned his call and he asked, "Do you know**
- 25 **anything about a hard drive?"**

- 1 **Q. And what did you tell him?**
- 2 **A. I told him that I recalled that there was a**
- 3 **hard drive, but I had no idea what had**
- 4 **happened to it. Presumed I had turned it over**
- 5 **to the archdiocese archives.**
- 6 **Q. And did he tell you why he was calling you to**
- 7 **ask?**
- 8 **A. I don't recall that.**
- 9 **Q. And any other conversations with any other**
- 10 **officials, besides that which you just**
- 11 **recounted?**
- 12 **A. I believe not. I'm almost certain not.**
- 13 **Q. I'd like to ask you, Father, about another**
- 14 **priest of the archdiocese, Michael Stevens.**
- 15 **He was ordained in the same class as you in**
- 16 **1980, so you know him?**
- 17 **A. I do, yes.**
- 18 **Q. And --**
- 19 MR. BIRRELL: Want more water? Need
- 20 more water?
- 21 THE WITNESS: I'm good. Thank you.
- 22 BY MR. ANDERSON:
- 23 **Q. Are you aware of how long Michael Stevens was**
- 24 **continued in parish ministry?**
- 25 **A. I believe he had already been pulled out of**

- 1 **parish ministry when I returned from Rome, but**
- 2 **I'm uncertain about that. And that was in**
- 3 **1987.**
- 4 **Q. In any case, are you aware that in 1985,**
- 5 **Stevens pled guilty to child sexual abuse?**
- 6 **A. I wasn't aware that was the exact year, but I**
- 7 **was aware it was while I was out of the**
- 8 **country.**
- 9 **Q. Did you learn that he was put on probation for**
- 10 **that crime?**
- 11 **A. I probably did at some point. I don't recall**
- 12 **what knowledge I had and when.**
- 13 **Q. Did you become aware that the conviction**
- 14 **became expunged, that means erased from the**
- 15 **public record?**
- 16 **A. I don't know that I ever knew that.**
- 17 **Q. At least you were aware that he worked in**
- 18 **ministry unrestricted after the conviction?**
- 19 **A. That he worked in ministry unrestricted?**
- 20 **Q. Let me rephrase that. You were aware that he**
- 21 **did work in ministry for the archdiocese?**
- 22 **A. Yes.**
- 23 **Q. And he worked at the archdiocese offices as a**
- 24 **computer technician?**
- 25 **A. That -- yes, that's correct.**

- 1 **Q.** And that as far as anybody outside of the  
2 archdiocese inner circle, there was nobody in  
3 the public that was informed of his status as  
4 a convicted -- as having been convicted of  
5 child molestation?  
6 **A.** **My own belief is that would not be true, that**  
7 **there had been at least some publicity at the**  
8 **time of his arrest and conviction.**  
9 **Q.** How much?  
10 **A.** **I don't know that.**  
11 **Q.** Are you aware of anything beyond that one  
12 article in the newspaper?  
13 **A.** **I'm not.**  
14 **Q.** Were you aware that after that conviction and  
15 while he worked at the archdiocese offices and  
16 continued at least as a priest, that staff at  
17 the Chancery were not informed that he was a  
18 sex offender?  
19 **A.** **I'm not aware of that. I'd be surprised that**  
20 **that's so, at least some -- it may be that**  
21 **some staff were not, hired later, but I**  
22 **believe the situation was fairly widely known**  
23 **when he joined the computer team.**  
24 **Q.** Who made them known -- who made that known to  
25 them?

- 1 **A.** **I believe that goes back to Father O'Connell.**  
2 **Q.** And to whom was that made known?  
3 **A.** **I don't -- I don't know that.**  
4 **Q.** We have a report that some staff had their  
5 children there with him, not knowing this. Do  
6 you know anything about that?  
7 **A.** **I do not.**  
8 **Q.** Did you see him there with kids?  
9 **A.** **No.**  
10 **Q.** Everybody referred to him as Father Mike, did  
11 they not?  
12 **A.** **Yes.**  
13 **Q.** In 2002, he was voluntarily withdrawn from  
14 ministry. Did you have to do with the  
15 circumstances of that?  
16 **A.** **Yes.**  
17 **Q.** Was that as a part of the charter?  
18 **A.** **Yes.**  
19 **Q.** He was not laicized nor has he ever been --  
20 has there ever been a petition to be removed  
21 from the clerical state, correct?  
22 **A.** **That's -- I believe that to be correct.**  
23 **Q.** He was placed on monitoring?  
24 **A.** **Correct.**  
25 **Q.** And that's part of the POMS program?

- 1 **A.** **Yes.**  
2 **Q.** And you're in charge of that?  
3 **A.** **I was the supervisor of the person who --**  
4 **persons who carried it out.**  
5 **Q.** And you became aware that he had his own  
6 computer consulting business that included  
7 four to five parishes as clients?  
8 **A.** **I can't swear to the particular number, but I**  
9 **was aware that he was consulting for some**  
10 **parishes, yes.**  
11 **Q.** And those parishes were not made aware of his  
12 history of molestation, correct?  
13 **A.** **I believe that's not true.**  
14 **Q.** You believe they were informed?  
15 **A.** **I believe they were, yes.**  
16 **Q.** Who? Who do you believe informed them?  
17 **A.** **Well, I believe that there was some perduring**  
18 **information from his history and that that**  
19 **information particularly continued among the**  
20 **priests. I don't recall how much information**  
21 **was -- was distributed immediately in 2002**  
22 **with his stepping back from any priesthood.**  
23 **And, subsequently, at least at one point I**  
24 **recall our checking -- my checking with the**  
25 **monitor to make sure that there were people in**

- 1 **each place that knew he should not be working**  
2 **in school buildings when kids were around.**  
3 **Q.** Did you expect that the monitor could prevent  
4 him from being in parishes with kids around  
5 when the monitor would only meet with him  
6 quarterly?  
7 **A.** **No. That's why, as I said, I expected that he**  
8 **would make certain that someone on the**  
9 **worksite understood his history, Stevens' --**  
10 **Stevens' history.**  
11 **Q.** You assume that. You don't know that to be  
12 the case, do you?  
13 **A.** **I don't recall it at this point, yeah.**  
14 **Q.** If folks were not informed that Father Mike  
15 had a conviction for child molestation, do you  
16 think that that is consistent with the promise  
17 and the pledge of zero tolerance and the  
18 pledge made to the people to keep their kids  
19 safe?  
20 **A.** **I do. I think our archdiocese was more**  
21 **forthcoming than most through the whole**  
22 **relevant period we're talking about here about**  
23 **disclosing clergy dis -- misconduct to our**  
24 **people.**  
25 **Q.** In 2011, are you aware that Jennifer

- 1 Haselberger raised concerns that he remains a  
2 priest of the archdiocese and anything he  
3 does, he's doing as a priest, and if he wasn't  
4 a member of the clergy, he would be prohibited  
5 from the employment at the archdiocese, must  
6 less continuation as a priest? Were you aware  
7 of that?
- 8 **A. I was not aware of her specific objections to**  
9 **him.**
- 10 **Q.** Well, with that conviction, do you think he'd  
11 qualify to be even employed by the  
12 archdiocese?
- 13 **A. Perhaps in a computer job. I don't know that.**
- 14 **Q.** And the parishes that he's working at have  
15 schools, don't they?
- 16 **A. At least some of them did, yes.**
- 17 **Q.** According to some of the records, there are --  
18 well, let me ask you this.  
19 Did you ever advocate to the  
20 archbishop or any of the officials the names  
21 of those priests credibly accused of child  
22 abuse be made public?
- 23 **A. Yes.**
- 24 **Q.** When did you advocate that?
- 25 **A. In individual cases throughout the years.**

- 1 **Q.** And in any of those cases, were those names  
2 ever made public?
- 3 **A. Yes, with various -- I did meetings in**  
4 **parishes, perhaps dozens of meetings in**  
5 **parishes starting in the late 1980s to do**  
6 **exactly that.**
- 7 **Q.** What names?
- 8 **A. Rudolph Henrich was one, Jerome Kern another,**  
9 **Dennis Kampa another, Timothy McCarthy**  
10 **another. Those are ones that come to top of**  
11 **mind.**
- 12 **Q.** As it pertains to Stevens, as of 2013, were  
13 you aware he was still working as an IT  
14 consultant, being called Father Mike until  
15 November of that year and -- were you aware of  
16 that?
- 17 **A. I'd be surprised that he was being called**  
18 **Father Mike any time after 2002.**
- 19 **Q.** And did you become aware that he was moved out  
20 of that position by the archdiocese because of  
21 imminent public pressure and disclosure by MPR  
22 and/or our office?
- 23 **A. I was not. And what position was that that he**  
24 **was removed from?**
- 25 **Q.** IT consultant.

- 1 **A. For?**
- 2 **Q.** At the parishes.
- 3 **A. At the parishes. Interesting. No. I was not**  
4 **aware of that.**
- 5 **Q.** In October of 2013, were you aware that Bishop  
6 Piche talked to Stevens about receiving a  
7 salary from the archdiocese?
- 8 **A. No.**
- 9 **Q.** Are you aware or have any information that as  
10 of last fall he was?
- 11 **A. That would surprise me if that's so.**
- 12 **Q.** In 2002, were you aware of discussions about  
13 offering a severance package to him and  
14 placing him on a medical disability for  
15 pedophilia?
- 16 **A. In 2002, we talked about transitional**  
17 **assistance, I recall that. I don't recall**  
18 **details beyond that.**
- 19 **Q.** There's a practice in the archdiocese that  
20 certain priests who are pedophiles are being  
21 offered and placed on disability with a  
22 diagnosis of pedophilia, correct?
- 23 **A. I don't recall that specifically. Would not**  
24 **surprise me if one or even two had had**  
25 **something like that.**

- 1 **Q.** Gustafson would be one of those?
- 2 **A. I'll take your word for that.**
- 3 **Q.** Did you have something to do with setting up  
4 the program where they'd be taken off the  
5 archdiocese payroll, placed into an insurance  
6 plan self-administered by the archdiocese,  
7 given a diagnosis of pedophilia and then given  
8 payments for the diagnosis of pedophilia?
- 9 **A. I did recommend to the archbishop and the plan**  
10 **administrators that these men were disabled**  
11 **and ought to be treated as disabled.**
- 12 **Q.** So did you recommend that plan?
- 13 **A. Actually, it was already part of the plan.**  
14 **And I believe in regard to Gustafson, I don't**  
15 **know, perhaps Stevens, I don't recall that,**  
16 **that they were eligible -- already covered by**  
17 **the plan, they were eligible for disability**  
18 **relief.**
- 19 **Q.** The records regarding Stevens show that up  
20 until October of 2013, he was receiving a  
21 salary plus \$600 a month in housing allowance.  
22 How does that comport with what your  
23 understanding of the plan was concerning  
24 pedophiles who are priests?
- 25 **A. That would not be consistent, from my point of**

- 1 **view, with the transitional assistance that**  
 2 **these persons were offered.**  
 3 **Q.** Do you know if he was coded as an employee of  
 4 the archdiocese or --  
 5 **A. I don't know that.**  
 6 **Q.** Do you have any knowledge of him having  
 7 received a Christmas card from the archbishop  
 8 with a check included in it that he shredded  
 9 or tore up?  
 10 **A. I have no knowledge of that.**  
 11 **Q.** I'd like to ask you about Father LaVan. Did  
 12 you become aware, Father, that in 1988,  
 13 reports were received by the archdiocese about  
 14 him abusing two girls?  
 15 **A. I believe I did receive that information at**  
 16 **some point.**  
 17 **Q.** And you're aware that in 1989, one case was  
 18 settled and in 1992 a second was?  
 19 **A. I wasn't aware of that. At least I'm not now.**  
 20 **I may have been at the time.**  
 21 **Q.** Were you aware that he was sent to treatment?  
 22 **A. Yes.**  
 23 **Q.** Where?  
 24 **A. I don't recall.**  
 25 **Q.** And there were a number of treatment

- 1 facilities that were utilized by the  
 2 archdiocese for offenders and suspected  
 3 offenders, including St. Luke's --  
 4 **A. Correct.**  
 5 **Q.** -- is one? Servants of Paraclete is another?  
 6 **A. Correct.**  
 7 **Q.** Southtown?  
 8 **A. I don't know the -- the archdiocese ever used**  
 9 **Southtown, we may have. I don't recall using**  
 10 **it.**  
 11 **Q.** St. John Vianney?  
 12 **A. Yes, Villa St. John, Villa St. John Vianney.**  
 13 **Q.** Institute of Living?  
 14 **A. I don't recall that we used that. I know of**  
 15 **its existence.**  
 16 **Q.** Any other facilities used for those suspected  
 17 of or having committed sexual abuse of  
 18 children?  
 19 **A. Well, again, I don't know how -- if all of**  
 20 **those facilities were used for sexual abuse of**  
 21 **children. You're talking about treatment of**  
 22 **priests with various behavioral and**  
 23 **psychological difficulties, which doesn't**  
 24 **exclude that group.**  
 25 **Q.** Right.

- 1 **A. I know that with -- that some priests with**  
 2 **behavioral or psychological difficulties**  
 3 **participated in the program in human sexuality**  
 4 **at the University of Minnesota as well.**  
 5 **Q.** And at least as it pertains to the sexual  
 6 abuse issue, in all instances where they're  
 7 sent to treatment, it was always understood  
 8 that the archdiocese would pay for it, for  
 9 both the assessment and the follow-up?  
 10 **A. That's correct.**  
 11 **Q.** It's always understood that the accused  
 12 offender being sent to treatment was giving  
 13 permission for the archdiocese and the  
 14 officials to communicate with those that are  
 15 assessing him and get reports from them?  
 16 **A. There -- you're mixing two things together.**  
 17 **There's assessment and there's treatment.**  
 18 **For assessment, the -- we've**  
 19 **discussed this earlier, we would send, in my**  
 20 **time in leadership, we would send men for**  
 21 **assessment with specific questions in mind and**  
 22 **obtain the feedback.**  
 23 **Q.** So they always got permission to talk to those  
 24 that assessed them, whether it was St. Luke's  
 25 or Servants of Paraclete?

- 1 **A. Or the others as well, correct.**  
 2 **Q.** And then they also got permission to get a  
 3 report concerning findings?  
 4 **A. For assessment, that's correct.**  
 5 **Q.** And they always got permission, both from the  
 6 priest and with the full agreement of those  
 7 doing the assessment?  
 8 **A. Actually, I think it perhaps was the other way**  
 9 **around, that we would send a priest for**  
 10 **assessment and ask if the center were willing**  
 11 **to provide feedback for specific questions.**  
 12 **They in turn would obtain the releases from**  
 13 **the -- the man being assessed. I think that's**  
 14 **how it worked.**  
 15 **Q.** Going back, then, to LaVan, sometime after he  
 16 is treated, he's returned or assessed or both.  
 17 Are you aware that he's returned to St.  
 18 Joseph's in Lino Lakes in ministry in 19 -- in  
 19 the 1990s?  
 20 **A. Had you asked me to reconstruct that memory on**  
 21 **my own, I wouldn't have had it, but it does**  
 22 **not sound inconsistent. I presume the record**  
 23 **shows it, so --**  
 24 **Q.** It also shows that he actually retires in  
 25 1998, but then is continued on monitoring. Do



- 1 you have a recollection of him being on  
2 monitoring?  
3 **A. Yes.**  
4 **Q.** And you also recall that --  
5 **A. Could I jump -- jump in for a quick second?**  
6 **Q.** Sure.  
7 **A. The formal monitoring program began some years**  
8 **later, so --**  
9 **Q.** But there was some informal monitoring, that  
10 seems to be referred to back in --  
11 **A. There was.**  
12 **Q.** -- that time. Was that under your supervision  
13 at that time?  
14 **A. That's correct.**  
15 **Q.** And while he's at St. Olaf's, he's doing  
16 supply work and on monitoring and some  
17 information surfaces about adult women and  
18 misconduct concerning him. Do you recall  
19 that?  
20 **A. I -- my recollection is the information about**  
21 **adult women or an adult woman came earlier**  
22 **than that.**  
23 **Q.** In any case, in 2005, the archdiocese seems to  
24 be going over priests and establishing some  
25 kind of monitoring plan, you seem to be --

- 1 have involvement with that, correct?  
2 **A. That's correct.**  
3 **Q.** On November 3rd of that year, do you recall  
4 writing, "I've dealt with LaVan for years  
5 about his boundary violations with adult  
6 females. I had forgotten there were two  
7 allegations in the late 19 -- late 1980  
8 regarding sex with two teenage girls."  
9 **A. I don't. Do we have a document that I could**  
10 **look at?**  
11 **Q.** It's Exhibit 33, but first I guess my question  
12 is, do you recall forgetting about that?  
13 **A. I don't remember writing the -- the document**  
14 **you're referring to, so --**  
15 **Q.** Okay.  
16 **A. Can I look at 33?**  
17 **Q.** Sure.  
18 MR. FINNEGAN: You might have the  
19 wrong number.  
20 BY MR. ANDERSON:  
21 **Q.** At the second paragraph, last sentence, I'll  
22 read it. It's to Archbishop Flynn, Pates,  
23 Dominica and Eisenzimmer from you --  
24 THE WITNESS: (Indicating).  
25 BY MR. ANDERSON:

- 1 **Q.** -- dated November 3, 2005.  
2 **A. That's the one I have.**  
3 **Q.** Okay. You state, "Although I have dealt with  
4 LaVan for many years about his boundary  
5 violations with adult females, I had forgotten  
6 that there were two allegations in the late  
7 1980s concerning sexual involvement with  
8 teenage girls." You wrote that, didn't you?  
9 **A. Looks like I did. I don't recall --**  
10 **Q.** So does that refresh your memory about the  
11 fact that you forgot LaVan had abused two  
12 girls and he was kept in ministry all those  
13 years?  
14 **A. Well, as I am looking at the document, the**  
15 **next paragraph does seem relevant that --**  
16 **Q.** Well, first, does that refresh your memory?  
17 **A. It actually doesn't refresh my memory, but I**  
18 **can see the document's here, so -- so I don't**  
19 **have an independent memory.**  
20 **Q.** So I don't mean to be cute here, but did you  
21 forget that you forgot?  
22 **A. Yes. Yes. Yes.**  
23 **Q.** Okay.  
24 **A. Yup.**  
25 **Q.** Okay.

- 1 **A. Yeah.**  
2 **Q.** Let me ask you this. When was LaVan removed  
3 from ministry?  
4 **A. I think his final, absolute -- you know, he**  
5 **retired fully in -- in -- sometime before this**  
6 **period, but it appears that he was**  
7 **occasionally helping out even past this, so I**  
8 **don't know when he was placed under permanent**  
9 **complete restriction.**  
10 **Q.** Records show in 2011 he's doing supply work,  
11 in 2000 -- January 2nd -- actually, until  
12 December of 2013, and on January 2nd, 2014,  
13 his faculties are removed. Does that sound  
14 like --  
15 **A. I was not part of those discussions, so --**  
16 **Q.** And on February 17th, 2014, he's on a list  
17 that is made public, but a name not publicly  
18 disclosed before then. Are you aware of that?  
19 **A. No. I wasn't aware of that.**  
20 **Q.** In any case --  
21 (Discussion out of the hearing of  
22 the court reporter)  
23 BY MR. ANDERSON:  
24 **Q.** When you left or were assigned out of the  
25 position as vicar general, which I think you

- 1 had for 17 years --
- 2 **A. Just short of 17 years, yes.**
- 3 **Q.** -- you remained delegate for safe environment,
- 4 so that continued to give you obligations for
- 5 the safety of the children, correct?
- 6 **A. Well, I believe I have obligations for the**
- 7 **safety of kids because I'm a priest and a**
- 8 **citizen.**
- 9 **Q.** But as an official, special obligations?
- 10 **A. Quite probably, yes.**
- 11 **Q.** Anyone ask you at the time you departed as
- 12 vicar general or even to the present in the
- 13 archdiocese to tell them what you know about
- 14 who is a risk in the archdiocese, who you know
- 15 has abused and who isn't safe to be in
- 16 ministry?
- 17 **A. Yes.**
- 18 **Q.** Who?
- 19 **A. Archbishop Nienstedt, I believe then Vicar**
- 20 **General Piche -- wait a minute. You said**
- 21 **since I left the position. I believe I**
- 22 **briefed Archbishop Nienstedt before I left the**
- 23 **position, so that's -- I should have not**
- 24 **responded that way. I did brief him, but**
- 25 **before, while I was still vicar general.**

- 1 **After I stopped being vicar general, I did**
- 2 **brief Bishop Piche, I briefed my successor as**
- 3 **delegate for safe environment, I briefed**
- 4 **Chancellor Kueppers.**
- 5 **Q.** So when did you tell -- when did you brief
- 6 Nienstedt?
- 7 **A. I don't know exactly. Sometime in the fall of**
- 8 **19 -- of 2007.**
- 9 **Q.** Actually, I think he came on as coadjutor in
- 10 2008, didn't he?
- 11 **A. He came on -- yes, he came on around mid-year**
- 12 **of 2007 and then succeeded Archbishop Flynn on**
- 13 **May 2nd, 2008.**
- 14 **Q.** And what did you tell Nienstedt? Did you
- 15 record that briefing?
- 16 **A. No.**
- 17 **Q.** It was a verbal meeting between you and he?
- 18 **A. I believe it was a verbal meeting involving**
- 19 **himself, myself and Tim Rourke, but I'm**
- 20 **uncertain about that.**
- 21 **Q.** In his office?
- 22 **A. I don't recall where it took place. It was in**
- 23 **the Chancery building somewhere.**
- 24 **Q.** And what did you tell him about the dangers
- 25 posed that you knew about?

- 1 **A. I believe I gave him a -- a listing overall of**
- 2 **the -- of the priests who were -- and the**
- 3 **former priests who were part of the monitoring**
- 4 **program and used that as a way to describe the**
- 5 **pastoral situation.**
- 6 **Q.** And you used those listed as being monitored
- 7 as your template?
- 8 **A. I believe that's right.**
- 9 **Q.** Did you make any disclosure beyond those being
- 10 monitored about what you knew?
- 11 **A. I honestly don't remember.**
- 12 **Q.** And then you said you briefed Piche. When did
- 13 you do that and --
- 14 **A. I did that sometime after he became vicar**
- 15 **general, perhaps in the fall of 2008, but I'm**
- 16 **not certain about that timing.**
- 17 **Q.** And did you use the same template you had with
- 18 the archbishop?
- 19 **A. I used the same approach, yes.**
- 20 **Q.** And advising him who's on monitoring --
- 21 **A. Right.**
- 22 **Q.** -- and why?
- 23 **A. Yes.**
- 24 **Q.** And did you -- then you also mentioned -- did
- 25 you provide any more information to Piche than

- 1 you had Archbishop Nienstedt?
- 2 **A. I don't recall that specifically.**
- 3 **Q.** How long was that briefing?
- 4 **A. I don't recall. Between an hour and two**
- 5 **hours.**
- 6 **Q.** Was it put in writing?
- 7 **A. No.**
- 8 **Q.** And why not?
- 9 **A. Wasn't called for.**
- 10 **Q.** And then you briefed Joe Kueppers. When was
- 11 that?
- 12 **A. That was sometime in 2013.**
- 13 **Q.** And what were the circumstances that
- 14 precipitated that briefing?
- 15 **A. That he was coming into office and I was no**
- 16 **longer there to be a repository of**
- 17 **information.**
- 18 **Q.** So he was coming on as chancellor?
- 19 **A. That's correct.**
- 20 **Q.** And you briefed him on what you knew and you
- 21 used the template of those on monitoring?
- 22 **A. That's correct.**
- 23 **Q.** And did you have a list compiled of those on
- 24 monitoring that you used and worked from?
- 25 **A. I did not.**

- 1 Q. Just mind, memory?
- 2 A. **Well, no -- well, I had Tim Rourke in the**  
 3 **earlier cases and I think John Selvig**  
 4 **thereafter to tell us who was on his caseload.**
- 5 Q. So there's no written recording of any of  
 6 these briefings, at least as far as you're  
 7 aware?
- 8 A. **As far as I'm aware, that's correct.**
- 9 Q. At some point in time, I had been asking you  
 10 earlier about Father Kern, but there was a  
 11 switch done at Our Lady of Grace between Kern  
 12 and Richard Jeub, J-e-u-b. What do you know  
 13 about that where they switched ministries at  
 14 Our Lady of Grace and why?
- 15 A. **Do you know, I know that that happened in --**  
 16 **in the late 1960s or early 1970s. I was a**  
 17 **high school student at the time, so I know**  
 18 **nothing other than what the written record**  
 19 **includes.**
- 20 Q. Do you recall that in 1987, Jeub was evaluated  
 21 at the Servants of Paraclete?
- 22 A. **I do.**
- 23 Q. And did you become aware that he admitted  
 24 being sexually involved with a dozen women  
 25 over the past 20 years, all started with

- 1 counseling?
- 2 A. **I don't recall that it was a dozen. I would**  
 3 **have, by memory, suggested a smaller, but**  
 4 **still, very substantial number.**
- 5 Q. Did you become aware that in February 1990, he  
 6 was sent to St. Luke's, who found serious  
 7 impulse control problems and lack of  
 8 boundaries?
- 9 A. **I don't recall the diagnosis. I know we**  
 10 **received bad news about him.**
- 11 Q. Did you become aware that in 1990 and '91, the  
 12 archdiocese found out about the abuse of two  
 13 minors?
- 14 A. **I don't recall that specifically then.**
- 15 Q. Did you become aware that one settled in 1991?
- 16 A. **I'm sure I did at the time. I don't recall it**  
 17 **now.**
- 18 Q. Did you become aware that there was actually a  
 19 jury trial where he denied having abused the  
 20 individual and they found in Jeub's favor, in  
 21 other words, they did not believe that he had  
 22 abused?
- 23 A. **Yes. I don't recall the dates on that, but I**  
 24 **do recall that that happened.**
- 25 Q. The archdiocese paid for his lawyer, didn't

- 1 they?
- 2 A. **Usual -- you know, the usual practice was that**  
 3 **the archdiocese would loan a priest money to**  
 4 **obtain adequate legal counsel, if he didn't**  
 5 **have funds of his own.**
- 6 Q. And those loans are often forgiven, aren't  
 7 they?
- 8 A. **Do you know that I don't know that any of them**  
 9 **has been forgiven.**
- 10 Q. Do you know if any have been paid back?
- 11 A. **I do recall that there was some payback from**  
 12 **several of the men, but I can't --**
- 13 Q. Who?
- 14 A. **I recall Jerome Kern making some payback. I**  
 15 **think Jeub made some payback as well, but I'm**  
 16 **uncertain.**
- 17 Q. In any case, after that trial, did you,  
 18 because of that outcome, believe that because  
 19 he had been found to have not abused, that  
 20 that rendered him capable of being placed back  
 21 in ministry?
- 22 A. **With restrictions, short answer, yes. I -- I**  
 23 **came to believe that he clearly had an**  
 24 **admitted problem with exploiting women under**  
 25 **-- adult women under his care. I did not**

- 1 **believe that he had a -- he had ever committed**  
 2 **abuse.**
- 3 Q. So it was your thinking, at least, that, just  
 4 like it was with Wehmeyer, that it was adults  
 5 and not minors?
- 6 A. **The difference was no one had ever accused**  
 7 **Wehmeyer of adults -- of children, pardon me.**
- 8 Q. But in the case of Jeub, you knew they had?
- 9 A. **Yes.**
- 10 Q. But you're still thinking adult?
- 11 A. **Right. Because the jury had found in his**  
 12 **favor, as you pointed out.**
- 13 Q. You, then, recommended and he was permitted to  
 14 work at St. John the Evangelist in Little  
 15 Canada in 1997, correct?
- 16 A. **That's correct.**
- 17 Q. And you also recommended at that time not  
 18 publishing in the Catholic Spirit that  
 19 assignment?
- 20 A. **I don't recall that. Certainly possible.**
- 21 Q. And that was because you didn't want more  
 22 publicity about his placement, correct?
- 23 A. **The record may show that. I don't have any**  
 24 **recollection about it.**
- 25 Q. He was -- let's see. He was appointed

1 parochial vicar 1999 to 2000 at Sacred Heart  
 2 in Faribault. And do you recall writing that  
 3 disclosure concerning that placement isn't  
 4 necessary and appointment to St. Rose in  
 5 Roseville shouldn't be published in the  
 6 Catholic Spirit?

7 **A. I don't recall those, but I do recall a**  
 8 **meeting at St. Rose of Lima where I went to do**  
 9 **disclosure, so that does not seem consistent,**  
 10 **but that's reconstructing my memory 25 years**  
 11 **later.**

12 **Q.** Let's talk about disclosure because there can  
 13 be a disclosure and that means some  
 14 information can be given and some information  
 15 can be withheld, and that means there can be a  
 16 disclosure or speaking of a truth, but if the  
 17 whole truth isn't known, it becomes a half  
 18 truth. Would you agree with that proposition?

19 **A. I agree that such a thing is possible, yes.**

20 **Q.** And when you referred to the disclosures being  
 21 made concerning Jeub and some of the others,  
 22 is it fair to say that there's been a practice  
 23 that there's never been a full disclosure  
 24 about the full history known to any of the  
 25 parishioners, at least that known by the

1 archdiocese?

2 **A. I wouldn't have that conclusion, no.**

3 **Q.** Okay. Has any file of any offending priest  
 4 accused or determined to have abused children  
 5 ever been voluntarily turned over to any law  
 6 enforcement agency?

7 **A. I believe they have, but I don't know that.**  
 8 **That would have happened through the**  
 9 **chancellor's office.**

10 **Q.** And tell me, when is the first time that  
 11 happened, if you believe it did, and  
 12 concerning what priest and to what agency?

13 **A. Right. Again, I do not recall specifically,**  
 14 **but when we made calls, I'm thinking of Freddy**  
 15 **Montero, for example, I believe our**  
 16 **documentation was also turned over.**

17 **Q.** Well, he had come from Ecuador, so he had only  
 18 been here a couple years, so there wasn't much  
 19 documentation on him, was there?

20 **A. I did not possess his file, so --**

21 **Q.** Okay. But let's take Montero out of the  
 22 conversation. Can you identify any priest  
 23 accused or determined to have abused whose  
 24 file in its entirety was -- has ever been  
 25 turned over to any law enforcement agency to

1 this point in time?

2 **A. I can't. That, by the way, doesn't mean it**  
 3 **didn't happen, but I can't.**

4 **Q.** Why has there been a practice as seen in some  
 5 of these files and many others to appoint a  
 6 known offender or an accused offender of  
 7 children to the position of administrator or  
 8 parochial vicar as in this case instead of  
 9 pastor? Why so, Father?

10 **A. So this goes in the context we talked about**  
 11 **this morning about our announced practice in**  
 12 **the 1990s where we said in some cases we are**  
 13 **going to at least consider restoring to**  
 14 **ministry these priests. That -- that was**  
 15 **foolish and I wish we had not done so.**

16 **Q.** It was a gamble? It was a gamble, wasn't it?

17 **A. Well, I wouldn't characterize it as such, but**  
 18 **I think it was a bad practice.**

19 **Q.** Well, it was a risk and it was calculated,  
 20 wasn't it, to be a risk?

21 **A. Of course, every assignment is a risk, so I**  
 22 **think -- yeah.**

23 **Q.** Not if there's -- if there's no evidence of  
 24 unfitness or a harm to -- possible harm to  
 25 kids, there's no risk until a risk becomes

1 known --

2 **A. Right.**

3 **Q.** -- wouldn't you agree with that?

4 **A. Right.**

5 **Q.** So I don't think assigning a priest to a  
 6 parish in itself is a risk and I don't think  
 7 you'd take that position.

8 **A. No.**

9 MR. BIRRELL: Is that a question?

10 BY MR. ANDERSON:

11 **Q.** Would you?

12 MR. BIRRELL: Would he what?

13 **A. Would I do -- I'm sorry, I got lost a bit**  
 14 **here.**

15 **BY MR. ANDERSON:**

16 **Q.** Okay. Well, you say there's always a risk,  
 17 but I'm talking about the risk of future harm.  
 18 Once a priest has offended a child, you know  
 19 from the data and the history and your own  
 20 that they're at risk for re-offending, you  
 21 know that?

22 **A. I do. I do know that, yes.**

23 **Q.** So when you make the decision or participate  
 24 in making the decision to reassign a priest  
 25 without warning and knowledge to the

1 parishioners, it's a very serious calculated  
2 risk?  
3 **A. I was reacting to your term gamble --**  
4 **Q. Okay.**  
5 **A. -- about the -- about the practice in the**  
6 **1990s, which, of course, since 2002 we have**  
7 **foresworn, okay? You had a -- there was a**  
8 **prior question.**

9 **Q. I forget what it was now.**

10 The parochial vicar/administrator  
11 versus pastor designation, there is some  
12 indication in files that the designation of  
13 administrator and parochial vicar makes it a  
14 lot easier if there is a problem that emerges  
15 to pull them out, and quickly and quietly,  
16 versus if they're assigned a pastor. Is that  
17 an unfair characterization?

18 **MR. BIRRELL:** You already asked him  
19 that question this morning, Jeff.

20 **BY MR. ANDERSON:**

21 **Q. I'm asking, is that an unfair**  
22 **characterization?**

23 **A. It is in regard -- let me address what I**  
24 **didn't address this morning because you didn't**  
25 **ask this morning about parochial vicar.**

1 **Parochial vicar means -- in other**  
2 **traditions might be called assistant pastor,**  
3 **the junior priest. Then that means that the**  
4 **priest, e.g., this matter you read to me about**  
5 **Jeub in apparently two places, he was assigned**  
6 **under the supervision, the authority, the**  
7 **direction of another pastor. So the**  
8 **assignment of someone as a parochial vicar is**  
9 **specifically an assignment of his not being**  
10 **the boss, okay? The other -- I think I did**  
11 **address this morning the question of the**  
12 **administrator.**

13 **Q. All right. There is record that Jeub is**  
14 **receiving some extra benefits. Do you have**  
15 **any knowledge of that and why he's getting**  
16 **payments beyond the normal or those provided?**

17 **A. Starting in 2002 or so, Archbishop Flynn**  
18 **directed that we ought to consider Jeub as a**  
19 **charter priest, and so as we did with other of**  
20 **these former priests, covered by the charter,**  
21 **there was some attempt to make transitional**  
22 **assistance to them. I can't speak to what's**  
23 **been going on the last six years.**

24 **Q. Was that transitional assistance more money**  
25 **than they would have received if they were**

1 working as a pastor at a parish?  
2 **A. In some cases, it -- it could be. For**  
3 **example, our priests are not -- we don't take**  
4 **a vow of poverty. So in some cases, a priest**  
5 **could -- might own a home. Recognizing that**  
6 **he'd be moving into retirement sooner than**  
7 **planned, we might -- I recall one case where**  
8 **we made a lump-sum payment to retire the last**  
9 **20-some or \$30,000 of a mortgage so that the**  
10 **fellow would not require -- would not have to**  
11 **go on the market and find work that he could**  
12 **possibly get.**

13 **Q. Who was that?**

14 **A. That was Krautkremer.**

15 **Q. So do the other priests know about this, these**  
16 **extra payments to these guys who are**  
17 **offenders? I mean, any protests there or do**  
18 **they know?**

19 **A. I think the answer is yes and yes. In other**  
20 **words, they did know, we were fairly clear, I**  
21 **believe, with the presbyterial council and**  
22 **others that we were assisting these men to**  
23 **leave. At the time the charter was passed,**  
24 **Mr. Anderson, there actually was a lot of**  
25 **concern on the part of priests that they --**

1 **that they themselves might one day be treated**  
2 **unfairly. And so we were fairly disclosive, I**  
3 **think, about providing transitional**  
4 **assistance. But, yes. Some of the priests**  
5 **were angered by that. I'm sure are still to**  
6 **today, although I don't have any specific**  
7 **evidence of it.**

8 **Q. In connection with Michael Keating, you became**  
9 **aware that in 2006 a report was made that --**  
10 **an allegation was made that he had sexually**  
11 **abused a minor?**

12 **A. You've just helped me with something because**  
13 **you asked me the names of the -- of the**  
14 **priests I called the police on. This is one**  
15 **of them. I've forgotten that. So, yes.**

16 **Q. And --**

17 **A. Or to be clear -- or to be clear, I perhaps**  
18 **asked Andy Eisenzimmer to make the phone call.**

19 **Q. Did you give to the police or direct that the**  
20 **police receive the priest file maintained at**  
21 **the Chancery concerning Keating, so they could**  
22 **have the benefit of what was known by the**  
23 **archdiocese about his history and his**  
24 **admission?**

25 **A. I don't think so. I also don't think there**

- 1 **was any file with any admissions or negative**  
 2 **history there. This was a case of first**  
 3 **impression for us. And I might add very**  
 4 **surprising and one that I didn't particularly**  
 5 **believe, but realized that it was not my role**  
 6 **to make any judgment about that, that was the**  
 7 **job for the police.**  
 8 **Q.** Well, you didn't believe Gil Gustafson abused  
 9 girls, either, did you?  
 10 **A.** **That's correct, still don't.**  
 11 **Q.** Well, there were a couple that settlements  
 12 were made concerning girls.  
 13 **A.** **I do know that.**  
 14 **Q.** And he's now diagnosed as a pedophile and  
 15 receiving payments, correct?  
 16 **A.** **There's a lot mixed up in there.**  
 17 **Q.** You're aware that at least two girls have  
 18 reported --  
 19 **A.** **I recall -- I recall one reporting abuse and**  
 20 **another recording -- reporting some form of**  
 21 **emotional entanglement, whether it was a**  
 22 **sexual involvement or not, I can't recall.**  
 23 **Q.** In any case, going back to Keating, you're  
 24 aware that the girl made a report and then the  
 25 counselor made a report following that,

- 1 weren't you?  
 2 **A.** **I was not aware of the counselor -- I'm not**  
 3 **aware now of the counselor's report, but I**  
 4 **must have been at the time, I just don't**  
 5 **recall.**  
 6 **Q.** Well, in 2006 there's a letter in the file to  
 7 Archbishop Flynn and you where the counselor  
 8 states she believes Keating to be a danger and  
 9 not likely a one-time circumstance. Do you  
 10 recall that?  
 11 **A.** **I don't recall it, I don't deny -- I don't**  
 12 **deny it's there, I presume if it's there, it's**  
 13 **there, but --**  
 14 **Q.** There's also a name redacted from the file, it  
 15 starts with an I, I can write the name of the  
 16 woman down for you, but I don't see any reason  
 17 to use it today. Do you see that name?  
 18 **A.** **I do.**  
 19 **Q.** Okay. And in the exhibit it is indicated that  
 20 another priest of the archdiocese, Jeff Huard,  
 21 H-u-a-r-d, spoke with you about this  
 22 individual and that Keating had admitted to  
 23 him that he had had a passionate physical  
 24 encounter with her. Do you recall that?  
 25 **A.** **I don't recall the passionate physical**

- 1 **encounter.**  
 2 **Q.** There's information in the file concerning  
 3 Keating that he also had a serious  
 4 relationship with a girl and that was made  
 5 known to the review board that heard this  
 6 matter. Do you know anything about that  
 7 serious relationship?  
 8 **A.** **Is it -- it's the same name as this?**  
 9 **Q.** We don't know that. We just know that it's  
 10 recorded as having been described as a serious  
 11 relationship with a girl.  
 12 **A.** **Okay. I recall that -- and by the way, Jeff**  
 13 **Huard was a wonderful priest. It's this**  
 14 **brother to the mother of the young woman, for**  
 15 **his protection I called Chisago County, just**  
 16 **to keep the players straight here. He**  
 17 **reflected that some people were concerned that**  
 18 **Michael Keating had too close a relationship,**  
 19 **emotional, I don't recall that there was any**  
 20 **allegation of physical connectedness of any**  
 21 **sort, to a young woman he met in Italy. And**  
 22 **the precipitating event was her appearance, I**  
 23 **believe, at his ordination when he returned.**  
 24 **I spoke with her in Italy, and I do have only**  
 25 **this -- probably shows up in the records**

- 1 **somewhere -- that she told me, and we spoke**  
 2 **both in Italian and in English to confirm it,**  
 3 **that he had always been with her "correcto,"**  
 4 **which means, we would say, appropriate.**  
 5 **Q.** Well, you also know that many, many victims,  
 6 those who adult priests engage in sexual  
 7 conduct with have a traumatic bond to their  
 8 offender and are often reluctant to report and  
 9 rarely do contemporaneous to it, you know  
 10 that?  
 11 **A.** **Yes. Which is, of course, why we involve**  
 12 **assessments and so on.**  
 13 **Q.** Was that a phone call or an in-person  
 14 interview that you referred to?  
 15 **A.** **It was a phone call.**  
 16 **Q.** You were aware that the board, when it went  
 17 before the clergy review board, made a finding  
 18 that the report was not substantiated, but  
 19 they did make recommendations for restrictions  
 20 that you were to enforce, is that correct?  
 21 **A.** **I have a vague memory of that. I don't recall**  
 22 **that specifically.**  
 23 **Q.** And one of those restrictions was that he was  
 24 not to be -- or engage in youth retreats,  
 25 spiritual counseling or mentoring of

- 1 adolescent or young girls. Do you recall  
2 that?
- 3 **A. Yes.**
- 4 **Q.** And he was to be monitored, do you recall  
5 that?
- 6 **A. Yes.**
- 7 **Q.** And he was to be -- it was to be disclosed to  
8 the chairperson at St. Thomas in Catholic  
9 studies where he was working, do you recall  
10 that?
- 11 **A. That sounds familiar. I don't re -- I would  
12 not have been able to provide that taxative  
13 (sic) list to you, but --**
- 14 **Q.** And were any of those things actually done?
- 15 **A. Yes.**
- 16 **Q.** By who?
- 17 **A. By myself and/or Tim Rourke. I met with some  
18 frequency with Dr. Briel, B-r-i-e-l, who was  
19 the chair of the -- I don't think he was chair  
20 f the department, that's an acting title. I  
21 think he was the head of the Catholic studies  
22 program.**
- 23 **Q.** Are you aware that October 14th, 2008, there  
24 is a notation saying that the recommendations  
25 on restrictions have not been implemented?

- 1 **A. I -- I'm not aware of that. Where -- which --  
2 what was the date on that?**
- 3 **Q.** 2008.
- 4 **A. In October.**
- 5 **Q.** October 14th.
- 6 **A. That's after I was in the office regularly, so  
7 -- nonetheless, I do recall that Archbishop  
8 Nienstedt was concerned that he felt that  
9 disclosure to Dr. Briel -- or he was unaware  
10 of the disclosure made to Dr. Briel and so  
11 that's -- we were reassuring him on that.**
- 12 **Q.** Were you to Archbishop Nienstedt downplaying  
13 the seriousness of Keating's conduct and  
14 trying to protect him from disciplinary action  
15 by Archbishop Nienstedt?
- 16 **A. I think I was trying to reflect to the  
17 archbishop accurately the seriousness of this  
18 conduct, particularly given the discovery by  
19 the Chisago -- Chisago County department that  
20 there was no child endangerment.**
- 21 **Q.** Is it fair, Father, to say that when police  
22 don't charge, you kind of interpret that to  
23 mean it didn't happen?
- 24 **A. In some cases, depends on the report from the  
25 police.**

- 1 **Q.** And oftentimes, are you aware that they don't  
2 charge because of statutes of limitations?
- 3 **A. Yes.**
- 4 **Q.** Yeah? So the inference that it didn't happen  
5 because they don't charge is a little  
6 dangerous to make, isn't it?
- 7 **A. Certainly has to be assessed on a case-by-case  
8 basis.**
- 9 **Q.** As it pertains to Keating, are you aware of  
10 any actual monitoring having been put into  
11 place before May 12th of 2010?
- 12 **A. I believe yes, but I don't recall when it  
13 began.**
- 14 **Q.** There's a note that Piche spoke to Rourke  
15 after initial plan meeting and no monitoring  
16 had been put into place. If that is a correct  
17 recitation, is that news to you?
- 18 **A. Yes.**
- 19 **Q.** Rourke seems to indicate on a reading of that  
20 that he gets directives from you and never got  
21 a clear directive from you as to monitoring.
- 22 **A. Is that --**
- 23 **Q.** Do you have any knowledge of that?
- 24 **A. Is there a document or -- we could look at?**
- 25 **Q.** I'm reading from my notes of May 12th, 2010.

- 1 But first, do you believe that you gave Rourke  
2 clear directives about monitoring?
- 3 **A. I know I gave Tim clear directive at some  
4 point. I can't say about the specific date.**
- 5 **Q.** And do you have any idea what year that was?
- 6 **A. I don't. I'm sorry.**
- 7 **Q.** Was it several years after the review board  
8 made their findings and recommendations that  
9 you gave that directive?
- 10 **A. I doubt that.**
- 11 **Q.** There are indications that Don Briel was given  
12 some information on May 24th, 2010. Do you  
13 have any information that he was informed of  
14 Keating's history or anything about him before  
15 that?
- 16 **A. I don't, but I don't have a specific memory.**
- 17 **Q.** On June 10th -- excuse me, in June of 2010, it  
18 appears that Keating is first put on  
19 monitoring three years after the family of  
20 this girl is told he would be. Do you have  
21 any reason to dispute that?
- 22 **A. I don't have any specific memory about when  
23 this began.**
- 24 **Q.** And that he was --
- 25 **A. Could I mention just one brief thing, if I**

- 1 could?
- 2 Q. You may.
- 3 A. **That the -- the review board would make its**
- 4 **recommendations to the archbishop and my job**
- 5 **was to see to the im -- implementation of the**
- 6 **archbishop's directive. It may be that the**
- 7 **review board information went to the**
- 8 **archbishop's office and then was communicated**
- 9 **to me sometime after and that Archbishop**
- 10 **Nienstedt did not know that it had not been**
- 11 **communicated to me. There was a transitional**
- 12 **period there.**
- 13 Q. Well, the archbishop doesn't have to follow
- 14 the review board recommendation?
- 15 A. **That's correct.**
- 16 Q. It's simply an advisory board?
- 17 A. **That's correct, which is why I'm saying, I may**
- 18 **have been aware, it's possible, I don't have**
- 19 **any memory of this, but it's possible that I**
- 20 **was aware the review board recommended some**
- 21 **forms of monitoring, that that went to**
- 22 **Archbishop Flynn perhaps and then did not get**
- 23 **disposed of timely and only sometime later did**
- 24 **Archbishop Nienstedt say, "Hey, what's going**
- 25 **on with this?" I don't know that.**

- 1 Q. You'd mentioned Father Timothy McCarthy
- 2 earlier, I'm going to ask you about that. Are
- 3 you aware that there are allegations of sexual
- 4 abuse of two minor boys made to the
- 5 archdiocese in 1982?
- 6 A. **I knew it was in the '80s, I did not know**
- 7 **when.**
- 8 Q. Were you aware that he was forced to resign as
- 9 a priest in 1991?
- 10 A. **Yes, I'm very proud of that. I -- I lobbied**
- 11 **heavily for that to happen.**
- 12 Q. Were you aware that he later worked at the
- 13 Hennepin County Juvenile Detention Facility?
- 14 A. **I was. When I learned it, I called the**
- 15 **Hennepin County people and said, "You appear**
- 16 **never to have done a background check on this**
- 17 **man with us."**
- 18 Q. So you warned them?
- 19 A. **Yes, once I found out that he was there.**
- 20 Q. And he had -- he was still a priest at that
- 21 time, wasn't he?
- 22 A. **No -- well, he had left the priesthood many**
- 23 **years before. He left when we drove him out**
- 24 **in -- in 1991. We removed his faculties and**
- 25 **he was no longer permitted to work as a**

- 1 **priest.**
- 2 Q. No longer continued to work as a priest is
- 3 different than continuing to be a priest,
- 4 however?
- 5 A. **Thought we might -- do you want to talk about**
- 6 **that for a little bit?**
- 7 Q. Well, you know, I think there is a difference,
- 8 isn't there? I mean, somebody can be a priest
- 9 and no longer have faculties, correct?
- 10 A. **Right.**
- 11 Q. Okay.
- 12 A. **Someone -- let me just mention, however, a**
- 13 **person who's laicized is still a priest.**
- 14 Q. Well --
- 15 A. **A person who is removed -- who is removed from**
- 16 **the clerical state, or sometimes called**
- 17 **reduced to the lay state, is in our**
- 18 **sacramental theology still a priest. So the**
- 19 **removal of faculties is the decisive**
- 20 **intervention.**
- 21 Q. Let's talk about Gil Gustafson for a moment.
- 22 I know we referred to him, but he abused a
- 23 number of children and was convicted in 1983,
- 24 correct?
- 25 A. **I'll accept that that's the date. I don't**

- 1 **recall the specific date, but that sounds**
- 2 **right.**
- 3 Q. In the '80s and '90s he was working in the
- 4 Chancery, and one of his duties was to work
- 5 with you on child sex abuse cases?
- 6 A. **No. He actually worked in a variety of**
- 7 **administrative tasks. I don't think he worked**
- 8 **on sex abuse cases.**
- 9 Q. Was he ever put on monitoring?
- 10 A. **He was eventually, yes.**
- 11 Q. It's reported that he had moved into a
- 12 consulting position with Cristo Rey High
- 13 School, a Jesuit high school. Did you become
- 14 aware of that?
- 15 A. **I don't -- I think I've heard of that very**
- 16 **recently. He moved into a consulting position**
- 17 **with a company, with a friend of his named**
- 18 **Greg. I don't know what Greg's -- I don't**
- 19 **recall Greg's last name, I'm sure that's there**
- 20 **somewhere, and it may be that Greg's company**
- 21 **was hired to assist Cristo Rey.**
- 22 Q. Did you know that company was working with
- 23 schools, parishes and the archdiocese?
- 24 A. **I wasn't aware the company worked with the**
- 25 **archdiocese. I was aware that it worked with**



1 **some parishes, yes.**  
 2 **Q.** Well, does it concern you now to hear that?  
 3 **A.** **Doesn't concern me much because, of course,**  
 4 **Gustafson was the poster priest for this, his**  
 5 **-- his issues were very, very widely known.**  
 6 **Q.** So you think that people at Cristo Rey and the  
 7 other parishes know what you know about that?  
 8 **A.** **Yes.**  
 9 **Q.** In fact, there had been a confidential  
 10 settlement made where confidentiality was  
 11 completely required of the first case brought  
 12 against Gustafson for which he was convicted  
 13 in the early '80s, correct?  
 14 **A.** **I don't recall. Of course, I was not in the**  
 15 **Chancery at that time.**  
 16 **Q.** Well, did you become aware that a settlement  
 17 had been made, \$20,000 paid to Brian Herrity,  
 18 but he was required by the archdiocese to keep  
 19 it absolutely confidential so that he nor  
 20 anybody else in his family could tell? Did  
 21 you know that?  
 22 **MR. HAWS:** Do you have a document  
 23 that says that?  
 24 **A.** **Well, I -- I think I learned that sometime in**  
 25 **the '90s or the early 2000s, perhaps in a**

1 **press report.**  
 2 **BY MR. ANDERSON:**  
 3 **Q.** Lee Krautkremer had been mentioned earlier.  
 4 Did you become aware that abuse had been  
 5 reported by him to the archdiocese in the  
 6 1980s?  
 7 **A.** **Yes.**  
 8 **Q.** And that he had been moved to another parish  
 9 after that?  
 10 **A.** **Was it he moved to another parish or was he**  
 11 **removed from a parish and put into hospital**  
 12 **chaplancy? I don't recall -- I don't recall**  
 13 **that specifically.**  
 14 **Q.** The information I have is that after the  
 15 report was made, he was moved to another  
 16 parish, but the family was told that he  
 17 wouldn't be around children.  
 18 **A.** **Okay.**  
 19 **Q.** Do you remember --  
 20 **A.** **Than -- that antedated -- although I was on**  
 21 **the -- on the books as an official of the**  
 22 **archdiocese, I believe all that happened while**  
 23 **I was away in graduate school, so I don't have**  
 24 **those details.**  
 25 **Q.** Did you become aware in 1987 that a doctor

1 that had seen Krautkremer believed that  
 2 Krautkremer most likely will re-offend?  
 3 **A.** **I -- that comes as news to me, but, no.**  
 4 **Q.** Krautkremer was, and I think it sounds like  
 5 you do know this, allowed to work as a  
 6 chaplain at North Memorial Hospital and also  
 7 do help-out supply work after that until  
 8 2002 --  
 9 **A.** **That's correct.**  
 10 **Q.** -- are you aware of that?  
 11 **A.** **Yes. I think that's under the rubric we**  
 12 **talked about earlier.**  
 13 (Discussion out of the hearing of  
 14 the court reporter)  
 15 **THE WITNESS:** Are we close to that  
 16 one final 15-minute break?  
 17 **MR. ANDERSON:** Sure. Any time.  
 18 **THE WITNESS:** Why don't we do that  
 19 and then we'll make the big push to the end?  
 20 **MR. ANDERSON:** Sure.  
 21 **MR. LEEANE:** Off the video record at  
 22 4:09 p.m.  
 23 (Recess taken)  
 24 **MR. LEEANE:** Back on the video  
 25 record at 4:24 p.m.

1 **BY MR. ANDERSON:**  
 2 **Q.** Father, one of the things you had been talking  
 3 about earlier is making disclosures to  
 4 parishes of histories at least known to the  
 5 the archdiocese. Would it be correct to say  
 6 that when and if you made such a disclosure  
 7 about a history of a known offender to a  
 8 parish, that it would be your practice to  
 9 document in the file that you made such a  
 10 disclosure?  
 11 **A.** **I think generally so, yes.**  
 12 **Q.** What do you mean "generally so"? Why wouldn't  
 13 you document such a thing that is that  
 14 important?  
 15 **A.** **You know, generally, it's important, I -- I**  
 16 **just don't know that in every case, say, if**  
 17 **one of the auxiliary bishops went out and held**  
 18 **a meeting, they were often strapped for time**  
 19 **and -- and they may not have done such a**  
 20 **disclosure. I'm thinking of the 1990s in**  
 21 **particular. I believe I would have always**  
 22 **produced some sort of memorialization.**  
 23 **Q.** Any disclosure you were involved in, you would  
 24 have documented, that was your practice?  
 25 **A.** **That was my practice. Did I --**

- 1 Q. And that would be --
- 2 A. **Did I fail in my practice once or twice?**
- 3 **Quite probably, but just -- that was my**
- 4 **practice.**
- 5 Q. I'd like to ask you about a priest who's been
- 6 fairly recently publicly disclosed as having
- 7 offended and that would be Gallatin. Tell us
- 8 what you learned and when you learned it first
- 9 about him having abused.
- 10 A. **Right. So I don't think it's accurate to say**
- 11 **that he offended or abused. As a matter of**
- 12 **fact, I think that's an in -- quite an**
- 13 **inaccurate characterization.**
- 14 **Sometime around 2000, I don't recall**
- 15 **exact time, I received a phone call from a**
- 16 **dad, who said that while on a mission trip,**
- 17 **Gallatin had placed his hand on the chest of**
- 18 **his sleeping, I think, 17-year-old son. I**
- 19 **asked the dad, I believe this would be**
- 20 **memorialized, but I asked the dad did he**
- 21 **report it to the authorities in that -- in the**
- 22 **place in the mission trip, which I think was**
- 23 **either in Tennessee or Kentucky, I don't**
- 24 **recall exactly. And he said that he had and**
- 25 **that he was told that it was not a matter that**

- 1 **they would deal with. So --**
- 2 Q. Do you think it was Virginia?
- 3 A. **Somewhere in the south. Sorry.**
- 4 Q. Was there ever any effort made by you or
- 5 anybody else to find out the son's account of
- 6 actually what did happen instead of relying
- 7 upon what was told by the father?
- 8 A. **By the dad. I don't recall.**
- 9 Q. And so this was characterized, then, in the
- 10 public disclosure and public statement made as
- 11 a boundary violation where no crime had
- 12 occurred, correct?
- 13 A. **That's how I would still think of it today,**
- 14 **so, yes.**
- 15 Q. So what effort did you make or others from the
- 16 archdiocese to find out what he actually had
- 17 done and to whom and when he had done it?
- 18 A. **What Gallatin had done?**
- 19 Q. Yes.
- 20 A. **Yes, interviewed Gallatin, I interviewed the**
- 21 **dad.**
- 22 Q. And Gallatin denied having engaged in any
- 23 sexual contact, didn't he?
- 24 A. **That's correct.**
- 25 Q. And Gallatin's account conflicted with the

- 1 account given by the dad, didn't it?
- 2 A. **That's not my recollection.**
- 3 Q. Was it consistent with the account given by
- 4 the dad?
- 5 A. **That is my recollection, but it's -- it's a**
- 6 **long time ago.**
- 7 Q. Any other interviews or investigation done to
- 8 determine the real risk or what Gallatin had
- 9 done both in this instance or any other?
- 10 A. **So, then, the assessment of risk came by**
- 11 **asking him to undergo psychological**
- 12 **assessment.**
- 13 Q. And he was done -- that was done by whom?
- 14 A. **I don't recall that.**
- 15 Q. And did you review that assessment?
- 16 A. **I'm sure I did. I don't recall it.**
- 17 Q. And you don't remember who did it, and do you
- 18 remember when it was done?
- 19 A. **I don't recall who did it. I think it was**
- 20 **done immediately thereafter, but I don't**
- 21 **recall when.**
- 22 Q. Do you know if the assessment included any
- 23 recitation of Gallatin's sexual history as it
- 24 pertains to youth?
- 25 A. **I don't recall that.**

- 1 Q. Well, what do you recall then? If a
- 2 determination was made that he was fit to
- 3 minister, what do you recall about the
- 4 assessment?
- 5 A. **My recollection is that the assessor or**
- 6 **assessors said that this was a man, again,**
- 7 **rather emotionally tightly wound, because I**
- 8 **don't have the words in front of me, so this**
- 9 **is my impression years later, emotionally**
- 10 **tightly wound, probably wrestling in his own**
- 11 **mind with same-sex attractions, and that he**
- 12 **ought to enter into therapy to help him come**
- 13 **to full acceptance of himself.**
- 14 Q. Do you recall that it was done by a Dr.
- 15 Barron?
- 16 A. **That wouldn't surprise me.**
- 17 Q. Do you recall that he had a reported
- 18 attraction to sexual male -- excuse me, a
- 19 reported attraction to teenage males?
- 20 A. **I don't remember that, no. I do recall**
- 21 **attraction to males. I don't recall teenage**
- 22 **males.**
- 23 (Discussion out of the hearing of
- 24 the court reporter)
- 25 BY MR. ANDERSON:

- 1 Q. Did Gallatin admit to you that he had touched  
2 the youth for his own sexual needs?  
3 A. **He did not admit it was for his own sexual  
4 needs, but he did admit that he had touched  
5 the -- the youth for some sense of physical  
6 contact.**  
7 Q. Which inferentially is sexual, correct?  
8 A. **Not necessarily.**  
9 (Discussion out of the hearing of  
10 the court reporter)  
11 BY MR. ANDERSON:  
12 Q. So this is an adult priest touching a boy  
13 who's sleeping on the chest and admitting that  
14 it's for some physical need. What beyond  
15 sexual can you suggest was being satisfied?  
16 A. **Right. I looked to Dr. -- the assessor,  
17 whoever that was, to help us understand what  
18 was going on.**  
19 Q. Did you make a determination, in allowing him  
20 to continue in ministry unrestricted and  
21 undisclosed, that he had posed no risk or  
22 danger to the public?  
23 A. **Made the determination that he would continue  
24 in ministry unrestricted, but not undisclosed,  
25 and, yes, because he constituted no danger to**

- 1 **the public.**  
2 Q. And he was only publicly disclosed on December  
3 29th, 2013, even though this is information  
4 that had been known to the archdiocese since  
5 1998?  
6 A. **I don't think that's true. I mean, he was  
7 publicly disclosed in the sense that he was  
8 outed in the newspapers or the media. He was  
9 disclosed -- this history was disclosed in a  
10 -- in at least one of his ministry settings at  
11 the recommendation of the review board and the  
12 order of the archbishop some several years  
13 ago. I don't recall exactly when it was. I  
14 met with the trustees of the parish and said,  
15 "Here's the history." And I believe we also  
16 talked to the professional staff. And I asked  
17 them to give me their own assessment of how he  
18 related to people and then also to recommend  
19 whatever further disclosure might be useful.  
20 Now, that was at the place he was pastor. And  
21 I believe that we did something similar at the  
22 previous place he worked, but I don't recall  
23 that.**  
24 Q. He was actually -- is his status one of  
25 credibly accused now?

- 1 A. **I don't know what they're calling it now.**  
2 Q. When did you first learn that Mark Wehmann, as  
3 somebody that you had mentioned earlier, had  
4 abused and had been accused of having abused  
5 minors?  
6 A. **To my knowledge, he's never been accused of  
7 having abused minors. In two cases he was  
8 accused of showing untoward, undisciplined  
9 attention toward minors, which raised  
10 concerns. And I've intervened in -- directly  
11 in the first matter and that's the one that I  
12 called the South St. Paul police about.**  
13 Q. Tell me the first time you got information  
14 that raised red flags about Wehmann.  
15 A. **I don't recall the year. The record will show  
16 it. It must have been -- it was within a year  
17 or two of his ordination. He was an associate  
18 pastor in South St. Paul. I had a call from  
19 perhaps even the principal of the school,  
20 saying that he was at a basketball game and  
21 sitting with a group of young people and while  
22 there had rubbed the forearm of -- or this is  
23 -- this is the forearm -- rubbed the -- what  
24 do we call this (Indicating)?**

25 MR. BIRRELL: Upper arm.

- 1 A. **-- the upper arm of one of the eighth-graders  
2 and that this seemed -- this seemed untoward  
3 to the parent, who went to the principal.**  
4 BY MR. ANDERSON:  
5 Q. What investigation was done responsive to that  
6 report?  
7 A. **I called the South St. Paul police and asked  
8 them to take a look at it.**  
9 Q. How long ago was this?  
10 A. **It was a year or two after his ordination, so  
11 I'm -- I'm guessing this was around 2000 or  
12 2001, but that's pure -- the record would show  
13 when it is. I don't know when it was.**  
14 Q. And he was continued in ministry?  
15 A. **That's right.**  
16 Q. And any other red flags and/or reports made?  
17 A. **A year or two later, a teacher at the parish  
18 that he went to as -- for his second  
19 assignment as associate pastor said that he  
20 seemed to spend more time -- this by now is  
21 certainly after all the negative publicity  
22 with the charter, negative publicity about  
23 priests, and this teacher wondered, this is my  
24 recollection, wondered why this priest showed  
25 such enthusiasm for the young people. In that**

- 1 **case I said, "I don't want to know the details**  
 2 **myself. Call the police and have the police**  
 3 **take your statement and -- and report it."**  
 4 **Q.** Because he's a priest in ministry, you had the  
 5 power, as did the archbishop, to call him in  
 6 and ask him exactly what he had done to whom  
 7 and when, correct?  
 8 **A. That's right.**  
 9 **Q.** And did you do that?  
 10 **A. I did after the police finally told us there's**  
 11 **nothing here.**  
 12 **Q.** And what police agency or officer told you  
 13 that?  
 14 **A. That was -- I got that through the then**  
 15 **chancellor, I think it was Bill Fallon again,**  
 16 **so this is sometime in the first half of the**  
 17 **2000s. And I don't recall -- I knew the name**  
 18 **of the police officer at the time -- or the**  
 19 **investigator at the time, but I don't recall**  
 20 **it now. That would all be documented.**  
 21 **Q.** Well, there's a difference between the police  
 22 making a decision not to charge and there  
 23 being no evidence of a crime being committed.  
 24 You would agree with that, correct?  
 25 **A. I'm not sure that that's -- you mentioned a**

- 1 **case earlier, the police may believe that a**  
 2 **crime happened before so long ago that the**  
 3 **statute would not run. This, of course, was**  
 4 **almost absolutely contemporaneous.**  
 5 **Q.** Well, what I'm trying to get at is, what  
 6 information was actually communicated to the  
 7 archdiocese and, ultimately, you about the  
 8 reason he wasn't charged and can you tell me  
 9 what the reason was he wasn't charged with a  
 10 crime against a youth when investigated by  
 11 them?  
 12 **A. I can't tell you that. I -- the record would**  
 13 **show it, I presume.**  
 14 **Q.** And when you used the term being told by  
 15 Fallon, "there's nothing here," that's your  
 16 term, isn't it?  
 17 **A. That's correct.**  
 18 **Q.** Any other red flags or reports?  
 19 **A. I believe that's it.**  
 20 **Q.** Did you become concerned that there was a  
 21 pattern of conduct towards youth in the case  
 22 of Wehmann that merited more attention than  
 23 was given it?  
 24 **A. I became concerned that the -- in a time of**  
 25 **heightened sensitivity about children that**

- 1 **this man was showing a kind of a 1950s**  
 2 **enthusiasm for children that simply was**  
 3 **imprudent.**  
 4 **Q.** And wasn't that in both your -- both from your  
 5 experience around this also some kind of  
 6 reflection of a denial by him of the gravity  
 7 of his interest in youth and reflective of a  
 8 possible greater risk than what he's  
 9 disclosing?  
 10 **A. Well, again, in terms of greater risk, in both**  
 11 **cases what -- we had the public authorities**  
 12 **assessing, I had a conversation with the --**  
 13 **with the South St. Paul police sergeant, I**  
 14 **believe, that would be documented, who said,**  
 15 **"This guy didn't commit a crime, but he's**  
 16 **stupid to be acting like this at a time when**  
 17 **-- when there's so much sensitivity." So my**  
 18 **concern was about his own prudent judgment**  
 19 **about the perception of his behavior.**  
 20 **Q.** Did you give instructions to Wehmann after  
 21 having learned that to stop the behavior and  
 22 the interest expressed in the youth that he  
 23 had demonstrated?  
 24 **A. I believe I did, yes.**  
 25 **Q.** Did you document that?

- 1 **A. Probably. That would be in the file.**  
 2 **Q.** Do you have a memory of having done so?  
 3 **A. I have a memory of documenting the visit to**  
 4 **the South St. Paul police. That was a rather**  
 5 **vivid meeting, as I recall, and so -- and I**  
 6 **recall documenting that. I don't recall what**  
 7 **was in the various forms of documentation.**  
 8 **Q.** You're on the board of directors of the  
 9 Minnesota Catholic Conference, aren't you?  
 10 **A. No.**  
 11 **Q.** Have you ever been?  
 12 **A. No.**  
 13 **Q.** Oh. The Catholic -- do you participate in the  
 14 the bishops' Minnesota Catholic Conference  
 15 meetings?  
 16 **A. I've been asked by them to come to speak to**  
 17 **them, yes.**  
 18 **Q.** Have you spoken to them on statute of  
 19 limitations reform and how to keep it from  
 20 being passed into law?  
 21 **A. I've spoken about how we might act so that the**  
 22 **reform would be reasonable and not**  
 23 **unreasonable.**  
 24 **Q.** Well, you acted --  
 25 (Phone ringing)

- 1 MR. HAWS: Sorry. My apologies.
- 2 BY MR. ANDERSON:
- 3 Q. Sure. You acted pretty vigorously while you
- 4 were chaplain to make sure that didn't gain
- 5 any ground in the legislature, didn't you?
- 6 A. **Actually, I acted very vigorously for a lot of**
- 7 **years, but took a hiatus while I was chaplain.**
- 8 Q. You testified when you were chaplain?
- 9 A. **I don't recall. I may have in the house,**
- 10 **that's -- I may have testified in the house.**
- 11 Q. Yes. Testifying is pretty rigorous lobbying
- 12 against it, isn't it?
- 13 A. **Well -- well, I was senate chaplain and**
- 14 **followed the instructions of the senate**
- 15 **majority leader in regard to what and whom I**
- 16 **am to talk to and about what.**
- 17 Q. And the Minnesota Religious Council was formed
- 18 specifically to fund, finance and prevent
- 19 legislative reform pertaining to statute of
- 20 limitations?
- 21 A. **And other similar matters, tort -- tort --**
- 22 **changes in torts. This is an issue about**
- 23 **which you and I, of course, have some very**
- 24 **profound disagreements.**
- 25 Q. Yeah, and some real history, so, I mean, we

- 1 also know that that originally was formed
- 2 after the law was passed in 1989 and '90 that
- 3 opened up the window and a decision was made
- 4 by the archdiocese to fund and create the
- 5 religious council to prevent statute of
- 6 limitations reform?
- 7 A. **The archdiocese and others agreed to fund**
- 8 **efforts to monitor and to try to make**
- 9 **reasonable changes in regard to statute of**
- 10 **limitations and other related matters.**
- 11 Q. And that funding has been tens of thousands,
- 12 if not hundreds of thousands of dollars a
- 13 year, most of which has come from the coffers
- 14 of the archdiocese?
- 15 A. **Yes and yes.**
- 16 Q. Do you believe, Father, that a priest who
- 17 admits to a sexual attraction to minors should
- 18 be allowed to work in a parish?
- 19 A. **I'd have a difficult time seeing that as**
- 20 **prudent.**
- 21 Q. It was made quite public that there was some
- 22 kind of allegation made against Archbishop
- 23 Nienstedt that caused him to kind of step down
- 24 temporarily and, obviously, we know that he no
- 25 longer is in a position where he stepped down

- 1 and that was fairly recent. When in time did
- 2 it become known to you and other officials of
- 3 the archdiocese that accusation actually had
- 4 been made?
- 5 A. **I can't speak to the other -- to any other**
- 6 **officials of the archdiocese.**
- 7 Q. What about you?
- 8 A. **I have a privilege relationship with a person**
- 9 **who received the information and had been**
- 10 **advised that he ought to report it and I**
- 11 **seconded that -- that advice to him.**
- 12 Q. There is a staff report that was known to the
- 13 archdiocese staff and some in it in 2009 or
- 14 ten?
- 15 A. **That could be so, I'm not --**
- 16 Q. Do you --
- 17 A. **I have no information one way or another to go**
- 18 **with that.**
- 19 Q. But it was never made public until recently?
- 20 A. **Again, I -- I don't have -- I don't have any**
- 21 **information. I don't have any information on**
- 22 **it.**
- 23 Q. When did you get the information? When in
- 24 time, what year?
- 25 A. **The -- so the -- remember here, I'm signaling**

- 1 **to you this is --**
- 2 Q. I don't mean --
- 3 A. **-- privileged.**
- 4 Q. I don't mean the privileged part. I'm just
- 5 talking about the when.
- 6 MR. BIRRELL: Whenever you -- excuse
- 7 me.
- 8 A. **This will not -- this will not revoke the**
- 9 **privilege to answer the question. Sometime in**
- 10 **the 24 hours or so before the report was made**
- 11 **okay?**
- 12 BY MR. ANDERSON:
- 13 Q. When you're talking about "the report," the
- 14 report to law enforcement?
- 15 A. **Correct.**
- 16 Q. And did you have any information about that or
- 17 anything like that before that point in time?
- 18 A. **I did not.**
- 19 Q. There's a document called the Crimen
- 20 Sollicitationis, or crimes of solicitation, it
- 21 is now well known that there's a 1922 version
- 22 and a 1962 version of that document, that
- 23 means it's a crime to engage in solicitation
- 24 in the confessional and a decree from the
- 25 Vatican that it is a crime and that clerics

- 1 are to act in a certain way when known. When  
2 did you become familiar with such a decree?
- 3 **A. I did doctoral studies in the field in Rome**  
4 **and I believe the document was never mentioned**  
5 **in that context. I believe I first learned of**  
6 **the existence of the document sometime in the**  
7 **1990s.**
- 8 **Q.** And was that a document that was largely --  
9 how did you learn of that?
- 10 **A. I believe at a canon law convention.**
- 11 **Q.** Was that basically a decree, then, that was  
12 kept largely known by the canon lawyers and  
13 those that they were advising, largely the  
14 ordinaries?
- 15 **A. Perhaps useful to explain. I always knew,**  
16 **because I'd been trained as a young priest --**  
17 **and by the way, I trained the children**  
18 **Indirectly about this at St. Peter Claver and**  
19 **Incarnation -- that there are very important**  
20 **rules about the confessional. So this is part**  
21 **of the common knowledge among Catholics. I**  
22 **believe the Crimen solicitado -- whatever, I'm**  
23 **having the same problem you are -- was -- was**  
24 **about the procedure for reporting to the**  
25 **appropriate congregation in Rome, yes.**

- 1 **Q.** And that procedure was largely to keep it a  
2 secret procedure because of the gravity of the  
3 crime and to handle it in secrecy and to give  
4 it to the Vatican to be handled, is that --
- 5 **A. Yes, and particularly because what -- what's**  
6 **involved is -- is the seal of the**  
7 **confessional. The issue is about the seal of**  
8 **the confessional.**
- 9 **Q.** And also the gravity of it, the seriousness of  
10 it where a priest uses the confessional to  
11 solicit and the known harm done, correct?
- 12 **A. Can I say honestly, I don't think that in**  
13 **either 1922 or 1961 anybody had a sense of the**  
14 **harm, I'm sorry to say that. I believe the --**  
15 **in my training as a seminarian, never mind as**  
16 **a canon lawyer, the question of the seal of**  
17 **the confessional was -- was an absolute top-**  
18 **flight concern and this is a matter that**  
19 **touches on that.**
- 20 **Q.** In any case, there was a protocol to be  
21 followed, strictly followed and that was that  
22 both the penitent who may have been solicited  
23 was required to keep it secret and everybody  
24 that knows of it in the clerical culture was  
25 required by that protocol to keep it secret so

- 1 that Rome could deal with it, correct?
- 2 **A. Honestly, I've not studied the document for**  
3 **many, many years, so I can't offer you much**  
4 **reflection on it. The focus was so narrow,**  
5 **it's a kind of a matter that I never had to**  
6 **deal with.**
- 7 **Q.** In your meetings with victims that you have  
8 had in dealing with this over the years, you  
9 have learned about the harm caused by  
10 childhood sexual abuse by priests?
- 11 **A. Yes.**
- 12 **Q.** And you know it's grave?
- 13 **A. Yes.**
- 14 **Q.** And you know that it was described by Steven  
15 Rosetti, a priest, as deep spiritual damage  
16 which he calls the slaying of the soul?
- 17 **A. Steve is --**
- 18 **Q.** You've heard of that?
- 19 **A. Steve is a friend of mine, I did not remember**  
20 **that he used that phrase, but I have heard the**  
21 **phrase and I know Steve Rosetti.**
- 22 **Q.** I think he wrote the book by that title,  
23 didn't he?
- 24 **A. That could well be.**
- 25 **Q.** In any case, were you aware that in 1985, the

- 1 Catholic Conference of Bishops met in St.  
2 John's and received a report on what to do  
3 concerning the crisis of pedophilia and  
4 molestation in the priesthood by Tom Doyle,  
5 Ray Mouton and Ray Peterson, the then director  
6 of St. Luke's?
- 7 **A. Was that -- was Ray his name, the third fella?**  
8 **I think that might have been just a little**  
9 **different.**
- 10 **Q.** It was Ray Mouton and Ray Peterson.
- 11 **A. It was both Ray, okay. You know, I've learned**  
12 **through media reports, that's while I was**  
13 **in -- I was in --**
- 14 **Q.** Oh, Michael Peterson.
- 15 **A. Mike, there we go. Michael. I thought so. I**  
16 **don't know that I ever met Michael. He died**  
17 **just about the time I was returning from Rome.**
- 18 **Q.** Did you learn that a report had been made to  
19 the Catholic Conference about the gravity of  
20 the problem in '85, in any case?
- 21 **A. I did, yes, I learned through the media**  
22 **reports.**
- 23 **Q.** Did you become aware on your return from Rome  
24 that anything was being done responsive to  
25 that report at all?

- 1 **A. Yes.**  
 2 **Q.** What was being done responsive to that report?  
 3 **A. Yeah, you probably don't want a long answer,**  
 4 **but I'll give --**  
 5 **Q.** Give me a short one.  
 6 **A. All right. Archbishop Roach was the chair of**  
 7 **the -- the administrative -- he was president**  
 8 **of the United States Catholic Conference. A**  
 9 **lot of this happened precisely because of him.**  
 10 **Part -- where did that come from? Bishop**  
 11 **Carlson was pricking his conscience because of**  
 12 **the horrors of this fellow Adamson to say,**  
 13 **"Our church has to respond very differently."**  
 14 **Bishop Carlson supervised me very briefly in**  
 15 **the summer of 1984 and before I was going off**  
 16 **to graduate school, and one day brought me**  
 17 **into his office and said, "I want -- I want**  
 18 **you to pay attention because this is the most**  
 19 **important issue you're going to have to deal**  
 20 **with," and that's when I met the parents of a**  
 21 **sex abuse victim.**

22 **So the whole time I was away at**  
 23 **school, this archdiocese was really trying to**  
 24 **turn up the heat on its understanding and its**  
 25 **response. Of course, the biggest -- two**

- 1 **biggest things that happened, I -- and I can**  
 2 **claim no positive credit for these. There**  
 3 **were a series of trainings mandated for all**  
 4 **our clergy and all the other lay professional**  
 5 **ministers invited too in the fall of 1987 and**  
 6 **the spring of 1988 on sexual abuse of minors,**  
 7 **sexual exploitation -- exploitation of adults,**  
 8 **sexual harassment of co-workers. And then the**  
 9 **January 1988 policy was printed. So then I'll**  
 10 **stop there.**  
 11 **Q.** What have you learned in all of this about the  
 12 impact of childhood sexual abuse by clergy on  
 13 the victims?  
 14 **A. I actually first became aware of some of these**  
 15 **concerns before any of this. I had the**  
 16 **privilege of taking a course at Luther**  
 17 **Seminary in the spring of 1980, I believe**  
 18 **titled "Ministry: The Families in**  
 19 **Difficulty," and learned then of the impact of**  
 20 **child sexual abuse and that shaped my ministry**  
 21 **throughout my years of priesthood. Once I**  
 22 **came to work at the archdiocese, I learned of**  
 23 **the additional pain caused by the betrayal of**  
 24 **clergy trust.**  
 25 **Q.** And what impacts, very briefly, and how

- 1 devastating do you understand that to have  
 2 been and to be?  
 3 **A. Like -- like other forms of trauma, it will**  
 4 **have differing impacts on differing**  
 5 **individuals. The impact is mitigated when the**  
 6 **person who makes the complaint is treated with**  
 7 **respect, supported, made counseling -- given**  
 8 **availability of counseling immediately. But**  
 9 **it can cause, especially when it's surrounded**  
 10 **by lots of falsehood, violence, intimidation,**  
 11 **can cause lifetime harm.**  
 12 **Q.** You're aware that it's actually aggravated by  
 13 reason of the extraordinary position of trust  
 14 and reverence that the cleric enjoys over the  
 15 faithful?  
 16 **A. I've taught that myself many times.**  
 17 **Q.** And that in itself, that betrayal of trust is  
 18 perhaps one of the most damaging components of  
 19 clerical sexual abuse, that power?  
 20 **A. That -- that's certainly reported in terms of**  
 21 **people's individual testimony. I don't know**  
 22 **what the scientific reports are on it, but I**  
 23 **wouldn't doubt that it's -- that the -- that**  
 24 **clergy and physicians and lawyers and others,**  
 25 **but I'll stay with clergy, that clergy cause**

- 1 **particular harm, yes.**  
 2 **Q.** In the case of Father John Brown, did you  
 3 learn that in the 1960s, he was reported to  
 4 then Archbishop Binz for examining sexual  
 5 organs of boys and that after retirement it  
 6 became known that he lived at a scout camp?  
 7 Did you know about that?  
 8 **A. Yes and yes. Yes, I knew about the report and**  
 9 **yes, I knew about living at the scout camp.**  
 10 **Q.** And you noted in 1992 that -- did you become  
 11 concerned about that in 1992 and record that?  
 12 **A. I did, or even -- sometime in that period of**  
 13 **time, yes, when we were doing a -- a routine**  
 14 **re-examination of files. I think this -- I**  
 15 **think it was earlier than that because I**  
 16 **believe Father O'Connell discovered it, but**  
 17 **I'm not certain.**  
 18 **Q.** This reflects that in 1992, that you are  
 19 concerned that he's doing religious services  
 20 for scouts. Do you remember that?  
 21 **A. I don't recall that that's the year, but I do**  
 22 **recall being concerned about it.**  
 23 **Q.** There is reflection in 2001 that you again  
 24 note that Brown is living on the grounds of  
 25 the Boy Scout campground. Do you recall

1 having done anything about what you'd learned  
 2 earlier?

3 **A. Yeah, I'm surprised the 2001 is still true**  
 4 **because my -- my intervention in the early**  
 5 **'90s was to say Brown ought to be moved away**  
 6 **from the scout camp. I believe one of the**  
 7 **bishops was assigned to do that.**

8 **Q.** Okay.

9 **A. The record will show that.**

10 **Q.** I was reading from a note from the file. It  
 11 reflects in March of 2002, Bill Fallon and you  
 12 met with Brown and asked him to leave the Boy  
 13 Scout camp. Do you recall that?

14 **A. I don't.**

15 **Q.** Brown's name is on the 2004 list of those  
 16 deemed to have been credibly accused as  
 17 assembled under the charter, but that was not  
 18 released until December of 2013. Do you  
 19 believe that his name and those others on that  
 20 list should have been released to the public  
 21 long before that?

22 **A. Do you know, you and I may disagree about**  
 23 **release to the public. One of the places he**  
 24 **was pastor was St. Peter Claver, where I took**  
 25 **the matter to the parish many years ago. I**

1 **took it to Boy Scouts leadership back in the**  
 2 **early '90s. I don't -- I talked to some of**  
 3 **the leadership at Waverly where he had been.**  
 4 **That was sometime in the '90s.**

5 **Q.** I'm focusing on the list, though, now, and  
 6 releasing the names. His name's on that list  
 7 and don't you think that should have been  
 8 released?

9 **A. I don't agree that -- I don't think lists are**  
 10 **apt instruments, I'm sorry, I still don't**  
 11 **today, I don't think the world's a better**  
 12 **place because of that, but I do believe that**  
 13 **disclosure has its very, very important**  
 14 **utility and I tried to engage in that in**  
 15 **regard to John Brown.**

16 **Q.** Well, isn't that in itself a warning to folks  
 17 that we have information that this person has  
 18 been credibly accused and doesn't that become  
 19 a notice of something they otherwise might not  
 20 know?

21 **A. I believe that reasonable people can disagree**  
 22 **about the specific utility of lists. It's all**  
 23 **rather a moot point now at this -- moot point**  
 24 **at this point in time.**

25 **Q.** Well, warning of known dangers is not a moot

1 problem, it is -- we're here today because  
 2 this case has made the claim and the court has  
 3 found that we can discover the nature and  
 4 scope of the problem as it exists both past  
 5 and present.

6 **A. Yeah.**

7 **Q.** So --

8 **A. I believe I did disclose John Brown in places**  
 9 **where there was likely to be -- where that**  
 10 **information was likely to be helpful.**

11 **Q.** Well, the presence of those that didn't hear  
 12 that and weren't present was not known until  
 13 December of 2013. If you saw fit to make it  
 14 known to a small group of people, why didn't  
 15 the archdiocese see fit to make it known to  
 16 all those that needed to know who didn't hear  
 17 it from you?

18 MR. HAWS: Well, object to the form.  
 19 It's argumentative.

20 **A. Yeah, I will simply say the decisions I was**  
 21 **recommending to the archbishop in the 1990s**  
 22 **were to disclose to people for whom the**  
 23 **information would be a benefit and I was not**  
 24 **covering up the information throughout that**  
 25 **time.**

1 **BY MR. ANDERSON:**

2 **Q.** At some point in time David Pususta had a  
 3 confrontation with Brown and you were present,  
 4 correct?

5 **A. Yes.**

6 **Q.** And Pususta asked Brown what the archdiocese  
 7 knew about Brown's history, and at that time  
 8 do you recall kind of stepping aside with  
 9 Brown's niece and then coming back and ending  
 10 the conversation and confrontation so that the  
 11 answer could not be given by him?

12 **A. I wouldn't characterize the meeting that way.**

13 **Q.** He did. How would --

14 **A. Who did? Who did?**

15 **Q.** David Pususta.

16 **A. David?**

17 **Q.** He never got -- he asked the question, you  
 18 intervened with the niece and never got the  
 19 answer.

20 **A. Okay. That certainly was not my intention and**  
 21 **I doubt that that would be reported by David's**  
 22 **therapist, who was also there. That could be**  
 23 **checked.**

24 **Q.** Brown was put on the monitoring program, was  
 25 he not?



- 1 **A. I believe that's true, yes.**
- 2 **Q.** According to the monitor, in 2006 he is still  
3 volunteering every week at the same Boy Scout  
4 camp. Did you --
- 5 **A. I don't recall that.**
- 6 **Q.** Well, that would have been one of the monitors  
7 under your supervision, correct?
- 8 **A. Right. My recollection is that what he was**  
9 **doing was winter maintenance at the Boy Scout**  
10 **camp, not Boy Scout activities, including**  
11 **worship. But he oughtn't to have been there.**
- 12 **Q.** Father Joseph Wajda is a priest that has  
13 publicly protested his innocence and claimed  
14 to have been falsely accused and made that  
15 quite public. When did you first learn Wajda  
16 had both been accused of having abused kids  
17 and did in fact abuse them?
- 18 **A. I learned that -- that he'd been accused**  
19 **probably in the late '80s or very early '90s,**  
20 **so it's nearly as long as I've been at the**  
21 **archdiocese. For a long time, there were --**  
22 **he -- he protested it was not true.**
- 23 **Q.** He's always denied having abused kids?
- 24 **A. Yeah, he basically has always denied it.**
- 25 **Q.** But you also knew that many kids came forward?

- 1 **A. Yes.**
- 2 **Q.** And you believe the kids?
- 3 **A. I believed a number of the kids, yes.**
- 4 **Q.** And how many kids actually did report abuse  
5 that you did believe?
- 6 **A. I believed at least four of them.**
- 7 **Q.** And --
- 8 **A. Curiously, I'll just mention, subsequently**  
9 **after I'd kind of come to the conclusion that**  
10 **-- that they were telling the truth, a family**  
11 **member came to me, family -- brother of --**  
12 **pardon me, a sister of one of the complainants**  
13 **that said that she understood that this young**  
14 **man and -- and his friend had concocted the**  
15 **complaint. So I -- I found -- I thought the**  
16 **complaints were difficult to act on**  
17 **canonically, but I wanted to see him treated**  
18 **as restricted from ministry with minors**  
19 **through the '90s.**
- 20 **Q.** There was actually a canonical proceeding that  
21 made an instruction to remove him from the  
22 clerical state?
- 23 **A. Yes. Yes.**
- 24 **Q.** And you as, I presume, the promoter of justice  
25 overrode that instruction and instead of

- 1 removing him, recommended a ten-year  
2 suspension --
- 3 **A. No.**
- 4 **Q.** -- correct?
- 5 **A. No. Would you like --**
- 6 **Q.** Tell me how I got that wrong then.
- 7 **A. Yeah. So I was the prosecutor in the case.**  
8 **One of the things the prosecutor does is**  
9 **recommend a sentence. The sentence I**  
10 **recommended -- and -- and we're -- we're**  
11 **required to take into account in making the**  
12 **recommendation both mitigating and**  
13 **exacerbating conditions. Wajda complained**  
14 **that he had been abused by a priest when he**  
15 **was young, and recognizing that any finding**  
16 **for dismissal from the clerical state would be**  
17 **automatically appealed to Rome, I wanted to**  
18 **demonstrate that we were considering -- that I**  
19 **was considering, acting as the promoter of**  
20 **justice, his claim that he had been abused.**  
21 **So I asked for -- that he be removed from the**  
22 **clerical state for 15 years, hoping that, in**  
23 **fact what would happen would happen, that the**  
24 **court would find, "No. We're going to impose**  
25 **the current sanction," which is lifetime**

- 1 **removal. That's still under appeal, my**  
2 **understanding is, in Rome and I'm hopeful that**  
3 **whatever he's alleged about what ought to**  
4 **motivate his being -- his sentence being**  
5 **mitigated will have already been obviated by**  
6 **my intervention.**
- 7 **Q.** Did he, Wajda, allege abuse by one of the  
8 priests on the list?
- 9 **A. I believe so.**
- 10 **Q.** Who?
- 11 **A. I don't recall who it is now, one of the**  
12 **fellows many, many years ago.**
- 13 **Q.** On October -- I may come back to Wajda, but  
14 before I do, I want to go back to your own  
15 laptop and the one that you kept while vicar  
16 general and as delegate for safe environment  
17 in handling of these matters, doing  
18 investigation, being the implementer and the  
19 like. Did you keep your own files on your  
20 laptop and notes that you prepared in  
21 connection with these matters?
- 22 **A. I -- I think from time to time I borrowed an**  
23 **archdiocesan laptop, but did not use a -- did**  
24 **not have a laptop of my own.**
- 25 **Q.** And so have you retained any of those notes,

- 1 records or files in your own possession?
- 2 **A. No.**
- 3 **Q.** And who has possession of those then?
- 4 **A. Most of whatever material I had I turned back**
- 5 **to the archdiocese. And -- and whatever**
- 6 **else -- you know, the -- the laptop should be**
- 7 **with the archdiocese. The -- I have -- I've**
- 8 **given all of my personal records to my**
- 9 **attorney for review.**
- 10 **Q.** And what personal records are you talking
- 11 about?
- 12 **A. During the period I was no longer at the**
- 13 **archdiocese, I think I mentioned several hours**
- 14 **ago, that I would sometimes, when asked to**
- 15 **send a recommendation to archbishop**
- 16 **particularly, I would keep a paper copy of**
- 17 **that myself in case he would follow up with**
- 18 **me.**
- 19 **Q.** And those have all been turned over?
- 20 **A. Well, they were all delivered, of course,**
- 21 **because that's the nature of the things. They**
- 22 **were -- they were given. They were sent to**
- 23 **the archbishop.**
- 24 **Q.** It's reflected in records that I've reviewed
- 25 that when you made interviews, both of priests

- 1 and victims, you would take notes, but you had
- 2 the practice of destroying those notes.
- 3 **A. I --**
- 4 **Q.** Is that correct?
- 5 **A. I had the practice of turning them into a**
- 6 **memorandum and then destroying the notes. Not**
- 7 **always, of course. At times I simply sent the**
- 8 **raw notes to the file. My preference was,**
- 9 **however, to convert them into a memorandum to**
- 10 **give a full understanding -- full reflection**
- 11 **of my understanding.**
- 12 **Q.** Why not retain the notes and prepare the
- 13 memorandum so that there can be a full and
- 14 complete recitation of what you heard and/or
- 15 recorded?
- 16 **A. Right. My responsibility was to report to the**
- 17 **archbishop and the other leadership of the**
- 18 **archdiocese. So what I tried to do was**
- 19 **prepare a -- a record that was useful to them.**
- 20 **And that I would do, by the way,**
- 21 **contemporaneously, within that day or a few,**
- 22 **several days.**
- 23 **Q.** In connection with Wajda, there's an
- 24 indication that you met with him on October
- 25 4th of 1988 and that you're typing a summary

- 1 and destroying notes. Is that the practice
- 2 we're referring to here?
- 3 **A. You know, I'd like to see -- 1988's a long**
- 4 **time ago, I'd like to see the document, if I**
- 5 **could.**
- 6 **Q.** It's Exhibit 170, I'll see if we can pull it
- 7 out and I'll show it to you. Do you recall
- 8 when you started the canon process against
- 9 Wajda?
- 10 **A. That would have been --**
- 11 **Q.** '88?
- 12 **A. -- about -- no. About -- the canonical**
- 13 **process, meaning the process for dismissal,**
- 14 **would have been about 2009 or ten.**
- 15 **Q.** Do you recall receiving information that Wajda
- 16 was warned that the statements he had made and
- 17 the archdiocese made a finding that he could
- 18 be charged with a crime or the crimes of
- 19 obscenity and solicitation?
- 20 **A. Obscenity and solicitation I think was part of**
- 21 **what I put into the -- my brief as the -- my**
- 22 **brief as the promoter of justice.**
- 23 (Discussion out of the hearing of
- 24 the court reporter)
- 25 **BY MR. ANDERSON:**

- 1 **Q.** I'm going to show you Exhibit 174.
- 2 **A. Get this out of the way. Are we going to be**
- 3 **going into this book? Could I put it aside**
- 4 **for a while? You may be coming back to this.**
- 5 **Q.** Yeah, put it aside, and I'm going to put
- 6 before you 174.
- 7 **A. (Examining documents).**
- 8 **Q.** And you'll see that this is a document, at the
- 9 top it says, "Obtained by MPR News," and I
- 10 presume that that would have been the first
- 11 time it was made public as far as we know. Is
- 12 that correct, as far as you know?
- 13 **A. That is correct, yeah.**
- 14 **Q.** Where was this kept?
- 15 **A. I -- it -- probably in the vault file. I**
- 16 **don't know. I wasn't the archivist at the**
- 17 **time or the chancellor.**
- 18 **Q.** Is that the archival file, also known as a
- 19 secret file?
- 20 **A. Certainly not a secret file since there were**
- 21 **no secret files. Probably in -- in the**
- 22 **archbishop's correspondence file and in**
- 23 **whatever working files the other people on the**
- 24 **archbishop's council had. I --**
- 25 **Q.** And at the second page, you find a partial

1 list of the parishes that merit special  
2 attention and the priests with known abuse  
3 histories. Why is that a partial list?  
4 **A. Notice it says, "Partial list of parishes that  
5 merit special attention." So I think -- I  
6 don't know why I -- this isn't about the  
7 priest, but it's about the list of parishes,  
8 so I don't know why I characterized it as  
9 partial.**  
10 **Q.** And then at the third --  
11 (Discussion out of the hearing of  
12 the court reporter)  
13 BY MR. ANDERSON:  
14 **Q.** So you don't dispute that this was something  
15 prepared by you?  
16 **A. That's correct, I do not.**  
17 **Q.** For the eyes of the archbishop and the  
18 archbishop's council only, correct?  
19 **A. Well, for the eyes of the archbishop and the  
20 archbishop's council.**  
21 **Q.** Only?  
22 **A. I wouldn't say only. They -- they might  
23 choose to share it as they -- I don't -- I  
24 didn't restrict it, but that's for whom I  
25 prepared it.**

1 **Q.** And where did you get the information and  
2 these names listed?  
3 **A. I believe largely from my memory, perhaps also  
4 from looking at the file drawer.**  
5 **Q.** And which file drawer are you referring to?  
6 **A. The one in Judy Delaney's office we've talked  
7 about.**  
8 **Q.** Is that in the Hayden Center or in the  
9 Chancery?  
10 **A. No. That was in the Chancery.**  
11 **Q.** There's also a file drawer in the Hayden  
12 Center where files are maintained, is there  
13 not?  
14 **A. I don't know that.**  
15 **Q.** Pertaining to this topic of sexual abuse of  
16 priests.  
17 **A. I don't know that.**  
18 **Q.** Is this file drawer the only drawer where  
19 files pertaining to sexual abuse are  
20 maintained, to your knowledge?  
21 **A. This, of course, now to my knowledge doesn't  
22 extend beyond mid-June of 2008, so you're  
23 asking in the present tense.**  
24 **Q.** You said that -- you referred to the  
25 archbishop's correspondence or the

1 archbishop's file. What are you talking about  
2 there? Does the archbishop maintain a  
3 separate and discrete file?  
4 **A. Well, again, I don't know what's been going on  
5 since 2008.**  
6 **Q.** What do you know about the archbishop  
7 maintaining his own files concerning priests  
8 abusing and his file retention?  
9 **A. I really knew nothing throughout the period.  
10 I'd be very surprised if the archbishop had  
11 kept separate files, but he might have on his  
12 desktop, you know, top of -- physical top of  
13 his desk the current working files he had.**  
14 **Q.** In 2013, did you become aware that Jennifer  
15 Haselberger was urging Archbishop Nienstedt to  
16 appoint somebody else, somebody other than you  
17 to be the delegate for safe environment?  
18 **A. No. I'd been awaiting that change since 2008.**  
19 **Q.** Did you become aware that she was advocating  
20 the reporting of Shelley to law enforcement so  
21 that the same mistake would not be repeated  
22 that you had made concerning Wehmeyer?  
23 **A. I think we talked about that a little earlier,  
24 yeah, so --**  
25 **Q.** Did you become aware of that?

1 **A. I think I became aware of it through a media  
2 report.**  
3 **Q.** And do you recall any discussions with  
4 Archbishop Nienstedt or Laird or any of the  
5 other officials where you and Haselberger are  
6 having a dispute about whether to report and  
7 what should be reported?  
8 **A. I recall disputes between Jennifer Haselberger  
9 and myself, but not about whether and what to  
10 report.**  
11 **Q.** Your disputes were over disclosure to the  
12 parishes, weren't they?  
13 **A. No. Disputes were over matters of -- of  
14 reviewing policies.**  
15 **Q.** She was urging more disclosure to the parishes  
16 than what had been done and you were urging  
17 less?  
18 **A. She may have been. I don't recall that she  
19 and I ever disagreed in that regard.**  
20 **Q.** She was urging a disclosure to law enforcement  
21 and you were urging against it?  
22 **A. I don't believe we ever disagreed on that.**  
23 **Q.** Prior to 2008, why didn't you use e-mail?  
24 **A. Because -- first of all, I think we talked  
25 about this this morning. And I may have -- I**

1 **may have used it in 2007. I had the privilege**  
 2 **of having extensive support personnel. I did**  
 3 **not feel competent. My little throwaway line**  
 4 **when my friends would hassle me about it was**  
 5 **to say, "Good, here's another way not to be**  
 6 **able to reach me," because I wanted to stay as**  
 7 **current as I could on written correspondence**  
 8 **and -- and phone calls. I've since learned**  
 9 **the convenience of e-mail, but I resisted it**  
 10 **for many years.**

11 **Q.** You're aware that the archbishop controls all  
 12 the funds held by the archdiocese and its  
 13 corporations?

14 **A. I wouldn't characterize that -- I wouldn't**  
 15 **characterize -- I wouldn't agree with your**  
 16 **characterization.**

17 **Q.** The archbishop has control over the funding --  
 18 the funding provided to the parishes, does he  
 19 not?

20 **A. No.**

21 (Discussion out of the hearing of  
 22 the court reporter)

23 BY MR. ANDERSON:

24 **Q.** In 1992, the Catholic Community Foundation was  
 25 created and funded, was it not?

1 **we don't trust that you will not be forced by**  
 2 **a court to -- to surrender such funds if we**  
 3 **give them to you, so we will not give them to**  
 4 **you." So Archbishop Roach proposed the notion**  
 5 **that the community itself set up a fund, a**  
 6 **foundation for the -- for the service -- for**  
 7 **the support of Catholic services. And that's**  
 8 **what happened. And I was very much a part of**  
 9 **that, I think I was -- I think I was the**  
 10 **original incorporator.**

11 **Q.** And to your knowledge, is the archdiocese  
 12 moving any money or taking any action in  
 13 anticipation of bankruptcy filing?

14 **A. Not to my knowledge.**

15 MR. BIRRELL: As long as you're  
 16 pausing, may I ask what our time situation is?

17 MR. LEEANE: Currently we're at 58  
 18 minutes, 50 seconds.

19 MR. ANDERSON: In terms of time,  
 20 I'm --

21 MR. BIRRELL: Trying to figure my  
 22 math out.

23 MR. FINNEGAN: Why don't we go off  
 24 the record?

25 MR. LEEANE: Off the video record at

1 **A. It was created, yes, and then subsequently**  
 2 **funded. Still is being funded in various**  
 3 **ways.**

4 **Q.** And the archdiocese contributes funds to that?

5 **A. I doubt that's true.**

6 **Q.** That is a fund controlled by whom?

7 **A. By the board of directors.**

8 **Q.** And were you aware of any discussions had that  
 9 that was created to limit liability or  
 10 exposure for sexual abuse claims that were  
 11 then imminent and pending?

12 **A. Yes.**

13 **Q.** Tell me about that.

14 **A. We did a feasibility study, I worked with the**  
 15 **group that did the feasibility study. The**  
 16 **donors said, "We're concerned about two major**  
 17 **issues. Number one, we don't particularly**  
 18 **trust bishops to make good decisions about**  
 19 **long-term funds." With the campaign in 1990**  
 20 **-- what became the campaign in '92, but we**  
 21 **began a feasibility study in about 1990 or**  
 22 **'91, in the feasibility study they said, "We**  
 23 **don't trust bishops not to spend money,**  
 24 **there's all sorts of history of bishops doing**  
 25 **that without proper controls. And, secondly,**

1 5:23 p.m.

2 (Recess taken)

3 MR. LEEANE: Back on the video  
 4 record at 5:24 p.m.

5 BY MR. ANDERSON:

6 **Q.** Okay. I'm informed by counsel that their  
 7 calculation is we have 15 minutes left,  
 8 according to their interpretation, and so I'd  
 9 like to turn to Clarence Vavra for a moment.

10 In the 1990s, it's reported he is --  
 11 it is reported that he is writing sexual  
 12 letters to an inmate. Now, are you familiar  
 13 with that scenario?

14 **A. Yes.**

15 **Q.** And you were involved in him being sent to St.  
 16 John Vianney for an evaluation that the  
 17 archdiocese paid for?

18 **A. I don't recall where he went to for**  
 19 **evaluation, but I do recall we sent him, yes.**  
 20 **And I was involved in that, yes.**

21 **Q.** And did you also, then, become aware that  
 22 through that evaluation, that he admitted to  
 23 sexually molesting children on an Indian  
 24 reservation in South Dakota?

25 **A. I did learn that in 2002 or three.**

- 1 **Q.** And Vavra, notwithstanding that admission, was  
 2 allowed to work until 2003 when the clergy  
 3 review board looked at his file and determined  
 4 he had violated the charter, is that correct?  
 5 **A.** **That's correct.**  
 6 **Q.** Vavra was given extra payments until 2004 when  
 7 he reached the age of Social Security,  
 8 correct?  
 9 **A.** **I don't recall that, but that would be**  
 10 **consistent with the other things we've talked**  
 11 **about today.**  
 12 **Q.** On a list maintained by the archdiocese and  
 13 not made public until pressure by us and  
 14 others, he was one who was deemed to have been  
 15 credibly accused, correct?  
 16 **A.** **Yes.**  
 17 **Q.** And his --  
 18 **A.** **Well, I should say -- let me say, I don't know**  
 19 **what the archdiocese is listing. I believe**  
 20 **that his admission of sexual abuse of minors**  
 21 **-- or of a minor was true. I -- I -- so I**  
 22 **don't know about the construction of an**  
 23 **archdiocesan list, sorry.**  
 24 **Q.** In any case, his name was not made public  
 25 until Minnesota Public Radio reported it in

- 1 November of 2013, as far as you know, correct?  
 2 **A.** **When he -- when he stepped down in 2003, he**  
 3 **told his parishioners that he was stepping**  
 4 **down, not only because he'd reached retirement**  
 5 **age, but because he had committed errors in**  
 6 **the past or some such phrase. That's as close**  
 7 **as there was to disclosure.**  
 8 **Q.** In the case of John McGrath, did you become  
 9 aware that after report that his abuse became  
 10 known, that you recommended to Archbishop  
 11 Roach that they not follow the policy in  
 12 connection with how to handle him?  
 13 **A.** **No. As a matter of fact, I went and had a**  
 14 **rather large public meeting at the parish to**  
 15 **disclose the -- the complaint. So I'm very**  
 16 **surprised by your characterization. As a**  
 17 **matter of fact, one of his good friends, one**  
 18 **of our priests accused me of killing McGrath**  
 19 **because I forced him to disclose claims that**  
 20 **he always felt were false.**  
 21 **Q.** There is some indication that you, Father  
 22 McDonough, recommended and Roach agreed that  
 23 they didn't have to follow part of the policy  
 24 because the allegations in his case were old.  
 25 **A.** **I'd have to look at the document.**

- 1 **Q.** Are you familiar with that?  
 2 **A.** **No. I don't have any memory of that. As I**  
 3 **say, I'm proud of the very extensive and very**  
 4 **painful disclosure that we required him to be**  
 5 **part of. He was quite angry at me for the**  
 6 **remainder of his life and told his friends**  
 7 **that I was the one who caused his premature**  
 8 **death. Of course, he didn't tell them that**  
 9 **after his death, just before.**  
 10 **Q.** Bottom line is, the archbishop can really do  
 11 what he wants, if he chooses to follow the  
 12 policy, it's his choice; if he chooses not to,  
 13 it's also his, correct?  
 14 **A.** **He's the lawmaker --**  
 15 MR. HAWS: That's argumentative.  
 16 **A.** **He's the lawmaker, he -- he makes the rules.**  
 17 **BY MR. ANDERSON:**  
 18 **Q.** He's the legislator, he's the decider,  
 19 correct?  
 20 **A.** **I'm not sure you would say like George Bush,**  
 21 **he's the decider, but he is the legislator.**  
 22 **Q.** Okay. I told you I was going to go back to  
 23 Wajda, I'm going to ask you about Exhibit 171.  
 24 I'll just hand it over to you. And do you  
 25 recognize this one?

- 1 **A.** **I sure --**  
 2 **Q.** He was living with you and you're kind of  
 3 witnessing a bunch of stuff that he's doing.  
 4 Did you tell me earlier that you didn't think  
 5 that he had actually abused the kid?  
 6 **A.** **In the 1990s at one point I began to question**  
 7 **the abuse. This certainly, for as far as I**  
 8 **was concerned, absolutely put the exclamation**  
 9 **points on the abuse.**  
 10 **Q.** Well, at the time that you began to question  
 11 the abuse, the archdiocese had already  
 12 received at least four reports and one lawsuit  
 13 that had been settled concerning Wajda and his  
 14 misconduct, correct --  
 15 **A.** **The --**  
 16 **Q.** -- with kids?  
 17 **A.** **Yes, and the -- I believe that the report from**  
 18 **the family member came from the young man with**  
 19 **whom there was a settlement, I may be wrong on**  
 20 **that. So it was a family member who was --**  
 21 **who was reporting. This is back in the '90s**  
 22 **when I thought that there was some reason to**  
 23 **-- to doubt at least that they were**  
 24 **prosecutable in church law, maybe even not**  
 25 **true. This, of course -- this, of course,**

- 1 **removed all doubt from my mind (Indicating).**
- 2 **Q.** How much longer did Wajda stay with you after
- 3 you prepared this memorandum, Exhibit 171, of
- 4 January 16, 2003?
- 5 **A. I don't recall, but it was not a long time**
- 6 **thereafter.**
- 7 **Q.** Well, is that months, weeks or years?
- 8 **A. Certainly was not years. It may have been**
- 9 **weeks or a month or so till he moved into his**
- 10 **mother's home.**
- 11 **Q.** So was this the thing for you that cinched it
- 12 that Wajda was a risk and a hazard to
- 13 children?
- 14 **A. This certainly -- this certainly removed all**
- 15 **my doubts.**
- 16 **Q.** And the doubts you had before that were based
- 17 entirely upon the fact that one of the
- 18 relatives of one of the kids had planted in
- 19 your idea that that one may have not have
- 20 happened?
- 21 **A. That two of them may not have happened because**
- 22 **they were friends. The other one and one the**
- 23 **fact on which I won the conviction and his**
- 24 **removal from priesthood involved birthday**
- 25 **spankings on the a d bottom. I will say that**

- 1 **it required a certain amount of legal**
- 2 **creativity to make that into a crime that**
- 3 **would merit removal and I'm glad it worked.**
- 4 **Q.** Well, Wajda having a kid run around his desk
- 5 naked 14 times and masturbate into a plastic
- 6 baggy and then taking the plastic baggy and
- 7 putting it into the desk would be sexual
- 8 abuse?
- 9 **A. Absolutely.**
- 10 **Q.** And you learned that that's what Wajda was
- 11 alleged to have done --
- 12 **A. Right.**
- 13 **Q.** -- with one kid?
- 14 **A. And it was the sister of that kid --**
- 15 **Q.** And you also learned that there were other
- 16 kids that he had in his car, both a boy and a
- 17 girl, who he would have them engage in sex
- 18 with one another as he would be in the front
- 19 seat masturbating, you learned about that,
- 20 too, didn't you?
- 21 **A. I don't recall that one. I don't know that --**
- 22 **I don't know that it wasn't true, I just don't**
- 23 **recall it. Should I give this to --**
- 24 **Q.** But 171, when you heard what he was saying
- 25 while he was living with you cinched it for

- 1 you then, that was --
- 2 **A. Yes, certainly.**
- 3 **Q.** But you had doubts until then, so he was very
- 4 much on the down low?
- 5 MR. HAWS: Object to the form.
- 6 **A. Yeah, I had doubts until then. Nonetheless,**
- 7 **he was operating under restricted ministry.**
- 8 **And remember that he had been widely exposed**
- 9 **in media reports in the end of the 1980s and**
- 10 **the first portion of the 1990s. His matter --**
- 11 **his history was widely discussed in the St.**
- 12 **Paul papers. I also met with parishioners in**
- 13 **the parish at which he was then serving.**
- 14 **Q.** Well, you know that I'm familiar with the
- 15 media reports because I generated them, right?
- 16 Right, Father? You know that.
- 17 **A. I wasn't always certain that you generated**
- 18 **them, but I appreciate you saying so.**
- 19 **Q.** Well, no apology to you or anybody else for
- 20 doing that. I filed those, you know, an
- 21 opportunity and obligation to warn.
- 22 The question I have of you is, why
- 23 was he at St. Peter Claver with you?
- 24 **A. He was there in residence only. He never**
- 25 **engaged in any ministry there.**

- 1 **Q.** And how did it come about that he ended up
- 2 there?
- 3 **A. In one of my monitoring meetings with him,**
- 4 **because I was doing the insufficiently formal**
- 5 **monitoring in the 1990s, but I -- he'd**
- 6 **expressed a concern that he didn't -- that he**
- 7 **was about to lose the residence he was in, I**
- 8 **don't recall where that was. I had a room**
- 9 **available.**
- 10 **Q.** Gerald Funcheon is another priest that is now
- 11 on the radar and has been before, but in 1992,
- 12 did you learn of a chancellor from Indiana, a
- 13 place where he had worked, Bob Sell, reported
- 14 that Funcheon, a priest who been working in
- 15 this archdiocese, had admitted that he might
- 16 have abused 50 kids? Do you recall receiving
- 17 that information?
- 18 **A. Do you know, I don't recall much about**
- 19 **Funcheon. I believe he was a religious order**
- 20 **fellow, was he?**
- 21 **Q.** He was.
- 22 **A. And then who joined the diocese -- did he join**
- 23 **the --**
- 24 **Q.** St. Odilia's, he was there, yes.
- 25 **A. Okay.**

- 1 **Q.** St. Odilia's in the archdiocese, so he had to  
2 be serving under the supervision of this  
3 archbishop and with the permission of this  
4 archbishop and his religious superior.
- 5 **A.** **Do you remember when that was? I don't -- I**  
6 **don't recall the matter.**
- 7 **Q.** It was in the '90s.
- 8 **A.** **That he was at St. Odilia's or that the**  
9 **complaint --**
- 10 **Q.** Well, in 1992, Bob Sell, the chancellor,  
11 records that he admits to having perhaps  
12 abused as many as 50 kids.
- 13 **A.** **Yeah, I don't recall that number, that's, of**  
14 **course, horrific. I believe he was present in**  
15 **the archdiocese, though, a decade or more**  
16 **before that.**
- 17 **Q.** That same memo says that they should refer the  
18 matter to you to do the calculation for the  
19 criminal statute of limitations to see if he  
20 could be prosecuted. Were you the go-to guy  
21 to determine what the criminal statute of  
22 limitations was?
- 23 **A.** **I don't -- I don't have the memo, so --**
- 24 **Q.** Did you ever make an effort to keep priests,  
25 whether it's Funcheon or others, from being

- 1 prosecuted and let the clock run out so that  
2 they would not be prosecuted and made public?
- 3 **A.** **Absolutely not.**
- 4 **Q.** Was that done in the case of Adamson?
- 5 **A.** **Absolutely not. Not -- not on my part. I**  
6 **can't say about anybody else. That's when I**  
7 **was a young priest and then away at school.**
- 8 **Q.** If there are documents in these files where  
9 the calculation for criminal prosecution is  
10 being made by officials, if it's not you,  
11 other officials, why is such a calculation  
12 being made?
- 13 **A.** **I can't speak to what other officials may have**  
14 **been thinking. Let me just recall again that**  
15 **in 1988 or '89, we'd met with the sex crimes**  
16 **unit leader in St. Paul, and then in the early**  
17 **'90s spoken with the district -- or the county**  
18 **attorneys. So I'm sure we were calculating,**  
19 **is this something -- that I would have been**  
20 **calculating, is this something that these**  
21 **people will take a report from us?**
- 22 **Q.** Do you agree, Father McDonough, that the  
23 policies and practices and particularly the  
24 practices employed by this archdiocese when it  
25 comes to the protection of children and the

- 1 choices made to protect the offenders have  
2 been both dangerous and dreadful?
- 3 **A.** **Are you -- would you specify a time period?**
- 4 **Q.** From 1980 to the present.
- 5 **A.** **I would say that during the period -- and I**  
6 **know it personally only really from '87, I**  
7 **believe that we got better and better at it**  
8 **all the time. I can't speak to the last**  
9 **several years because I was not privy to all**  
10 **of the information. But I think this diocese**  
11 **was a real leader and worked very hard to --**  
12 **to protect children.**
- 13 **Q.** A leader compared to some other dioceses?
- 14 **A.** **Certainly.**
- 15 **Q.** You're using that comparison?
- 16 **A.** **Certainly.**
- 17 **Q.** But not compared to any other institution?
- 18 **A.** **Actually, compared to most every other**  
19 **institution --**
- 20 **Q.** Can you name --
- 21 **A.** **-- public school districts --**
- 22 **Q.** Can you name an institution that keeps lists  
23 of offenders and keeps them in active ministry  
24 and does not disclose what they know to the  
25 public, any other institution that does such a

- 1 thing?
- 2 **MR. HAWS:** I'll object to the form,  
3 misstating evidence in this case.
- 4 **BY MR. ANDERSON:**
- 5 **Q.** Besides the --
- 6 **A.** **I don't think that that's a fair**  
7 **characterization of what this archdiocese did**  
8 **in the time to which I can speak. I**  
9 **understand anecdotally that, for example, the**  
10 **New York City Public Schools did this, and I**  
11 **believe you spoke to this in a -- in a**  
12 **publicly televised presentation about the**  
13 **horrific negligence on the part of public**  
14 **schools for name -- disciplining, naming,**  
15 **dismissing, seeing to the prosecution of**  
16 **teachers, that's -- you're one of the experts**  
17 **in that regard.**
- 18 **Q.** Yeah, I'm not sure about your characterization  
19 of my comments, but, you know, that's not --  
20 that's not an issue here.
- 21 **MR. BIRRELL:** I think the time is up  
22 here. What is our time?
- 23 **MR. LEEANE:** I have 114:36.
- 24 **MR. ANDERSON:** Did you just declare  
25 time?

1 MR. BIRRELL: You have 24 seconds.  
 2 BY MR. ANDERSON:  
 3 Q. Let me ask you this, Father. You've been  
 4 involved in a lot of these cases and employed  
 5 a lot of practices over the years. Do you,  
 6 yourself, have regrets about the way you  
 7 handled your obligations to the children as  
 8 vicar general and as the delegate for safe  
 9 environment?  
 10 A. I regret, especially in the earliest years  
 11 that I was working when we were still working  
 12 with an outdated and now clearly dangerous  
 13 assumption about rehabilitation for such men,  
 14 I regret that deeply. I feel good about the  
 15 work that we were doing already by the early  
 16 1990s.  
 17 Q. Do you believe that I have exaggerated the  
 18 risk that has been posed by the practices of  
 19 the Archdiocese of St. Paul and Minneapolis?  
 20 A. I believe that there's some exaggeration on  
 21 your part, particularly --  
 22 Q. Do you know --  
 23 MR. BIRRELL: I think -- I think our  
 24 time is up. Is our time up, sir?  
 25 MR. LEEANE: We're at 116:06.

1 BY MR. ANDERSON:  
 2 Q. Can you give me one example?  
 3 MR. BIRRELL: Time's up.  
 4 A. Sorry, I think we're done.  
 5 MR. ANDERSON: Time's up over our  
 6 objection. We'll continue.  
 7 MR. LEEANE: Off the video record.  
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1 I, FATHER KEVIN MCDONOUGH, do hereby certify  
 2 that I have read the foregoing transcript of  
 3 my deposition and believe the same to be true  
 4 and correct, except as follows: (Noting the  
 5 page number and line number of the change or  
 6 addition and the reason for it)  
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 20  
 21  
 22 Subscribed to and sworn  
 23 before me this \_\_\_ day  
 24 of \_\_\_, 2014.  
 25

1 STATE OF MINNESOTA  
 2 COUNTY OF RAMSEY  
 3  
 4 I hereby certify that I reported the  
 5 deposition of FATHER KEVIN MCDONOUGH, on the  
 6 16th day of April, 2014, in St. Paul,  
 7 Minnesota, and that the witness was by me  
 8 first duly sworn to tell the whole truth;  
 9  
 10 That the testimony was transcribed under my  
 11 direction and is a true record of the  
 12 testimony of the witness;  
 13  
 14 That the cost of the original has been charged  
 15 to the party who noticed the deposition, and  
 16 that all parties who ordered copies have been  
 17 charged at the same rate for such copies;  
 18  
 19 That I am not a relative or employee or  
 20 attorney or counsel of any of the parties, or  
 21 a relative or employee of such attorney or  
 22 counsel;  
 23  
 24 That I am not financially interested in the  
 25 action and have no contract with the parties,  
 attorneys, or persons with an interest in the  
 action that affects or has a substantial  
 tendency to affect my impartiality;  
 That the right to read and sign the deposition  
 by the witness was not waived, and a copy was  
 provided to him for his review;  
 WITNESS MY HAND AND SEAL THIS 17th  
 day of April, 2014.  
 Gary W. Hermes