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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)338-4348

2

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 * * *

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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

9 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	11 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
10 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 Odegard. 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	12 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

that's that portion of the -- so I'm not sure that the last sentence you asked me about connects to the material here.

Q. Okay. Well, let's do this. Let's talk about disclosure and let's talk about minors and let's talk about priests accused of abusing minors and the policy as it existed in 1998 at the time of this article. What was the policy of disclosure concerning what the archdiocese knew about priests who had been accused of abuse of minors, concerning priests who were in ministry at that time?

A. Throughout the 1990s, the practice, or at least after 1992 for certain, perhaps even before that, may I mention 1992? Is when the 1988 specific policy on sexual abuse of minors was, then, further imbedded in a broader set of policies we referred to commonly as sexual issues in ministry policies.

Throughout the 1990s, the practice was if someone were -- if a -- if a priest were working in a ministry setting of any sort, and as I say, in the '90s that would have been -- if we knew he was such a man, he were working in a -- in administrative -- in

an administrative capacity or even providing pastoral care on some stable basis, for example, saying Masses for sisters, that we would tell for certain the leadership involved in the local setting and often others, not always, but often others that this man had this history.

Q. You said that was the practice that was begun to be employed in 1992. Is that the word you used, "practice"?

A. Yes.

Q. Was that a policy?

A. The -- the sexual issues in ministry document that we published in 1992, which we can spend time on it, if you'd like to do that, it is largely a listing, a public listing to the whole world of what our expected practices would be. I've never particularly liked the word "policy" because it's a confusing word somewhere between law, which bishops can give, we talked earlier already today about the bishop as a legislator, and administrative practice. So policy -- it's difficult to say sometimes what the intention is between law and practice. So the -- this set of

statements is about practice.

Q. Well, Archbishop Nienstedt commissioned some new folks, another commission headed by Reverend Witt, to develop some new policies and, as you know, were announced, I think, yesterday, right?

A. Once again, I have not looked carefully. I believe, however, my friends have said there was some sort of announcement on Monday, so it's probably two days ago.

Q. All right. Two days ago. Did you decline or refuse to speak to Father Witt and those doing the investigation, the internal investigation of the archdiocese? Yes or no?

A. Let me -- yes, I did say that I was not interested in that time being interviewed. I don't believe it was an internal investigation, but rather a -- an inventory of their -- of the practices again.

Q. Well, it was an investigation being done by the archbishop, reported publicly to have been by Father Witt. You're aware of that?

A. Well, actually, you know, I don't know what the term "investigation" means here, so I -- I'm not gonna agree with you, Jeff -- Mr.

Anderson, on that.

Q. Well, you knew that the archbishop had impaneled some folks to look at the policies and practices in the archdiocese, correct?

A. Yes.

Q. And when they contacted you, who contacted you?

MR. BIRRELL: Well, be sure that you don't answer the question by talking about anything you and I discussed.

BY MR. ANDERSON:

Q. These are archdiocesan officials. Who contacted you from the archdiocese?

A. I don't believe -- I don't believe any archdiocesan official contacted me.

Q. Well, who contacted you that they conducted --

A. I believe one or another of the volunteers on the committee contacted me. I don't recall.

Q. When was it?

A. Sometime last fall.

Q. What month?

A. I don't recall.

Q. You indicated that you basically stopped reading about this in September sometime?

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.**
 25 (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 Rohlfing,
 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 Rohlfing, Corey,**
 4 **when Father Corey Rohlfing 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, Jennifer 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)?**

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 Solicitationis, 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 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 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 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)
 7
 8
 9
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 15
 16
 17
 18
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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 ss
 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



MONDAY
AM
FEBRUARY 16, 1987

Women lead charge
of entrepreneurs
BUSINESS/TWIN CITIES/1B

'Detectives' find
behavior clues
HEALTH & FITNESS/1C



25C

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MINNESOTA'S FIRST NEWSPAPER

METRO FINAL

Cover-up of priest's sex misconduct denied

By Clara Thompson

The auxiliary bishop of the Archdiocese of St. Paul and Minneapolis emphatically denied on Monday that he and other church officials covered up the sexual misconduct of the Rev. Thomas Adamson.

Adamson, a former priest of the archdiocese, has been charged in the last month of molesting several boys under his spiritual care during more than two decades as a Minnesota priest.

The Rev. Robert Carlson, kneeling daily two weeks of silence by the archdiocese, said the first

hinted of an alleged pattern of sexual abuse in November 1982 when Adamson admitted having sexual relations with a young boy at Immaculate Conception Church in Columbia Heights. The bishop said the priest was quickly removed from the parish duties and placed in so-called "protective custody" treatment program at St. Mary's hospital in Minneapolis.

But Jeffrey Anderson, an attorney for the boys who allege they were sexually abused by Adamson, said Sunday evening that officials from both the Diocese of Winona and the Archdiocese of St. Paul had

Minneapolis knew earlier than 1982 about Adamson's sexual activities and continued to place him in positions where he had contact with adolescent children.

"No just as emphatically state they did cover up," Anderson said. "The diocese of Winona 'knew' about it. The question is about it."

"They have to get out of here now," Anderson said. "They had knowledge that should have been acted on."

Adamson said Adamson in 1975 admitted to the Rev. Loren Walker, then bishop of the Winona

diocese, that he had abused adolescent boys. He said that information was "communicated in some manner or another" to Archbishop John Roemer in 1978 before Adamson became a priest in the Twin Cities.

Carlson said Roemer knew of reports about an alleged homosexual incident involving Adamson and an adult before Adamson was transferred to the archdiocese from Winona. He said that Roemer explored the matter with Adamson and that the priest "probably misinterpreted" them.

The bishop learned that church officials next heard of Adamson's

sexual relations with children when the priest admitted to it in 1980 and that Adamson immediately was put into treatment.

Carlson said Adamson was assigned to priestly duties only after he had completed the treatment program and had agreed to take outpatient therapy and maintain "regular contact" with an archdiocesan official. He said the priest then was assigned to St. Peter's Church in Apple Valley with the verbal stipulation that he would have no contact with youth.

While serving as a priest at St. Peter's, Carlson said, Adamson



Rev. Robert Carlson
Details actions of church

TV protests greet debut of 'Amerika'

By a staff writer

A candlelight vigil opposite the United States, marking the ABC series and television protests and demonstrations by Yale students marked Sunday night's first installment of a nationwide series of protests against the United States.

"Amerika," a 104-hour ABC-TV series that depicts the Soviet Union's invasion of the United States, has been criticized as potentially disrupting U.S.-Soviet relations and peace efforts.

That was the focus of many calls to television stations KSTP, which broadcast the program for the Twin Cities. By a margin of about 5 to 1, critics were critical of the program, according to the station's station manager who said

Springlike sprint



Soviets free dissident

Release of Josef Begun follows Moscow protests

By Felicity Sharkey

New York Times

MOSCOW — The Jewish dissident whose continued imprisonment for all a series of increasingly violent demonstrations in southern Moscow last week, Josef Begun, has already been freed, a Soviet official said Sunday.

— AP Wire Service, Jan. 16, 1987

Begun's son, Boris, also said he had heard nothing official.

The 46-year-old Begun has been the most prominent Jewish dissident imprisoned in the Soviet Union since the release a year ago of Herta and Paul Amirani, who was then known as Anatoly Shcharansky. Begun's reported release comes after the roundup of about 100 Jews

Abuse

Continued from Page 1A

Risen Savior, according to a complaint filed last week, Adamson had sexual contact with a 13-year-old boy.

Carlson said that if mistakes were made in the archdiocese's handling of the Adamson case, it was because church officials did not properly understand how to deal with child abusers. He said reports of child abuse by priests will be dealt with firmly and swiftly in the future.

"there was nothing to it."

Acting on a determination that the incident was "inappropriate behavior" and not sexual abuse, Carlson said, the archdiocese decided to ask Adamson to sign a written agreement that he would have no contact with young people.

"If there had been a case of sexual abuse at that time, rather than just inappropriate behavior, I think we would have removed him," Carlson said.

Church officials did remove Adamson from the priesthood in 1984 when they learned of allegations that Adamson had abused Gregory Reidle about once a month from the fall of 1977 through the spring of 1979 while serving as a priest in St. Paul Park.

"In 1984, when the real case came to our attention, and as I said in my statement that was reported to us by the State of Minnesota, we investigated that and brought the information we had and sat down with Thomas Adamson," Carlson said. "He admitted that he had had contact with the Reidle boy. And I recommended to Archbishop Roach that since this violated his written contract with us, that we would terminate him at that time."

The bishop said the termination meant all of Adamson's rights and abilities to function as a priest in the archdiocese were removed. Later, the Diocese of Winona terminated Adamson.

Carlson said that if mistakes were made in the archdiocese's handling of the Adamson case it was because church officials did not properly understand how to deal with child abusers. He said reports of child abuse by priests will be dealt with firmly and swiftly in the future.

"It's our policy today that there really is no cure for someone with the disease of pedophilia, but only a chance for some recovery," Carlson said. "Therefore, it's our current policy that a minister would never return to parish because how can you separate working with adults and working with children since families make up that parish community?"

Carlson said that his and Roach's concern in cases of sexual abuse always is focused on the victims; and that a memorandum he sent Roach in 1984 advising "the archdiocese posture itself in such a way that any publicity will be minimized" was not referring to protecting the church from public embarrassment.

"The memo recommending that Father Adamson be terminated was the same one in which the phrase exists that's been quoted in the media about us in some way wanting to limit the publicity in the matter," Carlson said. "We, at that time, assumed that since the state had told us about the sexual abuse allegation, it would be a public matter."

"Our concern obviously was for the victim," Carlson said, "that he would receive proper care and we were working to get him that care at that time. The memo referred to terminating Adamson so that when this became public, people would not see us as irresponsible because we had kept him in a position once the contract was so clearly violated."

"You have to get within our mindset," he said. "In 1980, we were aware of one case of sexual abuse. Looking back at it, since I was obviously involved in that, I treated this as a case of someone who had really violated his vow of celibacy ... an inappropriate acting out."

Carlson said he hoped the allegations will not result in a lengthy public trial.

"I'd love to settle this," Carlson said. "And the reason I say that is because those children have been through enough."

Ex 102
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ST. PAUL PIONEER PRESS

10/30/98

Church updates sex abuse policy

Official: 15 archdiocesan priests in last 50 years have been 'credibly accused' of molesting minors

MAIA BECKSTROM STAFF WRITER

In 1954, the Rev. Kevin McDonough sat in on a meeting at the chancery in St. Paul between church leaders and a distraught family whose son had been sexually abused by a Catholic priest years before. It was the young McDonough's

introduction to the problem of sexual misconduct by clergy, which was to consume the Roman Catholic Church locally and nationally for the next decade.

Over the years, the Archdiocese of St. Paul and Minneapolis has been hit with nearly 40 sex exploitation lawsuits and paid \$400,000 in settlements, said spokesman Tim Anderson. Insurance pay-

ments covered another \$1 million in settlements.

It also developed one of the first policies in the country to prevent abuse and respond compassionately to victims' complaints.

This week, the Archdiocese of St. Paul and Minneapolis released a revised version of that policy. There are few changes. But it indicates that church officials are keeping the issue before their flock.

"We think we responded fairly well to the crisis," said McDonough, vicar gener-

al of the archdiocese. "Now what we want to do is stay out in front of the issue and not sit back and cross our fingers and hope that nothing happens."

For the first time, McDonough revealed the extent of the problem in an interview this week. Fifteen priests in the archdiocese have been "credibly accused" of molesting minors within the past 50 years, McDonough said.

The number is higher than the national average, McDonough said, but cor-

CHURCH/Archdiocese paid \$400,000 in sex abuse lawsuits

▼ CONTINUED FROM 1D

sponds to experts' predictions that about 2 percent of priests abuse children. Fifty priests in the archdiocese have been "credibly accused" of a sexually exploiting another adult, McDonough said.

In the 1980s and early 1990s, Minnesota was the scene of a series of high-profile cases alleging sex abuse by priests. Church officials were criticized for ignoring allegations and moving offending priests from parish to parish. Under the leadership of former Archbishop John Roach, the archdiocese responded in 1988 by writing the country's first policy to deal with priests and the sexual abuse of children. In 1992, guidelines were expanded to include exploitation of adults and to cover any ministry employee in the archdiocese, ordained or not.

The new 17-page document, "A Time to Heal: Preventing and Responding to Ministry-Related Sexual Misconduct," reiterates these policies and tightens training requirements. It was released to priests Thursday and will be published today in the archdiocesan newspaper, the Catholic Spirit, which goes to 87,000 homes. For the first time, brochures explaining how to make a complaint will be made available in every parish.

Gary Schoener, a Minneapolis psychotherapist who has consulted in more than 3,000 sexual misconduct cases, said the archdiocese's

efforts to publicize its policy is commendable.

"My own view is that the archdiocese track record here is as good as it gets, and they have done a better job than anyone I have seen across the country. And I'm consulted by a number of other dioceses," said Schoener. "Nationally, I don't think the Catholic Church has done a good job at all."

Even the local policy has drawn fire.

"The archdiocese can write and say all these wonderful things, but I judge them by their actions," said Jeffrey Anderson, a St. Paul attorney who has filed hundreds of sex misconduct lawsuits against Catholic dioceses nationwide. "Part of justice is reparation, and when it comes to payment of money, they just don't care. When a victim comes forward, they continue to hire an army of lawyers and advisers to brutalize and revictimize the victim in court."

Although victims can approach the archbishop or vicar general directly, the new guidelines suggest they first contact Phyllis Wilterscheidt, coordinator of victim advocates. If the complaint involves a minor or vulnerable adult, it is turned over to police.

Otherwise, the archdiocese starts an investigation that may include interviewing witnesses and the victim. In one case, the archdiocese hired a private investigator to follow a priest who denied hav-

ing an affair with a woman in his parish. He was caught and later resigned, McDonough said.

For the past three years, cases have been reviewed by a panel, which includes three clergy and six lay people. The panel makes a recommendation to the archbishop about a long-term solution.

Priests who molested children are not allowed to work in a parish setting or have any contact

Priests who molested children are not allowed to work in a parish setting or have any contact with children, McDonough said.

with children, McDonough said. Four of the 15 priests who sexually molested children still work for the archdiocese in administrative capacities, he said.

Priests who exploited adults may return to a parish if they undergo therapy, but their ministry is often restricted. For example, a priest may be prohibited from one-on-one counseling. The parish council and staff are always informed of misconduct, McDonough said.

"In a case when an individual appears to have faced the underlying causalities, is genuinely sorry,

where the victims are comfortable with this, and where there is disclosure, then we will put a person with specific skills back to work," said McDonough. "But that is a lot of hoops to go through."

McDonough believes that most cases involving abuse of children have been heard. But he still thinks there are people who were exploited as adults who have not come forward.

That's because experts estimate that about 10 percent of people in helping professions, such as physicians, psychologists and clergy, have inappropriate sexual contact with the people they serve. Allegations of adult exploitation in the archdiocese have identified about 4 percent of the archdiocese's 520 priests.

"We're very concerned. I think we're actually more concerned than our people to tell you the truth about adult-to-adult interaction," said McDonough. "When I go to parishes to tell them that we are removing their priest because of involvement with an adult parishioner, the reaction is often something like, 'Well, thank God it was a woman and not a child.' Well, our reaction is that any time we misuse our position to harm another, that is a very fundamental violation of the integrity of what we're about. It's just wrong."

Maja Beckstrom, who covers religion news, can be reached at mbeckstrom@pioneerpress.com or (651) 228-5295.

October 8, 2004

Fr. Kevin McDonough
The Chancery
226 Summit Ave.
St. Paul, MN 55102

Dear Fr. Kevin:

I am writing to you with regards to our conversation a few weeks ago related to Fr. Curtis Wehmeyer. Since visiting with you, I have been troubled with what was communicated, and thought it would be appropriate for me to write.

Earlier this summer, we had the opportunity to visit about the findings from the formal assessment that Fr. Curtis went through. In that conversation the following general comments were communicated by you to both myself and the individual that was approached by Fr. Curtis:

- Fr. Curtis was very defensive throughout the assessment.
- There was some indication that he was still in denial to himself.
- He had been seeing a counselor in the past, but more recently had not been seeing him.
- There clearly were some deep issues that affect Fr. Curtis – he is very unhappy.

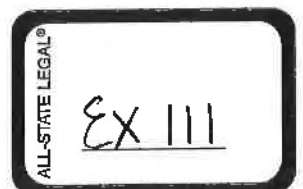
The plan or approach that you communicated to us with regards to Fr. Curtis including the following:

- Full disclosure with key leadership staff at St. Joseph's
- Reestablish regular consistent counseling with his previous counselor given full disclosure of the findings of the assessment.
- Participation in some type of group therapy.
- A reassessment to be completed three months from the original assessment, whereby a determination would be made regarding his honesty and progress.
- If no significant change had taken place after three months, a decision would be made to send him away for more intense long-term treatment.

I perhaps do not have every detail straight, but I think I have captured the general sense – please correct me if I am wrong. I also recognize that you still needed to talk to Archbishop Flynn directly to confirm the plan.

When I visited with you approximately three months after the original assessment (mid-September), the following information was conveyed:

- Full disclosure did take place with the principal, DRE, and Youth Minister
- Fr. Curtis has been meeting with his counselor (Ruff), and that you were going to probably meet with Ruff in October to discuss progress.



ARCH-000787

- No mention of any type of group therapy has ever been discussed (though, this might be happening).
- A reassessment would probably not take place until perhaps after the 1st of the year.
- No further restrictions have been imposed upon Fr. Curtis.

I'm troubled by the fact that you did not follow through on the reassessment within three months as conveyed to both me and the young man you met with earlier this summer.

I'm troubled that after the original assessment there appeared to be recognition that Fr. Curtis had some significant issues to deal with in his life – and at the time was not being fully honest. And now somehow, it doesn't appear to be a priority any more, since you're going to wait until at least after the 1st of the year to reassess.

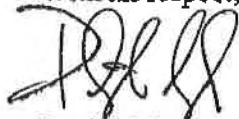
I'm troubled that no indication has been given with regards to any group therapy.

I'm troubled by the fact that no restrictions have been imposed upon Fr. Curtis and his ministry. I'm troubled by the fact that my son went to ValleyFair this summer with St. Joseph's, and Fr. Curtis was one of the chaperones. I'm troubled when my two teenage sons come home from a mass on Sunday at St. Joseph's and speak of betrayal and hypocrisy.

As difficult as it is to say, I cannot help but get a sense that this is just going to "quietly go away". That I will never hear of anything more, until God forbid, I read a police log, or hear of another individual being approached.

I don't want to come across disrespectful to you and the important work that you do within the Archdiocese. I desire healing and grace in the life of Fr. Curtis. I pray for him. I simply needed to let you know that I have struggled after our conversation the other week. The original plan for dealing with the situation is not being followed.

With all respect,



Patrick Menke

June 26, 2012

Most Rev. John C. Nienstedt
Archdiocese of St. Paul & Minneapolis
The Chancery
226 Summit Avenue
St. Paul, MN 55102

Dear Archbishop Nienstedt,

I am unfortunately writing to you with regard to the recent news of Fr. Curtis Wehmeyer. I have chosen to write to you, and copy Bishop Piché and Andy Eisenzimmer as my efforts to use 'the appropriate channels' eight years ago in my opinion sadly failed.

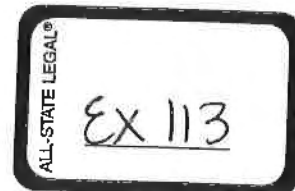
In the spring of 2004, my brother-in-law's two friends were both indirectly 'propositioned' by Fr. Wehmeyer at a Barnes & Noble store in Roseville; the two young men had naively found themselves in a location where homosexual men were looking for activity. When they later learned that the individual that approached them was a Catholic priest, they were quite shook up.

I was asked to meet with these young men to hear their stories, and agreed to bring the situation to the appropriate parties within the Archdiocese. At the time, one of the individuals was dating a young woman whose family were parishioners at the Church of St. Joseph where Fr. Wehmeyer was assigned at the time. I regret today encouraging the young woman's father to not 'storm the rectory' to take justice in his own hands - assuring him that I would bring the facts of this situation to the right parties, and it would be properly addressed.

I first spoke with Fr. Kevin McDonough after the incident and sent to him two sworn statements from the young men. I expressed to him my concern that not only was there an actively homosexual priest with issues at The Church of St. Joseph, but that he was very involved with the young people within this Church - and my 15 and 17 year old sons at the time knew him through their participation with the youth group.

I expressed to Fr. McDonough that even though the two young men approached by Fr. Wehmeyer were 19-20 year old 'adults' - they easily could have passed off as high school students - the very age group of my sons. These were very young looking men. Fr. McDonough tried to ease my concerns by suggesting the many studies that disassociate homosexuals and the abuse of minors -perhaps a quiet reference to the John Jay study which was publicly released during this same time frame.

Fr. McDonough informed me that Fr. Wehmeyer was sent away for a week of evaluation, officials within the local Church were notified, and other efforts were being made to address the situation. I specifically asked about any possible restrictions that might be imposed to his ministry. I orchestrated a personal meeting between Fr. McDonough and one of the young men to hear the story first hand. The young man



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graciously said to Fr. McDonough that perhaps it was God's hand that they had this encounter so that Fr. Wehmeyer would be able to get the help he needs.

As the next months unfolded, I grew increasingly concerned that life was 'back to normal' at The Church of St. Joseph; my wife and I were both shocked to hear of his continued involvement with the youth group (i.e. chaperoning trips). I contacted Fr. McDonough a few months after the initial assessment to get an update. I was deeply concerned at this time that the situation was quietly going away - and I specifically wrote to Fr. McDonough that I feared I would 'never hear of anything more, until God forbid, I read a police log, or hear of another individual being approached'. He expressed to me in writing, 'I accept your perception that we might be trying to sweep all of this under a rug. Nonetheless your perception is inaccurate. I expect still to be working on this a year from now, and probably beyond, until this priest has a demonstrated track record of greater maturity, spiritual, moral and psychological.' This was the last exchange I can recall with Fr. McDonough on this subject.

Today as I see Fr. Wehmeyer's photo in the newspaper, I'm deeply saddened and I'm angry. Assuming these allegations are true, I cannot but question my own actions. Why didn't I contact others in the Archdiocese, especially when I perceived Fr. McDonough's actions as dismissing and inadequate? Why didn't I speak up when Fr. Wehmeyer was appointed to his own parish, or when you became Archbishop, or when Bishop Piche was installed as auxiliary?

I'm also left with a range of other questions: What follow-up was ever done after my last conversation with Fr. McDonough? Was he continuing to work with this priest toward 'greater maturity, spiritual, moral and psychological'? Will these allegations be isolated? Is my correspondence and the statements even a part of Fr. Wehmeyer's personnel file? Does the Church reevaluate its posture with regard to the John Jay study, now that potentially another young person's life will be destroyed at the hands of an unhealthy homosexual priest?

I have enclosed copies of my correspondence with Fr. McDonough from 1984; I no longer have the emails. I look forward to visiting with somebody about my correspondence.

With all this being said, please still know of my love for the Church (in its imperfection) and my personal support and prayers for you in your important role as shepherd of the local Archdiocese.

Respectfully,



Patrick Menke

cc: Most Rev. Lee Piché, Auxiliary Bishop
Mr. Andrew Eisenzimmer, Chancellor

MEMORANDUM

Date: February 4, 2012

To: The Most Reverend John C. Nienstedt

From: Jennifer Haselberger

Re: Reverend Jonathan Shelley

Archbishop,

I know that the CAB has been asked to look into the question of a future assignment for Father Shelley. However, prior to the CAB making any recommendations, both Andy and I feel strongly that the Clergy Review Board should be consulted:

You will recall that Father Shelley's current assignment as administrator (2008) was made on the condition that he adhere to a support and accountability plan administered through the Office of Priestly Life and Ministry. With Father Tiffany's illness and departure from the office, Father Shelley has been without supervision.

Your decision to appoint Father Shelley in this matter was based on a psychological report conducted by Jay McNamara. This report focused on leadership issues in Father Shelley's previous assignments. Therefore, the support and accountability plan was focused on developing leadership skills in Father Shelley.

What was only briefly alluded to in the report is Father Shelley's misconduct, which was discovered in 2004. The reason that this was not given more attention in 2008 only became clear recently. For, while there is reference to the misconduct in Father Shelley's green personnel file, the detailed information relating to the misconduct, including the investigator's report, was one of 48 'restricted files' that were archived (meaning moved to the basement without reference to it being placed in the personnel files) in the early months of 2008. Therefore, when you were making the decision to appoint Father Shelley in 2008, neither you nor the staff advising you was aware that additional information existed. We have only recently 'discovered' these archived files. I have attached the list of files that were moved to the archives, although we have not been able to locate all of the files on the list.

The reason that I recommend that this matter go before the Clergy Review Board is as follows.

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In 2004, while Father Shelley was assigned to St Jude of the Lake, Father Shelley's personal laptop computer (one of three) was mistakenly donated to a parishioner during a parish 'garage sale'. The parishioner attempted to install games for his children to use, and found pornographic images on the computer. The parishioner reported the matter to the Archdiocese, and provided Chancery staff with the computer. The Archdiocese then ordered an investigation and computer analysis be done on the machine. The Archdiocese also requested that Father Shelley allow them to conduct a similar analysis on his other two personal computers. When he received that request, Father Shelley immediately destroyed one of the computers, and while he initially indicated he would permit an analysis of the third computer, he changed his mind and never provided the Archdiocese with access to it.

After completing the computer analysis and investigation, the investigator reported:

'Many of the homosexual pornographic images viewed by this investigator and the computer analyst could be considered borderline illegal, because of the youthful looking male image'.

The report of the computer analyst indicates that searches for pornography on the internet included use of search terms such as 'free naked boy pictures'. The investigator and the analyst also concluded that 'there is no credible evidence to support the claim that person(s) other than Father Shelley accessed, downloaded, or viewed the approximate 2300 adult sites/images', and 'there is sufficient reason to believe that the computer hard drive which Mr. Terus [parishioner] turned over to the investigator had been used exclusively by Father Shelley'.

These latter points are significant in that Father Shelley's claim throughout the investigation, and when he was sent for evaluation to Saint Luke's Institute, was that the computer had been used by another man who was living with Father Shelley, and who had admitted to Father Shelley that he used internet pornography.

Archbishop, I am attaching the copy of our September 23, 2004, letter of referral to SLI, as well as their report, to this memo. However, please note that the SLI report is dated October 14, 2004, while the report of the computer analyst is October 15, 2004, and the investigator's report is dated October 21, 2004. In other words, our referral to SLI and their report back was completed before the computer itself had been examined and the report received. The statement in the letter of referral that 'this assessment is not occasioned by any known illegal activity' was, in retrospect, premature. Father Shelley has not been assessed by SLI since the computer was determined to have images that were borderline illegal.

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The Church, and civil law, considers accessing pornographic images of minors to be equivalent to the sexual abuse of a minor. Therefore, credible accusations that a cleric has accessed child pornography are to be reported to the Congregation for the Doctrine of the Faith. Obviously, this was not done in 2004, and, in fact, Father Shelley was almost immediately reassigned to parochial ministry. You will recall that this has not been without problems, including the fact that Father Shelley had a 18yr old male living in the rectory of St John the Baptist in 2009.

However, now that you have access to the information that was recently recovered (including DVDs of the material that was found on the computer) I think there is a great risk associated with reassigning Father Shelley. In fact, prior to doing so, I would recommend the following actions:

1. Collecting all of the personal computers/laptops that Father Shelley is using at this time and sending them for similar analysis. If the SLI report is correct and Father Shelley has 'an ongoing problem with compulsive sexual behavior in his internet pornography use', it is very likely that this use will have continued, since Father Shelley never received treatment to address this.
2. Based on the results of the above, send Father Shelley for a second evaluation at SLI, providing them with the information discovered during both analyses and without setting limitations on their assessment or report.
3. Send all of the information on Father Shelley to the Clergy Review Board for its review and recommendation.
4. Depending on the results of the computer analysis and the second SLI evaluation, you may want to consider referring this matter to the Congregation for the Doctrine of the Faith.

I shared this information with Father Laird last July when the question arose as to whether Father Shelley would be made pastor of the merged parishes in Centerville. However, with your recent request to the CAB that they consider a new assignment for him, I thought it was important to bring this to your attention as soon as possible.

Thank you.

MEMO

TO: Archbishop Flynn, Bishop Pates, Sister Dominica, Andrew Eisenzimmer
FROM: Fr. Kevin McDonough
DATE: November 3, 2005
RE: Father Kenneth LaVan and the Charter?

Tim Rourke has been reviewing the files of all of our priests with a history of boundary violations. His purpose in doing so is to establish a monitoring plan for each.

Some months ago he was reviewing the file of Father Ken LaVan. What he saw in the file prompted him to ask whether LaVan is not actually covered by the Charter for Protection of Children and Young People. It embarrasses me to acknowledge once again a lapse of memory on my own part. Although I had dealt with LaVan for many years about his boundary violations with adult females, I had forgotten that there were two allegations in the late 1980s concerning sexual involvement with teen-aged girls.

While readily acknowledging his misconduct with adults, LaVan had always denied any misconduct with the two teenagers. It is evident from a review of the file that their allegations were taken very seriously, and that Father Michael O'Connell had initially considered them to be trustworthy. Over time, however, significant doubts were raised about both of them. In the end, both matters were closed with what might realistically be characterized as "defense cost settlements." That suggests that even the attorney, Jeff Anderson, representing the two women had significant doubts about whether their complaints would hold up in a lawsuit.

From the Archdiocese side of things, I believe that our focus was on the therapeutic and spiritual work that LaVan was doing to address his acknowledged misconduct with adult women. Since all of this was brought to a close years before the Charter was on the horizon, we did not ever reach our own complete determination about the veracity of the two complaints against him.

As I understand it, Kenneth LaVan is now fully retired and no longer engages in any ministry. Even so, I do not think we have the option of leaving this matter "open ended." I propose the following steps:

1) That I or several of us would meet with Kenneth LaVan and ask him whether he is willing to live by the restrictions of the Charter. He could do so even without acknowledging guilt in the two 1980s complaints against him and we probably would have discharged all of our obligations in his regard.

2) If he is unwilling to live by the Charter restrictions, then we would reopen an investigation into those old matters. I would ask Richard Setter to re-interview [REDACTED]

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Re: Kenneth LaVan
November 3, 2005
Page two

██████████ I would ask Mr. Setter to form his own opinion about the reliability of there accusations.

3) If Richard Setter believes that the allegations have credibility, then we would go back to LaVan once again and ask him to respect that finding and live by the Charter. If he would then refuse to do so, we would have to explore our canonical options at that point.

I look forward to discussing this with you or having your written response.

cc: Tim Rourke

ARCHDIOCESE OF SAINT PAUL AND MINNEAPOLIS

MEMO TO: Father Michael O'Connell

DATE: October 7, 1988

FROM: Father Kevin McDonough

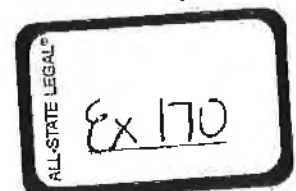
RE: MEETING WITH FATHER JOSEPH WAJDA, OCTOBER 4, 1988

Michael, I want to summarize for you the notes that I took from our October 4 meeting with Father Wajda. My notes are sometimes barely readable and often repeat themselves so I want to prepare this summary. Once I have prepared it, I will destroy the notes. I would ask you to review this and see if I accurately recorded what you remember from the conversation.

At the beginning of the meeting, you explained to Father Wajda why Monsignor Kneal was present. Basically, you said that he was there to serve as an advocate or canonical assistant to Father Wajda. Wajda consented to Kneal's presence. Next, you warned Father Wajda that any statements that he would make to us should be considered discoverable. Finally, you informed Father Wajda that you and I might have to make a decision to discipline him even if he were to choose to deny the allegations that follow.

You then handed to Father Wajda a written text which you entitled "The Proceedings." I presume that you are saving a copy of that because I have destroyed mine. He reviewed that text, and then he said that he found the written text to be clear.

Then you read the text of the written proceedings aloud. At the end of the text you "sketched some background." Among the points of background you reviewed were these. First, you reminded Father Wajda of the meeting in November of 1987 which you and Bishop Carlson had with him. It was prompted by your having been notified of a lawsuit against Father Wajda over a 1973 allegation of propositioning a young man. At the time of that interview, according to the background you were providing, Father Wajda denied the allegation in the lawsuit and said that he was willing to take a polygraph. You then asked him to describe his relationships with young people. At that time, Father Wajda gave several names to you of boys with whom he had vacationed. At the time of the interview, both you and Bishop Carlson found Father Wajda's denial convincing. However, this past spring reports of lack of impulse control by Father Wajda in anger led us to investigate the names that had been given to you by Father Wajda in November of '87. You told Father Wajda that you had met about ten days ago with the parents of the conversation with the Family confirmed a suspicion that Bishop Carlson and Father Patrick Ryan of St. Rose of Lima parish had previously had. The suspicion was that it was the Family who had been the victim of harrassing telephone calls in 1986, which telephone calls were subsequently traced to the St. Rose parish rectory. You indicated that Bishop Carlson had confronted Wajda about the phone calls in the fall of 1986. However, no direct evidence linking Father Wajda to the phone calls ever appeared. Therefore, none of this appeared in the written record of the proceedings because we have no direct link between



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Father Michael O'Connell
October 7, 1988

Father Wajda and the incident. Two days after meeting with the parents, you reported, you met with [redacted] is extremely angry at his alleged manipulation by Father Wajda. You described several elements of this manipulation.

You then warned Father Wajda that it was your understanding from our attorney that the incidents around the birthday spankings are probably chargeable under obscenity or solicitation statutes. You said several times that you believe that [redacted] would be willing to press charges if Father Wajda does not follow through in the psychological help that we are recommending to him.

Father Wajda then asked if he could clarify one point in the text. He asked about the indication in the text that Father Wajda had "angrily" emphasize the need to shower in the nude. Father Wajda asked whether this was [redacted] impression or your impression. You then said that it was [redacted] clear impression. In fact, you said, [redacted] had commented about this to his mother at the time and his mother remembered the comment.

You then reviewed the third page of the written text entitled "The Conditions." You went over each point individually. As we were going over the point about having no further contact with anyone who has talked with us about Father Wajda, Wajda interrupted you to say that he had called [redacted] the preceding day and left a message for him at about 9:30 p.m. with his roommate at college. Then he had called [redacted] again that same morning about 7:00 a.m. and talked with him asking [redacted] to call Father Wajda back later.

You demanded that Father Wajda not receive a follow up call from [redacted]. You emphasized again that Wajda was neither to talk with or call or be in any other sort of communication with anyone else whom he suspected of talking with the Chancery about him. This prohibition was to begin as soon as the present meeting was ended.

At this point, Monsignor Kneal asked what St. Luke's Institute is. I briefly described it as a psychiatric hospital specializing in alcohol treatment and the treatment of sexual dysfunction.

At this point, you then said, "All right, Joe, let's get down to the issues." You then said that the material in the written text showed a pattern of abnormal psychosexual development in friendship relationships. Furthermore, you pointed out that there is a civil lawsuit going on about his relationships with young men. You said that we have chargeable criminal violations here. You suggested that a failure to deal with the [redacted] situation would probably complicate the first lawsuit. Finally, you indicated that the attorney in the current lawsuit might conceivably be in touch with the [redacted] and that another lawsuit could result. However, you said you believed that if Father Wajda cooperated with the psychological assistance offered that the [redacted] would be less likely to want to enter into a lawsuit. You then asked how Wajda would respond to all of this.

Father Michael O'Connell
October 7, 1988

Wajda then asked Monsignor Kneal how he should respond. You and I offered to leave the room if they wanted to be able to speak with each other confidentially. Wajda said that this was unnecessary. Kneal reminded Wajda that whatever he said to us could well become public knowledge if it were subject to discovery. Secondly, he said that he believed that the package of conditions as laid down by yourself looked positive and helpful to Father Wajda.

At that point, Father Wajda asked to reread the text. At that point, Father Wajda said that he would interpret several things in the text differently. He reported the following things.

First, he said that he checked out the gift of waterskis, before offering it, with the parents.

Next, he said that he did not simply give rides to from athletic contests and practices but to other children in the car at the same time.

Wajda claims to recall going to McCarthy Gym with alone only two or three times.

Wajda then denied that he angrily indicated the necessity of showering int he nude. He said that he would only point to the written text indicating this rule. At that point, I asked him whether he instructed the young people with him about other rules. He said yes. I asked him what other rules. He said for example, that he reminded all the young people he brought with him as guests that the gym was primarily intended for priests and seminarians. He also told them they should not dive into the lap swimming lanes at the pool, that they should not run in the pool area, that they should not use the weight room.

Father Wajda said that he encouraged the boys to shower because generally after exercising he would take them out for a dinner somewhere, and if they did not shower they would be sweaty.

You then asked Father Wajda if he remembered the incident reported by with the boy who would not shower. He said that he did not remember that.

Father Wajda next explained that he had talked with about his maturation as a young man after he had found crying at the graduation of the 8th Grade students who graduated the year before him. Father Wajda indicated that had been held back a year and, therefore, this graduation signalled to him that his peers and friends were moving on. Father Wajda encouraged him to socialize with his actual classmates in this context to discuss the maturity difference.

You then asked him if he talked "about getting hard" as the written text alleged. Wajda then said that he didn't remember doing so. He did say that one time had talked with him about having an erection while he was in school and that they had talked about that.

Father Wajda denied ever saying anything to about "ruining" him.

Father Michael O'Connell
October 7, 1988

Father Wajda then described a visual joke which he sometimes does with young people about birthday spankings. According to this joke, which he explained with gestures which are impossible to render here, Wajda would pretend to get ready to spank the child having a birthday. He would say to him, "Guess where this hand is going to be on your birthday." Then he would offer the child his hand in a handshake. You then pressed Father Wajda on the birthday spankings with

Wajda admitted that twice did take down his pants and lean over. This happened in the context of talking about birthdays and celebrating birthday with a dinner. Wajda insists that had instigated the removal of the pants. You insisted that remembered things differently. Wajda insisted that had been the instigator. You described rather graphically the process by which one removes one's pants and asked Father Wajda if he had permitted this entire process to go on twice and have the child lean over before he stopped him. told him that it was inappropriate to do so. Wajda said that he, in fact, had done so.

You asked Wajda if he had ever done this with anyone else. Wajda said that he had not.

You then pressed the point of the inappropriateness of Wajda's behavior in this situation and of the potential chargeability of this behavior as a crime.

You then asked when the spanking incidents occurred. Father Wajda indicated that they both happened around 15th birthday within a couple of months of each other.

You then asked Wajda if he had anything else he wished to discuss. Wajda reaffirmed his objections as I have listed them above.

You then reviewed the names that you had received so far from Wajda of his minor friends. You developed a list of those names through discussion with Wajda. I saw Wajda writing those names down and I presume that he was preparing to get a list to you of the things that are required in the condition in regard to these young people.

You asked next whether Wajda had taken any vacations this past year. He said that he had taken one vacation of one week's endurance by himself.

I then asked him what he did on his day off. He said that he sometimes went home to see his family, he would have lunch with friends, he would go shopping or visit these shopping malls.

At this point, I then left the meeting. This is the extent of the notes that I have. Do these seem to you to be an accurate rendering of what happened?

KMM:ggr

cc: Andrew Eisenzimmer- Meier, Kennedy & Quinn

Memorandum

12 August 2002

Memo To: Archbishop Flynn and Archbishop's Council

From: Father Kevin McDonough

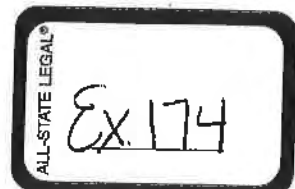
Re: Generating Communication with Parishes Having Some Connection to
a History of Clergy Sexual Abuse

We have a significant number of parishes that were served at one time or another – before, during, or after known offenses – by priests with a history of sexual abuse of minors. For years we have acknowledged that there are good reasons to implement a healing process in some such parishes: for example, to help other possible victims to come forward and to break the unhealthy secrets that often remain in such parishes. On one or more occasions this summer, our failure to do so in specific instances has been viewed as part of a “cover-up”. Of course, that failure was not a cover-up, but rather lack of time and resources to follow up. I want to propose that we ought to devote the resources now to “lancing the boil” while there is residual interest/fear/concern/anger about this issue.

A further motivator for particular work with these parishes is this: the local media are researching our history and are likely eventually to publish a list of our known offenders. Even if we do not preemptively release all of that information ourselves (“publish the list”), we are going to have to deal with its disclosure sooner or later. I would prefer to see us in the position of having already prepared local parishes for this likelihood.

I propose that we take the following steps:

1. We should identify a list of parishes that potentially deserve this attention.
2. We should call a meeting that involves the pastors, trustees, and parish council presidents of all such parishes. The meeting would include a presentation about the policies of our Archdiocese about sexual misconduct, a description of the possible effects of this history on a parish, and the outcomes of our past work with such parishes.
3. We would then meet individually with the small leadership group of each parish and go over the relevant history with each of them.



4. We would ask them to consider whether and how to involve a broader leadership group in the discussion.
5. We would then send a staff member to each such parish to work out a process of communication and follow up with each parish.

I do not believe we currently have sufficient staff support to carry out this effort with internal resources. Therefore, we should bring someone in on a contract basis to organize the effort. I propose that Patricia Gries be hired in that capacity. There may be other equally qualified candidates. I suggest that we move on this relatively quickly, so that we can initiate the meetings this fall.

Here is a partial list of the parishes that merit special attention:

Priests with known abuse histories:

Gilbert Gustafson: Saint Mary of the Lake, WBL

Michael Stevens: Saint Michael, Prior Lake; Epiphany, Coon Rapids

Robert Thurner: Saint Mark, Saint Paul; Saint John, Hopkins; Saint Joseph, West Saint Paul; Saint Therese, Saint Paul; Most Holy Trinity, Saint Louis Park; Saint Michael, Prior Lake; St. Edward, Bloomington; Saint Luke, Saint Paul

Lee Krautkremer: Saint Peter, Forest Lake; Saint Joseph, Lino Lakes; Saint Michael, Saint Michael; Saint Michael, W. Saint Paul; Saint Margaret Mary, Golden Valley; Saint Peter, N. Saint Paul; Immaculate Conception, Faribault

Robert Kapoun: Saint Raphael, Crystal; Saint Scholastica, Heidelberg; Saint Patrick, Saint Joseph, Saint Catherine, rural New Prague; St. Kevin, Minneapolis; Most Holy Redeemer, Montgomery

Robert Zasacki: Saint Peter, Forest Lake; Sacred Heart, Robbinsdale; Saint Joseph, Hopkins; Saint Joseph, Delano, Saint Peter, Delano

Paul Palmitessa: Holy Redeemer, Maplewood; Saint Paul, Zumbrota.

Timothy McCarthy: Saint Andrew, Elysian; Saint Peter Claver, Saint Paul; Holy Redeemer, Maplewood; Saint Leo, Saint Paul, All Saints, Lakeville; Guardian Angels, Lake Elmo; Saint Joseph, Circle Pines

Tom Gillespie OSB: Saint Bernard, Saint Paul; Saint Mary, Stillwater.

Eugene (Salvatore) Corica: Saint Bridget, Minneapolis; Saint Raphael, Crystal; Holy Family, Saint Louis Park; Saint Patrick, Inver Grove Heights; Holy Childhood, Saint Paul, temp.

Thomas Adamson: Saint Thomas Aquinas, Saint Paul Park; Immaculate Conception, Columbia Heights; Risen Savior, Apple Valley; Saint Boniface, Saint Bonifacius; lived at Saint Leo, Saint Paul, and helped out; was from Winona Diocese

Joseph Heitzer: Several New Ulm parishes; Saint Peter, Forest Lake.

Alfred Longley: Saint Richard, Richfield; Immaculate Conception, Faribault; Saint Jude of the Lake, Mahtomedi

Harold Whittet: Saint Augustine, South Saint Paul; Saint Rose of Lima, Roseville.

Rudolph Henrich: Saint Margaret Mary, Golden Valley; Saint James, Saint Paul; Saint Mark, Shakopee

Francis Reynolds: Saint Francis Xavier, Buffalo; Maternity of BVM, Saint Paul; Saint Patrick, Saint Paul; Visitation, Minneapolis; Saint Margaret Mary, Golden Valley, Our Lady of Perpetual Help, Minneapolis

Ambrose Filbin: Saint Pius X, WBL; Saint Helena, Minneapolis; Northfield; Lake Benton; Eden Valley; Saint Ignatius, Annandale, Saint Bridget, Lindstrom

Priests with disputed claims, marginal behavior, or undue attention:

Gilbert DeSutter: Annunciation, Minneapolis; Saint William, Fridley; Saint Michael, Prior Lake; Saint Mary, Saint Paul; Saint Peter, Richfield; Saint Mark, Saint Paul; Immaculate Conception, Faribault (spiritual director)

John McGrath: Saint Helena, Minneapolis; Sacred Heart, Robbinsdale;

[REDACTED]

John Brown: Saint Mary, Waverly; Saint Peter Claver, Saint Paul; Annunciation, Hazelwood; Saint Timothy, Maple Lake, Sacred Heart, Robbinsdale, Saint John, St. Paul, Saint Joseph, Hopkins; Saint Anthony of Padua, Minneapolis, Immaculate Conception, Madison Lake; Saint Mary, LeCenter

Jerome Kern: Saint Mark, Saint Paul; Our Lady of Grace, Edina; IHM, Minnetonka; Saint Peter, Forest Lake; Saint Dominic, Northfield

Joseph Wajda: Saint Raphael, Crystal; Immaculate Conception, Columbia Heights; Saint Andrew, Saint Paul; Saint Rose of Lima, Roseville, Saint Joseph, Waconia, Saint Peter and Paul, Loretto, Our Lady of Perpetual Help, Minneapolis, Blessed Sacrament, Saint Paul

Richard Jeub: Our Lady of Grace, Edina; Saint Mark; Saint Paul; Our Lady of Peace (Saint Kevin), Minneapolis; Sacred Heart, Robbinsdale; Saint Rose of Lima, Roseville; Christ the King, Minneapolis, Saint Joseph, Hopkins

Dennis Kampa: Immaculate Conception, Faribault; Saint Mark, Saint Paul; Saint Vincent, Osseo; Saint Michael, Pine Island; Saint Michael, Kenyon; Saint Joseph, W. Saint Paul, Holy Family, Saint Louis Park, Holy Trinity, S. Saint Paul

Joseph Gallatin: Saint Hubert, Chanhausen; Saint Bernard, Saint Paul.

Harry Walsh: Holy Trinity, South Saint Paul; Saint Henry, Monticello; Saint Pius X, White Bear Lake; Maternity of Blessed Virgin, Saint Paul, Saint Stephen, Minneapolis; Saint Anne, LeSueur; All Saints, Lakeville

Please note as well that we have three unresolved situations: Bishop Dudley and [REDACTED]. The outcome of their investigations may also affect this list.

16 January 2003

Memo To: Bill Fallon
From: Father Kevin McDonough
Re: Father Wajda

Bill, just yesterday you briefed me about the Clergy Review Board and its process with Father Wajda's situation. Ironically, I have some new information this morning.

As you know, Father Wajda lives in the rectory at Saint Peter Claver with me. This morning, a minute or two after 6:15, I was walking past his room on my way downstairs. As I went past his door, I heard his voice. I also heard his shower running. I did not have to make any special effort to hear him, because his voice was plainly audible in the hallway, even though the door to his suite of rooms was full closed.

Here are some of the things I heard him say in a forced, strained voice over the next five minutes or so:

"I want to see [REDACTED] naked."

"I want to see [REDACTED] naked."

"Nobody in his right mind would get naked."

"I want to see [REDACTED] masturbate."

"I want to see [REDACTED] masturbate."

"I won't answer (or 'ask ya') any questions, [REDACTED]"

Bill, I have indicated to you in the past that I heard disturbing statements from Joe Wajda while he was evidently showering. I had not written them down before, so I could not confidently give you specifics. This morning, however, I noted the above-recorded statements right after hearing them, and am confident in their content.

I am going to alert Archbishop Flynn to this. I am not worried about Wajda using a priestly position to endanger a young person, since he has absolutely no ministry other than his office work at the Tribunal. I also do not want to undermine the process that the Clergy Review Board is undertaking. Nevertheless, the statements above reflect attitudes and behaviors that are so close to what Wajda was accused of doing, I have a hard time imagining how we could find the accusations against him anything other than credible. I will talk with you about this as soon as possible.

cc: Archbishop Flynn

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