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1 IN THE UNITED STATES BANKRUPTCY COURT
2 FOR THE EASTERN DISTRICT OF WISCONSIN

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4 In re:) Chapter 11
5 ARCHDIOCESE OF MILWAUKEE,) Case No. 11-20059-SVK
6 Debtor,) Honorable Susan V. Kelley

7

8 UNDER SEAL/CONFIDENTIAL

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14 VIDEO DEPOSITION OF
15 CARDINAL TIMOTHY M. DOLAN

16 New York, New York
17 February 20, 2012
18 1:30 p.m. to 5:21 p.m.

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21 Kathy A. Halma
22 Registered Professional Reporter

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1 APPEARANCES

2 JEFF ANDERSON & ASSOCIATES, PA, 366

3 Jackson Street, Suite 100, St. Paul, Minnesota, 55101,

4 by MR. JEFF ANDERSON and MR. MICHAEL G. FINNEGAN,

5 jeff@andersonadvocates.com and

6 mike@andersonadvocates.com, appeared on behalf of the

7 Certain Personal Injury Claimants.

8 WHYTE HIRSCHBOECK DUDEK, S.C., 555 East

9 Wells Street, Suite 1900, Milwaukee, Wisconsin, 53202,

10 by MR. FRANCIS H. LOCOCO, floco@whdlaw.com, appeared

11 on behalf of the Debtor.

12 ALSO PRESENT: MR. JERRY TOPCZEWSKI,

13 Milwaukee Archdiocese; and MR. JAMES P. McCABE, General

14 Counsel, Archdiocese of New York.

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1 (The original transcript was sent to Attorney LoCoco.)

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3 (The original exhibit was retained by the court
reporter and attached to the original transcript. A

4 copy was attached to all ordered copies.)

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1 TRANSCRIPT OF PROCEEDINGS

2 VIDEOTAPE TECHNICIAN: Here begins

3 Videotape No. 1, Volume I, in the deposition of

4 Cardinal Dolan in the matter of in re Archdiocese

5 of Milwaukee. Today's date is February 20, 2013,

6 and the time is approximately 1:38. This

7 deposition is being held at the Offices of

8 Archdiocese Office on 1011 First, New York City.

9 My name the John Martucci with Pirozzi Reporting

10 and I'm the videographer. The court reporter is

11 Kathy A. Halma with Halma-Jilek. Please

12 introduce yourselves for the record, Counselor.

13 MR. ANDERSON: For the claimants, Jeff

14 Anderson.

15 MR. FINNEGAN: Also for the claimants,

16 Mike Finnegan.

17 MR. LO COCO: My name is Frank LoCoco.

18 I represent the Archdiocese of Milwaukee and I

19 represent Cardinal Dolan. To my left is Jerry

20 Topczewski, who is my client representative from

21 the Archdiocese, and to his left is Jim McCabe

22 who's here. He's counselor for the Archdiocese

23 of New York. And this deposition was noticed up,

24 it's being taken pursuant to notice and under

25 seal pursuant to the confidentiality orders in

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1 the case.

2 CARDINAL TIMOTHY M. DOLAN, called as

3 a witness herein by the Claimants, after having

4 been first duly sworn, was examined and testified

5 as follows:

6 EXAMINATION

7 BY MR. ANDERSON:

8 Q Cardinal, what was the date of your ordination?

9 A I was ordained a priest June 19, 1976.

10 Q And you then have been a priest for how many

11 years?

12 A Thirty six and one-half years.

13 Q And when you consider the various positions that

14 you have held as a Bishop, how many years in

15 total has that been?

16 A I was ordained a bishop on August 15, 2001, so

17 that's -- that will be 12 years this August.

18 Q And you have now been Cardinal -- Actually,

19 Archbishop of New York and Cardinal for a year?

20 A I have been a Cardinal for a year. I was named

21 Archbishop of New York on February 23, 2009, and

22 then I became -- Then I was named a Cardinal a

23 year ago on February -- I'm having trouble with

24 the date of that. It was a year ago.

25 MR. TOPCZEWSKI: February 18th.

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1 BY MR. ANDERSON:

2 Q I have an installation of Archbishop of New York
3 of April 15, '09.

4 A April 15, 2009 is when I was installed, yes.

5 Q Prior to your appointment to the position of
6 Archbishop of Milwaukee, you had been a priest of
7 and Auxillary Bishop at the Archdiocese of St.
8 Louis, correct?

9 A Right, right.

10 Q According to the records I reviewed, it would
11 appear that you were appointed to be the
12 Archbishop of Milwaukee on June 25, 2002?

13 A Correct.

14 Q And actually installed as Archbishop in Milwaukee
15 as of August 28, 2002. Does that sound correct?

16 A Correct.

17 Q Between the time of your appointment to Milwaukee
18 and the actual installation, that two-month time
19 frame, what, if anything, did you do in order to
20 prepare for that position?

21 A To prepare to be Archbishop of Milwaukee, you
22 mean?

23 Q Yes.

24 A Well, I was still Auxilliary Bishop in St. Louis,
25 so there was a lot of work to be done, and I

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1 think in preparation there was spiritual
2 preparation, because I made a week's retreat, I
3 know that; I made two weeks vacation. But as far
4 as actual preparation to become Archbishop of
5 Milwaukee, until I got there on the Sunday
6 before, probably -- I mean, there was preparation
7 as far as the invitations, as far as the
8 invitation list, readings for the mass, that kind
9 of stuff, but I think you meant more than that,
10 more preparation for the demands of the office.
11 Not too much.

12 Q Is it correct to say that at the time that you
13 were actually installed in the Archdiocese of
14 Milwaukee, that Bishop Sklba had been the
15 administrator?

16 A Bishop Sklba had been the administrator.

17 Q And his -- and the predecessor Archbishop had
18 been Weakland?

19 A Archbishop Rembrant Weakland. He had been
20 Archbishop.

21 Q Once you became the Archbishop of Milwaukee and
22 after August of 2002, did you spend any time
23 face-to-face with Archbishop Weakland discussing
24 the affairs of the Archdiocese of Milwaukee and
25 how you could succeed in management of them?

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1 A No. I would have spent time with them, but it
2 would have been more social. As far as spending
3 time with them on business or on projects or on
4 initiatives, not too much, no, not that I can
5 recall.

6 Q How long had Bishop Sklba been the administrator
7 of the Archdiocese as far as you know before your
8 installation as Archbishop?

9 A Sure. He, if I'm not mistaken, he would have
10 become administrator of the Archdiocese of
11 Milwaukee upon resignation of Archbishop
12 Weakland, which I think, Jerry, came at the end
13 of May of 2000 --

14 MR. LO COCO: You're just going to have
15 to do your best with your memory.

16 THE WITNESS: Okay. It would have been
17 from the end of May 2002. So I can't chat with
18 anybody? You don't have life lines here?

19 MR. LO COCO: Unless he says you can
20 chat, no.

21 MR. ANDERSON: That's okay. Close
22 enough.

23 THE WITNESS: End of May of 2009 until I
24 was installed on August 27th, August 28th.

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1 BY MR. ANDERSON:

2 Q Who did you rely upon most following your
3 installation to help understand the operations of
4 the Archdiocese of Milwaukee?

5 A Prior to?

6 Q No, once you became the Archbishop.

7 A Once I became the Archbishop, I would have relied
8 on a lot of people. I mean, just corporately I
9 would have relied on the Priest Council, the
10 College of Consultors, the Deans, the Pastoral
11 Council. I would have relied upon the Finance
12 Council. I would have relied upon the Vicar
13 General, who was with Bishop Sklba. I would have
14 relied heavily upon the Chancellor, Dr. Barbara
15 Anne Cusack. I found myself relying upon the
16 Vicar for Clergy, who was Dr. Father Hornacek,
17 and I would come to rely very much on Jerry, who
18 was at the time Director of Communications, Jerry
19 Topczewski. I should mention Wayne Schneider,
20 who was the Chief Financial Officer. He would
21 have been part of it, too.

22 Q In terms of the problem of sexual abuse by clergy
23 in the Archdiocese, and to the extent there was a
24 problem that preceded your installation, did you
25 know anything about how it had been dealt with

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1 prior to your installation?

2 MR. LO COCO: I just want to make sure

3 it's implicit in your question we're focused on

4 Milwaukee.

5 MR. ANDERSON: Yes, I am talking now

6 about your time in Milwaukee and what you may

7 have known before you became the Archbishop.

8 THE WITNESS: Do you mean -- You mean,

9 Mr. Anderson, what I would have known about the

10 Archdiocese of Milwaukee prior to me getting

11 there?

12 BY MR. ANDERSON:

13 Q That's right.

14 A No, I wouldn't know many specifics, unh-unh.

15 Q Okay. When you were the Vicar for Clergy in the

16 Archdiocese of St. Louis and for a time as

17 Auxillary Bishop, I think you identified yourself

18 as kind of a point person as it pertained to

19 sexual abuse in the Archdiocese. Is that a fair

20 characterization?

21 MR. LO COCO: I'm going to object to the

22 form of the question. It goes back to the point

23 I just made. We're here to talk about Milwaukee.

24 I'm going to let Cardinal Dolan respond to this

25 question, but we are not here to talk about St.

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1 Louis, New York or any other place in specifics.

2 Go ahead. You can answer.

3 THE WITNESS: What was the question

4 again?

5 BY MR. ANDERSON:

6 Q Did you consider yourself a point person for the

7 Archbishop in dealing with sexual abuse in St.

8 Louis?

9 A That would -- I would have been Vicar for Clergy,

10 so insofar as there was any clergy sexual abuse

11 of minors, I would have been his delegate or

12 liaison on that.

13 Q Once you became installed as Archbishop in

14 Milwaukee, tell us how and when you first

15 encountered the problem of sexual abuse by

16 clerics in Milwaukee and your first experience in

17 that regard.

18 A Sure. Well, look, it's not going to surprise

19 anybody to know at the time that was the major

20 priority of any Bishop in the United States. We

21 had, since it became a national tsunami on the

22 Feast of the Epiphany in January of 2002, that

23 was a major priority for the -- for any Bishop.

24 That was intensified in the summer meeting in

25 Dallas when we deliberated and passed what has

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1 become known as the Dallas Charter. So any
2 Bishop at the time would have had that as a
3 priority, and I sure did when I became Archbishop
4 of Milwaukee.

5 So, yeah, one of my first priorities
6 would be to find out, to ask some questions to
7 make sure that we were in line in our fidelity to
8 the promises that were made by the Dallas
9 Charter. And so that would have been a major
10 goal. I trust that I was rather rigorous in
11 vacuuming knowledge and consulting with people
12 and making sure that we had things in order.

13 Q And as a first priority that -- as you have
14 described it, to whom did you go to help make
15 sure that the Archdiocese was in line with the
16 promises made?

17 A To whom did I go. First of all, to the Lord
18 asking his grace and guidance, because it was --
19 We were all facing such difficulties that one
20 would find oneself praying a lot, but you mean on
21 this side of heaven?

22 Q Yes.

23 A I would have gone to -- I would have spoken to
24 Joe Hornacek, who was the Vicar for Clergy. I
25 would have spoken to Dr. Barbara Anne Cusack, who

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1 had been extraordinarily diligent and capable in
2 her efforts in this. I would have spoken to
3 Jerry, because he had been -- he had been the
4 masterful in communicating the Archdiocesan steps
5 that had been made, and then there were a lot of
6 bodies that I would have spoken about. I don't
7 mean physical bodies, I mean consultative bodies.

8 We did, thanks be to God, have a very
9 expert review -- what was called a Review Board,
10 so I would have sat down with them and said,
11 "Take me through this, you are the independent
12 Review Board, are we all right with this." I
13 would have met with the Priest Council.

14 Obviously, I was very concerned about them, the
15 morale of the priests, their take on situations.

16 I would have met -- My predecessor had
17 set up what was called a Community Advisory Board
18 that was made up of people throughout the
19 community, most of whom were not Catholic, who
20 were very passionate about victim assistance, and
21 that group had been up and running, and I met
22 with them. We met once a month. I found them to
23 be -- Those were not easy meetings, but I found
24 them to be incredibly helpful.

25 I would have met with Bishop Sklba. I

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1 would have met with Matt Flynn, who was the
2 attorney for the Archdiocese. So those were
3 people with whom I would have sat and asked about
4 it.

5 Q Having met with all those you have described to
6 make sure that the Archdiocese was in line with
7 the promises made in the charter, did you
8 conclude that the Archdiocese of Milwaukee was in
9 compliance with the charter or not in compliance
10 with the charter?

11 MR. LO COCO: Object to the form, time
12 frame.

13 MR. ANDERSON: In your first six months
14 as the Archbishop of Milwaukee.

15 MR. LO COCO: Thank you.

16 THE WITNESS: Yeah, thanks. Can I -- If
17 I can make a distinction here.

18 MR. ANDERSON: Sure.

19 THE WITNESS: Obviously, when we say "in
20 compliance with the charter," that's pretty
21 broad, as well it should be, because there was a
22 lot in there. The major thing -- So there were a
23 lot of issues about compliance with the charter.
24 The major thing when I got there that I wanted to
25 be assured of and which I asked everybody to whom

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1 you just referred, are we consonant with the
2 Dallas Charter and the promise we made to our
3 people that there is no priest against whom there
4 has been a substantiated allegation of sexual
5 abuse of a minor who is currently assigned or
6 publicly exercising his priesthood and, thank
7 God, I was assured there were none. So from that
8 regard, yes, we were in compliance.

9 There's other aspects of the Charter,
10 though, that -- and, of course, a broad aspect of
11 the Charter would be in pastoral outreach to
12 those who had been abused. So I would have
13 thought to myself, yes, even though, thank God,
14 we are in compliance, I think -- and we're
15 certainly in compliance with the letter of the
16 Charter, the spirit of the Charter I want to do
17 more. I would like to amplify our outreach to
18 victims. I would like to continue to try our
19 best to let the victims of sexual abuse by
20 clergy, I would like to let them know that this
21 is -- the church is their spiritual home and we
22 will do our best to respond to their needs. So
23 from that point of view it was still a challenge.
24 It wasn't a done deal.
25 Q You mentioned that you wanted to make sure that

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1 no priest had been in ministry or was in ministry
2 against whom substantiated allegations had been
3 made, correct?

4 A Correct.

5 Q And is it correct to say that as far as you knew
6 then in your first year and as Archbishop, there
7 was no priest in ministry that was identified to
8 you against whom substantiated allegations had
9 been made?

10 A That would be correct.

11 Q Did you ever look at the protocol that had been
12 used by the Archdiocese of Milwaukee to determine
13 whether past complaints made was satisfactory in
14 determining whether an allegation was
15 substantiated or unsubstantiated?

16 MR. LO COCO: Object to the form. You
17 can answer, if you understand it and have an
18 answer. I think it's a little ambiguous.

19 MR. ANDERSON: I can rephrase it. I'm
20 happy to make it a simpler question.

21 BY MR. ANDERSON:

22 Q Did you look at the protocol that had been used
23 to determine whether something was substantiated
24 and -- versus unsubstantiated?

25 A Yes, I would have -- not only would I have looked

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1 at the protocol, but then I would have found
2 myself -- I would have found myself asking the
3 Review Board to go through it with me, because in
4 the Review Board we had officers of the law, we
5 had attorneys, we had judges, we had
6 psychologists, we had parents, we had teachers.
7 I said, "Are we doing this right, are you at
8 peace with this, because you are the ones I trust
9 to tell me." So, yes, I did look at it.

10 Q Do you know what protocol was used for
11 determining whether an allegation was
12 substantiated or not substantiated?

13 A Did I know what protocol was used?

14 Q Yes.

15 A Sure.

16 Q What was it?

17 A Well, I'm preaching to the choir with you, you
18 are attorneys, so substantiation could come about
19 a number of ways, right? You would have
20 admission by the abuser, which very often
21 happened in those days. The abuser would say,
22 "Yes, I did it."

23 You could have substantiation by law
24 enforcement officials, because with Dallas we
25 pledged that we would refer everything to law

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1 enforcement, so they at times would substantiate
2 it. Even if they did not, we went a step further
3 and we would do our own independent investigation
4 and bring the data and the details from that to
5 our Review Board and then they would. So we kind
6 of had those -- Those were the different steps
7 that we would have in trying to determine
8 substantiation.

9 Q To your knowledge while Archbishop, were any of
10 the allegations that had been previously
11 determined to be unsubstantiated altered so that
12 they were reviewed to have been substantiated?

13 A I could not remember. I could tell you what we
14 would have done if such a -- if something came
15 in. In other words, if there were a new
16 allegation against or if there were a change in
17 data or something, then, once again, we would
18 have to take that fresh then and say, "We better
19 start from scratch on this one," but I can't
20 recall if any of those came in, either.

21 Q Okay. I think what I'm getting at is if there
22 was excavation of what the past had been about
23 what allegations had been made and those that
24 were substantiated or unsubstantiated --

25 A Um-hum.

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1 Q -- was there excavation of that or not?

2 A By me, no.

3 Q Okay.

4 A But I would have asked -- I would have asked the,

5 for instance, the Review Board, I would have

6 said, "Have you done it, have you looked at all

7 that, are you at peace, because we are trusting

8 you, too," and they assured me that they had.

9 Q Okay. So when you looked at the protocols that

10 had been employed by all those you referred to,

11 were you satisfied that the Archdiocese was in

12 compliance with the Charter?

13 A I was, I was, uh-hum.

14 Q And were you satisfied that the protocols that

15 had been in place prior to your installation were

16 sufficient so that you continued them?

17 A Yes.

18 Q Did you make any changes to the protocols

19 pertaining to sexual abuse allegations while

20 Archbishop?

21 MR. LO COCO: Just on the issue of

22 substantiation or handling the whole topic?

23 BY MR. ANDERSON:

24 Q Well, let's talk about substantiation first.

25 A No, not that I can remember, no. I mean, you

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1 could imagine we were constantly talking about
2 them and discussing them and bringing them to the
3 attention of professionals to say, "Are we doing
4 this right." You can imagine we were, even as
5 Bishops nationally, we were constantly
6 reexamining this to make sure that we had it
7 precise.

8 You could imagine that -- You could
9 imagine that as different cases would come about
10 you would say, "We have to be attentive to this
11 or we need to change the way," but, no, in
12 general I can't recall any substantive changes
13 that would have been done to the -- excuse me --
14 to the protocol that I found in place when I got
15 there.

16 Q Okay. As Archbishop of Milwaukee -- And I think
17 you were Archbishop of Milwaukee for seven years?

18 A Yeah, from 2002 to 2009. About six and one-half
19 years.

20 Q In that time frame did you make any changes in
21 how the Archdiocese of Milwaukee dealt with and
22 addressed sexual abuse of minors by clerics?

23 A Again, just like in general, yes.

24 Q In general.

25 A Yes, I would say so. While, thanks be to God, I

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1 found the protocols for the very precise and
2 extraordinarily important machinery to deal with
3 the accusations, that I found that to be in
4 order. Obviously, like I said before, there's
5 more to it than that. So generically in the
6 whole what you might call comprehensive pastor
7 response to this of which the compliance to that
8 substantiation is a part, albeit a very important
9 one, there were some changes there, um-hum.

10 Q Can you identify what changes you directed be
11 made?

12 A I can remember, although I don't want to imply
13 that this was not done in the past, I can
14 remember, for instance, saying, "I want the word
15 out that any victim that wants to meet with me
16 will find a warm welcome and they can come in. I
17 want the word out that we should do everything
18 possible to make sure that all the literature was
19 available in every church possible."

20 I would meet with people like Jerry to
21 say, "What can we do communications wise to let
22 people know what we are doing, what we have done,
23 what we hope to do." I tried to go to some
24 listening sessions. I can remember three of them
25 because they were, obviously, rather painful

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1 where I would sit down in kind of a town meeting
2 setting and listen to people. Those are some of
3 the things that come to mind that I tried to do
4 and wanted to do. Later on the dramatic one
5 would be the invitation to the voluntary
6 mediation.

7 Q Was that a decision made by you to create a
8 mediation process and invite people to come into
9 it?

10 A Well, that was a decision made by me. I can't
11 take credit for the idea. The idea actually came
12 from the victim -- the abuse representatives.
13 Remember, I talked to you about that Community
14 Advisory Board. Actually, the idea seemed to
15 have come from some of the victims advocacy
16 groups that thought that voluntary mediation
17 could be extraordinarily beneficial and that
18 we -- It was providential, our geography, because
19 the Marquette University had an internationally
20 renown, I forget what they called it, like a
21 conflict resolution center that would have the
22 resources and the personnel available to do such
23 a thing. So that would happen later.

24 Q Do you remember what year that invitation to
25 mediation was made?

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1 A I don't. I wish I did.

2 Q You mentioned that it was influenced in part by a
3 victims advocacy group. Specifically who?

4 A That Community Advisory Board that I mentioned to
5 you, a lot of great people on that, many
6 counselors that worked with victims, and actually
7 SNAP was one of those that said, "This would be
8 very helpful to us if we did it."

9 Q Who at SNAP would have been the spokesperson or
10 persons that influenced that?

11 A I can see one of the women, but I can't think of
12 her name, but I can remember Peter Isley. Those
13 two.

14 Q Did you consider as Archbishop the Dallas Charter
15 adopted by the Catholic Conference to be
16 mandatory or discretionary?

17 A I considered it to be mandatory. What it was
18 conically, I don't know, but I sure considered it
19 mandatory. Why do you laugh?

20 MR. LO COCO: Just because Jeff laughed
21 at it.

22 THE WITNESS: Can I ask questions?

23 MR. LO COCO: No.

24 MR. ANDERSON: You can answer that
25 question.

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1 MR. LO COCO: I was just afraid you were
2 going to be a canon lawyer for a second.

3 THE WITNESS: No, no, you don't have to
4 worry about that.

5 BY MR. ANDERSON:

6 Q Archbishop, as you have clearly stated, there was
7 in 2002 a very public crisis around sexual abuse
8 that you had to in some part deal with in St.
9 Louis, but as you came on in Milwaukee it
10 really -- in 2002 really kind of came to the fore
11 of the public, correct?

12 A Correct.

13 Q And as you made a commitment to the Charter and
14 to the community of faith to deal with this, what
15 guidelines or authorities did you rely upon to
16 deal with that crisis?

17 A Um-hum, sure.

18 MR. LO COCO: Object to the form.

19 BY MR. ANDERSON:

20 Q Well, let me, just for example, you are familiar
21 with the Canon Law, correct?

22 A Sure.

23 Q And, I mean, I know you have been trained in
24 Rome, but I don't think you are a Canon lawyer,
25 per se, correct?

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1 A I wouldn't be considered a Canon lawyer, no.

2 Q But tell me, if you would, then, how the Canon

3 Law dictated to you as the Archbishop how you

4 were to deal with allegations of sexual abuse by

5 clerics.

6 A Sure. I could get to that if you would allow me

7 to make a wider observation, but tell me if I'm

8 getting off the subject. Canon Law wouldn't have

9 been one of the priorities in telling me how to

10 deal with it. It would be one, and I will be to

11 get to that in a minute. Are you interested in

12 the others or do you just --

13 Q No, I'm interested in really having you tell me

14 first as briefly as you can really what the

15 guidelines and/or dictates were to help you

16 address the crisis.

17 A Sure.

18 Q And then we can break it down, if necessary.

19 A Sure, sure. All right. Because Canon Law would

20 be part of the conversation, but it certainly --

21 certainly would not have been the exclusive one.

22 For one, I would like to think that there was

23 just an elementary sense of justice and right and

24 wrong that here you have a tragically significant

25 group of people that were viciously hurt by

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1 people who dared to say that they were
2 representing the church and the Lord. So
3 justice, I'd like to think an innate sense of
4 right and wrong and just ordinary human decency
5 would say to me, "Dolan, you need to do something
6 about this."

7 Number two would have been the specifics
8 of the Dallas Charter which I think in a very
9 compelling way gave some body and some direction
10 to number one.

11 Number three I would say would be just
12 Catholic moral theology, Catholic moral
13 principles, Catholic thinking that would say that
14 we would have a particular solicitude for the
15 innocent and the young and those who have been
16 hurt. So there would be some. And then there
17 would come in the -- then there would come in
18 Canon Law.

19 Now Canon Law, you already let me off
20 the hook because I'm not a Canon lawyer, but
21 Canon law would have reminded me of the
22 obligations that I have as the pastor of the
23 Diocese to the souls of my people, and the souls
24 of my people when I got to the Archdiocese of
25 Milwaukee were hurting. The souls of some people

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1 who had been damaged in a nauseating way when
2 they were young people, they were hurting, their
3 parents were hurting, the parishes were hurting.

4 So Canon law -- I mean, most of the time
5 we think Canon law, I guess like you all do about
6 civil law, is what it tells you not to do, but
7 Canon Law itself had some extraordinarily noble
8 goals and principles that would say a Bishop
9 needs to be a shepherd to his people, and when
10 those people are hurting, you try to do something
11 about it.

12 Canon Law would also remind me that
13 people had certain rights, that those people had
14 rights to be heard by the church and they had
15 rights to decent, virtuous priests. Then Canon
16 Law would also have something to say about the
17 priests. The priests need to be held to the
18 highest moral code and that they, too, had
19 certain rights. So is that what you had in mind
20 in asking it?

21 Q I think so, Cardinal, and let's break a few of
22 those things down, first the Canon Law. As
23 Archbishop, as an Ordinary, did you consider that
24 then to be discretionary in its application by
25 you or mandatory?

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1 A No, it would be mandatory. Obviously, there's
2 providential judgment, as with any law, but, no,
3 Canon Law isn't something you can say, "Oh, I
4 don't want to obey it. You've got to."

5 Q When you refer to the sense of justice that you
6 used as a guideline and a sense of right and
7 wrong, I think is the way I wrote it down, did
8 you become aware that the statute of limitations
9 in civil law offended your sense of justice?

10 A I was aware of the statute of limitations. I
11 would not say it offended my sense of justice.

12 Q Did you believe that the assertion of the statute
13 of limitations by the Archdiocese of Milwaukee in
14 defense of claims made against it was a just
15 assertion?

16 MR. LO COCO: Object to the form. I'm
17 going to instruct you not to answer that to the
18 extent that it gets into conversations that you
19 undoubtedly had with counsel for the Archdiocese
20 regarding these issues, and Cardinal Dolan is not
21 a civil lawyer, either, so I think it's an unfair
22 question. Now I'm going to let Kathy reread the
23 question. If you have an answer beyond my
24 restrictions, you can give it, but otherwise
25 don't.

00028

1 MR. ANDERSON: In other words, he
2 doesn't want -- I don't want to know what you
3 talked about with your lawyers, so take that out
4 of the answer and then we will read the question
5 back.

6 COURT REPORTER: "Did you believe that
7 the assertion of the statute of limitations by
8 the Archdiocese of Milwaukee in defense of claims
9 made against it was a just assertion?"

10 THE WITNESS: Yes.

11 BY MR. ANDERSON:

12 Q Why do you believe that to be use?

13 MR. LO COCO: I'm sorry. I missed that.

14 BY MR. ANDERSON:

15 Q Why do you believe that to be just?

16 A Myself and people wiser than me have told me that
17 the statute of limitations is an established norm
18 of the law as we have it, that it's intended to
19 protect the innocent, and not to tamper with it
20 would be perilous to the judicial sense of equity
21 as we know it.

22 Q Are you aware that representatives of the
23 Archdiocese and/or yourself resisted reforms of
24 the statute of limitations in Wisconsin in the
25 legislature?

00029

1 MR. LO COCO: I'm going to object to the
2 form of the question. We are getting way beyond
3 what I understood the purpose of this deposition
4 was.

5 MR. ANDERSON: What's your legal
6 objection?

7 MR. LO COCO: We're either going to have
8 a conversation about it or I'm going to instruct
9 Cardinal Dolan not to answer the question. So
10 it's your choice, Jeff.

11 MR. ANDERSON: Well, you know, for time
12 we'd like to have a legal objection, if you have
13 one.

14 MR. LO COCO: Well, the legal objection
15 is it's beyond the scope of what was agreed to
16 and what I was informed about regarding Cardinal
17 Dolan's deposition.

18 MR. ANDERSON: Okay. Let's have a
19 discussion.

20 MR. LO COCO: So we're not going --

21 MR. ANDERSON: Let's have a discussion
22 then about parameters.

23 MR. LO COCO: Sure.

24 MR. ANDERSON: The question was was --

25 THE WITNESS: Can I go to the bathroom

00030

1 while you guys are discussing this?

2 MR. ANDERSON: I think you have to stay

3 while we do this one. Do you want to take a

4 break and go to the bathroom?

5 THE WITNESS: No, it's not urgent.

6 MR. ANDERSON: The question was what

7 guided you and one of the things was Canon Law

8 and the second one was a sense of justice. I'm

9 talking now about the sense of justice and how he

10 dealt with or chose to deal with or not deal with

11 certain things. I think it is within the

12 purview.

13 MR. LO COCO: Well, we're here doing

14 discovery on the claims of A-12 and A-13.

15 Neither of those abuse survivors Cardinal Dolan

16 knew, and I'm sure he will confirm that. My

17 understanding was that the focus of this

18 deposition was Cardinal Dolan's decision when

19 Archbishop of Milwaukee to publicize the list of

20 priests against whom there had been substantiated

21 allegations, not -- And I understand there's some

22 broadness that has to attend that, but I don't

23 think getting into his personal views about civil

24 law, windows legislation or anything else comes

25 close to that topic.

00031

1 MR. ANDERSON: The statute of
2 limitations is an issue that's been asserted here
3 by the Archdiocese, and so it is the subject of
4 the inquiry and this is a part of that subject.
5 So we've both made our positions stated here, so
6 having done that, if you want to let him answer
7 the question, I think it's probative. If you
8 choose to instruct him, do so.

9 MR. LO COCO: One more point for Judge
10 Kelley. A-12 is an abuse survivor who was abused
11 between '72 and '74, and A-13 was someone abused
12 by a choir director from 1977 to 1981 long before
13 Cardinal Dolan was in the Archdiocese of
14 Milwaukee, and the assertions that are being made
15 within the Chapter 11 right now with regard to
16 A-12 and A-13, who didn't make claims
17 pre-petition, are not assertions being put
18 forward by Cardinal Dolan. Because of all of
19 that, I'm going to instruct Cardinal Dolan not to
20 answer that question and we're going to move on.

21 MR. ANDERSON: Okay. Cardinal, should
22 we take a break for the bathroom?

23 THE WITNESS: I was going to take
24 advantage of this one, but we can go another 10
25 or 15 minutes.

00032

1 MR. ANDERSON: You just make the call
2 whenever you are ready.

3 THE WITNESS: Thanks.

4 BY MR. ANDERSON:

5 Q One of the other criterion that you mentioned for
6 handling sexual abuse within the Archdiocese of
7 Milwaukee is you mentioned Catholic and moral
8 theology. That, of course, encompasses a large
9 and broad range of things that I don't think
10 requires a lot of analysis as it's well-known and
11 certainly studied by you. But the next thing you
12 mentioned was the obligations of a pastor to the
13 people of the Diocese. When you say "a pastor,"
14 that also refers to you being kind of a shepherd,
15 as well, correct?

16 A You got it. Pastor is the Latin word for
17 shepherd, yes.

18 Q When it comes to the obligations you have
19 referred to as the shepherd of the flock or the
20 pastor to the Diocese, is that to the entire
21 community of faith in the Diocese?

22 A Sure, and even those without.

23 Q Were any additional or new policies implemented
24 by you pertaining to sexual abuse that had not
25 already been implemented by your predecessors and

00033

1 as a result of the Dallas Charter while you were
2 Archbishop?

3 MR. LO COCO: Object to the form. It's
4 been answered. I don't know if it's been asked
5 that way, but do you mean in addition to what
6 he's already said?

7 MR. ANDERSON: Yes, any policies.

8 THE WITNESS: Not that I can recall.

9 BY MR. ANDERSON:

10 Q At some point, Cardinal, we are informed and it
11 is well-known that a list of accused or
12 substantiated allegations against clerics was
13 published by the Archdiocese of Milwaukee,
14 correct?

15 A Yes, sir.

16 Q And that was done on your watch, correct?

17 A Yes.

18 Q Is it also correct to say that consideration of
19 that decision preceded your installation as
20 Archbishop? In other words, your predecessors
21 had started that process?

22 A You know, Mr. Anderson, I think that would have
23 been generically something a lot of Bishops were
24 talking about. Whether or not my predecessor,
25 either as Archbishop or as Apostolic

00034

1 Administrator had done any formal consideration
2 of that, I don't know. I will tell you that when
3 I -- when I said, "Let's talk about this," it was
4 not a new topic to them, but I don't know if
5 that's because it's something they had already
6 discussed a lot or had considered doing or
7 whether it was just one of those things that a
8 lot of people in those days were discussing about
9 as yet something else the church might do in
10 response to what they were hearing from people
11 whom we respected who said, "This will help you
12 in your laudable attempt to reach out to victims,
13 to protect children and to repair the credibility
14 that you have lost." So, Lord knows, it was not
15 a novel topic, but I cannot recall if there was
16 anything already precedent-wise that the
17 Archdiocese of Milwaukee had ready to go.

18 Q Do you recall when, Cardinal, you first raised
19 the topic of the creation and publication of such
20 a list while Archbishop?

21 A I can't, but I will tell you this. My gut would
22 tell me -- And when my gut talks, I listen,
23 because it's rather substantial. My gut would
24 tell me that I can't take credit for it. My gut
25 seems to prod my memory that that idea came from

00035

1 others, particularly from this Community Advisory
2 Board. Would you like me to talk more about
3 that?

4 Q No, I can -- I can --

5 A You have heard about that one?

6 Q I do know about that and I will also, to be fair
7 with you, there are some documents that I will be
8 showing you later on that demonstrate to us that
9 it was given consideration prior to your
10 installation, so your gut I think is correct.

11 A Okay.

12 Q And is in conformity with the documents I
13 reviewed.

14 A Oh, good.

15 Q So it looks like they were working on that, then
16 you got installed and then later --

17 A Then it came about again.

18 Q Then you raised it. So --

19 A Yes, and I can remember.

20 Q I have -- You have to wait for a question here.

21 A Sure, sure.

22 Q That's the way we do it here. Have you had a
23 chance to review anything in preparation for your
24 deposition today, any documents or anything like
25 that?

00036

1 A No documents, no.

2 Q Other than talking with counsel, have you

3 consulted with anything else about it or done

4 anything in preparation for it? I don't want to

5 know about what you talked to counsel about.

6 A Except for Frank and me chatting yesterday, I

7 haven't done any study or preparation.

8 Q I will show you some of those things and those

9 documents and that will kind of peg some of the

10 events.

11 A Sure.

12 Q At one point in time the review of the documents

13 seems to indicate to me or to us that a decision

14 was made to release a list of substantiated

15 allegations against priests, and then at some

16 point in time you may have reversed that. Do you

17 recall anything like that?

18 A I couldn't recall the actual facts, but I would

19 not be at all embarrassed to admit that I can

20 remember there was a lot of back and forth and

21 that in my own mind I went back and forth. In

22 consulting people, in listening, there would be

23 one day that I would say, "This is the thing to

24 do." Somebody would say, "Here's the pluses and

25 minuses, and I said, "Well, let's hold off for

00037

1 awhile." Boy, I wouldn't hide the fact that it
2 was a tough decision and that in my own mind I
3 found myself going back and forth.

4 Q And maybe you could elaborate on the tensions
5 that you were feeling in your own mind on whether
6 or not you should release such a list to the
7 public.

8 A Sure, sure. So you mean like the pros and cons
9 in my own mind?

10 Q Yes, the tensions that you felt or the conflict
11 you experienced around that decision.

12 A Sure. The pros were that I was hearing a rather
13 unanimous chorus from the victims advocacy
14 community, whom I had come to trust even though
15 they were sometimes very neuralgic meetings who
16 were rather -- rather unanimous, I say "rather,"
17 I put the adverb in there because I can remember
18 one or two very aggressive victim defenders who
19 felt that it would be not the thing to do. But
20 in general it seemed pretty clear that the
21 victims advocacy community was encouraging me to
22 do this as a step in the right direction. So
23 that was one thing in my mind.

24 A second pro was that it made sense. It
25 made sense from a protection of youth point of

00038

1 view that if these were -- if these were men whom
2 we were convinced and that we had proof that they
3 were no longer, thank God, exercising the
4 priesthood and being removed from the priesthood,
5 were, obviously, still alive, and even though we
6 had gone through rather dramatic steps to see as
7 far as notification of police and public
8 notification of this fact of these people, that
9 if we could put out a list, that would be good.
10 I mean, if this particular man was living in an
11 apartment building, again, even though we had
12 notified the police and put the blurbs in the
13 Sunday bulletin in the parishes there, that that
14 could be another step in the protection of
15 children.

16 Another pro was that when people said to
17 me -- they would say to me, "Dolan, you keep
18 saying you want other victims to come forward."
19 There might be people out there whose memory --
20 or that they kind of know it, but they are
21 embarrassed to come forward, and if they see,
22 indeed, this man has been -- there was an
23 allegation that was substantiated, they might
24 then have the freedom to come forward, which
25 could be amazingly therapeutic and cleansing. So

00039

1 those were pros that were there. Did you want

2 the cons, too?

3 Q Sure.

4 A The cons were that, first of all, people said no

5 matter how hard you try and no matter how

6 scrupulous you are in composing this list,

7 there's still going to be people that are

8 unhappy, because then they will say, "You left

9 this one off or that one off," even though the

10 allegations were not substantiated. So that you

11 would reopen some wounds in people who still feel

12 that father so and so abused them, and even

13 though that went through the law and went through

14 the investigation and went through the Review

15 Board and was not shown to be substantiated, they

16 believe it was, and if they are not on the list,

17 they are going to be rehurt. So that was another

18 reason not to.

19 I have to be honest with you to say I

20 was worried about priestly morale and the morale

21 of the people. I thought, good God in heaven,

22 all they do is every day hear bad news about the

23 church. We are beginning to make some progress,

24 we are beginning to make some healing here, and

25 now I'm going to publish this list again and it's

00040

1 going to tear open the scab and priests are going
2 to say that these Bishops are using -- trying to
3 regain their credibility by hanging priests out,
4 and those were the negatives about it.

5 Listen, then, too, other people would
6 say, you know, if you publish the names of these
7 priests, there are going to be some of these
8 priests that are going to sue you, and there's
9 going to be some victims who are going to say,
10 and there were, as a matter of fact, some victims
11 who said, "Please don't publicize the list,
12 because so far I have been anonymous, but if my
13 family sees father so and so, they are going to
14 know this, that he's the one that abused me." I
15 didn't claim to understand all of that, but that
16 was the pros and cons that I was hearing.

17 Q When the decision was made to publish the list,
18 it's correct to say that the list was limited to
19 the names of those priests whose -- against whom
20 substantiated allegations had been made and their
21 current status was what was published, correct?

22 A The list was of, yes, here are the priests
23 against whom there has been a substantiated
24 allegation of sexual abuse of minors, and then
25 their canonical status. I can't remember, to be

00041

1 honest with you, what else was on it.

2 Q Okay. It is correct to say that there was no
3 information given at the time the list was
4 published about what was actually known about
5 that particular priest or any priest on that
6 Archdiocese and when it was known and where they
7 had offended and anything like that, correct?

8 A I can't remember. I think literally it was just
9 a list, so I don't think there were paragraphs
10 and descriptions. That having been said, most of
11 that had been put out anyway, because it was
12 already the protocol of the Archdiocese that once
13 a case was resolved, that was published, and so
14 there was some publicity given to that, but I
15 don't think that that was part of the list.

16 Q You say that the policy of the Archdiocese was
17 once a case was resolved to publish it, it's
18 correct to say that it was the policy of the
19 Archdiocese to publish that a priest had been
20 removed or had been credibly accused, but nothing
21 more about the priest's history in terms of what
22 the Archdiocese knew and when they knew it?

23 A You mean before I got there or --

24 Q While you were there.

25 A Boy, I don't know. I can remember going to a

00042

1 parish, for instance, when I had to remove a
2 priest and telling the people to their face. I
3 said, "You need to hear this bad news from me."
4 It was not an accusation that it happened at the
5 parish. Again, it was from a long time before.

6 I can remember the priest's assignment
7 history being published. Whether that was an
8 isolated case or not or whether that was policy,
9 I don't know. I can't remember.

10 Q Who was that, Cardinal?

11 A Do you know who that was? Can I ask?

12 Q No. If you remember.

13 A I can see the guy and I can't remember his name.

14 MR. LO COCO: Do you mind if he asks at
15 the break?

16 MR. ANDERSON: No, I don't mind if
17 something refreshes your memory, but right now
18 what we're trying to do is get what you do
19 remember.

20 MR. LO COCO: Got it.

21 THE WITNESS: Sure.

22 MR. ANDERSON: Fair to say.

23 MR. LO COCO: I'm good for a break
24 whenever you hit a good spot.

25 MR. ANDERSON: In just a moment here.

00043

1 BY MR. ANDERSON:

2 Q Do you have any memory of any disclosure being

3 made to the Archdiocese as a matter of course or

4 policy about any of those priests on the list

5 that was published that pertained to the actual

6 history that was known to the Archdiocese about

7 each of those priests, when they had offended and

8 where they had offended or anything like that?

9 A Could I -- Could you be a little more clear in

10 the question?

11 Q Sure. Was any information as a matter of

12 protocol or practice disseminated pertaining to

13 the list beyond the fact that the priest had a

14 substantiated allegation, his name and his

15 current status?

16 A On the list or in general?

17 Q On the list.

18 A On the list I can't recall truthfully, although

19 my memory is it was the name.

20 Q And then in general --

21 A But in general, yes, I think there was. I think,

22 for instance, in the whatever the name of the

23 newspaper was in the Archdiocese that when there

24 was a priest removed, there was an article about

25 him, about that sad fact and his biography.

00044

1 Q Was there a disclosure made by the Archdiocese of
2 the information that was contained in the
3 personnel files pertaining to allegations of
4 sexual abuse and the history?

5 A Well, there would have been a disclosure to law
6 enforcement people. They had complete access to
7 the files. But you mean publicly?

8 Q Yes.

9 A You mean beyond the assignments?

10 Q Beyond the assignments, yes.

11 A No, I don't think so.

12 MR. ANDERSON: Okay. Is this a good
13 time to take a break for you?

14 THE WITNESS: Sure thing.

15 MR. ANDERSON: Okay. Let's do it.

16 VIDEOTAPE TECHNICIAN: We're now off the
17 record at approximately 2:34 with Videotape

18 No. 1.

19 (A recess was taken.)

20 VIDEOTAPE TECHNICIAN: This is Tape 2 in
21 the deposition of Cardinal Dolan. We're now on
22 the record at approximately 2:45 p.m.

23 BY MR. ANDERSON:

24 Q What I'm going to be doing, Cardinal, is showing
25 you various documents that have been produced to

00045

1 us from the files of the Archdiocese.

2 A Good.

3 Q And to make it as easy for us as is possible,
4 we're using them as they have been produced and
5 what we call Bate stamped, and I'm showing you a
6 document for example in the lower, right-hand
7 corner.

8 A There it is, yes.

9 Q Do you see --

10 A ADOM.

11 Q Archdiocese of Milwaukee, and then there's a
12 number, and this particular one is 121906. So
13 when I refer to this exhibit, I'm going to use
14 that number.

15 A Good. Okay.

16 Q And in a moment I will show you the list that has
17 been published and is reported to have been
18 published in July of 2004 that now was taken off
19 the website in 2008. But for the moment I am
20 showing you this exhibit, and it was produced to
21 us from the files, and it pertains to it looks
22 like some work being done concerning a number of
23 priests and allegations of sexual abuse of minors
24 and whether it's substantiated in the year 2002,
25 October of that year.

00046

1 I guess I'm showing you this to kind of
2 bring you back to that point in time first to see
3 what your memory is about kind of what was going
4 on at that time as you recall it in determining
5 whether or not to publish and disclose or not
6 and, if so, what was to be disclosed publicly.

7 MR. LO COCO: Object to the form of the
8 question. There's a long prece to it. I mean,
9 what I took it to be was what was going on in
10 October of 2002 regarding the issue of publishing
11 the list. Is that the question?

12 MR. ANDERSON: Well, I guess I'm trying
13 to bring him back. He hasn't looked at the
14 document so --

15 MR. LO COCO: I don't even know if he's
16 ever seen this document. I mean, you haven't
17 asked that. Anyway, my objection is it's an
18 ambiguous and vague question.

19 BY MR. ANDERSON:

20 Q Okay. Let me ask you this. In 2002, in the fall
21 of 2002, October and thereabouts, do you remember
22 what you and the Archdiocese was doing pertaining
23 to the formulation of a list and what to do with
24 it?

25 A Yeah.

00047

1 Q What do you remember about that?

2 A You are asking me, Mr. Anderson, still just about
3 that list?

4 Q Yes.

5 A I don't think we would have spoken about the list
6 that early. If I recall correctly, I don't think
7 that was an immediate thing. I might be putting
8 my foot in my mouth because you might be showing
9 me something later, but right now as I'm thinking
10 in those opening months, I don't think publishing
11 a list was one of the burning issues. That would
12 come up later. So I don't know of a list like
13 this. That's the right date on the top, so this
14 would have been October 18, '02. Am I correct in
15 thinking -- Well, you are supposed to be asking
16 the questions, not me, but I presume the reason
17 for your question would be would this have been
18 part of our research in preparation for the
19 release of a list. I doubt if that were the
20 case.

21 Q Looking at this exhibit, obviously there's
22 typewritten portions that identify names of
23 priests, assignments, years, substantiated, et
24 cetera, and then there are handwritten notes in
25 the left-hand side in somebody's hand. Are you

00048

1 able to recognize whose that -- whose writing

2 that is?

3 A I can recognize it's not mine, but I cannot

4 recognize whose it is.

5 Q Okay. And as you look at this particular

6 exhibit, is it one that is familiar to you at all

7 as having been created and/or reviewed by you or

8 anybody at your direction in or around October of

9 '02?

10 A Whether I saw this exact list, I don't know, but

11 this would be the kind of list. Remember, I told

12 you when I first got there, I said, "You all need

13 to assure me," and this would have been the kind

14 of list that I could have recalled looking at

15 when they said, "Here's the history, here's the

16 guys that we had worried about, and here's the

17 disposition." This would have been the kind of

18 thing that, as sickening as it was, that I would

19 have looked at, yes.

20 Q In a few moments I'm going to show you the list

21 that actually got published, but on the first

22 page of this exhibit the name [REDACTED],

23 [REDACTED] appears --

24 A Um-hum.

25 Q -- on this exhibit. Do you see that name as the

00049

1 second one?

2 A Yes.

3 Q His name is not on the list that ultimately was
4 published as we have reviewed it. Do you know or
5 remember why that would have been omitted from
6 the published list in 2004?

7 A No, I don't know if it was omitted or not. I
8 trust you on that that it was. Why it was, if it
9 were omitted, I would not know why.

10 Q Okay.

11 A I can remember that one of the debates --
12 Remember when I said there was a lot of give and
13 take and going back and forth on all sides, pro
14 and con? One of the debates was even among those
15 that said, "Okay, you should put out a list," but
16 then part of that subset was "but you shouldn't
17 have the deceased on it." So that was yet
18 another discussion even complicated further.

19 Q And I think on the right-hand column this
20 reflects that [REDACTED] was deceased. Do you
21 see that?

22 A Yes, that's what prompted my memory. If he
23 weren't on it, maybe that's why.

24 Q Let's look at the third page of this exhibit
25 which is marked 121908, directing your attention

00050

1 to it, and the first name on that page is

2 [REDACTED].

3 A Um-hum.

4 Q Our comparison reflects that this name did not

5 appear on the published list.

6 A Um-hum.

7 Q Do you have any personal knowledge or memory as

8 to why that is so?

9 A No.

10 MR. LO COCO: While you are between
11 questions, I appreciate that we are not marking
12 exhibits at this deposition, we are just using
13 Bates labels because it helps to uncomplicate the
14 record later. This is one of the reasons why
15 this needs to remain under seal, because there
16 are, as Mike and I know, there are names on the
17 list of people -- on this list in particular of
18 people that may not have even had allegations
19 against them regarding sexual abuse of minors,
20 and in fairness and in justice to them, we need
21 to make sure we are careful with the record.
22 Thank you.

23 MR. ANDERSON: Well, as to the
24 deposition and the seal issue, that is and can
25 and will be corrected when the opportunity is

00051

1 given, as has been the case with every deposition
2 and every disclosure. So it will always be our
3 intent to abide by the necessary redactions in
4 accord with any court order and protocol, but --

5 MR. LO COCO: And I appreciate that.

6 THE WITNESS: At best we're sending more
7 information than may be necessary later.

8 MR. LO COCO: I appreciate that. I
9 think it's always helpful to make sure that's in
10 the record of any deposition we engage in.

11 BY MR. ANDERSON:

12 Q Do you remember, Cardinal, the priests whose name
13 is on the top of this third page, [REDACTED]?

14 A Boy, I can remember the name. I can't remember
15 all the details.

16 Q Do you remember an allegation was made against
17 him --

18 MR. LO COCO: Object to the form. You
19 can answer, if you can.

20 MR. ANDERSON: -- of sexual abuse?

21 THE WITNESS: You mean do I remember the
22 allegation that was made?

23 BY MR. ANDERSON:

24 Q The allegation.

25 A No. He's just one of those names that is part of

00052

1 sad memories. This is bringing back names of
2 people that we spoke about. Whether there was an
3 allegation, whether it was substantiated or not,
4 I don't know.

5 Q Okay. The next page marked 121909, two-thirds
6 down on that page, Cardinal, you will see the
7 name [REDACTED]. Do you know that
8 name?

9 A That would be a name that I cannot recall seeing
10 before.

11 Q And our comparison of the list that was published
12 and this document reflects that it is not a name
13 that was on the published list. Do you have any
14 memory as to why that is so?

15 A No.

16 Q Directing your attention to what would be about
17 the fifth page in this document, Exhibit 121911,
18 do you have that before you, Cardinal?

19 A Sure, um-hum.

20 Q At the bottom of it there are two names,
21 [REDACTED], and the last
22 name [REDACTED]. Our comparisons
23 reflect that these are not names published on the
24 list.

25 A Um-hum.

00053

1 Q Do you have any personal knowledge or memory as
2 to why that is so?

3 A No, no.

4 Q I'm showing you another exhibit.

5 A Are we done with this one?

6 Q Yes. You can put that one right next to you
7 because they are similar. And this is
8 essentially -- This is Exhibit 121885, Cardinal,
9 and you will see that it is essentially the same
10 document, at least the typewritten portions, but
11 now there's notations in the right-hand column in
12 a handwriting.

13 A Yes.

14 Q And at the top on the first page you see zero
15 equals known. Now when you look at this one,
16 it's dated 10/31/02, so it's close in time to the
17 last exhibit, but it also has a date in the
18 handwriting of 8/22/03. Do you see that
19 handwritten date?

20 A Where?

21 Q 8/22/03 right to the right of 10/31/02.

22 A Yes, yeah.

23 Q Whose handwriting is that? Can you look at that
24 and identify it?

25 A I can look at it, but I can't identify it.

00054

1 Q When you look at these two exhibits, are they
2 familiar to you as being working drafts of what
3 to release and what not to release being
4 circulated among the -- your office internally?

5 A To recall what I said previously, this would be
6 the kind of working list that I can recall using
7 in my attempt upon arrival to learn the status of
8 priests that had -- that we have a bad history
9 of. Whether to jump then to say is this the kind
10 of list we used in compiling the list about which
11 you are speaking, that I don't know.

12 Q I'm going to direct your attention to the last
13 page of this exhibit, Cardinal, and on that last
14 page there's additional handwriting.

15 A Um-hum.

16 Q And there is the name [REDACTED] with Fiorenza. Do
17 you know that name?

18 A Fiorenza?

19 Q Yes.

20 A I do.

21 Q Who is that?

22 A Judge Fiorenza was an ex-judge that we counted
23 upon to do investigations of cases that -- in a
24 further attempt to substantiate. So, in other
25 words, even if the law enforcement people said,

00055

1 "There's not enough here," or "We don't think he
2 did it," that still wasn't enough for us and that
3 wasn't enough for the Review Board. So we had an
4 internal person, namely Judge Fiorenza, who then
5 would do his research and bring the data to the
6 Review Board.

7 Q When was Judge Fiorenza employed by the
8 Archdiocese as a part of the process? Was that
9 during your watch or your predecessor's?

10 A No, I would have inherited him. He would have
11 been onboard when I got there.

12 Q The next name is [REDACTED] Do you know
13 that name?

14 A I do know that name. I mean, the name -- I can't
15 recall the case. By the way, I think he called
16 it [REDACTED].

17 Q Okay.

18 A So, yes, I do recognize the name, but I do not
19 recall the details of the case.

20 Q Then beneath that in handwriting to the right of
21 8/22/03 there are three names, [REDACTED],
22 [REDACTED].

23 A Um-hum.

24 Q Are they all former priests now deceased of the
25 Archdiocese?

00056

1 A You know, those would be priests that I cannot
2 recall. Those would be new ones to me. I guess,
3 I mean, I saw them back in 2002, but I don't have
4 a working memory of those.

5 Q Do you remember that a decision was made to not
6 put deceased priests against whom allegations had
7 been substantiated, to not put them on the list?

8 A On the published list, you mean?

9 Q Yes.

10 A I can't recall. I can remember it being a
11 controversial decision. I can't recall which
12 side we came down on.

13 Q Here's the same document in typewritten fashion,
14 but it's got some additional handwriting on it,
15 and it's marked 056213. Do you see the
16 handwriting on the right-hand side?

17 A I do. "Dolan will decide whether this goes to
18 CDF." Um-hum.

19 Q Yes. And CDF refers to the Congregation of the
20 Doctrine of the Faith at the Vatican, correct?

21 A Yes.

22 Q What you do have to do, Cardinal, is make sure we
23 don't talk over one another.

24 A I'm sorry. Thanks.

25 Q I will remind you and you can remind me, if I do

00057

1 the same.

2 A Sure thing. Sure.

3 Q Tell me about that. What decides whether -- What

4 criterion did you use to determine whether or not

5 this list or any information on it goes to the

6 CDF?

7 A Good question. Keep in mind there were two

8 things that we had to -- there were two decisions

9 we had to make, all right, and the first one was

10 pivotal. The first one was whether or not the

11 guy stays in ministry. That was my decision or

12 my predecessor's that one no longer makes on his

13 own. One makes it after referring to the law.

14 One makes it after an internal investigation, and

15 one makes it after resolution by the Independent

16 Review Board.

17 Then my decision would be this man is

18 out of the priesthood. He can no longer publicly

19 practice his ministry. That's a decision every

20 Bishop makes. So that's the first and most

21 important, because that's what we have to do.

22 That's the promise we made to our people, this

23 guy is out. He cannot publicly represent himself

24 as a priest, he can't dress as a priest and he

25 can't publicly celebrate the sacraments.

00058

1 Here's the second level. What do we do
2 with him canonically. By Canon Law what do we
3 do. Now that's kind of a decision I can't make.
4 I can't remove his priesthood. I can remove the
5 practice of it, but I can't remove his identity.
6 The Holy See can, Rome can, okay? So then I had
7 to decide, and that -- I hope you understand that
8 first one was the biggy, he's out. Okay. Now
9 internally what are we going to do with this guy,
10 and there's a number of things you could do.

11 By the way, that's been refined since
12 I've left Milwaukee, as you probably know, but
13 back then you could do a number of things. You
14 could ask the Holy See, the Vatican, to take the
15 man's priesthood away. You could do that, and we
16 did on some.

17 Q Involuntary removal from the holy state?

18 A Yes, or return to the lay state. That can be
19 voluntary or involuntary, and we did that, okay,
20 but I couldn't do that, only Rome could. So
21 that's a decision you want to make, or you might
22 say, especially with a guy that's old and sick,
23 you might say that he lives a life of prayer and
24 penance. Namely, while he has got his priesthood
25 internally, he can never exercise it. That's a

00059

1 decision I can't make, either.

2 So most of the time you would have to
3 say, "Whew, thank God we got him out of the
4 priesthood, but now we have to decide what to do
5 with him internally canonically. That's when you
6 would go to Rome. Now sometimes -- Since then
7 now you just refer it to Rome and they kind of
8 tell you this guy needs to get out, we will take
9 the priesthood away, or they might say, "Let's
10 have a canonical trial to decide what to do with
11 him," or they might say, "He's 90-years-old, let
12 him live a life of prayer and penance."

13 I'm presuming that notation meant that
14 Dolan as the Archbishop was going to have to
15 decide if he's going take this to Rome, and the
16 competency then was under CDF, Congregation of
17 the Doctrine of Faith. It wasn't always so, but
18 it became that, and that what he's going to ask
19 for. I guess that's what it meant.

20 Keep in mind -- You probably know now, I
21 might be saying too much, now we don't have that
22 discretion. They all have to be reported to
23 Rome. They all have to be reported to Rome. I
24 don't think that was the case back then.

25 Q When was that decision made or edict by Rome to

00060

1 require reporting to them?

2 A That they all had to go? Can't remember.

3 Q Was that when then Cardinal Ratzinger was the

4 head of the CDF?

5 A This would have been, if it were '02.

6 Q No, the mandatory report to Rome.

7 A That might have been part of the tightening up by

8 the Holy See.

9 Q Under John Paul?

10 A Under either one, I don't know who, that it's not

11 up to you to decide whether or not you want to

12 report it to Rome. You got to.

13 Q So simply stated, and correct me if I'm wrong, as

14 an Ordinary Archbishop you would have the power

15 to remove the priest and his faculties from

16 ministry, correct?

17 A Um-hum, um-hum.

18 Q Yes?

19 A Yes. I'm sorry. Yes.

20 Q And you would also have the power to petition his

21 removal to Rome from the clerical state?

22 A Yes.

23 Q But you did not have the power to remove him from

24 the clerical state? That vested exclusively

25 under Canon Law with the Pope?

00061

1 A With the Apostolic See, right, right, correct.

2 Q Cardinal, I'm showing you another exhibit. This

3 one is marked 121870, typewritten, two pages and

4 titled "Priests Accused of Sexual Abuse Involving

5 Minors since 1926." Is it your memory that under

6 the Charter the Bishops concluded that they were

7 going to try to assemble such a list of priests

8 that went back as far as that that had been

9 accused?

10 A I can't recall of the Bishops corporately

11 deciding that. I do know the only thing -- This

12 kind of document I cannot recall ever seeing.

13 The only thing I can speculate, if that's --

14 MR. LO COCO: I don't want you to

15 speculate. Sorry.

16 THE WITNESS: Okay. Sure.

17 BY MR. ANDERSON:

18 Q Well, let me ask you this. When we look at this

19 there are a number of --

20 THE WITNESS: I'm not used to people

21 telling me that.

22 MR. LO COCO: I bet you are not, and I'm

23 not used to telling somebody like you what to do.

24 THE WITNESS: I wish I had it more

25 often.

00062

1 Q Well, when we look at this you can see that there
2 is priests who are accused of sexual abuse and
3 then there's first the deceased category. Do you
4 see that?

5 A Yes, I do.

6 Q And [REDACTED] is in there, and I think that's
7 one of the names I pointed out before.

8 A I remember that. I remember you pointing it out,
9 yeah.

10 Q And the next category is Archdiocese is
11 requesting administrative laicization by the Holy
12 Father.

13 A Okay.

14 Q And that's what we were just talking about?

15 A Yes.

16 Q Correct?

17 A Yes.

18 Q And then the next category is Archdiocese is
19 requesting an indefinite administrative precept
20 which restricts all ability to function as a
21 priest, including ministry, presentation,
22 identification and clothing. This request takes
23 into account the physical or age-related
24 limitations of the offender. Does that category
25 require action by the Holy Father's office or

00063

1 not?

2 A Let me read that again, if you don't mind.

3 MR. LO COCO: I'm sorry. Which

4 paragraph?

5 THE WITNESS: It's the third one.

6 MR. ANDERSON: The long one.

7 MR. LO COCO: Oh, the indefinite. Got

8 it. Thank you.

9 THE WITNESS: The only thing that has me

10 hung up is that last sentence. No, I would not

11 think this would require permission by the Holy

12 See. I think the Archdiocese and indefinite

13 administrative precept, which restricts all

14 ability to function as a priest, including

15 ministry, presentation, identification and

16 clothing, I would not think that requires the

17 permission of the Holy See.

18 Q Okay. The next category is Archdiocese is

19 requesting a penal trial be held in cases being

20 sent to Congregation for the Doctrine of the

21 Faith for further instruction. This would be a

22 category where the Holy See and the office that

23 is handling it has jurisdiction, correct?

24 A If I understand it. I don't know the answer to

25 that. My understanding of a penal trial --

00064

1 Remember I told you before like in substantiation
2 one of the usual ways is a priest admits it, and
3 in my years, in the early years, tragically most
4 did. I mean, it's good they admitted it, praise
5 God for their honesty, but most of them admitted
6 it. There would be some that would say, "I
7 didn't do this," and so in those occasions the
8 Holy See would say, "Okay, well, we better have a
9 canonical trial." So I presume that's what that
10 is.

11 Q The next category states, "Left active ministry
12 or voluntarily sought laicization prior to 2002,"
13 and in the right-hand side there's a name [REDACTED]
[REDACTED], and under it there's a
15 handwritten notation. I read it to say, "No
16 accusation (concerns of behavior)." I don't know
17 if that's correct, but do you know anything about
18 this [REDACTED]?

19 A No, I don't. That is a name I cannot recall.
20 What's the date on this? We don't know, huh?

21 Q As produced I don't have it, but if you look at
22 the second page at the bottom there, it says that
23 it's updated February 17, 2004.

24 A I see it there, um-hum.

25 Q So that is our best estimate of the date.

00065

1 A I would have been there then.

2 Q On the second page it lists or categorizes
3 returned from District Attorney and awaiting
4 resolution by outside investigator. At that time
5 the District Attorney was Michael McCann,
6 correct?

7 A Um-hum. I'm not sure.

8 Q Did you have direct contact with him?

9 A I would have direct contact with Michael McCann
10 sometimes.

11 Q What was the nature and circumstances?

12 A But I would not speak to him about cases. I
13 would have contact with him socially or in other
14 areas. For instance, I remember him giving an
15 excellent lecture once on not this, but on other
16 matters. So contact about cases, no.

17 Q Did he -- As a Catholic was he involved in
18 Archdiocesan affairs or activities with you or
19 the Archdiocese, to your knowledge?

20 A Well, he was a very committed, faithful Catholic,
21 but I don't think he was involved in any Diocesan
22 organizations or any Diocesan service projects,
23 no.

24 Q In this category the name Martin Knighton,
25 K-N-I-G-H-T-O-N, appears?

00066

1 A Yes, Marvin.

2 Q And then it says, "Full restrictions," but our
3 comparison to the list reflects that he is not on
4 the published list. Do you know why that is so,
5 Archbishop, or Cardinal?

6 A No, I don't know.

7 Q Oh, here.

8 MR. LO COCO: He is.

9 MR. ANDERSON: I misspoke. It's the guy
10 above him, [REDACTED].

11 THE WITNESS: [REDACTED], um-hum.

12 BY MR. ANDERSON:

13 Q He is not, I'm told, on that list as published.

14 Do you have knowledge of why that is so?

15 A No, I can remember [REDACTED], but I would not
16 be able to enlighten you on why he was or wasn't
17 on the list.

18 Q The next category is allegations without
19 substantiation, and do you have information as
20 you look at the names on this that allegations
21 were made pertaining to any of these identified
22 priests that were determined to be false?

23 A I'm sorry. I was districted by looking at the
24 list. Would you say the question again?

25 Q Sure. Do you know if when you look at the -- the

00067

1 category of allegations without substantiation

2 and there's the number 11 behind it?

3 A Um-hum.

4 Q Do you know if it was determined by those in the

5 Archdiocese making such a determination that any

6 of the allegations made against any of these

7 priests identified were determined to be false?

8 A I don't know that. My presumption would be the

9 very title would say that, yes, they were shown

10 not to have been substantiated. Now keep in mind

11 my major question at the time was two things. If

12 there was an allegation against a guy, did it go

13 to the police and did it go to the Review Board.

14 Those were the two things.

15 So if there was not -- if there was an

16 allegation that is without substantiation, it --

17 in my memory those two -- Do you see the

18 Eisenberg Commission there? You know what that

19 is, right? That was like the first of what we

20 then called the Diocesan Review Board because it

21 was pre-Dallas. So actually the Archdiocese of

22 Milwaukee anticipated the reforms of Dallas and

23 had done that. So I would simply say did the

24 police -- did this go to the DA and did this go

25 to the Review Board, and if it's not

00068

1 substantiated, the allegation must have been

2 false.

3 Q Now there is a difference, is there not, between

4 an allegation of sexual abuse of a minor made

5 that's not substantiated versus an allegation

6 that is false, is there not?

7 A Probably, sure, um-hum.

8 Q In one case it didn't happen and in the other

9 case it just could not be established?

10 A I see what you mean. It could not be shown.

11 Right.

12 Q And is it correct in your understanding of, you

13 know, the sexual abuse and how you develop

14 protocols within the Archdiocese that one way you

15 substantiate allegations made, if there is one

16 person reporting abuse, is to make the name known

17 to see if there's other victims that corroborate

18 it or substantiate it, correct?

19 A That's correct, yes. That would have been one of

20 the arguments for the list, yes.

21 Q And as it pertains to the category of the 11

22 priests here, allegations without substantiation,

23 wouldn't it have been helpful to have made it

24 known that accusations had been made, but they

25 had yet to be substantiated to see if there were

00069

1 others out there who had been abused and made
2 similar claims?

3 MR. LO COCO: Object to the form of the
4 question. If you understand it, you can give an
5 answer.

6 THE WITNESS: I would have to say that
7 one would have heard that argument. One would
8 also have heard the argument that that would
9 irreparably damage the reputation of a priest
10 that didn't do it, so you would hear both.

11 BY MR. ANDERSON:

12 Q And one of the goals that I think you had
13 described before, Cardinal, and I would applaud
14 such a goal is to get names out there so the
15 victims can come forward, correct?

16 A Correct.

17 Q To hold back these names against at least -- is
18 to really not advance that goal, correct?

19 MR. LO COCO: Object to the form. It's
20 argumentative, it's not a fact question, but
21 subject to that, if you have an answer, you can
22 give it.

23 THE WITNESS: I would, because that, you
24 know, one hears that a lot, but one has to recall
25 some of the nature of the allegations. If we get

00070

1 an allegation against a priest from somebody that
2 says he got off a flying saucer and tried to
3 abuse a person, we don't want to -- that would be
4 terribly unjust to publicize a priest's name
5 because an accusation like that comes in.

6 BY MR. ANDERSON:

7 Q You can easily discern that that would be a false
8 allegation, correct?

9 A Yeah.

10 Q Okay. But if somebody came in and said, "I was
11 abused as a 14-year-old by this priest," and that
12 was the only person that had made that
13 allegation, if you published that an allegation
14 had been made but yet to be substantiated is
15 different, is it not?

16 A There's a difference between a false allegation
17 and a substantiated one.

18 Q Let's look at this -- In this list here of
19 allegations without substantiation you will see
20 the fifth one down is [REDACTED]?

21 A Um-hum.

22 Q And his name was not placed along with these
23 others on the list because the allegation that
24 had been made was not substantiated, correct?

25 A I can't remember the nature of the decision why

00071

1 it was -- why he was or was not left off.

2 Q Okay. Well, I think it was described beneath it.

3 You can read it.

4 A Um-hum.

5 Q There is an account.

6 A No substantiation there, huh?

7 Q Yes.

8 A My presumption then would be if the rubric of the

9 list was those with substantiated allegations,

10 that would be the reason he would have been left

11 off.

12 Q Were you aware, Cardinal, that as Archbishop of

13 Milwaukee that a settlement had been made

14 pertaining to [REDACTED] before 2004?

15 MR. LO COCO: Objection, form,

16 foundation. That's a foundation question. If

17 you know, you can answer.

18 THE WITNESS: I can't recall.

19 BY MR. ANDERSON:

20 Q Do you recall having received information

21 directly or anybody under your control that [REDACTED]

22 had been known and reported to have been swimming

23 with youth and boys in the nude?

24 A I can recall that, yes.

25 Q What do you remember about that and when such

00072

1 information came to your attention?

2 A I can remember -- I don't know how it came to my
3 attention, but I can remember I have it in my
4 mind that that had been made.

5 Q Do you know when, Archbishop -- Cardinal, when
6 [REDACTED] name actually did get made public?

7 A I don't, no, unh-unh.

8 Q Have you heard from any source that after it was
9 made public by [REDACTED] that other victims
10 did come forward?

11 MR. LO COCO: Object to the form.

12 THE WITNESS: I'm sorry. I saw you
13 moving before I answered.

14 MR. LO COCO: Did he go public, Mike?

15 MR. FINNEGAN: He did.

16 MR. ANDERSON: Yes.

17 MR. LO COCO: I was worried about that.

18 So, first of all, do you know [REDACTED] ?

19 THE WITNESS: No.

20 BY MR. ANDERSON:

21 Q Well, here's the question. The use of the name
22 threw him off. So have you heard or did you
23 become aware that after [REDACTED] name went public
24 and was made public by a survivor who came
25 forward by the name of [REDACTED], that

00073

1 other victims came forward?

2 A I did not know that.

3 Q Did it worry you as Archbishop back then in 2004

4 that these names on this exhibit who had

5 unsubstantiated allegations remained in ministry

6 and posed a risk of harm to the kids?

7 A Well, generically I was worried about everybody,

8 you know, you are saying how could I be

9 absolutely sure. How could I have any -- How

10 could I have as much certainty as is morally

11 possible about everybody, and certainly these on

12 this list would have been higher on that list, so

13 I said, "What else can I do." You ask the police

14 to look into it, you ask our independent

15 investigator to look into it, you refer it to the

16 Review Board. If they come up to say "This

17 cannot be substantiated," that's all I could do.

18 Q Well, you were aware that the DA declined

19 prosecution most of the time because of the

20 statute of limitations?

21 A That's why we would have that independent

22 prosecutor. Some would say, "Oh, good, we don't

23 have to do anything," but we said, "Unh-unh, we

24 have to hold ourselves to a higher standard."

25 Q And you also did express concern about priests

00074

1 being wrongfully maligned, correct?

2 A That's legitimate. Right, I did.

3 Q But you also had to balance that against --

4 against the wellbeing of the children of the

5 community of faith, right?

6 A That's for sure. That's for sure.

7 Q So when you are balancing that, the decision was

8 made to error on the side of priests being

9 wrongfully maligned versus the possibility of any

10 of these priests offending, correct?

11 A I would say --

12 MR. LO COCO: Objection. Object to the

13 form. It's argumentative. You can answer.

14 THE WITNESS: No, I would think that

15 would not be a valid assumption, because there

16 could be others not on this list. Again, I'm

17 speaking just in generic memory. You know,

18 remember you know from the Dallas Charter that

19 the Review Board, the Independent Review Board

20 does two things for us. They substantiate an

21 allegation and then they assess fitness for

22 ministry. There are some cases, but if you ask

23 me to name them I wouldn't be able to, but just

24 generically there's a possibility of a priest

25 that the Review Board said, "We cannot

00075

1 substantiate this case, we don't think it
2 happened, and the police can't, either, and he
3 denies it and there's nothing else in his record,
4 but we think he should not be reassigned," and
5 then I would listen to them. So there would be
6 examples of us -- I think what you are saying is
7 it's a tough call between protecting innocence of
8 priests and protecting children. I would like to
9 think that the latter has more weight, the
10 protection of children.

11 Q Let's make sure we don't mix up our terms,
12 because I think we want to be talking about the
13 same thing. So first let's -- One category is
14 substantiated?

15 A Yes.

16 Q I will agree those are ones where the Review
17 Board and your office is satisfied they can go on
18 the list, correct?

19 A Right.

20 Q The next category is not substantiated or without
21 substantiation, okay?

22 A Okay.

23 Q And that means that there is some information
24 that the priest abused?

25 A There was an allegation, yes.

00076

1 Q There was an allegation. And then the third
2 allegation is a false one, didn't happen.

3 A Okay.

4 Q Okay?

5 A Okay.

6 Q And that's different from not substantiated,
7 okay?

8 A Um-hum.

9 Q So let's use those three categories,
10 substantiated, not substantiated and false.

11 A Okay.

12 Q Okay. Because we don't want them mixed up not
13 substantiated with false.

14 A Sure.

15 Q Then looking at the non-substantiated
16 allegations, those without substantiation here,
17 were any of these priests against whom
18 allegations had been made but not substantiated
19 restricted in their access to children?

20 A I couldn't recall. I wouldn't know. Can I say,
21 if you allow me to elaborate --

22 Q If you wish.

23 A -- that's a category that we learned tragically
24 doesn't work, so I could not see -- I could not
25 see me using that.

00077

1 Q When did you learn it didn't work?

2 A The Bishops learned that because, as you know, in

3 the past we'd have documents from psychologists

4 and all saying, "You can reassign this man, but

5 he shouldn't be assigned with minors." Where is

6 that going to be. You can't do that. So I would

7 not think -- that would not -- in my mind that

8 would be an impossible distinction.

9 Q I missed -- I didn't understand the last part

10 when you say it would be an impossible

11 distinction. What did you mean?

12 A The old category of restricted ministry.

13 Q Oh, I see.

14 A That you can assign a priest to a ministry that

15 would not entail contact with minors. That's

16 impossible.

17 Q Yes. I get that now, yeah. At one time I think

18 there was common thinking --

19 A At one time they thought they could do that, and

20 apparently so did the psychologists and all, but

21 that tragically, well, that didn't work, so we

22 can't do that.

23 Q When do you think -- When you say the "we," I

24 think you are talking about the Bishops.

25 A Um-hum.

00078

1 Q When do you think that we learned that?

2 A I think that would have been Dallas. I would

3 like to think we would have learned it ahead of

4 time, but in Dallas we formalized it.

5 Q I'm showing you another exhibit, Cardinal. This

6 one is 121799.

7 A Got it.

8 Q I'm going to try to keep it so we can use our

9 time, I know we don't have time to review the

10 entire thing, so I will represent to you that

11 this one is produced to us and looks like, you

12 know, this is something that is --

13 MR. LO COCO: This was an exhibit to Dr.

14 Cusack's deposition, wasn't it, Mike?

15 MR. FINNEGAN: Yes.

16 BY MR. ANDERSON:

17 Q And there's actually two copies of the same

18 document. The first two pages are one, and then

19 the second two pages is the same document but

20 with handwriting.

21 A Um-hum.

22 Q So first at the top of it it says, "Process for

23 Listing Past Clergy Offenders?"

24 A Um-hum.

25 Q And when you look at this, does this -- you will

00079

1 see at Item No. 2 the process to be used is as
2 follows. Item No. 2 says, "Determine what
3 information to include," and then paren internal
4 team. A is name, B is time frame of incidents,
5 e.g., mid 1970s. C, parishes served and dates.
6 D, when removed from ministry, maybe this --
7 maybe include this, and, E, current status.

8 A Um-hum.

9 Q I will represent to you on our review of the
10 documents, and Finnegan did this so he's good at
11 this, that the list that was published only
12 publishes A, the name, and E, the current status.

13 A Um-hum.

14 Q The question then is why did you and your office
15 make the decision not to include B, C and D?

16 A Um-hum. The specific answer to that I wouldn't
17 know. I think that the encouragement that we're
18 getting, Wisconsin traded on the names.

19 Primarily we want the names. The other stuff
20 seemed to be not as essential as the name.

21 Q Was that your call or did somebody else urge that
22 to you?

23 A I'm sure it was part of encouragement given to me
24 by others, but I would have to take either the
25 credit or the blame for the ultimate decision

00080

1 that was made.

2 Q Do you remember who it was specifically that
3 urged that other information not be included?

4 A No. Boy, I was consulting a lot of people, and
5 who came up that specific one, I don't know.

6 Q Okay. Let's turn to the third page of this
7 document which mimics the first page, but it's
8 got additional handwriting, and to the left of
9 Item No. 2 you will see the handwriting

10 "Objective is to let people know --

11 A Um-hum.

12 Q -- surface more victims."

13 A Um-hum.

14 Q Whose handwriting is that?

15 A I don't know. Not mine.

16 Q Wouldn't you agree, Cardinal, that had all these
17 items been disclosed as contemplated at least by
18 this document at this time, that more victims
19 would have surfaced back then if the dates of the
20 reports had been known, the dates of the
21 incidents had been made known, the details of the
22 incidents had been made known, the parishes where
23 they served had been known and what actions, if
24 any, taken by the Archdiocese had been known?

25 MR. LO COCO: Object to the form of the

00081

1 question, it's compound, it calls for speculation
2 and there's a lack of foundation, particularly
3 with Cardinal Dolan on this particular question
4 on what effect that would have had. Subject to
5 those objections, if you have an answer, you can
6 give it.

7 THE WITNESS: Well, all I know is I got
8 so much criticism for just releasing the names
9 that I -- the other stuff I probably didn't have
10 time to think of.

11 BY MR. ANDERSON:

12 Q Wouldn't you agree that the objective to let the
13 people know and have some more victims surface
14 would have been served if that was the objective
15 by more information being disclosed?

16 MR. LO COCO: Same objections. You may
17 answer.

18 THE WITNESS: That's a very laudable
19 objective. Whether the -- and I'd like to think
20 that was the main reason that we reported the
21 names. Whether the others would have amplified
22 that, that would be conjecture on my part.

23 BY MR. ANDERSON:

24 Q This is another document, but it was produced in
25 another context and the Bate stamp is a little

00082

1 out of sync with the other exhibit numbers. So
2 this exhibit number is AMIL00697. My only
3 question to you is, Cardinal, as Archbishop did
4 you ever see this particular handwritten
5 document?

6 A Not that I can recall.

7 Q Do you recognize the signature?

8 A I would not recognize the signature.

9 MR. LO COCO: Just to be fair to the
10 record, I don't think we produced this in the
11 Chapter 11 case. I think you got it some other
12 place.

13 MR. ANDERSON: I think that's true.
14 That's why it's marked that way.

15 MR. FINNEGAN: I think we did.

16 MR. LO COCO: You think there's an ADOM
17 number?

18 MR. FINNEGAN: There is an ADOM number.
19 It was just easier for me to access --

20 MR. LO COCO: Okay. That's fine.

21 MR. FINNEGAN: -- because we had used it
22 in the pre --

23 MR. ANDERSON: Okay. I would have been
24 worried that we didn't. Okay.

25

00083

1 BY MR. ANDERSON:

2 Q Cardinal, I'm handing you another exhibit, and

3 this one is marked 023888. This appears to be --

4 A What was it again, 889?

5 Q This is 888 and 889.

6 A Oh, I see. There's two pages there. There it

7 is.

8 Q The last three digits. This appears to be, on

9 our reading of it, the Privileged and

10 Confidential Final Version of something

11 pertaining to a priest by the name of Daniel

12 Budzynski. You are familiar with Budzynski, are

13 you not?

14 A I am familiar with Daniel Budzynski.

15 Q And do you remember personally ever reviewing the

16 file maintained by the Archdiocese pertaining to

17 Budzynski?

18 A I cannot recall, but I would say I would have had

19 to because he's one of the ones I asked for a

20 return to the lay state.

21 Q And for you to make a request of the Holy Father

22 for return to the lay state, would it have been

23 your practice to fully review the file or act

24 upon recommendation of those answering to you?

25 A Both.

00084

1 Q Do you have, with any sense of certainty or
2 memory today, that you actually did review the
3 Budzynski file or not?

4 A No, I can't remember reviewing it, and I have to
5 be honest did I review -- did they give me a
6 summary of it -- Budzynski was so obviously
7 horrible that I thought I want this one done and
8 I want it done expeditiously. So whether I
9 reviewed it in toto, I don't know. I cannot
10 remember.

11 Q Do you have any memory of how many people, how
12 many kids he was accused of having abused or
13 having admitted to having abused?

14 A I can recall this was a particularly nauseating
15 case.

16 Q Do you recall having paid money or authorized the
17 payment of money to Budzynski for his voluntarily
18 fleeing the priesthood?

19 MR. LO COCO: Object to the form. We're
20 a little far afield from the purpose of the
21 deposition, but you may answer that.

22 THE WITNESS: I can't recall that, no,
23 unh-unh.

24 BY MR. ANDERSON:

25 Q Did the Archdiocese employ a practice under your

00085

1 watch that would pay money to those priests
2 accused or had been -- had abused, that they
3 would receive a certain amount of money if they
4 sought laicization voluntarily?

5 A The way you would ask the question, Mr. Anderson,
6 I would say, no, that would not be a practice.
7 However, if I might, if I might presume to say
8 what you might be getting at.

9 Q Well, let me say how I read the practice and then
10 see if I'm correct. It appears that there was a
11 practice that was employed that if they -- they
12 were to get paid \$10,000 if they sought
13 laicization at the start, and then if they were
14 laicized voluntarily and did not contest it, they
15 would get \$10,000 at the back end, a total of
16 \$20,000?

17 A Um-hum.

18 Q Does that sound right?

19 A I don't -- I would not call that a practice. I
20 would not deny that that was done on occasion,
21 but I would not call that a payoff or a
22 settlement. But I would not deny that that was
23 done, the fact that you mentioned. Was it a
24 payoff, was it a settlement, was it an impetus, I
25 wouldn't say that, nor would I say was it a

00086

1 normal practice, but it was done.

2 Q And when it was done, it was done by and with the

3 Archdiocese and known only to those within the

4 Archdiocese?

5 MR. LO COCO: Object to the form,

6 foundation. You can answer.

7 MR. ANDERSON: Officials.

8 THE WITNESS: I don't know if I

9 understand the question. I would not have done

10 it on my own. I would have consulted with my

11 people, sure.

12 BY MR. ANDERSON:

13 Q But that was not made known to the public that

14 that was being done? That was done by the Office

15 of the Archbishop and those who you as Archbishop

16 chose to have it known?

17 A I think -- I can't be sure. It would be

18 speculation. I cannot recall us, though, being

19 allergic to the idea of letting that fact be

20 known. I mean, did we hold a press conference,

21 maybe not, but did I run it by the Finance

22 Council, did I speak to the College of

23 Consultors, probably.

24 Q Can you identify at any point in time in which

25 that particular practice, to the extent it was

00087

1 employed, was ever made known to the community of
2 faith?

3 MR. LO COCO: Objection to the form.

4 The Cardinal said more than once it wasn't a
5 practice. It was done.

6 BY MR. ANDERSON:

7 Q Well, what was it? What would you call it then?

8 When you did it, did you ever make it known to
9 the community of faith that you did it?

10 A I can't recall.

11 Q I'm showing you exhibit -- another exhibit,

12 Cardinal. This one is marked 009299. This would

13 be a letter from then Vicar for Clergy Hornacek,

14 February 21, 2003, to a priest at the

15 Archdiocese, James Flynt.

16 A Um-hum.

17 Q And I'm directing your attention to the third

18 paragraph, Item No. 1. It says, "If a priest

19 elects voluntary laicization, we would offer what

20 has been our practice --

21 A Um-hum.

22 Q -- if not policy, for more than a decade, namely

23 \$10,000 when the petition is submitted and

24 \$10,000 when a definitive response is received,

25 regardless of the contents of the response."

00088

1 A Um-hum. Okay.

2 Q It's a practice, isn't it?

3 A Well, there's a difference between -- You could

4 say we would offer what has been done in the

5 past, or we would offer what has been our policy.

6 Is it a policy? I don't think so. I mean, did

7 somebody come in and say to me, "Oh, Archbishop

8 Dolan, you have to do this, this is our policy,"

9 no. Did somebody come in and say to me,

10 "Archbishop, this has been done in the past," and

11 if there's a question of justice, helping a man

12 get medical insurance or to transition out of the

13 priesthood, which we were eager to have done and

14 there was a precedent for it, I might be open to

15 it. But was it a policy that was locked in, no.

16 Q I didn't say policy, I said practice.

17 A A practice that it was done sometimes, yes, but

18 not always, um-hum.

19 Q And when the term "our practice" is used here,

20 the "our" refers to the Archdiocese of Milwaukee,

21 correct?

22 A Or to the Vicar for Clergy, yes, um-hum.

23 Q I'm showing you another exhibit. This one,

24 Cardinal, is two pages and it involves Becker.

25 A Um-hum.

00089

1 Q Somebody known to you, I trust, as one of the
2 priests of the Archdiocese, and do you remember
3 how and if Becker was paid money and the
4 circumstances of it?

5 A I can remember that he's another one that I
6 wanted to laicize and to do it as expeditiously
7 as possible. If I recall correctly, when the
8 laicization came through, he let it be known
9 through his attorney that he was going to be
10 without medical insurance because he had a year
11 to go before Medicare kicked in. I can remember
12 seeking consultation about it and being told that
13 both from a canonical and a legal point of view
14 if something happened to him, guess who would be
15 responsible, me, and so probably the most prudent
16 thing to do was to see that this man had medical
17 coverage for the last year before Medicare kicked
18 in. I said, "I don't want to give this man a
19 check." It was suggested to me that I give a
20 check to our attorneys, who would give it to his
21 attorney for the purchase of proper medical care.

22 Q Do you recall that as it pertained to Becker he
23 was paid \$10,000 under the practice, but didn't
24 get the second \$10,000 because he did not
25 voluntarily seek laicization?

00090

1 A I cannot recall if he voluntarily did or not.

2 Q He did not voluntarily petition for a

3 laicization.

4 A Um-hum.

5 Q He refused it, but he did receive this \$10,000,

6 so the question is do you actually remember why

7 he received the 10,000?

8 A I do remember that, which I --

9 MR. LO COCO: You just answered that.

10 BY MR. ANDERSON:

11 Q Is that what you answer was, it was because of

12 the insurance?

13 A It was because I was told that that would be the

14 just thing to do, to -- not only the just thing

15 for him, but the just thing to protect the

16 Archdiocese that if he had a stroke or something,

17 we would have a couple hundred thousand dollar

18 bill on our hands, so I provided for health

19 insurance.

20 Q I took a statement from him at one point in time,

21 and he told me, and I'm paraphrasing it, that he

22 was concerned that if he talked to me that the

23 settlement money he received from the Archdiocese

24 for going quietly would be -- have to be given

25 back. Does that resonate with you?

00091

1 MR. LO COCO: Object to the form of the
2 question, lacks foundation. You can answer.

3 THE WITNESS: Well, two things. First
4 of all, he hardly went quietly. He was one of
5 the more notorious whiners and narcissists that
6 we had. And, number two, it doesn't take much to
7 know that his credibility is nothing. So I
8 wouldn't believe a word he said.

9 BY MR. ANDERSON:

10 Q Why do you say that?

11 A I mean, he had a record of making these ludicrous
12 remarks, just these misstatements that were just
13 all over the place.

14 Q He also had a record of having abused multiple
15 children?

16 A Did he ever.

17 MR. LO COCO: I'm going to need another
18 break.

19 MR. ANDERSON: Let's take a break now.

20 THE WITNESS: Where are we at? What
21 time is it.

22 MR. ANDERSON: Right now I have ten to
23 4:00. Should we take a break?

24 THE WITNESS: I don't need one, but,
25 sure, I would defer to you guys.

00092

1 MR. LO COCO: Sure. My brain needs one.

2 VIDEOTAPE TECHNICIAN: We're off the
3 record at approximately 3:48. This is the end of
4 Videotape No. 2.

5 (A recess was taken.)

6 (Exhibit 1 was marked.)

7 VIDEOTAPE TECHNICIAN: This is Videotape
8 No. 3 in the deposition of Cardinal Dolan. We
9 are now on the record at approximately 4:01 p.m.
10 Proceed.

11 BY MR. ANDERSON:

12 Q Cardinal, I've placed before you what I had
13 promised you earlier that I would present the
14 exhibit now marked 1 which was the list that was
15 published first in 2004. This exhibit I will
16 represent to you we actually pulled off the
17 internet in '08, and it appears to us to be the
18 same names listed, and the status of the priests
19 may have changed from '04 to '08, but otherwise
20 it would be the same. So I will just represent
21 that to you as the way we believe it to be.

22 A Um-hum.

23 Q If it proves otherwise, I will stand corrected,
24 but for our purposes I think it is correct. So
25 this appears to be the list that was released in

00093

1 2004?

2 A Yes.

3 Q I'd like to ask you some questions about the
4 files maintained by the Archdiocese. Under Canon
5 Law, of course, there is a requirement that files
6 be maintained on each priest, correct?

7 A Yes.

8 Q And there's a file maintained in the Chancery
9 pertaining to each priest called a priest file?

10 A Yes.

11 Q And there's also under Canon Law a requirement
12 that says that if there's scandalous material,
13 that that be maintained by the Ordinary in a
14 secret file, correct?

15 A I didn't know that of Canon Law.

16 Q You did not know that?

17 A I did not know that, no.

18 MR. LO COCO: I'm sorry. Can I have
19 that last question back, please. I wasn't really
20 a question, it was a statement.

21 COURT REPORTER: "And there's also under
22 Canon Law a requirement that says that if there's
23 scandalous material, that that be maintained by
24 the Ordinary in a secret file, correct? Answer:
25 I didn't know that of Canon Law. Question: You

00094

1 did not know that? Answer: I did not know that,
2 no."

3 MR. LO COCO: I object to the question
4 because that whole issue was dealt with in Dr.
5 Cusack's deposition, and the fact that there's
6 nothing in the file and we have, of course,
7 produced everything pursuant to prior motion
8 practice in this case.

9 MR. ANDERSON: Well, the question didn't
10 make any assumption. It's what Canon Law is.
11 Canon 49 requires it. I'm asking if he knew
12 about it.

13 MR. LO COCO: It's your statement about
14 Canon Law, Jeff. Let's ask a question.

15 BY MR. ANDERSON:

16 Q Cardinal, the files that get maintained
17 pertaining to the priests, and specifically those
18 that have offended or have been accused of
19 offending, that information is maintained in the
20 Chancery in the priest file, correct?

21 A Correct.

22 MR. LO COCO: Just a minute. I'm
23 putting this on the record. At the break I asked
24 Mr. Anderson and Mr. Finnegan why a New York
25 Times reporter would have been calling to ask

00095

1 questions about this deposition. I was told by
2 these gentlemen that they didn't contact the
3 Times, this is a deposition under seal, however
4 they did inform their clients that this
5 deposition was taking place and, of course, they
6 have no control over their clients.

7 I was further told by Mr. Anderson that
8 he did not speak to Ms. [REDACTED] about anything
9 substantively related to this deposition, yet I'm
10 reading the online article that was posted 17
11 minutes ago with quotes from Jeff Anderson.

12 MR. ANDERSON: Wait a minute.

13 MR. LO COCO: This is going to be raised
14 with Judge Kelley on Thursday. Ask your next
15 question.

16 MR. ANDERSON: Okay. At the break you
17 asked me about the Times. I told you I was
18 called this morning. We had told our clients.
19 [REDACTED] asked if I was taking the
20 deposition, where I was and if I was taking the
21 deposition, and I told her yes. She asked, "What
22 is it about." I said, "It pertains to the
23 bankruptcy and it pertains to discovery of
24 matters pertaining to objections that have been
25 made, and it pertains to the 575 claims that have

00096

1 been brought and some objections that have been
2 made to the claims," and that's what it pertains
3 to.

4 MR. LO COCO: First of all, that
5 representation to her is false. This deposition
6 deals with the list and with two claims, A-12 and
7 A-13. Let me finish. Secondly, the quote in the
8 Times online says, quote from Mr. Anderson, "The
9 deposition of Cardinal Dolan is necessary to show
10 that there's been a long-standing pattern and
11 practice to keep secrets and keep the survivors
12 from knowing that there had been a fraud
13 committed," close quote. That's not what you
14 told me before we went back on the record you
15 said to her. I think that violates --

16 MR. FINNEGAN: That is a statute of
17 limitations issue, Frank. That's the whole
18 issue, what information has been given to
19 survivors.

20 MR. ANDERSON: That is the issue.

21 MR. LO COCO: I'm not arguing about it
22 any further with you guys. I have made any
23 comments on the record. We will deal with Judge
24 Kelley on Thursday. Ask your next question.

25 THE WITNESS: As it pertains to what you

00097

1 asked what I told her, I told you the substance

2 of what I told her and that's --

3 MR. LO COCO: Ask your next question.

4 You shouldn't have been talking to her about the

5 substance of the deposition.

6 THE WITNESS: Do I have to continue? I

7 feel very uncomfortable continuing. I don't know

8 if I have the attitude or spirit to go on.

9 MR. LO COCO: This was done

10 cooperatively to advance the case in Milwaukee,

11 not so you could get your mug on TV again, Jeff,

12 or in the New York Times, which I know is what's

13 most important to you.

14 MR. ANDERSON: I got called and asked --

15 Look --

16 MR. LO COCO: Let's go off the record.

17 VIDEOTAPE TECHNICIAN: We're now off the

18 record at approximately 4:07.

19 (A recess was taken.)

20 VIDEOTAPE TECHNICIAN: We're back on the

21 record at approximately 4:20 p.m.

22 MR. LO COCO: We have agreed to move

23 forward to complete this deposition. Cardinal

24 has done nothing but be cooperative here, and we

25 want to finish this as expeditiously as possible.

00098

1 Next question.

2 MR. ANDERSON: Thank you, Cardinal. We

3 are going to shoot to try to get done by 5:00 so

4 you can make your 5:30 appointment.

5 BY MR. ANDERSON:

6 Q We were asking some questions about the files

7 maintained at the Chancery pertaining to the

8 priests, and in particular priests who have been

9 accused of or found to have committed sexual

10 abuse of minors. Directing your attention to

11 that topic, Cardinal, who at the Chancery besides

12 yourself had access to those files?

13 MR. LO COCO: Objection, foundation. If

14 you know.

15 THE WITNESS: Vicar for Clergy,

16 Chancellor.

17 BY MR. ANDERSON:

18 Q And when and if a file reflected a history of

19 sexual abuse by one of those offenders, would

20 that information be released to anybody outside

21 of the Office of the Archdiocese if they

22 requested to know about that offender, such as a

23 victim?

24 MR. LO COCO: I'm sorry. Can you read

25 that back?

00099

1 MR. ANDERSON: I can rephrase it, if you
2 want.

3 MR. LO COCO: Okay.

4 BY MR. LO COCO:

5 Q If a victim came to the Archdiocese to ask about
6 the history of an offender, would a victim be
7 given access to that file?

8 A I can remember cases where that happened.

9 Q Can you identify when?

10 A No, I couldn't.

11 Q Can you identify what offender, where that
12 happened?

13 A No.

14 Q Can you identify who in your office made such a
15 file available to a victim who requested it?

16 A By Canon Law the Chancellor has it as his or her
17 jurisdiction to exercise -- to make sure there's
18 discipline over the files. I can remember our
19 Victims Assistant Coordinator being very
20 concerned about victims that would be reading
21 that file. She herself sometimes cautioned
22 against it. I think when the victim would
23 insist, as long as the counselor -- emotional
24 counselor, not a legal counsel, was with the
25 victim in case there was a reaction, that even

00100

1 the Victims Assistance Coordinator said that was
2 fine to do it.

3 Q Can you identify the name of any survivor or
4 victim where a file was made accessible to them?

5 A No, I couldn't remember.

6 Q Can you give me an estimate of the number of
7 instances where it was done?

8 A No.

9 Q There is a document I'm going to show you here
10 which is marked Exhibit 121519, Cardinal, and the
11 date on the first page says, "Approved
12 January 23, 2008."

13 A Um-hum.

14 Q In our review this kind of indicates that this
15 may have been something that was created under
16 Archbishop Weakland, but I'm not sure. First, do
17 you recognize this document?

18 A No.

19 Q Okay. But at the right it says, "Files:
20 Priest," correct?

21 A Um-hum, yes.

22 Q And it talks about the summary and scope of the
23 policy. This policy pertaining to files and
24 priests, correct?

25 A Correct.

00101

1 Q At Item D it states, "The Chancellor is
2 ordinarily delegated by the Archbishop to have
3 primary responsibility for maintenance of priest
4 files," is that correct?

5 A Correct.

6 Q Second page it identifies under "Possible
7 Contents of the Files," Item A, they're in the
8 Chancery Office, B, confidential information is
9 Vicar for Clergy Office, correct?

10 A Correct.

11 Q And there it states, "This file contains matters
12 that affect a priest's right of privacy.

13 Confidential information is primarily located in
14 the priest's file in the Vicar for Clergy Office.

15 Some confidential information may be located in
16 the Chancery, including," and then it's

17 identified. Is that a correct statement of the
18 policy?

19 A That would be a correct statement of the policy.

20 You are reading from it.

21 Q And then at Item D it states, "Items Not To Be
22 Retained in Clergy Permanent Files." A -- Not A.

23 Item Dot 1, anonymous letters shall not be

24 inserted in the clergy permanent file. The

25 priest may be informed of its contents if deemed

00102

1 appropriate, but the letter is not to be filed.

2 Why would an anonymous letter not be put into the
3 file?

4 MR. LO COCO: Objection, foundation. If
5 you know. If you know.

6 THE WITNESS: I don't know.

7 BY MR. ANDERSON:

8 Q The next item not to be retained in the clergy
9 permanent file states, quote, "Narrative and
10 progress reports from professionals and treatment
11 centers are ordinarily read by the appropriate
12 Archdiocesan officials and returned to the person
13 or organization that sent the report; if the
14 report includes a brief statement of a
15 professional indicating in summary form the
16 diagnosis and prognosis, that may be retained as
17 noted above." Why is that information not to be
18 included in the file as a matter of policy?

19 MR. LO COCO: Objection, lacks
20 foundation. If you know, you can answer.

21 THE WITNESS: Yes, because most of the
22 treatment centers would say it shouldn't be.

23 BY MR. ANDERSON:

24 Q The next page deals with access, Cardinal, Roman
25 No. IV. It states, "The Archbishop, the

00103

1 Auxilliary Bishop, the Chancellor, the Vicar for
2 Clergy, and the Vice Chancellor all have ordinary
3 access to the priest files, i.e., they can at any
4 time have access to the files." Was that the
5 practice?

6 A Yes.

7 Q B states, "The Archbishop may authorize other
8 individuals to have limited access to a specific
9 file or files in writing. This authorization
10 shall be only for a limited time period." That
11 refers to limited access to clergy. In other
12 words, what does this mean?

13 MR. LO COCO: What does 4B mean?

14 MR. ANDERSON: Yes, what does 4B refer
15 to.

16 THE WITNESS: If the individual priest
17 wanted to review his file, for instance.

18 BY MR. ANDERSON:

19 Q Okay. That's what I thought, but I wanted to
20 clarify it from you. The next page, Cardinal, is
21 part of the document, and directing your
22 attention to F it states, "If an individual or
23 entity not described above wishes access to
24 records or to have copies of specific information
25 released, that may be done only upon the

00104

1 following conditions: One, a written request
2 from the person or entity seeking information.
3 Two, a signed permission from the priest involved
4 and, three, the permission of the Chancellor or
5 the Vicar for Clergy." Was that the policy?

6 A That's the policy here.

7 Q So if I read this correctly, if a victim came and
8 said, "I want to see the priest's file and know
9 about his history," it would require all three of
10 these things?

11 A Yes.

12 Q Archbishop, I have a number of documents where I
13 don't want to take the time to review them now,
14 but they reflect instances where you determined
15 and your office determined that a number of
16 priests were unfit for ministry because of sexual
17 abuse of children, and you wrote -- and you
18 removed them from ministry or they were already
19 removed from ministry so that they wouldn't be
20 around kids. And there's a number of files that
21 reflect that, as you have already stated, you
22 didn't have the power to remove them from the
23 clerical state, just from ministry and faculty,
24 which is a correct statement?

25 A Correct.

00105

1 Q But there's also a number of documents that you
2 sent to the CDF urging the removal from the
3 clerical state and stating the reasons, that
4 there had been multiple accusations substantiated
5 of sexual abuse, and the responses from the CDF
6 often times took months, if not years, and many
7 times there was no response. My question to you
8 is --

9 MR. LO COCO: I'm going to object to
10 everything you just said. You want to smear the
11 church, go ahead. You want to show the Cardinal
12 a document, then show him a document or just
13 forget the prece and ask your question.

14 MR. ANDERSON: Give me that.

15 MR. LO COCO: Or let Mike ask the
16 questions. I know that doesn't fit your ego. Go
17 ahead.

18 BY MR. ANDERSON:

19 Q Let me rephrase it for you. When you made a
20 request to the CDF for removal of priests from
21 the clerical state, were you satisfied with the
22 response you got and was it timely?

23 MR. LO COCO: Object to the form,
24 compound and overbroad. You can answer.

25 THE WITNESS: I'd rather not. I mean,

00106

1 do I have to?

2 MR. LO COCO: The problem I have with it
3 is it's so non-specific, Jeff. Give him an
4 example. It's just not a fair question.

5 MR. FINNEGAN: Is he choosing not to
6 answer?

7 THE WITNESS: I don't know if I
8 understand it.

9 MR. LO COCO: Than you don't have to
10 understand it.

11 MR. ANDERSON: I will come back to that
12 and just ask the question then on the topic,
13 okay?

14 BY MR. ANDERSON:

15 Q Is it correct to say that the Archbishop has the
16 power to tax each parish?

17 MR. LO COCO: Object to the form. I'm
18 going to instruct Cardinal Dolan not to answer
19 that. That has nothing to do with this, the
20 purpose of this deposition. Next question.

21 MR. FINNEGAN: I think one of your
22 objections on the [REDACTED] case is the
23 relationship between the Archdiocese and one of
24 the parish people. I think it's completely
25 relevant.

00107

1 MR. LO COCO: First of all, you already
2 know that there's the ability to -- there is a
3 taxa that's been discussed.

4 MR. FINNEGAN: All you have to say is
5 yes. That's pretty basic.

6 MR. ANDERSON: But, Frank, it goes to
7 the issues that have been raised --

8 MR. FINNEGAN: You are raising them.
9 This is your objection.

10 MR. ANDERSON: -- by your side, so we
11 really have to just establish a question. It's a
12 simple question.

13 MR. LO COCO: She's already decided that
14 the parishes are separate from the Archdiocese.

15 MR. ANDERSON: This is different. This
16 is a different inquiry.

17 MR. FINNEGAN: This is control, not --

18 MR. LO COCO: Next question.

19 MR. ANDERSON: Are you instructing him
20 not to answer?

21 MR. LO COCO: Yes.

22 BY MR. ANDERSON:

23 Q Is it correct to say the Archbishop has the power
24 to set the amount of the tax or the assessment to
25 a parish?

00108

1 A I'm not sure what Canon Law says about that.

2 Canon law speaks about the cathedraticum, which

3 is the technical term for the expectation that

4 each parish would have to contribute to the

5 pastoral life of the Archdiocese. How that's

6 set, I'm not quite sure.

7 Q Okay. Is it correct to say that the Archbishop

8 requires an annual report from each parish?

9 A An annual financial report, yes, it is.

10 Q Does that also include the state of affairs of

11 the parish or just the financials?

12 A The Canon Law would say that the Archbishop or

13 the Bishop would request from each parish a

14 financial and what's call a status animarum, the

15 state of the souls of the parish, the number of

16 baptisms, first communions, parishioners, deaths,

17 marriages.

18 Q Is it correct to say that the Archbishop has the

19 power to set rules to regulate the conduct of

20 those working in the parish, including the choir

21 director?

22 MR. LO COCO: Object to the form, lacks

23 foundation. If you understand the question and

24 can give an answer, you are welcome to. And it's

25 compound.

00109

1 THE WITNESS: Well, you mean would an
2 Archbishop of a Diocese have the right to set
3 personnel policy or to hire and fire people in a
4 parish?

5 MR. ANDERSON: To regulate the conduct.

6 MR. LO COCO: Object to the form. I
7 have no idea what that means.

8 MR. ANDERSON: Pertaining to training
9 for sexual abuse, for example, of employees.

10 THE WITNESS: We did that. We have that
11 safe -- What's the name of the very rigorous
12 policy that is now -- the safe environment
13 training, the safe environment training. We have
14 mandated that for all the parishes. If that's an
15 example of what you mean, yes.

16 BY MR. ANDERSON:

17 Q Okay. So is it correct then to say that the
18 Archbishop does have the power to set rules to
19 regulate the conduct of those working in a
20 parish?

21 A The Archdiocese -- A Diocese would usually put
22 out a manual of expectations for the priests and,
23 I mean, that they be alive with the teaching of
24 the church and the values of the gospel.

25 Q Is it correct to say the Archbishop has, as it

00110

1 pertains to, let's say, the sexual misconduct
2 policy, and what was it called, the safe what
3 program?

4 A The safeguarding -- safe environment program.

5 Q Safe environment program. Would that apply to
6 all the employees and volunteers in a parish?

7 A The safeguarding of God's children would be, yes.

8 Q Does the Archbishop have the power to mandate
9 specific training for all people working and
10 volunteering in the parishes?

11 MR. LO COCO: Object to the form, calls
12 for -- I think it's vague. You can answer it, if
13 you understand it.

14 THE WITNESS: I think the Archbishop can
15 set a policy for the Archdiocese that this
16 training would be expected.

17 BY MR. ANDERSON:

18 Q And require compliance?

19 A And then we have the annual audit to see if we
20 are in compliance.

21 Q Is it correct to say the Archbishop has the power
22 to mandate background checks for each person
23 working and volunteering in the parishes?

24 MR. LO COCO: Object to the form.

25 THE WITNESS: Whether we have the power

00111

1 to, I don't know. We have done that.

2 BY MR. ANDERSON:

3 Q Is it correct to say the Archbishop has the power
4 to fire somebody, discharge somebody, working
5 within one of the parishes who does not comply
6 with the requirements for training and the safe
7 environment program?

8 MR. LO COCO: I'm going to object to the
9 form of the question. That calls for a legal
10 conclusion, and I don't think Cardinal Dolan is
11 qualified to answer that question the way you
12 have asked it. But if you have an answer, you
13 can answer it.

14 THE WITNESS: I can't fire somebody in a
15 parish.

16 BY MR. ANDERSON:

17 Q You can set a regulation that requires somebody
18 to abide by the rules of the Archdiocese set by
19 you, and if they don't, they cannot work in the
20 Archdiocese?

21 MR. LO COCO: Kathy, I need the question
22 back.

23 MR. ANDERSON: Just let me -- You have
24 to let me finish the question.

25 MR. LO COCO: I'm sorry.

00112

1 BY MR. ANDERSON:

2 Q Is it correct to say that you have set
3 regulations and rules, and that if they are not
4 abided by pertaining to safe environment and
5 other similar things, that the person that is
6 hired or volunteered in a parish cannot work in
7 that parish unless they abide by that rule,
8 correct?

9 MR. LO COCO: I object to the form of
10 the question, calls for a legal conclusion. I'm
11 not going to let him answer that question the way
12 you phrased it. Regulations, rules? I mean,
13 c'mon, Jeff.

14 BY MR. ANDERSON:

15 Q So you set protocols for training of sexual
16 abuse, did you not?

17 A Yes, we did.

18 Q For all priests?

19 A For all priests.

20 Q All employees in parishes?

21 A Yes, volunteers.

22 Q And volunteers?

23 A Yes.

24 Q And you required compliance, did you not?

25 A Yes.

00113

1 Q And if there was not compliance, they could not
2 then continue to work as an employee or volunteer
3 in a parish?

4 A They should not continue to work.

5 Q Is it correct to say the Archbishop has the power
6 to regulate the interactions -- Well, never mind.

7 I will withdraw the question.

8 The pastor in a parish is appointed by
9 the Bishop and carries out his ministry in the
10 name of the Bishop, does he not?

11 A In the name of Jesus Christ and the Bishop.

12 Q The Archbishop has the right -- Is it correct to
13 say the Archbishop has the right to transfer or
14 remove a priest?

15 A Yes.

16 MR. LO COCO: As long as it's a priest
17 that is one of yours, though.

18 THE WITNESS: I mean a Diocesan priest,
19 yes.

20 BY MR. ANDERSON:

21 Q If it's a Religious Order priest and working in
22 the Archdiocese, it has to be with the permission
23 of the Ordinary, correct?

24 A The Bishop would provide faculties for the priest
25 to function.

00114

1 Q And if the priest did not abide by the rules and
2 regulations promulgated by the Ordinary, the
3 Ordinary has the power to remove the faculties of
4 the --

5 A Of the priest.

6 Q -- of the Religious priest?

7 A Yes.

8 Q And, thus, not allow him to work or minister in
9 the Archdiocese?

10 A Then he would be unable to publicly exercise his
11 ministry.

12 Q Does the Archbishop have the right to terminate a
13 parish employee directly without doing so through
14 a pastor?

15 MR. LO COCO: Object to the form. If
16 you know.

17 THE WITNESS: I don't know.

18 BY MR. ANDERSON:

19 Q Is it correct to say that the Archbishop, as the
20 shepherd of the flock of an Archdiocese, has
21 responsibility for every Catholic in the Diocese
22 and the care of their souls?

23 A The care of the souls of everybody, Catholic and
24 not.

25 Q Is it correct to say the Archbishop is

00115

1 responsible for seeing that the Archdiocese
2 programs and directives are faithfully carried
3 out on the local level and on the parish level?

4 A Yes.

5 Q Is it a correct statement to say that the
6 Archbishop of the Archdiocese has direct
7 authority over all of the works of the apostolate
8 within his Diocese, even though this authority is
9 often exercised through others, such as pastors
10 and school administrators?

11 MR. LO COCO: Object to the form,
12 foundation. It's ambiguous. If you have an
13 answer, you can give it.

14 THE WITNESS: I don't know. These are
15 very technical questions. It would seem to
16 require more of a canonist than myself.

17 BY MR. ANDERSON:

18 Q Do you have a response to the question? Do you
19 feel able to answer it?

20 A I can't even remember the question.

21 Q I will ask it again. Is it correct to say the
22 Archbishop has direct authority over all of the
23 works of the apostolate within the Diocese, even
24 though this authority is often exercised through
25 others, such as pastors and school

00116

1 administrators?

2 A It would not be accurate to say an Archbishop has

3 direct authority, although that might be

4 clarified by the second -- the phrase that

5 that -- that he would trust others to exercise

6 vigilance and shepherding on his behalf.

7 Q It's exercised through others, is that correct?

8 A It's exercised most of the time through others.

9 MR. LO COCO: I need to put an objection

10 on the record to the last question, and that is

11 that it calls for an expert opinion, either a

12 Canon lawyer or civil lawyer or both. The answer

13 is on the record.

14 BY MR. ANDERSON:

15 Q Does the Archbishop have the power to require

16 background checks to be done on the workers and

17 the volunteers at a parish?

18 MR. LO COCO: Objection, asked and

19 answered. If you know. Same expert opinion

20 question.

21 THE WITNESS: I know we require them. I

22 know some people have threatened to sue us for

23 doing it, so whether I have the power to or not,

24 I don't know. We have the expectation that it's

25 done.

00117

1 BY MR. ANDERSON:

2 Q But you did do it?

3 A We have done it.

4 Q And you did it because you wanted to protect

5 kids?

6 A I hope so.

7 Q And you actually required everybody to go through

8 background checks and training, right?

9 A And renew it over and over again.

10 Q And you received some criticism for having

11 implemented that, didn't you?

12 A The Bishops or me personally?

13 Q I don't know. Did you receive criticism?

14 A Yes. Yes, I did.

15 Q From -- I don't need names, but from what

16 quarters, what elements?

17 A Mostly from volunteers who would say, "This is an

18 invasion of privacy, this is way too much." We

19 would often times get objections from parents who

20 would say that in our attempt to give sensitive

21 and age appropriate training to their children on

22 how to recognize signs of abuse, it was an

23 intrusion into parental authority. We got some

24 threats from people as far as civil rights and

25 personal rights.

00118

1 Q And you answered those criticisms by saying, "I'm
2 the shepherd of this flock," in effect, "and I'm
3 going to do it because it's the right thing to do
4 and I believe I have the power?"

5 A I hope so.

6 Q The Archbishop does appoint the Superintendent of
7 Schools, doesn't he?

8 A Yes.

9 Q Is it correct to say the Archbishop has
10 responsibility for Catholic and religious
11 formation in Catholic schools within the
12 Archdiocese?

13 MR. LO COCO: Object to the form. Can I
14 get that one back?

15 MR. ANDERSON: I will just read it
16 again.

17 BY MR. ANDERSON:

18 Q Is it correct to say the Archbishop has the
19 responsibility for Catholic religious formation
20 in Catholic schools within the Archdiocese?

21 A Yes.

22 Q Is it correct to say the Archbishop has the right
23 of visitation over the schools in his
24 Archdiocese?

25 A You mean he has the right to visit the schools?

00119

1 Yes.

2 Q Is it correct to say the Archbishop of a
3 Archdiocese possesses executive, legislative and
4 judicial power over matters within his
5 Archdiocese?

6 MR. LO COCO: Object to the form. It's
7 really broad. You can answer that, if you have
8 an answer.

9 THE WITNESS: Can I ask you, I mean, it
10 seems like I'm being asked about the Episcopal
11 Law Office. I thought this was a specific line
12 of questioning about the Archdiocese of Milwaukee
13 and the six and one-half years that I had the
14 honor of being its shepherd.

15 MR. LO COCO: It is. This last question
16 is broadly related to the A-12 and A-13 cases
17 that are the subject, but if you have an answer,
18 answer it. If you don't, fine.

19 THE WITNESS: What was the question
20 again?

21 BY MR. ANDERSON:

22 Q Is it correct to say the Archbishop possesses
23 executive, legislative and judicial power over
24 matters within his Archdiocese?

25 MR. LO COCO: Object to the form, it's

00120

1 overbroad, it's ambiguous, it's vague. If you
2 understand it, you can provide an answer.

3 THE WITNESS: In those areas given to
4 him. We discussed earlier an area where I
5 didn't.

6 BY MR. ANDERSON:

7 Q Such as removal from the --

8 A Such as the return to the lay state.

9 Q Is it correct to say an Archbishop can enact
10 legislation for his Archdiocese within the
11 parameters laid out in the general law of the
12 church?

13 A The general and particular law of the church,
14 yes.

15 Q I think the program that you developed was called
16 the safe environment program?

17 A The safe environment program, yes.

18 Q And that applied to all employees and volunteers
19 in the schools?

20 A All right.

21 Q Is that correct?

22 A I can't take credit for that. That was a
23 national program.

24 Q But you did implement it as a part of the Charter
25 Article 12 in the Archdiocese of Milwaukee?

00121

1 A Yes, yes.

2 Q And similarly with background checks, Charter --

3 there's Charter Article 13 mandating background

4 checks for parishes, schools and other paid

5 personnel and volunteers. You implemented that,

6 did you not?

7 A Yes.

8 Q Okay. I'm going to turn back to showing you a

9 document here now to maybe be a little more

10 specific for you and at the request of counsel.

11 This is marked Exhibit 019924, and this, on our

12 reading, is a letter from you to His Eminence,

13 Joseph Cardinal Ratzinger, dated September 23,

14 2003. It pertains to a Father O'Brien.

15 A Um-hum.

16 Q In the first paragraph you state, "He has been

17 accused of sexual abuse." In the second

18 paragraph you report he had been criminally

19 convicted of effectively molesting a 17-year-old?

20 A Um-hum.

21 Q In the third you report that he acknowledged his

22 responsibility to the police and the civil court.

23 In the fourth you report that he requested to be

24 dispensed from all obligations, and in this

25 letter, as I read it, you are urging his

00122

1 dispensation, correct?

2 A Yes.

3 MR. LO COCO: Meaning return to the lay

4 state.

5 THE WITNESS: Right.

6 MR. ANDERSON: Yes. So is that correct

7 a correct statement, dispensation is return to

8 the lay state?

9 THE WITNESS: No, it would be the return

10 to the lay state.

11 MR. ANDERSON: Okay. I misspoke. Thank

12 you, Frank.

13 BY MR. ANDERSON:

14 Q The next exhibit is 039834.

15 A Um-hum.

16 Q And this is November 19, 2004. This is about one

17 year later, a response to you -- excuse me -- a

18 letter from you to then His Eminence Joseph

19 Ratzinger, and in the fourth paragraph down you

20 state, "Subsequent to my earlier letter to you,

21 two additional allegations of sexual abuse by

22 Father O'Brien have been reported," and at the

23 second page you write, "Moreover, I am convinced

24 that Father O'Brien is sincere and humble in

25 requesting dispensation." So it sounds like as I

00123

1 read this that they had not taken action and you
2 are now a year later urging it. Do you remember
3 this?

4 A I remember the name. I don't remember all the
5 chronology of the case.

6 Q Do you remember being frustrated about the delay
7 in response here?

8 A I would not use the word frustrated. I would say
9 I was eager to have it resolved.

10 Q I'm showing you now Exhibit 019938. This would
11 be again pertaining to O'Brien, and the year is
12 now September 6, 2005. You write to the
13 Congregation for the Doctrine at this time
14 Archbishop Amato?

15 A Um-hum.

16 Q Pertaining to O'Brien reporting he had been
17 convicted, it involved 14-year-old and at the
18 last paragraph you report, "Especially troubling
19 was a report that O'Brien had been observed on a
20 number of occasions in the local library with
21 adolescent boys." I think you are expressing
22 alarm that he still was around youth and had not
23 been removed, correct?

24 A Um-hum.

25 Q Is that yes?

00124

1 A Yes, although laicization may not have stopped
2 that, but I just wanted him as dramatically out
3 of the priesthood as possible.

4 Q And in the second page at the second paragraph
5 you state, "The potential for great scandal
6 exists?"

7 A Yes.

8 Q What was the potential here?

9 A That this -- that the potential for scandal is
10 that this man has not been kicked out of the
11 priesthood with all the drama that should
12 accompany that.

13 Q You go on to state, "If Father O'Brien, while
14 still in the clerical state, makes any
15 inappropriate advances on any of these adolescent
16 boys in whose company he has been observed, the
17 outcry will be huge?"

18 A Um-hum.

19 Q "The scandal lies not in the laicization, but in
20 the perception that the church has not acted
21 expeditiously enough knowing the multiple reports
22 of abuse."

23 A Um-hum.

24 Q Were you of the view when you urged and wrote
25 this that they just were too slow in responding

00125

1 to your sounding of the alarm?

2 A I would say that my impatience with the cases
3 being handled expeditiously would not have been
4 reserved to Rome. I would have the same
5 reservation with civil officials. I had the same
6 reservation with this. I had been eager to do
7 this for about the last three years and it's
8 taken that long to do it. So that impatience
9 would be targeted towards more people than just
10 Rome. But if you are asking me did I wish that
11 Rome had moved more quickly, I probably wished,
12 but most of the time I was grateful for the
13 resolution that eventually did come, because I
14 found them amazingly sensitive; and, secondly, I
15 had to remind myself there are close to 3,000
16 Dioceses in the world and I was one of them, so
17 that my cases were not the only ones. And,
18 thirdly, I at least knew that I had acted as
19 dramatically and as rigorous as possible in
20 removing him from the priesthood, and that was my
21 main -- that's the power that I had, so I had
22 done it.

23 Q You expressed frustration about civil authorities
24 and impatience with failure to act. Did Michael
25 McCann or his office ever prosecute any priests

00126

1 reported by you or your office who had offended
2 solely on the basis of the report and the
3 information given to him by your office, to your
4 knowledge, during your tenure?

5 A I cannot recall.

6 Q I just used the Father O'Brien example. There
7 are other examples, Cardinal, where you urged
8 removal from the clerical state and you wrote
9 letters. Do you have a memory of other instances
10 like that of O'Brien where it took -- where you
11 had to write multiple letters before action was
12 taken?

13 A I can't recall. I would not deny that there was
14 a general sense of eagerness to have these things
15 resolved as quickly as possible by Bishops in the
16 United States with also a realistic assessment
17 that we had been rigorous in our approach to it,
18 and that secondly Rome was doing everything
19 possible. Thirdly, that Rome was listening to
20 us, and when the dispositions did come, we
21 appreciated the resolution, it was usually the
22 one we had asked for, and that we knew that since
23 the -- with the tidal wave of cases, Rome was
24 obviously avalanched with work to do and it was
25 doing the best it could.

00127

1 Q As the Archbishop of Milwaukee and during your
2 tenure and having written to them and gotten some
3 of the responses you did, did you ever personally
4 express to the head of the CDF that more needed
5 to be done and needed to be done quicker?

6 A I never had the occasion to meet with the Prefect
7 of the Congregation of the Doctrine of Faith on
8 any of those cases that I can recall.

9 Q You may have answered this, but did you ever
10 personally go to Rome and meet with the Prefect
11 for the CDF or the Secretary urging action be
12 taken pertaining to any given priest or priests?

13 A I cannot recall.

14 Q Had you learned or did you become aware while the
15 Archbishop of Milwaukee that your predecessor,
16 Archbishop Weakland, had done so concerning
17 Lawrence Murphy?

18 A I can't remember. That he went, you mean?

19 Q Yes, that he met with the representatives of the
20 CDF and the Secretary for the CDF urging that
21 action be taken?

22 A I wouldn't have known that from him. I didn't
23 talk to him about it. Whether I knew that by a
24 reference to the case or not, I can't recall.

25 Q Did you ever recall having any reason to or

00128

1 for -- Let me rephrase it.

2 Did you ever review the Murphy file?

3 MR. LO COCO: What does that have to do
4 with this, Jeff?

5 MR. ANDERSON: Well, I think it has to
6 do with the practices. I'm just wondering if
7 there was a routine practice pertaining to files
8 where there were a number of priests.

9 MR. LO COCO: You asked Cardinal Dolan
10 hours ago about familiarizing himself, what he
11 reviewed, and he testified about his recollection
12 of whether I reviewed summaries or the actual
13 files, I can't tell you right now. So it's --
14 You are asking the same question, and -- let me
15 finish -- and Murphy is not part of A-12 or A-13.

16 MR. ANDERSON: But it does have to do
17 with what actions are taken and not taken, what
18 files are reviewed and what aren't reviewed and
19 what practices are employed. If you want to
20 instruct him not to answer, I will move on.

21 MR. LO COCO: Well, it's an irrelevant
22 question. Murphy was deceased by the time
23 Cardinal Dolan got to Milwaukee.

24 THE WITNESS: I don't think I reviewed
25 the files, many files, of dead priests.

00129

1 MR. ANDERSON: If you give me a moment
2 here, I think --

3 MR. LO COCO: I would suggest that we go
4 off the record, let me check my notes so that
5 whenever you finish I can ask my clarification,
6 if I have any.

7 MR. FINNEGAN: We have less than ten
8 minutes.

9 VIDEOTAPE TECHNICIAN: We're now off the
10 record at approximately 5:02.

11 (A recess was taken.)

12 VIDEOTAPE TECHNICIAN: We're back on the
13 record at approximately 5:04 -- 5:09.

14 BY MR. ANDERSON:

15 Q All right, Cardinal. I don't have much left
16 here, but just a little bit. I have put before
17 you Exhibit 040048. It's a letter of January
18 15th, 2008 from you as the Archbishop of
19 Milwaukee to then Most Reverend Angelo Amato of
20 the Congregation pertaining to Reverend John
21 Wagner. In the first sentence you state one of
22 the norms and it's in Latin. If you would be so
23 kind as to pronounce that for us.

24 A Sacramentorum sanctitatis tutela.

25 Q And what does that stand for in Latin -- in

00130

1 English?

2 A I don't know. You got me. You are embarrassing
3 me.

4 Q Well, I didn't know, so it's not -- In any case,
5 you are stating, "I am submitting once again for
6 your consideration the case of a priest." I am
7 reading into that some frustration. Did you feel
8 it?

9 MR. LO COCO: Object to the form.

10 THE WITNESS: I can't remember what I
11 felt.

12 MR. ANDERSON: Okay.

13 THE WITNESS: Once again, I don't deny
14 that I was eager to have these cases resolved as
15 expeditiously as possible.

16 BY MR. ANDERSON:

17 Q At the -- in the middle of it you write, "He has
18 now cut off all contact with representatives of
19 the Archdiocese, so we have no way of confronting
20 him on these additional reports, especially the
21 extremely disturbing one that he may still be in
22 contact with teenage boys." Do you remember
23 that?

24 A I don't remember that, no.

25 Q You go on to state, "Therefore, the liability for

00131

1 the Archdiocese is great, as is the potential for
2 scandal if it appears that no definitive action
3 has been taken."

4 A Um-hum.

5 Q "Pending state legislation to abolish
6 retroactively the statute of limitations will
7 gain more supporters if it appears we are letting
8 these pending cases languish."

9 A Um-hum.

10 Q As you wrote this -- Why did you write this?

11 MR. LO COCO: Why did he write the
12 letter?

13 MR. ANDERSON: This part of it.

14 MR. LO COCO: About the statute of
15 limitations?

16 MR. ANDERSON: Yes.

17 THE WITNESS: I'm going to instruct
18 Cardinal Dolan not to answer that. That has
19 nothing to do with the deposition or the issues
20 that are in front of us for A-12 and A-13.

21 BY MR. ANDERSON:

22 Q Isn't the statute of limitations a part of it?

23 MR. LO COCO: This has to do with what
24 we have as lawyers euphemistically called
25 "windows legislation." That's not a part of

00132

1 this. A-12 was abused in the early '70s, A-13

2 late '70s.

3 MR. ANDERSON: Does your instruction

4 stand?

5 MR. LO COCO: Yes.

6 MR. ANDERSON: Okay. I have no further

7 questions.

8 EXAMINATION

9 BY MR. LO COCO:

10 Q Cardinal, I just have a few follow-up questions

11 for you. Well, I pulled out a document I wanted

12 to ask you about. Let me see if I can find it

13 here. Well, let me give you this one. It's a

14 document you were asked about earlier. The Bates

15 label is 121871, and I want to direct your

16 attention to this list of priests, allegations

17 without substantiation. Do you see that,

18 Cardinal?

19 A I do.

20 Q The name [REDACTED] is second down?

21 A Second, right.

22 Q And underneath his name it says, "Possible

23 mistaken identity," correct?

24 A Correct. It does say that.

25 Q In justice would it have been appropriate to

00133

1 identify an allegation against Father [REDACTED] if,

2 in fact, it was a case of mistaken identity?

3 A No. That's one of the worries we had because,

4 unfortunately, we did have some cases of mistaken

5 identity. That's what I tried to say earlier.

6 That was one of the reasons that mitigated

7 against publishing simply an allegation.

8 Q While you were Archbishop of Milwaukee, did you

9 meet with abuse survivors?

10 A Yes, I did.

11 Q Did you try to answer the questions that they

12 presented to you?

13 A Sure I did.

14 Q Did you know that you had staff people who were

15 meeting with abuse survivors that came forward?

16 A Well, not only did I know it, I wanted them to.

17 We had a full-time person who met with them.

18 Q And did you ever instruct anyone at the

19 Archdiocese of Milwaukee, Dr. Cusack, the Victim

20 Assistance Coordinator, anyone who was dealing

21 with abuse survivors to not tell the truth to

22 people?

23 A No, unh-unh.

24 Q Did you instruct them to be forthcoming with

25 abuse survivors?

00134

1 A Yes.

2 Q I want you to assume some facts for my next

3 couple of questions. I want you to assume that

4 Dr. Cusack testified about ten days or so ago.

5 She was asked some similar questions about the

6 published list and what information was included

7 and what information was not included. I want

8 you to further assume that she was asked whether

9 one of the reasons -- She was asked about why the

10 dates of assignment was not included in the list

11 of priests that were identified, and I want you

12 to assume that among other things she said that

13 the dates of assignment were an important part of

14 the substantiation process. If someone came

15 forward and said they were abused by Father So

16 and So and that priest was at a parish within a

17 year or so of the allegation, that helped the

18 Archdiocese substantiate a claim of abuse, and if

19 the dates of assignment were published, that

20 would take away that investigative tool.

21 My question is do you recall discussions

22 about that particular reason for not including

23 the dates of assignment?

24 A Well, I recall that there were long discussions

25 about a bunch of reasons not to do that. Do I

00135

1 recall that was one of them, not specifically,

2 no.

3 Q And did you have abuse survivors -- Strike that.

4 I think you answered that.

5 MR. LO COCO: That's all I have. Thank

6 you.

7 EXAMINATION

8 BY MR. ANDERSON:

9 Q Cardinal, would you agree that if the Archdiocese

10 had, in fact, disclosed to the public the history

11 of molestation known to the Archdiocese of the

12 substantiated offenders and a complete history

13 and made that public, that would have caused

14 great scandal?

15 MR. LO COCO: Object to the form.

16 THE WITNESS: What does that mean, that

17 I can --

18 MR. LO COCO: You can answer it. I

19 think the term scandal is ambiguous, but if you

20 have an answer, you can answer.

21 THE WITNESS: You mean if the disclosure

22 of the names would have included --

23 MR. ANDERSON: I will rephrase the

24 question so you understand the question.

25

00136

1 BY MR. ANDERSON:

2 Q If the Archdiocese had when they had published
3 the names also published publicly the history
4 known to the Archdiocese, what they had known
5 about when they abused and where and what the
6 Archdiocese had done about it, in other words,
7 the history known to the Archdiocese, is it
8 correct to say that if such a disclosure would
9 have been made as contained in the files, it
10 would have caused great scandal?

11 MR. LO COCO: Same objections. In
12 addition, it calls for speculation, lacks
13 foundation. If you have an answer, you can give
14 it.

15 THE WITNESS: Well, recalling those
16 days, I don't know how it would have been
17 possible to have caused more scandal. I mean,
18 the church was -- there was scandal all over the
19 place, and most of it was out there anyway. So
20 every day there were articles in the newspaper
21 about this priest, what he had done 30 years ago
22 and what parishes and interviews with the
23 victims, so I don't know how there could have
24 been more scandal. I was told not to release the
25 names because it would -- the names because it

00137

1 would cause scandal. I said, "Well, I don't know
2 how it can get worse and I think the people need
3 to hear this, and if people in the know are
4 telling me this is a good thing to do, I think we
5 should do it."

6 Q Why weren't -- Why wasn't the history known to
7 the Archdiocese concerning each of these
8 offenders then publicly disclosed at the time the
9 names were?

10 A I can't --

11 MR. LO COCO: Objection, asked and
12 answered.

13 THE WITNESS: I can't recall the reason.

14 MR. ANDERSON: That's all I have.

15 MR. LO COCO: Thank you, Cardinal. I
16 have nothing else.

17 VIDEOTAPE TECHNICIAN: This is the end
18 of Videotape No. 3 and the conclusion of the
19 deposition of Cardinal Dolan. We are now off the
20 record at approximately 5:20 on February 20,
21 2013.

22 MR. LO COCO: Off the video record we
23 have to do one more thing, and you don't have to
24 let me know today, we have to let Kathy know.
25 The law gives you the chance to do something

00138

1 called reading and signing. You get to read this
2 deposition and see if Kathy got it down right and
3 then sign it in front of a notary, if you make
4 any changes, or you can waive that right. I will
5 tell you that most people in our jurisdiction
6 waive it, Kathy is excellent and you probably
7 don't need one more thing to do, but if you do
8 want to read and sign it, it's your right. You
9 can waive it or not.

10 THE WITNESS: Jim, what's your advice?

11 MR. MC CABE: I would say given the fact
12 it's on videotape, you can waive it.

13 MR. LO COCO: Since it's on videotape,
14 you can simply waive it.

15 THE WITNESS: Sure.

16 (At 5:21 p.m. the deposition concluded.)

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00139

1 STATE OF WISCONSIN)

2 MILWAUKEE COUNTY)

3 I, KATHY A. HALMA, Registered

4 Professional Reporter and Notary Public in and for the

5 State of Wisconsin, do hereby certify that the video

6 deposition of CARDINAL TIMOTHY M. DOLAN, was taken

7 before me at the New York Archdiocesan Offices, 1011 1st

8 Avenue, New York, New York, on the 20th day of

9 February, 2013, commencing at 1:30 in the afternoon.

10 That it was taken at the instance of the

11 Claimants upon verbal interrogatories.

12 That said statement was taken to be used

13 in an action now pending in the UNITED STATES DISTRICT

14 COURT FOR THE EASTERN DISTRICT OF WISCONSIN BANKRUPTCY

15 COURT in which the ARCHDIOCESE OF MILWAUKEE is the

16 Debtor.

17 A P P E A R A N C E S

18 JEFF ANDERSON & ASSOCIATES, PA, 366

19 Jackson Street, Suite 100, St. Paul, Minnesota, 55101,

20 by MR. JEFF ANDERSON and MR. MICHAEL G. FINNEGAN,

21 jeff@andersonadvocates.com and

22 mike@andersonadvocates.com, appeared on behalf of the

23 Certain Personal Injury Claimants.

24 WHYTE HIRSCHBOECK DUDEK, S.C., 555 East

25 Wells Street, Suite 1900, Milwaukee, Wisconsin, 53202,

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1 by MR. FRANCIS H. LOCOCO, floco@whdlaw.com, appeared
2 on behalf of the Debtor.

3 ALSO PRESENT: MR. JERRY TOPCZEWSKI,
4 Milwaukee Archdiocese; and MR. JAMES P. McCABE, General
5 Counsel, Archdiocese of New York.

6 That said deponent, before examination,
7 was sworn to testify the truth, the whole truth, and
8 nothing but the truth relative to said cause.

9 That the foregoing is a full, true and
10 correct record of all the proceedings had in the matter
11 of the taking of said deposition, as reflected by my
12 original machine shorthand notes taken at said time and
13 place.

14

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17

Notary Public in and

18

for the State of Wisconsin

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Dated this 22nd day of February, 2013,

21

Milwaukee, Wisconsin.

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