State of Maine

Office of the Attorney General

A Report by the Attorney General

On the Allegations of Sexual Abuse of Children by Priests and Other Clergy Members Associated with the Roman Catholic Church in Maine

February 24, 2004

FOREWORD

On behalf of the Office of the Attorney General and the Offices of the District Attorneys in the State of Maine, I want to acknowledge and thank the victims who have come forward to report their abuse as children by adults in positions of authority. I want to acknowledge the pain and suffering of these victims. I also want to acknowledge their great courage.

My hope is that the work of our offices and the information contained in this report will help to shine the light more brightly on one of the most despicable acts imaginable in this or any other society – child sexual abuse.

The courage and determination of survivors of child sexual abuse has and will continue to change the way our society deals with this important issue.

G. Steven Rowe
Attorney General
State of Maine

February 24, 2004

INTRODUCTION

In February 2002, legal counsel for the Roman Catholic Diocese of Portland contacted the Office of the Attorney General and the Cumberland County District Attorney's Office seeking to establish a procedure to turn over "pertinent information to public authorities regarding past allegations of child abuse." At the request of the Attorney General and the District Attorney, the Diocese reviewed its files for the prior 75 years and, by letter dated March 19, 2002, provided a summary of the allegations known to it against laypersons, priests, and other members of the clergy. By operation of law, the information turned over by the Diocese constituted intelligence or investigative information protected from public disclosure under 16 M.R.S.A. §§611(8) and 614, once in the custody of the District Attorneys and the Office of the Attorney General. The Diocese provided the information without regard to whether the alleged conduct constituted a criminal act under Maine law, whether Maine's statute of limitations[1] had run, how long ago the alleged conduct had occurred, or whether the Diocese had deemed the claim credible. Following receipt of the initial summary provided by the Diocese, investigators from the Office of the Attorney General and the Cumberland County District Attorney visited the Diocese to review personnel files maintained by the Diocese and obtain copies of relevant documents. In addition to information provided by the Diocese, victims of alleged abuse by

[1] Statutes of limitations are laws that require that prosecutions for most crimes be commenced by government within a specified period of time after the crime is committed. The failure of the government to commence a prosecution within the limitation set by law for a given crime is a defense, which bars the State from commencing, or continuing, the prosecution. Statutes of limitations exist for a number of reasons: (1) the most important purpose is "the desirability that prosecutions be based upon reasonably fresh evidence" in order to minimize the possibility of an erroneous conviction; "with the passage of time memories fade, witnesses become unavailable and physical evidence becomes more difficult to obtain, identify or preserve"; (2) the theory that the longer an actor refrains from further criminal activity, the more likely it is that "he [or she] has reformed, thus diminishing the necessity for imposition of the criminal sanction"; and (3) statutes of limitations "promote repose by giving security and stability to human affairs." *Model Penal Code* § 1.06 at 86. Maine's current statute of limitations for criminal prosecutions is found in the Maine Criminal Code, 17-A M.R.S.A. § 8.

clergy members were encouraged to independently contact the Attorney General's Office and the Cumberland County District Attorney, and, in instances where such contact was made, investigators interviewed those individuals. All investigative material was then distributed to the respective offices of the eight District Attorneys. Each District Attorney reviewed the information relating to allegations arising in his or her district to determine whether a crime had been committed, and if so, whether a criminal prosecution could be commenced within the statute of limitations under the Maine Criminal Code, 17-A M.R.S.A. §8. A number of District Attorneys conducted additional investigation to determine whether there were any prosecutable cases within the statute of limitations. After the completion of the investigative and review process by the District Attorneys, no prosecutable case was uncovered.

After the District Attorneys reported back to the Attorney General's Office that they had found no prosecutable cases within the statute of limitations, the Attorney General's Office conducted an additional investigation and analysis for two purposes: (1) to determine whether the Diocese, the Bishop or other administrative personnel had any criminal liability arising from their supervisory role over the accused priests or other individuals, and (2) whether any of the living priests, clergy members or other Church employees subject to allegations posed a significant present threat of sexually abusing children or teenagers. In addition to reviewing the existing files on the priests and other employees subject to allegations, the Attorney General's Office interviewed officials at the Diocese and conducted additional investigation on a select number of priests or other clergy who were subject to allegations. These individual priests or clergy members were selected for assessment of public safety risk based on a number of factors, including the number of complaints, ages of victims at the time of the alleged conduct, and the nature of the alleged conduct. After completion of the last stage of the investigation, the

Attorney General's Office consulted with the Director of the Maine State Forensic Service, as well as a forensic pediatrician.

The Attorney General's Office found no criminal liability on the part of the Bishop, the Diocese or its administrative staff. The Attorney General's Office, however, found that a small number of former priests and other clergy members may pose a continuing risk to the public, given the persistent nature of some forms of child sexual abuse. The Attorney General's Office has taken additional steps to assess and protect against that risk.

PAST PROSECUTIONS

Members of the clergy, including the Roman Catholic Diocese of Portland, have had the legal obligation to report suspected child abuse or neglect to the appropriate District Attorney's offices since September 19, 1997, under 22 M.R.S.A. § 4011-A, Maine's mandatory reporting statute. In 1997, section 4011-A was amended to include the following category in the list of mandatory reporters: "A clergy member acquiring the information as a result of clerical professional work except for information received during confidential communications." 22 M.R.S.A. § 4011-A(27). [2]

Five District Attorneys have in fact brought criminal prosecutions for the sexual abuse of minors against priests, clergy members or laypersons working for Catholic schools or churches. The earliest indictment in the records was in 1984 against Raymond Lauzon (then 59 years old). Lauzon was indicted in Cumberland County for two charges of gross sexual misconduct with respect to one 15-year-old male victim and one 17-year-old male victim, but those charges were

[2] The mandatory reporting provision was further amended by the 121st Maine Legislature, First Regular Session (Comm. Amend. To L.D. 309, No. H-197) to include: "Any person affiliated with a church or religious institution who serves in an administrative capacity or has otherwise assumed a position of trust or responsibility to the members of that church or religious institution, while acting in that capacity, regardless of whether the person receives compensation."

dismissed in exchange for Lauzon's plea of guilty to one charge of witness tampering. He was sentenced to one year in prison, all but six months suspended, and a one-year period of probation. In addition to the two victims named in the indictment, the State is aware of 16 other complainants or potential victims, both adolescent and preadolescent, who have come forward since 1994 and made allegations of sexual abuse against Lauzon, which arose during the period 1960 through 1984. Lauzon is now residing in a Franciscan Monastery in Kretingna, Lithuania.

In 1987, Shawn McEnany (then 26 years old), a brother and teacher at St. Dominic High School, was indicted in Androscoggin County for one charge of gross sexual assault and three charges of unlawful sexual contact with respect to a 15-year-old female student. McEnany ultimately pled guilty to two of the unlawful sexual contact charges in exchange for dismissal of the remaining charges. He was sentenced to 364 days in jail, all suspended, with a one-year period of probation. His last known address was in Woonsocket, Rhode Island.

In 1988, Marcel Crete (then 55 years old), a brother with the Brothers of Christian Instruction in Alfred, was indicted in York County for one charge of unlawful sexual contact, and six charges of gross sexual misconduct with respect to a 12-year-old male victim. On December 1, 1989, he pled guilty to five of the gross sexual misconduct charges in exchange for the dismissal of the remaining charges. He received a sentence of eight years, all but two-and-one-half years suspended, and a period of probation. Crete still resides with the Brothers of Christian Instruction in Alfred.

On March 12, 1993, Armand Thibault (then 61 years old), a Marist priest, was indicted by the Aroostook County Grand Jury for unlawful sexual contact with respect to a 12-year-old male victim and endangering the welfare of a child (with respect to a different victim). He was allowed to plead no contest to the endangering charge and was sentenced to pay a fine of

$750.00 on October 26, 1993. On the following day, after trial, a jury returned a verdict of not guilty on the unlawful sexual contact charge. Thibault is retired and now living in the Boston area.

In 1993, Father Antonin Caron (then 50 years old) was indicted in Washington County for one charge of gross sexual assault, one charge of assault, one charge of unlawful sexual contact, and one charge of sexual abuse of a minor with respect to a 15 year-old female victim. A jury returned a verdict of not guilty as to all charges.

OTHER REPORTED COMPLAINTS

In addition to the five cases described above, the Attorney General's Office and the District Attorneys received information alleging sexual abuse of a minor by 20 living and 15 deceased priests of the Diocese, seven laypersons (associated with the Church through employment at a Catholic school or parish), and six living and five deceased priests or brothers supervised by other orders of the Church not associated directly with the Diocese of Portland (i.e., Dominican, Missionary Servants of Most Holy Trinity, Oblate, and Jesuit). Of the 20 living priests of the Diocese, only one is currently active; in that case, there was a complaint from a single victim, who disclosed in 2002 that he was touched inappropriately by the priest in 1983, when the victim was 12 or 13 years old. While the State found the victim to be credible, the allegations did not describe a sexual crime. There have been no other reported allegations against the priest.

The State also received allegations from 17 victims against a priest or priests (or other clergy members) who could not be identified by the victim or the Diocese. In a number of the complaints that do not identify the priest, the victim did not identify himself or herself, so it was

impossible to obtain further information. The District Attorneys also received third-hand allegations (i.e., a person reporting to the State or Diocese allegations of abuse made by another person to the reporter) against five members of the clergy, as well as complaints against one deceased priest and seven clergy members that alleged unprofessional behavior, but did not describe crimes involving the sexual abuse of minors.

Most of the complaints were not brought to the Diocese's attention (or the attention of authorities) until many years after the alleged conduct. There are a number of barriers to the reporting of child sex abuse, and these barriers become even more difficult to surmount when the perpetrator is a respected—indeed, revered—figure in the community. Recognizing that significant impediments exist to the timely reporting of sexual abuse by minor victims, the 115th Legislature eliminated the six-year statute of limitations for victims under 16 years old for gross sexual assault (formerly called gross sexual misconduct) and the former crime of rape (effective date of amendment, October 9, 1991). The 119th Legislature took further action by eliminating the limitations period for all classes of the crimes of unlawful sexual contact and sexual abuse of a minor for victims under 16 (effective date of amendment, September 18, 1999). Because the Legislature may not constitutionally repeal the statute of limitations for those cases in which the limitation period has already expired, only those crimes that remained prosecutable on or after the effective date of each amendment are covered by the repealed statute of limitations. *See Stogner v. California*, 123 S.Ct. 2446 (2003). In other words, in cases involving victims under 16 years of age, the crime of rape or gross sexual assault must have occurred on or after October 9, 1985 (subject to the limited exception for the tolling of the statute of limitations for up to five years if the defendant has been outside the State since the date of the offense). With respect to the Class C crimes of unlawful sexual contact and sexual abuse of a minor involving victims

under age 16, the offense must have happened on or after September 18, 1993. With respect to the Class D crimes of unlawful sexual contact and sexual abuse of a minor involving victims under age 16, the abuse must have occurred on or after September 18, 1996. *See,* Appendix A "Statute of Limitations Analysis – Certain Sex Offenses," and "Application of Statute of Limitations Provision (§ 8) to the Crimes of Incest (§ 556), Rape (§ 252) and Gross Sexual Assault (§ 253) as to an Adult not Previously Charged and not a Public Servant."

The allegations received by the Office of Attorney General in this investigation date back to the 1930s, with most of the complaints occurring in the 1960s, 70s and early 80s.[3] It is difficult to determine in some cases whether the allegations, even if true, would support the elements of a crime, because some of the complaints—especially the complaints dating back to the 1940s, 1950s and 1960s—describe the alleged conduct in vague and generalized terms, with the victim simply stating that he or she was "sexually accosted," "molested," "sexually abused," or "inappropriately touched."[4] Following the enactment of the Maine Criminal Code in 1976, in order to satisfy any form of unlawful sexual contact, there must be evidence of "any touching of the genitals or anus, directly or through clothing, other than as would constitute a sexual act, for the purpose of arousing or gratifying sexual desire or for the purpose of causing bodily injury or offensive physical contact." 17-A M.R.S.A. §251(1)(D). In order to satisfy any form of gross sexual assault, there must be evidence of direct physical contact between "the genitals of one [person] and the mouth or anus of the other [person], or direct physical contact between the genitals of one [person] and the genitals of the other [person]." 17-A M.R.S.A. §251(1)(C)(1) and (2).

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[3] The legal analysis set out in this section is under Maine's Criminal Code, which was enacted in 1976. Since about half of the allegations predate the enactment of the Code, those allegations would be governed by the precursor sex crime statutes and were subject to a six-year statute of limitation.

[4] Since any prosecution of such allegations would be barred by the statute of limitations, the prosecutors conducted no further investigation to gather the facts, which would otherwise be necessary to build a criminal prosecution.

Of the complaints that did not result in a prior prosecution, 19 of the priests or other clergy (both Diocese and non-Diocese) were alleged to have committed sexual abuse of victims who were under 16 years of age at the time of the conduct. The allegations against nine of the priests who are still alive are sufficiently detailed to describe the crime of unlawful sexual contact. The allegations against three of the living priests are sufficiently detailed to describe the crime of gross sexual assault. Most of the victims were adolescents at the time of the alleged sexual assaults. Even though the allegations occurred beyond the statute of limitations, the District Attorneys and the Office of Attorney General conducted some additional investigation in order to determine whether there were other allegations that had occurred within the statute of limitations.

Eight of the living former priests or clergy members (including Raymond Lauzon and Marcel Crete) are alleged to have victimized children who were under 13 years of age at the time of the alleged conduct. These allegations raise special concerns, because the age of the victim may indicate that the alleged perpetrator is a pedophile.[5] The allegations date from the 1950s to no later than 1986. The Office of Attorney General closely reviewed the records relating to these priests or clergy members and conducted additional investigation, where appropriate, to determine whether these individuals might pose a risk to the public safety. The Attorney General's Office selected the individuals for additional investigation based upon a number of factors, including number of victims, the age of the victims, the age of the alleged perpetrator, the number of years since the most recent allegation, the nature of the alleged conduct, and other corroborating facts. In conducting the investigation into possible public safety risk, the Attorney

[5] *The Diagnostic and Statistical Manual of Mental Disorders*, Volume IV (1994), defines "pedophilia" as "the recurrent, intense presence of sexually arousing fantasies, sexual or behaviors involving sexual activity with a prepubescent child or children (generally age 13 or younger)."

General's Office contacted local law enforcement agencies, interviewed some of the alleged victims, and, when possible, interviewed the former priests or clergy members.

The investigation conducted by the Attorney General's Office revealed that none of the individuals subject to further investigation is currently engaged in employment which involves working with children. Two of the individuals, Marcel Crete and Raymond Lauzon, are still residing with religious orders not affiliated with the Portland Diocese. The supervisors of Marcel Crete and Raymond Lauzon are aware of their criminal history and the need to provide some supervision of their activities. The other individuals are either no longer priests or have been removed from the ministry and placed on restrictions by the Diocese. Most importantly, the investigation revealed no allegation more recent than 18 years old—a fact which both precludes the possibility of prosecution for conduct now known to the State and weighs against the conclusion that these current or former priests or clergy members are likely to re-offend. Notwithstanding these factors, given the nature of the past alleged conduct, the Attorney General's Office took the additional step of alerting local law enforcement agencies in the municipalities (or in Lauzon's case, the country) in which the former priest or clergy member is now living and providing them with a copy of the State's investigative file on the relevant individual.

THE DIOCESE RESPONSE

In addition to reviewing the files maintained by the Diocese, investigators from the Office of Attorney General interviewed officials at the Diocese. Based on the interviews and the review of the records, along with reports by victims, the Office of the Attorney General concluded that there was no criminal liability on the part of the Diocese. However, the Office of

the Attorney General makes the following findings with respect to the Diocese's response to the allegations of child sexual abuse by members of the clergy:

- There are at least six instances from 1958 to 1993 in which a priest subject to a complaint of sex abuse was sent for treatment and then returned to his parish or transferred to another clerical assignment with restrictions. In 1997, the Diocese began a policy of informing the parish leaders or councils (the lay advisory bodies of the Church) of the allegations against the priests assigned to their parish.

- There are at least four instances in which, after treatment, the Bishop determined that there was "no possibility of any kind of future priestly ministry" for the priest and the priest was directed to another career path or to otherwise leave the priesthood. In at least two cases, the priest retired when confronted with the allegations.

- In at least seven cases, the priest was already inactive—having either left the priesthood, retired or become incapacitated—at the time the Diocese learned of sex abuse allegations against him.

- In cases in which the priest was assigned to another order or supervisor, the Diocese informed the other order or supervisor of the allegations against the priest subject to that reassignment, but, with the exception of one case, the Diocese did not convey such information to the parishioners until 2002.

- The Diocese has routinely requested confidentiality as part of monetary settlements with alleged victims.

- In most cases, the Diocese did not receive information about possible sexual abuse by priests under its supervision until more than a decade after the alleged acts.

- From the review of the records by the Attorney General's Office, it appears that the Diocese has routinely reported suspected abuse to the appropriate district attorney since it became a mandatory reporter in 1997.

- The Diocese's failure to notify its parishioners of the allegations against some of the priests assigned to their parishes placed children and adolescents at risk of abuse. In at least one case, a priest (who died in 1990) was alleged to have continued to sexually abuse female children after the Diocese was on notice of allegations against the priest. Specifically, in 1958, the parents of a six-year-old girl reported that the priest had sexually abused her. As a result of the allegations, the Diocese reassigned the priest to another church, and barred him from any contact with the victim, his former parish and other minor girls. The Diocese notified the parish priest of the restrictions on the priest subject to the allegations, but did not notify the parish of the past allegations. Notwithstanding the restrictions imposed on the priest by the Diocese, ten women came forward after the priest's death and reported that he had sexually abused them as children and adolescents from 1960 through 1972. The victims ranged from eight years to 13 years of age at the time of the abuse.

- Other than the case described above, the Office of Attorney General's review of the records at the Diocese and interviews with victims indicated no other reported case of a priest allegedly committing new offenses against minors after the Diocese had received a report from a victim alleging child sexual abuse against that priest.

- In some cases, the Diocese placed restrictions on the accused priests that were intended to limit their contact with minors. In the case of Raymond Lauzon, however, the Diocese took no action to restrict his contact with children until 1995, notwithstanding a highly publicized criminal prosecution of him in 1984. The Diocese has indicated that it believed at the time that the recanting by the two victims named in the indictment exonerated Lauzon.

CONCLUDING COMMENT

The Attorney General recognizes that child sexual abuse has a devastating impact on its victims. It is an act that can, and often does, cause long-term emotional and psychological pain to its victims. The goal of our society is to prevent such abuse from occurring in the first place. However, when such abuse does occur, the goal is to prosecute the offender to the full extent of the law in order to protect the public, punish the offender and deter others from engaging in similar conduct.

Timely reporting is the key to effective law enforcement. The Attorney General encourages anyone who has been a victim of sexual abuse to immediately report it to local law enforcement authorities, the District Attorney's Office or the Office of the Attorney General.

APPENDIX A

Analysis of Statute of Limitations

APPENDIX A

STATUTE OF LIMITATIONS ANALYSIS-Certain Sex Offenses

Victims 16 years old or greater at the time of the felony crime

To be a viable case, a complaint/indictment/information must be filed/returned by the following date: **date of offense + 5 years and 364 days**

Victims 16 years old or greater at the time of the misdemeanor crime:

To be a viable case, a complaint/indictment/information must be filed/returned by the following date: **date of offense + 2 years and 364 days**

Victims < 16 years old at the time of the crimes of Rape and Gross Sexual Assault:

To be a viable case, the abuse must have happened on or after October 9, 1985. This date may be pushed back for the amount of time the offender was absent from the State, but in no case may the date of offense be before October 9, 1980. **(1991 Amendment)***

Victims <16 years old at the time of the crime of Incest:

To be a viable case, the abuse must have happened on or after October 9, 1988. This date may be pushed back for the amount of time the offender was absent from the State, but in no case may the date of offense be before October 9, 1983. **(1991 Amendment)***

Victims <16 years old at the time of the crimes of felony Unlawful Sexual Contact and Sexual Abuse of a Minor:

To be a viable case, the abuse must have happened on or after September 18, 1993. This date may be pushed back for the amount of time the offender was absent from the State, but in no case may the date of offense be before September 18, 1988. **(1999 Amendment)****

Victims <16 years old at the time of the crimes of misdemeanor Unlawful Sexual Contact and Sexual Abuse of a Minor:

To be a viable case, the abuse must have happened on or after September 18, 1996. This date may be pushed back for the amount of time the offender was Absent from the State, but in no case may the date of offense be before September 18, 1991. **(1999 Amendment)****

* Effective date of the 1991 Amendment was October 9, 1991.

** Effective date of the 1999 Amendment was September 18, 1999.

APPLICATION OF STATUTE OF LIMITATIONS PROVISION (§ 8) TO THE CRIMES OF INCEST (§556), RAPE (§ 252) AND GROSS SEXUAL ASSAULT (§ 253) AS TO AN ADULT NOT PREVIOUSLY CHARGED AND NOT A PUBLIC SERVANT

CRIME OF INCEST (§ 556)

Preliminary note – The crime of incest is a Class D crime, except that, pursuant to P.L. 1993, ch. 451, § 3, effective October 13, 1993, if 2 or more prior Maine convictions, then a Class C crime.

Category 1 – Incest committed against a victim *less than* 16 at the time of commission and the crime occurs on or after October 9, 1991.

Limitation period for category 1 - No limitation period; makes no difference as to whether incest is Class D or Class C.

Category 2 - Incest committed against a victim *less than* 16 at the time of commission and committed before October 9, 1991, but prosecution not then barred by prior limitation period in force on October 9, 1991.

Limitation period for category 2 – No limitation period; Class C incest has no application to this category because it was enacted in 1993.

Note: To determine whether prosecution was/was not barred on October 9, 1991, count back from October 9, 1991, 3 years (October 9, 1988) or, if tolling provision (§ 8(3)(A))[1] is applicable, an additional 5 years for a total of 8 years (October 9, 1983).

Category 3 – Incest committed against a victim *16 or older* at the time of commission and incest is a Class D crime.

Limitation period for category 3 – Count forward 3 years from time of commission, or if tolling provision (§ 8 (3)(A))is applicable, count forward an additional 5 years for a total of 8 years.

Category 4 – Incest committed against a victim *16 or older* at the time of Commission and incest is a Class C crime.

Limitation period for category 4 – Count forward 6 years from time of commission, or if tolling provision (§ 8 (3)(A)) is applicable, count forward an additional 5 years for a total of 11 years.

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[1] Offender absent from the State of Maine.

FORMER CRIME OF RAPE (§ 252)

Preliminary note: The former crime of rape, 17-A M.R.S.A. § 252, Class A, was repealed by P.L. 1989, ch. 401, Pt. A, § 3, effective September 30, 1989.

Category 1 – Rape committed against a victim less than 16 at the time of commission and committed before September 30, 1989, but prosecution not barred by prior limitations period in force on October 9, 1991.

Limitation period for category 1 – No limitation period.

Note: To determine whether prosecution was/was not barred on October 9, 1991, count back from October 9, 1991, 6 years (October 9, 1985) or, if tolling provision (§ 8(3)(A)) is applicable, an additional 5 years for a total of 11 years (October 9, 1980). No rape committed on or after September 30, 1989, is subject to prosecution as rape (§ 252); rather it would be prosecuted as Class A gross sexual assault (§ 253 (1)).

No other category for rape is possible for a victim less than 16 at the time of the commission because prosecution is now barred, the period of limitation having fully run. No category for rape is possible for a victim 16 or older at the time of the commission because prosecution is now barred, the period of limitation having fully run.

CRIME OF GROSS SEXUAL ASSAULT (§ 253)
(FORMERLY CALLED GROSS SEXUAL MISCONDUCT)[1]

Preliminary note: The crime of gross sexual assault is an umbrella label encompassing separate Class A, B and C crimes. For purposes of this explanation, because each crime is a felony, the class differences are not relevant.

Category 1 - Gross sexual assault committed against a victim *less than* 16 at the time of the commission and the crime occurs on or after October 9, 1991.

Limitation period for category 1 – No limitation period.

Category 2 – Gross sexual assault committed against a victim *less than* 16 at the time of commission and committed before October 9, 1991, but prosecution not then barred by prior limitation period in force on October 9, 1991.

Limitation period for category 2 – No limitation period.

Note: To determine whether prosecution was/was not barred on October 9, 1991, count back from October 9, 1991, 6 years (October 9, 1985) or, if tolling provision (§ 8 (3)(A)) is applicable, an additional 5 years for a total of 11 years (October 9, 1980).

Category 3 – Gross sexual assault committed against a victim *16 or older* at the time of commission.

Limitation period for category 3 - Count forward 6 years from time of commission, or if tolling provision (§ 8 (3)(A)) is applicable, count forward an additional 5 years for a total of 11 years.

[1] By P.L. 1989, ch. 401, Pt. A, § 4, effective September 30, 1989, the name "gross sexual misconduct" was changed to its current name of "gross sexual assault." The change was nonsubstantive.

APPLICATION OF STATUTE OF LIMITATIONS PROVISION (§ 8) TO THE CRIMES OF UNLAWFUL SEXUAL CONTACT (§ 255) AND SEXUAL ABUSE OF A MINOR (§ 254) AS TO AN ADULT NOT PREVIOUSLY CHARGED AND NOT A PUBLIC SERVANT

CRIME OF UNLAWFUL SEXUAL CONTACT (§ 255)

Preliminary note: The crime of unlawful sexual contact is an umbrella label encompassing both felonies (Class C and Class B) and misdemeanors (Class D and Class E) subject to further elevation of class by 17-A M.R.S.A. § 1252 (4) and (4-A).

Category 1 – Unlawful sexual contact committed against a victim *less than* 16 at the time of the commission and the crime occurs on or after September 18, 1999.

Limitation period for category 1 – No limitation period.

Category 2 – Unlawful sexual contact Class D and Class E[1] committed against a victim *less than* 16 at the time of the commission and committed before September 18, 1999, but prosecution not then barred by prior limitation period in force on September 18, 1999.

Limitation period for category 2 – No limitation period.

Note: To determine whether prosecution was/was not barred on September 18, 1999, count back from September 18, 1999, 3 years (September 18, 1996) or, if tolling provision (§ 8 (3)(A)) is applicable, an additional 5 years for a total of 8 years (September 18, 1991).

Category 3 – Unlawful sexual contact, Class C,[2] committed against a victim *less than* 16 at the time of the commission and committed before September 18, 1999, but prosecution not then barred by prior limitation period in force on September 18, 1999.

Limitation period for category 3 – No limitation period.

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[1] The Crime of unlawful sexual conduct did not include a misdemeanor other than that of Class D until 1995 when current section 255 (1)(J) was added creating a Class E crime. P.L. 1995, ch. 104, §§ 6 & 7, effective September 29, 1995.

[2] The crime of unlawful sexual conduct did not include a felony class other than that of Class C until 1994 when current section 255 (3) was added. *See* P.L. 1993, ch. 717, § 1, effective July 14, 1994. Prior convictions served to elevate each class commencing in 1993. *See* P.L. 1993, ch. 451, § 3, effective October 13, 1993. This provision was repealed and replaced with the enactment of section 1252 (4-A). *See* P.L. 1997, ch. 460, §§ 4 & 5, effective September 19, 1997.

Note; To determine whether prosecution was/was not barred on September 18, 1999, count back from September 18, 1999, 6 years (September 18, 1993) or, if tolling provision (§ 8 (3)(A)) is applicable, an additional 5 years for a total of 11 years (September 18, 1988).

Category 4 – Unlawful sexual contact, Class D and Class E, committed against a victim *16 or older* at the time of the commission.

Limitation period for category 4 – Count forward 3 years from time of commission, or if tolling provision (§ 8 (3)(A)) is applicable, count forward an additional 5 years for a total of 8 years.

Category 5 – Unlawful sexual contact, Class C and above, committed against a victim *16 or older* at the time of the commission.

Limitation period for category 5 – Count forward 6 years from time of commission, or if tolling provision (§ 8 (3) (A)) is applicable, count forward an additional 5 years for a total of 11 years.

CRIME OF SEXUAL ABUSE OF A MINOR (§ 254)

Preliminary note: The crime of sexual abuse of a minor is an umbrella label encompassing misdemeanor (Class D and Class E) crimes subject to further elevation of class by section 254 (3) and section 1252 (4-A).

Category 1 – Sexual abuse of a minor committed against a victim *less than* 16 at the time of the commission and the crime occurs on or after September 18, 1999.

Limitation period for category 1 – No limitation period.

Category 2 – Sexual abuse of a minor Class D and Class E[1] committed against a victim *less than* 16 at the time of the commission and committed before September 18, 1999, but prosecution not then barred by prior limitation period in force on September 18, 1999.

Limitation period for category 2 – No limitation period.

Note: To determine whether prosecution was/was not barred on September 18, 1999, count back from September 18, 1999, 3 years (September 18, 1996) or, if tolling provision (§ 8 (3)(A)) is applicable, an additional 5 years for a total of 8 years (September 18, 1991).

Category 3 – Sexual abuse of a minor, Class C,[2] committed against a victim *less than* 16 at the time of the commission and committed before September 18, 1999, but prosecution not then barred by prior limitation period in force on September 18, 1999.

Limitation period for category 3 – No limitation period.

Note: To determine whether prosecution was/was not barred on September 18, 1999, count back from September 18, 1999, 6 years (September 18, 1993) or, if tolling provision (§ 8 (3)(A)) is applicable, an additional 5 years for a total of 11 years (September 18, 1988).

Category 4 – Sexual abuse of a minor, Class D and Class E, committed against a victim *16 or older* at the time of the commission.

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[1] The crime of sexual abuse of a minor did not include a misdemeanor other than that of Class D until 1995 when current section 254 (1)(C) was added creating a Class E crime. P.L. 1995, ch. 104, §§ 2 & 3, effective September 29, 1995.

[2] The crime of sexual abuse of a minor did not include a felony until 1993 when a Class C component was added in 254 (3). P.L. 1993, ch. 451 § 1, effective October 13, 1993. The prior conviction paragraph [sub-section 3 (C)] was repealed and replaced with the enactment of section 1252 (4-A). *See* P.L. 1997, ch. 460, §§ 3 & 5, effective September 19, 1997.

Limitation period for category 4 – Count forward 3 years from time of commission, or if tolling provision (§ 8 (3)(A)) is applicable, court forward an additional 5 years for a total of 8 years.

Category 5 – Sexual abuse of a minor, Class C and above, committed against a victim *16 or older* at the time of the commission.

Limitation period of category 5 – Count forward 6 years from time of commission, or if tolling provision (§ 8 (3)(A)) is applicable, count forward an additional 5 years for a total of 11 years.