

ROGER FORTIER

I. INTRODUCTION

Father Roger Fortier was convicted in 1998 for several counts of aggravated felonious sexual assault and felonious sexual assault and is currently serving a lengthy prison term in the New Hampshire State Prison. Fortier perpetrated these assaults between 1994 and 1997 on two minor victims from his Farmington, New Hampshire parish. Although he was not convicted until 1998, the Diocese first learned that Fortier was a sexual threat to minors in 1984. In 1984, the Derry Police Department investigated Fortier's conduct with minors. The Derry investigation uncovered that Fortier was watching pornography and providing alcohol to minors in his rectory room in Manchester and at the home of a friend in Derry. That investigation further revealed that Fortier assaulted a minor from his Manchester parish during an overnight trip to Derry. When confronted by police, Fortier admitted to this conduct. In 1984, Father Christian learned the details of the Derry police investigation. Christian then confronted Fortier with these allegations. According to a confidential memorandum in Diocesan files, Fortier admitted again to this conduct. At around the same time, one of the minors that Fortier invited to his rectory room reported Fortier's conduct to the Diocese, in person. He alleged that Fortier was providing alcohol and pornography to minors. He also reported that Fortier had attempted to solicit him.

Following Fortier's conviction in 1998, a probation and parole officer invited the Diocese to provide background about Father Fortier for purposes of his pre-sentence investigation of Fortier. Despite Bishop Christian's knowledge of Fortier's conduct in 1984, Bishop Christian reported in a 1998 letter to the probation and parole officer that Fortier's "sexual problems with youth were unknown to the Diocese."

Based on the information below, the Attorney General's Task Force was prepared to present one or more indictments to the Hillsborough County Grand Jury charging the Diocese of Manchester with endangering the welfare of minors.

II. FORTIER'S EARLY ASSIGNMENTS

After his second year at the seminary, Fortier was assigned for the summer to St. Joseph's parish in Salem between June 14 and August 9, 1978. (B2298). He served under Father Karl Dowd. (B2298). Prior to his ordination he also worked as a Deacon under Father Desjardins at the Sacred Heart parish in Manchester. (B2308). He was ordained on April 26, 1980. (B2306). At the time of his ordination, Fortier identified his areas of interest as vocation work and youth work. (B2304). Following his ordination, he was appointed to be the Associate Pastor of St. John the Baptist parish in Manchester as of June 18, 1980. (B2307).

III. THE DERRY POLICE DEPARTMENT'S 1984 INVESTIGATION OF FORTIER AND TASK FORCE INTERVIEWS WITH THE CHILDREN INVOLVED

In 1984, Derry Police Officer Vernon Thomas (now Lieutenant) conducted an investigation which focused on Father Fortier's involvement with various minors from his parish in Manchester and from the Derry area. The investigation began when Thomas received information that John Doe XXII, the owner of a local arcade, was luring children to his home on Beaver Lake in Derry and molesting them. (B8607; 9241). As Thomas began conducting surveillance of Doe XXII's home, he observed a number of teen-aged boys frequenting the residence. On several occasions, he also observed Father Fortier's vehicle in the driveway. (B8607). The Task Force secured Thomas' police reports during its investigation.

On September 12, 1984, Officer Thomas spoke with Officer Steinmetz of the Manchester Police Department regarding Fortier. Steinmetz reported that Fortier "propositioned" a parishioner at St. John the Baptist in Manchester as well as the parishioner's son. (B9256). Task Force investigators spoke with Officer Steinmetz on November 18, 2002, but he had no specific memory of Father Fortier and did not have any additional information. (B9668).

Officer Thomas also spoke with Manchester Officer Armand Forest on September 12, 1984. (B9257). Forest explained that he was a parishioner at St. John's and that he had spoken with a fellow parishioner who alleged that Fortier "propositioned" his son. (B9257). Officer Thomas met with the boy on September 12, 1984. (B9258). In Officer Thomas' reports, the boy was anonymous and was referred to only as "Info. 1." (B8614). The Task Force recently learned that "Info. 1" is John Doe XXI who was 17 at the time of his contact with Fortier. (B10732). Doe XXI explained to Officer Thomas that he and his friends had gone to Fortier's rectory apartment at St. John's. (B9258). Fortier invited the boys to the rectory to show them pornography and drink beer. Fortier had a collection of pornographic videos. Two other teens, John Doe XXIII and John Doe XXIV also frequented Fortier's rectory room. Doe XXI reported that Doe XXIII had confided in him about his contact with Fortier. Doe XXIII told Doe XXI that Fortier solicited him. Doe XXIII also told Doe XXI that Fortier invited him to Doe XXII's house in Derry for the weekend and Doe XXIII went along. Doe XXIII and Fortier watched pornography and drank beer. When they went to bed, Doe XXIII told Doe XXI that he woke up with Fortier's hand down his pants. Doe XXIII hit Fortier. (B9260). Doe XXI also reported that Fortier spent a lot of time with a teenager named John Doe XXV. (B9260).

Task Force investigators interviewed Doe XXI (born in February of 1967) on December 4, 2002. (B10731). He confirmed that Manchester Police Officer Armand Forest arranged for him to speak anonymously with a Derry Police Officer in 1984 when he was 17 years old. (B10732). During his interview with the Task Force, Doe XXI explained that, growing up, he was a parishioner at St. John the Baptist in Manchester. (B10732). He was an altar boy. (B10733). He got to know Fortier because he was

involved in various church organizations. (B10733). Doe XXI confirmed that Fortier invited he and his friends to Fortier's rectory apartment. (B10734). During these visits, they drank beer and viewed pornography as a group. (B10734-36). Doe XXI abstained from consuming any alcohol. (B10734). The movies involved adult homosexual content. (B10735). This occurred on dozens of occasions. (B10743-43). Doe XXI also reported that about a month after he spoke with Officer Thomas in 1984, Fortier made an unwanted advance toward him at the rectory. (B10737-38). He was with some friends who were talking about watching a pornographic movie. (B10739). He was standing next to Fortier and they were facing each other. Fortier placed his hand on Doe XXI's left shoulder and put his arm behind Doe XXI's neck. (B10739). Fortier pulled Doe XXI closer to him and placed his hand on Doe XXI's stomach. (B10739). Doe XXI backed up, distancing himself from Fortier. (B10739). Doe XXI explained that similar contact occurred on other occasions while he was serving as an altar boy for Fortier. (B10742).

During his interview with the Task Force, Doe XXI also explained that he had contact with Father Phil Petit. (B10748).¹ At around the same time as his encounter with Fortier, Petit invited him for pizza. Petit picked him up from school. (B10748). When he got in the car, Petit stated that he just wanted to talk. They went to St. Anselm's College and parked near the monastery. They walked to a gazebo. Petit told Doe XXI that he was gay. (B10748). Eventually, they got back into Petit's car. As they were leaving St. Anselm's, Petit attempted to grab Doe XXI's penis. (B10749). Petit touched Doe XXI's penis over his pants. (B10750). Doe XXI defended himself, punching Petit two or three times. (B10749-50). Petit brought Doe XXI home. Before Doe XXI got out of the car, Petit said to him, "if you were gay, I would enjoy you." (B10750). Doe XXI exited the car without further incident. (B10750).

Doe XXI explained that he reported his contact with Petit to his youth group coordinator. (B10752, 10754). The youth group coordinator urged Doe XXI to talk to someone about the incident, but Doe XXI was concerned that he could be accused of assaulting Petit because he hit him. (B10752). Within a month, Doe XXI stated that he received a phone call from Attorney Norman Champagne. (B10753). Attorney Champagne asked him if he wanted to press charges. (B10753). Doe XXI declined, but indicated that he was interested in speaking with someone from the Diocese. (B10754).² A couple of months later, Doe XXI called the Diocese of Manchester and he was invited to come in during the afternoon. (B10756). He went to the Diocese on his own. (B10756). He recalls speaking with a representative of the Diocese. (B10756). Although he is not certain, he believes that he spoke with Bishop Gendron. (B10756). He explained to the Diocese that he was a CYO member. (B10757). He reported "absolutely" everything regarding the incidents that occurred with both Petit and Fortier to the Diocese. (B10755, 10759-60). With regard to Fortier, Doe XXI explained that Fortier provided beer and pornography to him and his friends. He also reported that

¹ Doe XXI had previously reported his contact with Father Petit to Officer Thomas when he met with him to discuss the Derry Police investigation of Fortier. (B9261).

² Task Force investigators spoke with Judge Champagne. He stated that he could not specifically recall speaking with Doe XXI about his contact with Petit. However, he explained that if he had received such a report, he would have encouraged the victim to press charges. (B10768).

Fortier attempted to solicit him. (B10759). He explained that the Diocesan representative listened to his report, thanked him for his time, and promised to “take care of it.” (B10758, 10760).

On September 16, 1984, Officer Thomas spoke with John Doe XXIII (born in April of 1965). Doe XXIII reported that in the late Summer and early Fall of 1982, when he was 17 years old, Fortier brought him to Derry to watch pornographic movies and drink beer. (B9267). At the time, Doe XXIII was not aware that Fortier was homosexual, and he agreed to go. (B9267). Fortier drove Doe XXIII to a green cottage on a dead end road by a lake in Derry. The cottage belonged to a friend of Fortier’s named Doe XXII. After they arrived, Doe XXIII and Fortier began to drink beer and watch pornographic movies. He and Fortier were alone in the cottage until approximately 11 PM when Doe XXII came home and went to bed. Thereafter, he and Fortier went to bed in a room adjacent to Doe XXII’s. During the night, Doe XXIII awoke to find Fortier’s hand on his buttocks. Doe XXIII grabbed Fortier’s hand and pulled it off of him. The following morning, Fortier drove Doe XXIII home to Manchester. (B9267). Approximately a month later, Doe XXIII told his parents about his contact with Fortier in Derry. According to Officer Thomas’ report, Doe XXIII’s father spoke with a priest from another parish to report the incident. The priest told Doe XXIII’s father that the Diocese was providing Fortier with psychological treatment for his problem already. (B9268). Because he believed that the church was addressing the problem, Doe XXIII’s father did not pursue the matter further. (B9268). A few weeks later, Fortier left St. John’s for a period of time. Task Force investigators interviewed Doe XXIII’s father on December 3, 2002. (B10678). He did not recall making a report to a priest regarding Fortier’s contact with his son. (B10683).

Task Force investigators spoke with John Doe XXIII on November 21, 2002. (B11329). He confirmed that Fortier had sexual contact with him in Derry when he was a minor and provided more detail about the assault.³ Doe XXIII explained that he served as an altar server at St. John the Baptist in Manchester. (B11329-30). He met Fortier when he was in eighth grade through the church. (B11329-30). It was common for his family to invite the parish priest to dinner on Sundays. (B11329). When he was in high school, Fortier attended Doe XXIII’s church league basketball games and became friendly with several of his teammates. (B11331-33).⁴ On several occasions, Doe XXIII and his teammates drank alcohol with Fortier in his rectory apartment. (B11331, 11333-35). Doe XXIII believes that this occurred during his junior year, when he was 17 years old. (B11346, 11356). On one occasion, Fortier brought Doe XXIII and John Doe XXVIII to visit another priest in Alton.⁵ (B11337-38). Fortier and the other priest took

³ Doe XXIII recently stated that he believed that he was 15 or 16 years old at the time that Fortier assaulted him. (B11336). However, he reported to Officer Thomas in 1984 that he was 17 years old. It appears that he was 17. His birthday is in the Spring of 1965 and he reported to Officer Thomas that Fortier assaulted him in the late Summer or early Fall of 1982. (B9267). Thus, Doe XXIII appears to have been 17 at the time of the assault.

⁴ Doe XXIII named several boys that Fortier became friendly with including, John Doe XXVI, John Doe XXVII, John Doe XXVIII, John Doe XXIX, and John Doe XXX. (B11332).

⁵ When Thomas interviewed Fortier in September of 1984, he stated that he was close friends with Father Raymond LaFerriere, a priest at St. Joan of Arc parish in Alton, NH. (B9272).

them to a movie theater, to watch a pornographic movie. (B11337-38, 11343-44, 11357-58). Doe XXIII questioned how they would get into the movie because they were not of age. (B11338). The priests told them not to worry because “you’re with us.” (B11338). After the movie, they all returned to the rectory and went to bed without incident. (B11345). Soon thereafter, Fortier asked Doe XXIII to join him on a trip to Derry and Doe XXIII agreed. (B11347, 11352). On the way, they stopped at a “place” to play video games. (B11348). They then traveled to the home of one of Fortier’s friends. (B11347). That night, they drank beer and watched movies. (B11348). They went to sleep in the same bed. (B11349). Doe XXIII was confused about why they were sleeping in the same room. (B11349). He woke up to find Fortier’s hand “rubbing [his] butt.” (B11349). He described that Fortier was “squeezing” and “rubbing” his “butt” underneath his underwear, in his “crack.” (B11349, 11358). Doe XXIII asked Fortier what was doing and Fortier stopped. (B11349).

Officer Thomas interviewed John Doe XXV (born in December of 1966) on September 17, 1984. (B9273). Doe XXV explained that he had been close friends with Fortier for about three years, but that Fortier had never touched him or propositioned him. (B9273). Doe XXV acknowledged that he joined Fortier on overnight trips to Doe XXII’s house, but stated that the most they ever did was play video games and watch “R” rated movies on HBO. (B9274). Task Force investigators recently spoke with Doe XXV regarding the Derry police investigation in 1984. Doe XXV confirmed that he met Fortier when he was an altar server at St. John the Baptist in Manchester and the two became close. However, he denied that Fortier ever sexually assaulted him. (B9605; 8616).

Also on September 17, 1984, Officer Thomas interviewed John Doe XXXI. Doe XXXI stated that he visited Fortier at the church rectory and at Doe XXII’s house in Derry. Doe XXXI observed other teens drinking beer with Fortier on these occasions, but stated that he did not drink. (B9275). They watched movies and played arcade games. (B9275). Task Force investigators met with Doe XXXI on October 9, 2002. (B8605). Doe XXXI confirmed that he met Fortier through Doe XXV and that he spent a great deal of time with Fortier at the rectory at St. John’s and at Doe XXII’s home on Beaver Lake in Derry. (B8605). Doe XXXI stated that he never had sexual contact with Fortier, denied that he watched pornographic movies with Fortier, and denied the Fortier provided him with alcoholic beverages. (B8605).

Officer Thomas interviewed John Doe XXIV on September 17, 1984. (B9277). Doe XXIV related information that he learned about Fortier from a friend, John Doe XXVIII. According to Doe XXIV, Doe XXVIII had a confrontation with Fortier. Specifically, when Doe XXVIII was 17 years old, Fortier took him to a location in Derry and asked Doe XXVIII if he wanted a “blow job.” (B9277). The Task Force attempted to interview Doe XXVIII in early December of 2002. His attorney declined the interview on Doe XXVIII’s behalf. (B10769). He explained that Doe XXVIII was very emotional and too upset to speak about his involvement with Fortier. (B10769).

Officer Thomas spoke with Fortier in person on September 17, 1984, at the Holy Rosary parish in Rochester, NH. (B9269).⁶ Fortier waived his Miranda rights. (B9269; 9270). Officer Thomas told Fortier that he was a “potential suspect in a crime.” (B9270). With regard to his relationship with John Doe XXII, Fortier explained that Doe XXII had been a personal friend for the past 18 years. Fortier visited him frequently, as much as twice a month since his transfer to Rochester. Before that, he visited Doe XXII more often. Occasionally, during his visits to Doe XXII’s home, he brought different boys from his parish in Manchester including John Doe XXXI, John Doe XXV, and John Doe XXIII. (B9270). These visits were social in nature -- they would celebrate birthdays for Doe XXII’s daughters, have cook-outs, and play video games. (B9271). Fortier agreed that Doe XXII was homosexual. When asked if Doe XXII ever touched any of the boys that Fortier brought to Derry, Fortier explained that such information would be privileged between Fortier and Doe XXII because Fortier was a priest. (B9271).

Fortier admitted to Officer Thomas that he was homosexual. He also admitted to “the incident involving John Doe XXIII,” but claimed that “it was a big mistake and he still regrets it.”⁷ He denied any other sexual contact with the boys that he brought from Manchester to Derry. (B9271). However, Fortier admitted to showing pornographic movies to the boys and providing them with beer both at Doe XXII’s home and at the rectory of St. John’s in Manchester. (B9272). Fortier agreed that, at the beginning of his friendships with Doe XXIII, Doe XXXI, and Doe XXV, they were minors. (B9272). He explained that he was the closest with Doe XXV. (B9272). When asked if he ever had sexual contact with Doe XXV, Fortier responded: “I’d rather not say.” (B9272). He denied having sexual contact with the other boys. (B9272). Fortier also explained that there were other teen-agers around Doe XXII’s home when he was there, including John Doe XXXII, XXXIII, and XXXIV.⁸ During the interview, Fortier stated that he was concerned that he would lose his priesthood. (B9272).

IV. DIOCESAN KNOWLEDGE OF THE DERRY POLICE DEPARTMENT’S 1984 INVESTIGATION OF FORTIER

There is a confidential memorandum in the Diocesan files dated September 26, 1984, relating to an investigation conducted by the Derry Police Department of Fortier. (B2314-15). The memorandum explains the following:

On September 26, 1984, Father Christian received a call from John Doe XXV’s mother, a parishioner from St. John the Baptist in Manchester. (B2314). Doe XXV’s mother reported to the Diocese that Officer Thomas of the Derry Police Department came to her home interested in speaking with her son. Officer Thomas explained that he was investigating reports

⁶ Effective as of June 27, 1984, the Diocese assigned Fortier as the Associate Pastor of Holy Rosary Parish in Rochester to work under Monsignor Simard. (B2311; 2312).

⁷ The Task Force interviewed Lieutenant Thomas on December 5, 2002. (B10712). He explained that during his interview with Fortier, he confronted Fortier with Doe XXIII’s allegation that Fortier touched him on the buttocks. Thomas made clear that Fortier admitted that he had. (B10716-18).

⁸ Fortier was likely referring to John Doe XXXIII, XXXIV, and John Doe XXXII. (B9274; 9276; 9286).

that Fortier was bringing “young men” from the parish in Manchester “to the home of a homosexual” in Derry. (B2314).

Father Christian contacted Officer Thomas to discuss the matter. Officer Thomas was under the impression that the Diocese was aware of “these matters.” (B2314). Father Christian assured Officer Thomas that it was not. Father Christian also told Officer Thomas that that if Fortier did “have these problems,” the Diocese wanted to ensure that he was “not harming anyone else.” (B2314).

Officer Thomas told Father Christian that he spoke with Fortier, Fortier acknowledged that he was a homosexual, and admitted “to one case of solicitation,” that he had served alcohol to minors, and showed “a pornographic film to minors.” (B2314).

On September 27, 1984, Father Christian met with Fortier. Fortier admitted that “he had experienced some difficulties while at St. John’s.” (B2314). He also admitted “to each of the charges the police officer had indicated.” (B2314-15). Fortier explained “that he realized these actions had been wrong and that since he had been in Rochester he had turned over a new leaf and started fresh.” Father Christian requested that Fortier begin seeing Dr. Henry Ouellette “of the Clergy Counseling Services” and asked that Fortier allow Dr. Ouellette to write to Father Christian if Fortier were to leave treatment prematurely. (B2315).

The memorandum concludes:

“[Father Christian] stated that if Father Fortier did not bring this problem under control and he were convicted, he would certainly end up in jail with the Bishop being helpless to assist him. He also indicated that in the event of any public scandal there was every likelihood that the Bishop would be unable to allow Father Fortier to function as a priest in the Diocese of Manchester, and that it was probable that he might not even be able to function as a priest anywhere.”

(B2315) (emphasis added).

Dr. Ouellette wrote to Father Christian at the Diocese on October 25, 1984, to report that Fortier gave him permission to tell the Diocese that he was visiting with Dr. Ouellette regularly, was dealing “with the material that was discussed by you at his meeting with you recently concerning complaints received by you from the Derry Police Department.” (B2316). Fortier executed a release so that Dr. Ouellette could share information with Father Christian. (B2317). A review of the Diocesan file indicates that there are no evaluations from Dr. Ouellette from this time period.

Task Force investigators spoke with Lieutenant Thomas on December 5, 2002. (B10712). He confirmed that he spoke with Father Christian about his investigation of Fortier. (B10719). He believed that he spoke with Christian more than once. (B10719). Although, he could not specifically recall the substance of his first conversation with Father Christian, he reviewed Father Christian's memorandum of the conversation. (B10720-22) (referring to (B2314-15)). Thomas confirmed that he provided Father Christian with the information in the memorandum. (B10720). He further explained that when Father Christian stated in his memorandum that Fortier had admitted to "one case of solicitation," Father Christian was using his own words and was likely referring to Thomas' statement to him that Fortier admitted to assaulting Doe XXIII by placing his hand on Doe XXIII's buttocks. (B10721). Thomas further stated that Father Christian called him back about a year after his investigation concluded, sometime after June of 1985. (B10719; 10727). During that conversation, Father Christian questioned where Thomas' investigation was headed and explained that Fortier's heart problems had flared up as a consequence of the investigation. (B10727-28). Thomas told Father Christian that Fortier's health problems would not change the direction of his investigation. (B10727).

Lieutenant Thomas explained that he concluded his investigation without bringing charges against Fortier. He stated that the statute of limitations would have run with regard to any charge relating to providing alcohol to minors. (B10725). While he suspected that Fortier sexually assaulted Doe XXV based on Fortier's statements to him, Thomas felt that he could not go forward without Doe XXV's cooperation. (B10725-26). As for any assaults involving Doe XXIII, Thomas believed that statute of limitation concerns would have barred prosecution. (B10725).

V. FORTIER'S ASSIGNMENTS TO THE HOLY ROSARY PARISH IN ROCHESTER AND TO PARISHES IN NASHUA

On June 27, 1984, the Diocese transferred Fortier to the Holy Rosary Parish in Rochester where he remained until June of 1988. (B2311; 2312; 2323).

Detective Thomas spoke with Detective Paul Moore of the Rochester Police Department on September 19, 1984, to inquire about Fortier's conduct in Rochester and to warn the Rochester Police Department about Fortier's contact with minors in Manchester and Derry. Officer Moore stated that he met Fortier at the Holy Rosary parish. He explained that Fortier was already in the process of involving himself with church youth groups at the parish. (B9282).

While he was serving in Rochester, on August 21, 1986, Bishop Gendron wrote to Fortier to tell him that the Diocese had appointed him to the Diocesan School Board. (B2318). He served a three year term on the school board and was reappointed in 1989. (B2372).

A medical report from Dr. Sidney Alexander on November 24, 1987, states concerns about Fortier's cardiac problems, his weight and his daily stress. (B2319).

Fortier provided this report to Bishop Gendron (B2320), and requested a six month sick leave effective as of January 4, 1988. (B2321). Bishop Gendron granted this request. (B2322). Bishop Gendron stated: "I pray that this period of recuperation will allow you to begin ministry again in the early summer in a happy and fruitful fashion." (B2322). Fortier took a leave of absence for "reasons of health" from January to June of 1988.

When he returned from leave, Bishop Gendron appointed Fortier as the Associate Pastor of the Infant Jesus parish in Nashua effective on June 15, 1988. (B2323). Fortier took another leave of absence for health reasons in August of 1989. (B2372). Effective as of October 4, 1989, Bishop Gendron assigned Fortier as the Associate Pastor of Our Lady of Perpetual Help in Manchester. The Bishop explained to the Pastor at Our Lady of Perpetual Help that Fortier would have to return to ministry gradually upon the recommendation of his physician. (B2325). He served temporarily in Plaistow at the Holy Angels parish in October of 1990. (B2372).

VI. FORTIER'S ASSIGNMENT TO SAINT PETER'S PARISH IN FARMINGTON

The Diocesan Personnel Board appointed Fortier as the Pastor of Saint Peter's Parish in Farmington effective as of February 6, 1991. (B2326).

In June of 1993, the Diocese referred Fortier to St. Michael's Center, which was run by the Servants of the Paraclete in St. Louis, Missouri, for therapy for his "lifestyle difficulties." (B2329). These difficulties related to reports that the Diocese received in 1993 that Fortier was engaged in a homosexual relationship with a "male friend" and had been having "homosexual contacts" in Nashua for a "number of years." (B2330). In making this referral, Monsignor Christian explained to treatment providers early concerns about Fortier's sexuality as well as the Derry Police investigation in 1984. Monsignor Christian wrote: "[s]hortly before his ordination a member of his family approached the Diocese, expressing concerns that [Fortier] was an active homosexual." (B2329). When confronted, Fortier denied the allegation. Monsignor Christian also explained that

[s]everal years after ordination Roger became involved in a police investigation involving the endangerment of minors. While the investigation did not lead to any legal action, Roger admitted to me at the time that he had been imprudent in bringing young men into the rectory and allowing them to view pornographic materials as well as partake of alcoholic beverages. This same sort of activity apparently also took place at the home of a male friend of long acquaintance in the town of Derry, where that man was living. Roger was requested at that time to seek counseling with a diocesan psychologist, which he did for some period of time. Again, in all of this there was never any direct evidence that Roger was acting out sexually in an active fashion.

(B2329) (emphasis added). Monsignor Christian concluded his referral by stating:

I tried to make it clear to Roger that the Diocese is concerned about both his drinking and his lifestyle problems, both because of our concerns for his personal health as well as for the Church. I tried to make it clear to him that he can minister as a priest only if and when these problems are controlled. Roger has done good work as a priest, and I would hate to see him jeopardize his future ministry because of his unwillingness or inability to deal with these issues.

(B2330). Diocesan files indicate that Fortier was on “SICK LEAVE” from May 13, 1993 to December 9, 1993. (B2372).

The Diocesan files contain a number of progress reports from the Servants of the Paraclete in St. Louis with regard to Fortier’s participation in “Aftercare Workshops.” It appears that Fortier would return to St. Louis for these workshops, which lasted about a week. These reports indicate that, aside from struggles to control his weight, Fortier was managing his alcohol and sexual issues. (B2340-44 (10/94); 2351-55 (4/95)).

Bishop Christian generated an evaluation relating to Father Fortier’s ministry in Farmington on August 6, 1997. There is no indication from this report that the Diocese limited Fortier’s ministry in any way. (B2361-63). The only health concerns addressed in Bishop Christian’s memo relate to Fortier’s heart problems. (B2363).

A. Fortier’s Sexual Assaults of John Doe XXXV and John Doe XXXVI

On October 26, 1997, John Doe XXXVI disclosed to his parents that he was sexually assaulted by Fortier on numerous occasions in the rectory in Farmington. The assaults were reported to police in Farmington, Fortier was arrested, and once the allegations became public, John Doe XXXV also disclosed to the police that Fortier sexually assaulted him in the rectory. See State v. Fortier, 146 N.H. 784 (2001).

There is an undated, hard to read, handwritten note in the Diocesan files describing Fortier’s assaults. The note indicates that first the victim was John Doe XXXVI, age 14, his parents are parishioners, Fortier kissed him, performed oral sex on him and placed his finger in Doe XXXVI’s anus. Doe XXXVI’s mother found out and called the police. (B2366). The note also indicates that the second Farmington victim was John Doe XXXV, who was assaulted by Fortier 3 or 4 times when he was 16. The assaults included oral sex. (B2366).

On October 28, 1997, Bishop Christian placed Fortier on administrative leave “in accord with the prescriptions of the Code of Canon law, and with the knowledge of Bishop Leo E. O’Neil.” (B2364). Bishop Christian’s letter instructed Fortier to “be in residence at St. Joseph Parish in Nashua until further notice.” (B2364).

Based on his assaults of Doe XXXV and Doe XXXVI, the Strafford County Attorney’s Office indicted Fortier on sixteen counts of sexual assault, including: (1) two counts of Aggravated Felonious Sexual Assault (“AFSA”) alleging that he engaged in a pattern of sexual assault on each victim, see RSA 632-A:2, III; (2) six counts of AFSA

alleging that he used his position of authority to coerce the victims to submit to sexual penetration, see RSA 632-A:2, I(k); and (3) eight counts of Felonious Sexual Assault (FSA) alleging that he inflicted sexual penetration on persons who were thirteen years of age or older and under sixteen, see RSA 632-A:3, II (Supp. 2000). See Fortier, 146 N.H. at 787.

Fortier was tried in Strafford County Superior Court in August of 1998. On August 4, 1998, the jury returned guilty verdicts on all of the charges. (NOA at 2).⁹ The trial court (Mohl, J.) sentenced Fortier to a term of 20 to 40 years, stand committed at the New Hampshire State Prison. (NOA 1).

The following facts were adduced at trial. See Fortier, 146 N.H. at 786-87. In 1991, Fortier began serving as a priest at a Roman Catholic Church in Farmington. He met both victims, John Doe XXXV and John Doe XXXVI, through their involvement with the church.

In February 1991, when he was eleven years old, Doe XXXV began taking classes with Fortier to become an altar server. Doe XXXV frequently went to the rectory on Saturdays to help Fortier prepare the bulletins for mass. Eventually, Fortier asked him if he wanted to spend the night at the rectory. By January 1994, when he was fourteen years old, Doe XXXV was spending two or three weekends a month at the rectory. Fortier took him out to dinner on weekends and occasionally during the week. He also bought him gifts, took him to the movies and gave him money.

The two would watch television together at the rectory and at times, Fortier would joke about his homosexual attractions. One evening in January 1994, while Fortier and Doe XXXV were watching television, Fortier got up to go to bed and asked Doe XXXV if he wanted a “blow job.” Receiving no response, Fortier angrily said, “I guess not” and went to bed. The following weekend Fortier offered Doe XXXV an alcoholic drink, which he accepted. Fortier played a pornographic movie and at some point began rubbing Doe XXXV’s leg and groin area over his clothes. He pulled Doe XXXV’s pants down and performed fellatio on him. Doe XXXV said nothing because he was “kind of scared” and “didn’t know what to think.” Fortier told him that he should not tell anyone.

Doe XXXV testified that over the course of the next year, Fortier subjected him to fellatio one to three times per month. He recalled the sexual assaults occurring in the upstairs living room, the guest bedroom and the master bedroom. He also testified that on occasion, Fortier showed him pornographic movies with heterosexual or homosexual themes. The only movie about which Doe XXXV could remember any detail was the one playing at the time of the first assault.

Doe XXXV stopped going to the rectory in February 1995, at which time the sexual assaults essentially ended. He did not tell anyone about them at the time they

⁹ “NOA” refers to the Notice of Appeal that Fortier filed with the Supreme Court for the State of New Hampshire following his conviction.

were occurring as he was fearful that no one would believe him because “[Fortier] was a friend of the family’s [and was] a nice priest.”

Doe XXXVI first met Fortier through the church in late 1992 or 1993 when he was nine years old, and Fortier helped him prepare to receive his first communion. At twelve, he became an altar server. Fortier was close to Doe XXXVI’s family and spent evenings at their home watching television, socialized with Doe XXXVI’s mother, and attended family birthday celebrations. Fortier often took Doe XXXVI and his older brother shopping, out to eat and to the movies. At some point, Doe XXXVI’s older brother began spending occasional nights at the rectory. Envious of his older brother, Doe XXXVI asked Fortier if he could stay at the rectory as well. Fortier agreed, and in May 1997, when Doe XXXVI was thirteen years old, he began spending every weekend at the rectory. Fortier bought Doe XXXVI clothes and gifts, allowed him to watch cable television, and took him to the movies and to various recreational activities. Doe XXXVI’s mother testified that she allowed her sons to spend time at the rectory because she believed Fortier needed help with various activities due to a heart problem.

Fortier sexually assaulted Doe XXXVI for the first time during one of his early overnight visits. While Doe XXXVI was scratching his foot, Fortier suggested that he go to the master bedroom so Fortier could treat it with a spray or lotion. Once in the bedroom, Fortier applied lotion and began tickling Doe XXXVI. At some point, he briefly touched Doe XXXVI’s “private area” over his clothes and said, “feels good, [doesn’t] it?” He then kissed Doe XXXVI on his lips. Doe XXXVI said nothing because he felt scared, trapped and helpless. At some point, Fortier instructed Doe XXXVI to remove his clothes, and Doe XXXVI, feeling obligated, complied. Fortier then performed fellatio on him and played a pornographic movie depicting homosexual activities.

Fortier subjected Doe XXXVI to the same type of activity on every subsequent weekend throughout the summer and into the fall of 1997. Doe XXXVI remembered that some assaults occurred in the master bedroom while a pornographic movie was playing, and he was able to describe the substance of several different movies. He also recalled assaults occurring in the guest bedroom of the rectory in early October, and on two occasions, on the couch in the upstairs living room. The last assaults occurred just prior to Halloween in October 1997 when Fortier, while showering with Doe XXXVI, performed fellatio on him and digitally penetrated his rectum.

Based on these facts, the jury convicted Fortier.

In November of 1999, the Diocese reached a civil settlement agreement with Doe XXXV. (B2374-2378). The settlement documents specifically state that “the Roman Catholic Bishop of Manchester, as corporation sole, has denied and continues to deny any liability for damages allegedly suffered and claimed by John Doe XXXV and deny his entitlement to any relief in connection with the above-referenced Writ...” (B2374). The agreement involves a general promise by both parties to “keep all information concerning John Doe XXXV’s claims and allegations and the terms of this settlement completely

confidential....” (B2374). In addition, there is a specific confidentiality clause that prohibits Doe XXXV or his agents from discussing any information relating to his case. (B2376). There is an exception to this clause that permits Doe XXXV to disclose the terms of the settlement to his lawyers or accountants to the extent it is necessary to secure professional advice and if they agree to be bound by the confidentiality clause. (B2376). If Doe XXXV were to violate this clause, the agreement requires him to return the money to the Diocese. (B2376). The settlement also includes a release of all parties from any future litigation relating to XXXV’s claims. (B2375). The Diocese paid XXXV \$100,000 under the agreement. (B2377).

B. Strafford County’s Knowledge of Fortier’s Prior Conduct

To a limited extent, the Farmington Police Department and the Strafford County Attorney’s Office were aware that Fortier engaged in prior inappropriate sexual conduct in Derry. One individual alleging to have been victimized by Fortier years prior in Derry came forward at the time of the Strafford prosecution. On October 26, 1997, John Doe XXXIII (born in April of 1963) filed a walk-in report with the Farmington Police Department in response to seeing Fortier’s name in the newspaper. (B9292). He reported that in 1983 or 1984, when he was 17 years old, he lived at John Doe XXII’s house in Derry. Fortier frequented Doe XXII’s residence at the time.¹⁰ After drinking one night, he explained that he went to bed on the couch. (B9292). He woke up to find Fortier performing oral sex on him. (B9292). Doe XXXIII slapped Fortier on the head and Fortier stopped. (B9292). In addition to reporting these events to police in Farmington, Doe XXXIII testified at Fortier’s sentencing hearing in Strafford County Superior Court on October 9, 1998.

Beyond XXXIII’s report, the Farmington Police Department received anonymous calls on October 26 and 29, 1997, from individuals urging law enforcement to investigate Fortier’s conduct when he was assigned as a priest in Manchester. One of these callers stated that Fortier had been sent to a sex offender treatment center. In a recent interview, Attorney Lincoln Soldati, the prosecutor that tried Fortier in Strafford County, indicated that he recalled a reference to the fact that Fortier received treatment for a sexual problem, but he could not recall where he received that information. (B9665). Further, he indicated that there was no hard evidence at the time that he prosecuted Fortier to establish that the Diocese was aware of Fortier’s prior sexual problems. (B9665).

Other than these reports, the Farmington Police Department and the Stafford County Attorney’s Office were not aware of the Derry Police Department’s prior investigation. Moreover, neither agency learned that the Diocese was aware of Fortier’s prior misconduct with minors. Specifically, Officer Thomas from Derry stated that he did not communicate with the Farmington Police Department or the Strafford County Attorney’s Office about his 1984 Derry investigation. (B10722). Detective Boucher, the Farmington detective that investigated the case involving Doe XXXVI and Doe XXXV, reviewed his file during a recent interview with the Task Force and did not find any

¹⁰ Doe XXXIII’s report that he was 17 in 1983 or 1984 does not appear to be accurate. His birthday is in April of 1963. (B9292). Thus, he turned 20 in April of 1983.

reports indicating that he received information from the Derry Police Department. (B10708-09). Finally, the Farmington Police Department and the Strafford County Attorney's Office were not aware that Fortier had previously admitted to the Diocese that he had engaged in inappropriate conduct with minors in Manchester and Derry. (B10703; 9665).¹¹

C. Bishop Christian's Misstatements To Probation and Parole Officer Stephen Carlisle

Following jury's guilty verdicts, Stephen Carlisle, a Probation and Parole Officer, prepared a presentence investigation in order to make a sentencing recommendation to the court. In Diocesan files, the Task Force located correspondence between Carlisle and the Diocese in connection with this investigation. On September 10, 1998, Carlisle wrote to the Diocese to give it "the opportunity to provide input into the previously mentioned report concerning the performance of his duties and any other information you may have to assist the Court and myself in learning more about Roger Fortier." (B2371). On September 18, 1998 Bishop Christian drafted a letter to Carlisle, stating:

During his years of priestly ministry, Fr. Fortier was always an effective priest. He ministered well to the people and was generally well liked by them. He did have some problems with alcohol, which were treated with in-patient care for several months. Once returning from the treatment, he did not, to the best of my knowledge, ever again drink or have any problem with substance abuse. His sexual problems with youth were unknown to the Diocese and it is, in my mind, unfortunate that he did not make use of his time in treatment to deal with those other issues. Had he attempted to deal with them, and given his success in not falling back into alcohol abuse, he might very well not have engaged in the destructive behavior for which he has been found guilty.

(B2370) (emphasis added).

Bishop Christian's statements to Carlisle stand in contrast to his knowledge of the Derry Police Department's investigation of Fortier in 1984 (B2314), and his referral of Fortier to treatment for his "lifestyle difficulties" in 1993. (B2329-30). Faced with this discrepancy, the Task Force conducted follow-up investigation to determine the impact of Bishop Christian's statements on Carlisle's sentencing recommendation to the court. The Task Force filed sealed motions in Stafford County Superior Court seeking access to the pre-sentence investigation report, its attachments, and the Department of Correction's file relating to the pre-sentence investigation. Additionally, the Task Force sought court

¹¹ As part of his investigation, Detective Wayne Boucher of the Farmington Police Department contacted the Diocese and spoke with Matthew McSorley. (B8529). McSorley stated that the Diocese was willing to assist in the investigation as best as it could. He also provided a list of Fortier's prior parish assignments. However, he indicated that the Diocese did not keep records of the altar servers that served under Fortier. (B8529). The Task Force interviewed McSorley on December 3, 2002. (B10770). He stated that at some point during Fortier's prosecution, he learned through Bishop Christian that Fortier had problems 15-20 years prior that involved showing pornography to minors. (B10770-71). However, he did not recall when he learned this information and did not recall providing this information to Detective Boucher. (B10771).

permission to interview Carlisle with regard to his investigation. The substance of the pre-sentence investigative report in the Fortier case remains confidential. However, the Task Force's investigation confirmed that Carlisle was unable to corroborate that Fortier had engaged in previous sexual misconduct with minors.

As a general matter, Carlisle explained to Task Force investigators the manner in which he undertakes a pre-sentence investigation in sexual assault cases. (B10871-74). As part of this process, he investigates a defendant's prior conduct. (B10870). Where he is able to corroborate prior allegations of sexual misconduct, he includes that information in his pre-sentence investigation report. (B10871-72). Based on a defendant's prior conduct, he explained that he may increase his sentencing recommendation to the court depending on the circumstances and the extent to which he is able to corroborate that information. (B10873-74).

VII. CONCLUSION

Based on the foregoing facts, the State was prepared to present one or more indictments to the Hillsborough County Grand Jury charging the Diocese of Manchester with endangering the welfare of children in violation of RSA 639:3. When Fortier was assigned to St. John the Baptist parish in Manchester in the early 1980's, he invited minors to his rectory room and to the home of a friend in Derry. Fortier provided minors with alcohol and pornography at these locations. He assaulted John Doe XXIII during an overnight trip to Derry when he placed his hand on Doe XXIII's buttocks. He also made an unwanted advance toward John Doe XXI at the rectory in Manchester. The Derry Police Department investigated this conduct in 1984. During the investigation, Fortier admitted to providing alcohol and pornography to minors and to assaulting John Doe XXIII. Officer Thomas had conversations with Father Christian at the time, informing the Diocese of his investigation and of Fortier's admissions. Father Christian then confronted Fortier. Fortier again admitted to these allegations. At approximately the same time, John Doe XXI made an in person report to the Diocese alleging that Fortier was providing alcohol and pornography to minors and that Fortier made an advance toward him. Therefore, the Diocese had knowledge, as early as 1984, that Fortier was a threat to minors. Despite this knowledge, the Diocese violated a duty of care that it owed to minor parishioners by failing to effectively limit Fortier's contact with them. Subsequently, in 1991, the Diocese assigned Fortier to St. Peters parish in Farmington without any restriction on his ministry. During this assignment, Fortier sexually assaulted John Doe XXXV and John Doe XXXVI between 1994 and 1997.