

1 argument here with the witness.

2 MR. ANDERSON: Okay.

3 THE WITNESS: I don't think that's accurate,
4 sir. That isn't how I read it.

5 MR. KLENK: We want to ask fair questions here.

6 MR. ANDERSON: Okay. Let's move on. Let's
7 move on.

8 BY MR. ANDERSON:

9 Q. Let's look at Exhibit 54.

10 This pertains to Father Bennett?

11 A. Yes, sir.

12 Q. And the date of this is November 12, 2002.
13 It's a letter to Leah McCluskey and to the
14 attorney -- James Serritella, the attorney for the
15 Archdiocese, from Tom Fleischmann, an attorney for
16 an individual who had reported to the Archdiocese
17 that Bennett had abused a child?

18 A. Yes.

19 Q. And have you ever seen this before?

20 A. No, I haven't seen these letters here.

21 Q. When you look at this at the third
22 paragraph, you will see in this letter that
23 enclosed is the report of the polygraph examination
24 conducted by Steven Kirby and -- and attached to it

1 was the findings in the polygraph that if you want
2 to look, you may but I'll represent to you that the
3 polygraph operator found that the victim was
4 telling the truth when reporting sexual abuse by
5 Bennett.

6 My question to you is, Cardinal, did you
7 ever know that -- that this victim had taken and
8 passed a polygraph?

9 A. I don't recall ever having got that --
10 that information given to me.

11 Q. So this is the first time that you've
12 heard that?

13 A. I believe so, sir.

14 Q. Is this also the first time that you're
15 aware of this allegation? This involves a boy and
16 his -- possibly his brother.

17 A. This came to me, as I recall, after the
18 prior allegation that took such a long time to put
19 together.

20 Q. I'm showing you 55. This is from Leah
21 McCluskey, copy to Bishop Paprocki,
22 Father Kaczorowski, Bonaccorsi, Lagges and O'Malley
23 and to you?

24 A. Yes.

1 Q. What is this?

2 A. This is the report that there was
3 insufficient information to make a finding of
4 reasonable cause to suspect that Father Joseph
5 Bennett engaged in sexual conduct with a minor so
6 they're rejected the allegation. So, evidently,
7 this was 2003. I knew of the allegation but I
8 probably dismissed it from my mind because it was
9 found not to be true at that time.

10 Q. Where does it say that the allegation was
11 found not to be true?

12 A. There's insufficient information to make a
13 finding of reasonable cause to suspect that
14 Father Joseph Bennett engaged in sexual misconduct
15 with a minor.

16 Q. So that you -- you interpreted this
17 language to mean it was not true?

18 A. That is the language to say that they
19 don't believe the incident took place.

20 Q. You'll see at the third paragraph in a
21 vote of five to one, the Board recommends three
22 things. In other words, after saying there's
23 insufficient information to make a finding, they're
24 still making a recommendation to you, right?

1 A. Yes.

2 Q. And the third thing in their
3 recommendation is that the PFRA contact
4 Father Kaczorowski, then Vicar for Priests --

5 A. Yes.

6 Q. -- to determine who is monitoring Joseph
7 Bennett --

8 A. Uh-huh.

9 Q. -- and to ensure it is not Father Leonard
10 Dubi, D-U-B-I?

11 A. Yes.

12 Q. In fact, Father Leonard Dubi was his
13 monitor then, wasn't he?

14 A. That's correct.

15 Q. And, in fact, Father Dubi continued to be
16 his monitor notwithstanding this recommendation in
17 January of 2003?

18 A. That is correct.

19 Q. Why didn't they want him to be the monitor
20 of Bennett?

21 MR. KLENK: Objection, foundation.

22 MR. ANDERSON: You can answer.

23 THE WITNESS: I can't answer for them.

24

1 BY MR. ANDERSON:

2 Q. What do you think or know?

3 A. We --

4 MR. KLENK: Objection. You're not interested
5 in guesses.

6 MR. ANDERSON: No. I'm asking what he knows.

7 MR. KLENK: Fair enough.

8 THE WITNESS: What -- what --

9 MR. ANDERSON: It's a recommendation to him.
10 Go ahead.

11 THE WITNESS: What we knew was that Father Dubi
12 was skilled in the 12 steps spirituality and,
13 therefore, sensitive to self-deception and was in
14 daily contact with Joe Bennett and, therefore,
15 would do a good job as monitor which is why I
16 presume that he was retained as monitor.

17 BY MR. ANDERSON:

18 Q. Well, they're recommending against him
19 being monitored -- to -- to ensure that he's not
20 being the monitor?

21 A. Yes. I'm not sure they had that
22 information about Father Dubi.

23 Q. So are you saying that Father Dubi would
24 be good to be monitoring him notwithstanding the

1 recommendation of the Board?

2 A. On the information that this man was in
3 daily contact with him and was very honest and
4 would call people to account, we thought that he
5 would be a good monitor --

6 Q. Okay.

7 So you made --

8 A. -- and it seems he was.

9 Q. You made the decision notwithstanding the
10 recommendation of the Board to allow Dubi to
11 continue to monitor -- monitor --

12 A. Well, he was just beginning to be
13 monitored at this time. So evidently, they felt
14 that even though they didn't think he had done it,
15 nonetheless, they wanted to put precautions in
16 place.

17 Q. Let me just ask you this, Cardinal --

18 A. Sure.

19 Q. -- did you ask anybody on the Board why
20 the Board didn't want Dubi to be monitoring Joseph
21 Bennett?

22 A. I would have asked Leah McCluskey because
23 that's my contact with the Board.

24 Q. What answer did you get if you did ask

1 her?

2 A. I'm sorry. I don't recall that
3 conversation. I recall a later conversation where
4 we decided to name Dubi.

5 Q. If the Board found the allegation, as you
6 believe, not to be true, why would they be
7 monitoring him at all?

8 A. Because I think they were being super
9 cautious which is truly wonderful.

10 Q. But you chose not be super cautious and
11 continue him in ministry?

12 A. No. We monitored as the review -- as the
13 Review Board recommended.

14 Q. And chose to have Dubi monitor him?

15 A. Dubi was a very good monitor.

16 Q. Okay.

17 Look at 57. February 9, 2003 letter to
18 Kaczorowski, then Vicar for Priests, from Joe
19 Bennett.

20 A. Uh-huh.

21 Q. This is during the investigation of the
22 first allegation made against Bennett?

23 A. Uh-huh.

24 Q. This, in fact, confirms that Dubi is

1 continuing to be the monitor?

2 A. Uh-huh.

3 Q. And if you read the first paragraph,
4 you'll say that -- you'll see that he's going on
5 vacation.

6 It looks like he's traveling to Mexico,
7 right?

8 A. That's correct, with his monitor.

9 Q. And leaving the country with him?

10 A. He's --

11 Q. With the monitor, is that -- is that the
12 way you read it?

13 A. That's what it says, doesn't it? I
14 believe.

15 Q. Okay.

16 Look at 59.

17 A. May I see that, please?

18 Q. Were you aware, Cardinal, that Dubi and
19 Bennett owned property together?

20 A. No, I was not at this time. I think I've
21 heard that since but I'm not sure of that.

22 Q. You're aware that they were very close?

23 A. They were friends.

24 Q. And that's why you thought that Dubi was a

1 good monitor for him?

2 A. That they were in good contact and Dubi is
3 a very honest man with himself and others.

4 Q. Showing you Exhibit 59. It's April 28,
5 2003. This is another letter to you from Leah
6 McCluskey cc'd to the same five individuals
7 involving Bennett. In here, a decision is made and
8 you'll see at the second paragraph, in a unanimous
9 seven to one vote, the Board recommends that there
10 is no reasonable cause to suspect that the
11 misconduct occurred?

12 A. That's correct.

13 Q. To your knowledge, how many times has the
14 Board reached that conclusion in connection with
15 allegations of sexual abuse of priests while you've
16 been Archbishop Cardinal?

17 A. I can't answer that question with any
18 exactitude. I don't know. I've never counted it.

19 Q. Are you able to say if it's more than ten?

20 A. I'm sorry. I can't say that.

21 Q. And have you ever after they made such a
22 determination as was made on April 28, 2003 ever on
23 your own made an effort to review what they had
24 done and to get additional information on your own

1 to -- to -- to make sure that the kids may be safe?

2 MR. KLENK: Objection, that question is way
3 overbroad. With respect to a -- to a specific
4 incident?

5 MR. ANDERSON: Let me interrupt then. Let me.

6 BY MR. ANDERSON:

7 Q. Have you ever after the Board made a
8 finding of no cause to believe, such as this, asked
9 them to continue the investigation or to reopen it?

10 A. If new information came to me that I
11 didn't think they had, I would do that.

12 Q. Well, have you ever done it?

13 A. No case comes to mind, sir.

14 I do read what they report. They're very
15 careful.

16 Q. I'm directing your attention to
17 Exhibit 211.

18 And this is memorandum, December 19, 2003
19 but it -- it refers to a December 3, 2003 phone
20 call?

21 A. Yes.

22 Q. And you reviewed this, I trust, in
23 preparation for today?

24 A. I'm sorry. I did not review this

1 particular document.

2 Q. Okay.

3 Well, let me just represent to you that it
4 is a memorialization of a phone call received from
5 a person on December 3, 2003 regarding the
6 allegation of sexual misconduct against Bennett.
7 During the call, the woman stated she did not wish
8 to have her name released which she took back but
9 it goes on to state after some conversation and an
10 explanation of the process of formalizing an
11 allegation of sexual misconduct, Ms. Blank named
12 her alleged abuser as Reverend Joseph Bennett.

13 A. Uh-huh.

14 Q. This would now be another allegation --

15 A. That's correct.

16 Q. -- against Bennett?

17 A. That's correct.

18 Q. After the Board had made its
19 determination?

20 A. About another case.

21 Q. And when did you learn about this
22 allegation now having surfaced?

23 A. Well, they would have brought this to me
24 once she brought it to the Review Board.

1 May I respond?

2 MR. KLENK: Wait until there's a question.

3 THE WITNESS: May I respond to a question he
4 asked before?

5 MR. KLENK: Sure. Sure.

6 THE WITNESS: You raised a very good question,
7 have I ever gone back to the Board once they had
8 decided there is no reasonable cause to suspect and
9 asked them to review it again. I did that at least
10 once that I can recall when the accuser came
11 forward and explained that it was a different
12 Review Board than the one we have now that had made
13 that finding, that there was no reasonable cause,
14 but that she wanted to reopen her case. I asked
15 the Board to open the case again.

16 BY MR. ANDERSON:

17 Q. Who was that? What priest?

18 A. It was against Father Bennett -- no, it
19 was not. Again, these cases, some years back. It
20 was another priest.

21 Q. Who?

22 A. I can't recall his last name. His first
23 name is John. He's an elderly priest long out of
24 ministry. Retired.

1 Q. Okay.

2 So did you -- did you do your
3 clarification to your satisfaction? You wanted to
4 clarify that?

5 A. Well, you had asked me a question and I
6 said I can't remember. I remembered one case
7 anyway where I did do that.

8 Q. All right.

9 A. For what it's worth.

10 Q. Now, going back the Exhibit 212, Cardinal.

11 A. Yes.

12 Q. Excuse me. 211. Isn't this, in itself,
13 enough information sufficient to reopen and
14 reevaluate Bennett's stature and status as a priest
15 working in a parish in December of 2003?

16 A. This investigation did take place. They
17 submitted this to the Review Board. It's of
18 activity that happened in the '70s, of course, as
19 was the other activity.

20 Q. But isn't it enough to reopen the
21 review -- Review Board determination that had been
22 made earlier finding no cause?

23 A. The Review Board didn't suggest that.

24 Q. Do you know whether the review --

1 A. But this was pursued.

2 Q. Do you know when the Review Board was made
3 aware of the December 3, 2003 allegation recorded
4 in this exhibit?

5 A. It must have been very quickly. Leah
6 always does it very, very quickly, that kind of
7 reporting.

8 Q. Do you know how long it took Leah
9 McCluskey to formalize the allegation under her
10 process or your process?

11 A. The allegation was formalized. It took a
12 long time to investigate. As you can see from the
13 allegation, there were many other people named and
14 she had to visit many witnesses in different parts
15 of the country.

16 Q. Look at Exhibit 62.

17 A. 62, please. Thank you.

18 Q. I'm showing you what we've marked as
19 Exhibit 2 as our sealed -- as our sealed exhibit
20 and on the name -- on it, I put the name of the --

21 A. Yes.

22 Q. -- individual that I referred to as Jane
23 Doe Two?

24 A. Yes.

1 Q. So we know who we're talking about here?

2 A. Yes, sir.

3 Q. Excuse me. Jane Doe One.

4 A. Yes.

5 Q. And I put the name on there so we won't
6 use that name and we just agree this is Jane Doe
7 One, okay?

8 A. Sure.

9 Q. This document pertains to Jane Doe One as
10 identified on that exhibit?

11 A. Yes.

12 MR. KLENK: Which -- which document are you
13 referring to?

14 MR. ANDERSON: 62.

15 BY MR. ANDERSON:

16 Q. You'll see this is March 11, 2004 and it's
17 written to McCluskey --

18 A. Uh-huh.

19 Q. -- in a follow-up of our meeting of March
20 2nd, I have not heard back from you regarding our
21 immediate concern about the suspension of
22 Father Bennett.

23 A. Uh-huh.

24 Q. Do you see that?

1 A. I do.

2 Q. It goes on to state in the second
3 paragraph, you advised us that you would bring this
4 report of abuse to the attention of your
5 supervisors including the cardinal that same day.

6 A. Yes.

7 Q. Did she?

8 A. I presume she did.

9 Q. Now, this is four months after the
10 information surfaced in Exhibit 211, that is,
11 another allegation and -- and Bennett is still in
12 ministry at this point?

13 A. The allegation hadn't been investigated at
14 this point to a satisfactory conclusion. As you
15 know, [REDACTED] wasn't even a nun any longer, a
16 woman whom you accuse also in this letter of
17 horrific abuse all of which is unfounded at least
18 at this point.

19 Q. So are you choosing -- is it your
20 testimony then that you, basically, made the choice
21 to keep him in ministry and to the extent there's a
22 risk, you chose to take it?

23 A. No. We thought there was no risk and
24 there doesn't seem to have been. He was monitored.

1 He was restricted. I chose to follow the protocol,
2 sir, that we always have followed and protected
3 children in the past and protected them also in
4 this case.

5 Q. But he remains in a parish.

6 You could have removed him at least from a
7 parish and kept him on administrative leave,
8 correct?

9 A. Not without the Review Board telling me
10 they thought there was reasonable cause to suspect
11 which they didn't at this time.

12 Q. Are you aware that at that time, Bennett
13 was the only priest in -- in that parish?

14 A. I believe he was.

15 Q. Showing you 63.

16 A. He may have had a resident living with him
17 but I'm not sure.

18 Q. This is dated May 14, 2004 and this would
19 be a letter from me to Jim Serritella, the lawyer,
20 and John O'Malley?

21 A. Uh-huh. Yes.

22 Q. And in it -- this is really a second
23 letter expressing concern. The first being an
24 exhibit I showed you. We state I discovered that

1 Father Joseph Bennett is still at Holy Ghost Parish
2 as of this moment. The records reflect that this
3 matter has been brought forward and the finalized
4 report with Leah McCluskey has already been made to
5 the Review Board. I'm extremely alarmed that this
6 priest remains in the parish given this
7 information. On its face, this appears to be in
8 direct contravention and violation of the policy,
9 the practice and the charter of the Archdiocese.
10 Please advise immediately.

11 Was this letter brought to your attention,
12 Cardinal?

13 A. No.

14 Q. Exhibit 64 -- if you'll hand the Exhibit 2
15 back. She's going to hand you Exhibit 64 and if
16 you hand me 2 back, I'm going to put another name
17 on it.

18 A. Thank you.

19 Q. On Exhibit 2, showing that to the Cardinal
20 and counsel, this would be the sister that I marked
21 in Jane Doe Two, the sister of Jane Doe One.

22 A. Yes.

23 Q. And this -- this Exhibit 64, that's the
24 name that's been blocked out here so --

1 A. Sure.

2 Q. -- we know who we're talking about here?

3 A. Yes, sir.

4 Q. And have you seen this?

5 A. I haven't seen it in writing. I was
6 apprised of her having changed her testimony from
7 not supportive of her sister to supportive.

8 Q. And in any case, at the time that this
9 exhibit was prepared, it's correct that you have
10 been advised and the Archdiocese personnel have
11 been advised that there are now four possible
12 victims of Bennett?

13 A. Well, there were the victims whose cause
14 was decided not founded and then there were the two
15 sisters, one of whom was abused. The other one
16 isn't a very clear case, is it?

17 Q. And this sister is corroborating a report
18 made by -- by Jane Doe One, correct?

19 A. That was taken into account even though it
20 had changed her earlier testimony that her sister
21 wasn't accurate.

22 Q. Exhibit 65, March 29, 2005, a memorandum.

23 A. Uh-huh.

24 Q. And at this time, Bennett is continued in

1 ministry by you, correct?

2 A. He's during the investigation in his
3 ministry with restrictions so that children are
4 protected.

5 MR. KLENK: Can you just take a moment while I
6 read this, Mr. Anderson?

7 THE WITNESS: Uh-huh.

8 MR. KLENK: Thank you.

9 BY MR. ANDERSON:

10 Q. You'll see that the Review Board conducted
11 an initial review regarding the allegation made by
12 this individual. The claim is as follows,
13 Father Bennett exposed himself to Ms. Blank.
14 Father Bennett instructed Ms. Blank to perform oral
15 sex on him. By a vote of eight to zero, the Board
16 determined that this matter warrants additional
17 investigation.

18 Was this brought to your attention, this
19 information?

20 A. This is the ongoing investigation.

21 Q. I know but was it brought to your
22 attention?

23 A. I knew they were investigating this, yes,
24 and had some sense of the complexity that's

1 evidenced here.

2 Q. It goes on to state the Board also
3 requested that PRA complete the following tasks?

4 A. Yes.

5 Q. And if you look at the last one, it states
6 that Father Bennett's monitor is either
7 Reverend Thomas Simma or Reverend Thomas Cabala and
8 not Reverend Leonard Dubi?

9 A. That's correct.

10 Q. And they bolded the not.
11 Did you see that?

12 A. I did. Well, I didn't remember reading
13 this but I knew that was --

14 Q. And do you know why they bolded the not on
15 Reverend Dubi?

16 MR. KLENK: Objection, foundation.

17 THE WITNESS: No, I don't.

18 BY MR. ANDERSON:

19 Q. Well, somebody's trying to draw your
20 attention to the fact that Dubi should not be
21 monitoring Bennett?

22 A. Yes.

23 MR. KLENK: I'll -- I'll object to that.

24

1 BY MR. ANDERSON:

2 Q. Is that correct, Cardinal?

3 MR. KLENK: I'll object to that. I mean, this
4 memorandum was not sent to him so it's wrong to
5 suggest that they were -- somebody was trying to
6 direct it to his attention.

7 BY MR. ANDERSON:

8 Q. Well, you're decisionmaker on --
9 ultimately on whether the priest remains in
10 ministry under monitoring or not, correct?

11 A. If there's an allegation being processed,
12 he is always monitored and restricted so that he
13 doesn't have access to children. That's the
14 policy. As well as notifying the State
15 authorities, of course.

16 Q. So if the Review Board doesn't want this
17 guy monitoring Bennett as is indicated here, you
18 should be advised of that so you can do something
19 about it, right?

20 A. I think I probably was told that.

21 Q. And you chose to continue Bennett in
22 ministry under monitoring by Dubi?

23 A. Because he was in daily contact with him
24 and was a very responsible monitor as he is.

1 Q. Look at 66.

2 A. I don't have that. I'm sorry, sir.

3 Q. I'm sorry. She's going to hand it to you.

4 MS. ARBOUR: I can only be in one place at
5 once.

6 BY MR. ANDERSON:

7 Q. Just briefly, you'll see that 66 reflects
8 at the last sentence --

9 MR. KLENK: Can you take a moment while --
10 while I look at it here. I haven't seen this
11 before.

12 MR. ANDERSON: I'm directing attention to the
13 last sentence.

14 BY MR. ANDERSON:

15 Q. If you'll see 66, I'll read it, PRA check
16 with Father Grace to determine if Dubi is currently
17 on sabbatical or not. Father Dubi is
18 Father Bennett's identified monitor.

19 At this time, were you aware that Dubi was
20 on sabbatical?

21 A. 2005, I don't recall whether he was or he
22 wasn't, sir. They didn't know either, apparently.

23 Q. Don't you think that that would be
24 important to know? If he's on sabbatical, how

1 could he be monitoring?

2 A. There should have been another monitor, of
3 course.

4 Q. I'm going to show you 67. Before I do,
5 I -- I think this would have been the third time
6 the Review Board had questioned monitoring of
7 Bennett and the adequacy of it with Dubi, isn't it?
8 Does that sound correct, Cardinal? This is the
9 third time the Review Board has questioned the
10 adequacy of the monitoring in particular that Dubi
11 is --

12 A. I was only aware of it once, sir.

13 Q. Okay.

14 Let's look at 67. There's a highlighted
15 portion here and I'll read it and this is an
16 article about pastor not being monitored for years
17 after allegation. Cardinal removes another priest.
18 And the highlighted portion says Dwyer -- now,
19 Dwyer is the public relations person?

20 A. He was in the press office of the
21 Archdiocese at the time.

22 Q. Okay.

23 Dwyer --

24 MR. KLENK: Excuse me, Mr. Anderson. I don't

1 have any highlighting on mine. Where is this?

2 MR. ANDERSON: He does.

3 MR. KLENK: Thank you.

4 MR. ANDERSON: You bet.

5 BY MR. ANDERSON:

6 Q. I'll read it, Dwyer said the first
7 allegation against the priest was reported to the
8 Archdiocese in March 2004 and a monitor was
9 assigned in March 2005.

10 Now, this is information disseminated to
11 the public and given this reporter, correct?

12 A. Dwyer said that, yes.

13 Q. And that's not correct, is it?

14 A. My understanding is that when the
15 allegations were brought forward, he was given a
16 monitor but --

17 Q. But this was not the first allegation?

18 A. A priest is given a monitor whenever any
19 allegation comes forward.

20 Q. I'm not talking about the monitor. I'm
21 talking about the allegation.

22 Dwyer said this was the first allegation
23 that resulted in the removal of Bennett, correct?

24 That's what he said?

1 A. That's true.

2 Q. Okay.

3 A. Now, I'm sorry. I'm a little confused.

4 Which allegation are we talking about here?

5 Q. Well, we're talking about what -- what the
6 public relations office, your public relations
7 office is telling the public and I'm reading from
8 what is being said by Dwyer. Dwyer said the first
9 allegation against the priest was reported to the
10 Archdiocese in March 2004.

11 That's what he said, right?

12 MR. KLENK: Objection, this is -- this is
13 hearsay. You're reporting what the newspaper
14 reports he said.

15 THE WITNESS: That's what he said. In the
16 paper, that's what he said.

17 BY MR. ANDERSON:

18 Q. I read that correctly?

19 A. It's -- yes. It's not --

20 Q. Focus -- focus on that, not the
21 monitoring.

22 A. Okay.

23 Q. Focus on that, the first allegation.

24 A. I see what you're saying, yes.

1 Q. Okay.

2 In fact, Cardinal, as we have seen through
3 the exhibits, at this point in time, there had been
4 four allegations made against Bennett, not one and
5 this was not the first, correct?

6 MR. KLENK: Objection, it's not clear what --

7 THE WITNESS: Yeah. Are you referring to the
8 allegations that were dismissed by the Review
9 Board? I'm not sure Dwyer knew about those.

10 BY MR. ANDERSON:

11 Q. I'm referring to previous allegations in
12 the documents that we just looked at and
13 notwithstanding the Review Board, the fact is we
14 looked at documents that show there had been four
15 allegations made against Bennett of sexual abuse,
16 not one as is being represented here?

17 A. The two unproven allegations perhaps
18 weren't known to Dwyer.

19 Q. They were allegations nonetheless, were
20 they not?

21 A. Yes.

22 Q. And Jane Doe One had made one in December
23 of 2003, correct?

24 A. I don't have that paper but I take your

1 word for it.

2 Q. And -- give me the paper, Exhibit 3,
3 please.

4 MS. ARBOUR: 2.

5 MR. ANDERSON: Exhibit 2.

6 MS. ARBOUR: I think it's 211 that you're
7 referencing.

8 MR. KLENK: Why don't you just wait until the
9 question is asked.

10 MR. ANDERSON: I'm showing counsel and then you
11 can pass it to the witness. I marked Jane Doe
12 Three on here.

13 THE WITNESS: Jane Doe Three.

14 MR. KLENK: Thank you.

15 BY MR. ANDERSON:

16 Q. And I just marked Jane Doe Three by a name
17 on the Exhibit 2, correct, Cardinal?

18 A. That's correct.

19 Q. And you're aware that in the Archdiocese's
20 documents, a report had been made by Jane Doe Three
21 in March of 2004?

22 A. I wasn't sure of the date but she was
23 another one whom I'd asked to take her case back to
24 the Review Board because she was unhappy with the

1 Review Board finding that she had not been abused.

2 Q. And you also recall that Mr. Fleischmann
3 had brought forward the allegations of his client
4 of two brothers earlier.

5 So as of this date and the time Dwyer
6 makes this statement, there are four allegations,
7 correct?

8 A. If you include all those, yes, that's
9 correct, sir.

10 Q. Okay.

11 So who was it that instructed Dwyer to
12 disseminate this information in this exhibit to the
13 public?

14 MR. KLENK: Objection. Which exhibit are you
15 referring to?

16 MR. ANDERSON: 67.

17 MR. KLENK: The newspaper article?

18 THE WITNESS: The newspaper article.

19 BY MR. ANDERSON:

20 Q. Who was it that instructed Dwyer to
21 disseminate this information as reflected in this
22 exhibit?

23 A. I doubt anyone instructed Dwyer.
24 Information that is brought to the communications

1 department is then shared with the press as they
2 always do.

3 Q. Who's responsible for making sure that the
4 information given by Dwyer on your behalf is
5 accurate?

6 A. The communications people usually try to
7 be sure as best they can --

8 Q. Is this --

9 A. -- as I understand. I trust them to try
10 to do that.

11 Q. Is this a statement by Dwyer an accurate
12 representation of the state of the -- of the -- the
13 number of allegations made against Bennett?

14 A. No. There were allegations --
15 unfounded -- made previously, uh-huh.

16 Q. Look at 72 and 73 together because they're
17 related. And 72 pertains to Jane Doe Three and 73
18 pertains to Jane Doe One.

19 A. Uh-huh.

20 Q. Do you see that? First, directing your
21 attention to 72 --

22 A. Uh-huh.

23 Q. -- October 15, 2005. At the second
24 paragraph, it states the Board made the

1 recommendation that in light of the information
2 presented, there is reasonable cause to suspect the
3 alleged misconduct occurred. The Board recommended
4 that Father Bennett be immediately withdrawn from
5 ministry and that restrictions and monitoring be
6 imposed in accordance with Archdiocesan policies
7 and procedures.

8 Did I read that correctly?

9 A. Yes.

10 May I check, again, please, sir, on 72, is
11 that Jane Doe Three?

12 Q. 72 would be, I believe, Jane Doe Three --

13 A. Would you --

14 Q. -- but -- but we're not sure of that but
15 we --

16 A. Okay.

17 Q. But I guess the importance of this is not
18 who it is but that the -- the Board recommended to
19 you in light of this additional information, that
20 you immediately withdraw him, right?

21 A. First of all, 72 and 73 are probably the
22 same person and it's Jane Doe One.

23 Q. I think that -- why do you say that?

24 They're two -- I think they're two different people

1 but --

2 A. Perhaps. I'm -- I'm sorry. I didn't mean
3 to interrupt your question.

4 Q. It's just the same date. Two different
5 victims.

6 A. It is except in the case of Jane Doe
7 Three, the Board did not find reasonable cause to
8 suspect.

9 Q. Well, let's -- let's -- let's not --

10 A. It doesn't -- no. Please. Please. I'm
11 sorry.

12 Q. -- worry about whether it's one, two or
13 three. Let's worry about what the Board is saying
14 to you --

15 A. Yes.

16 Q. -- and what you did -- and what you did
17 about it.

18 A. Uh-huh.

19 Q. Okay.

20 In 72, they're saying the Board made a
21 recommendation that he be removed?

22 A. Uh-huh.

23 Q. Right?

24 A. Yes.

1 Q. And in 73, the Board similarly says that
2 Father Bennett should be immediately withdrawn from
3 ministry?

4 A. That's correct.

5 Q. So the same recommendation, two different
6 allegations, right?

7 A. I don't know there's two different
8 allegations.

9 Q. Okay.

10 A. I don't know that it matters for your --

11 Q. And look at the handwritten note here.
12 There's your handwriting, isn't it?

13 A. Yes, I'm afraid it is.

14 Q. And what did you write?

15 A. I accept this recommendation, October 18,
16 2005.

17 Q. And in both instances, you wrote I accept
18 this recommendation?

19 A. That's correct.

20 Q. And if you look at the handwriting, you'll
21 see it's a little different. It's not identical?

22 A. You're right, sir.

23 Q. It's two different notes?

24 A. It does look two different.

1 Q. So we have two different findings, two
2 different recommendations, two different reports
3 here, right?

4 A. And two different acceptances of the
5 recommendation.

6 Q. And two different acceptances. Thank you.
7 74, I'll -- I'll show you.

8 And before I do, was Bennett removed this
9 day by you?

10 A. When I went to remove him, that's when I
11 found out that the process was not complete because
12 he had no chance to defend himself.

13 Q. So you --

14 A. I asked the Review Board to go over it
15 quickly with the canonical defense necessary to
16 finish the case. And in the meantime, the same
17 restrictions to protect children would remain in
18 place.

19 Q. So you chose to not follow the
20 recommendation made to you by your board --

21 A. The Board --

22 Q. Just a moment. Let me finish the
23 question.

24 A. Oh, I'm sorry. Yes. Go ahead.

1 Q. You chose to not follow the recommendation
2 made to you by the Board in both Exhibit 72 and 73,
3 correct?

4 A. Because the Board did not follow its own
5 policies. Unfortunately.

6 Q. And so who told you and what lead you to
7 believe -- just who -- that the Board protocols
8 were deficient enough so that you should not follow
9 this recommendation to remove this priest from
10 ministry?

11 A. He, himself, said he had not defended
12 himself with counsel and then I checked with
13 Father Smilanic and he said that was true.

14 Q. So you relied upon Bennett?

15 A. No. I relied upon Father Smilanic who
16 told me what Bennett said was true.

17 Q. You were aware that as a part of the
18 process, Bennett had had a chance to respond to the
19 allegations, were you not?

20 A. I presumed that he had.

21 Q. So why did the existence or nonexistence
22 of a canonical lawyer make a difference at this
23 point? Aren't you concerned about the safety of
24 the kids, not the rights of the accused?

1 A. No. I'm concerned for the safety of the
2 children, of course. They were guaranteed by the
3 restrictions and the information given to the civil
4 authorities but I had to have a case that was
5 legally correct. I didn't have one.

6 Q. Cardinal, haven't you publicly stated that
7 the protocols imposed and placed by the charter in
8 2002 protect -- well, nevermind. Nevermind. I'm
9 going to withdraw that question.

10 A. Okay. I'm sorry.

11 Q. Cardinal, this business about needing a
12 canonical lawyer, I have seen numerous allegations
13 made and brought to the Board where no canon lawyer
14 was ever present.

15 Why is it that all of a sudden the process
16 is deficient because Bennett doesn't have a canon
17 lawyer in your view?

18 A. I'm not familiar with processes where they
19 did not have a canon lawyer. I take your word for
20 that. In this case, he protested that he -- the
21 process wasn't legal and that would have been
22 enough to invalidate the process.

23 Q. Okay.

24 Let's go to 74, Cardinal. This is a brief

1 memo.

2 A. I see.

3 Q. You have it before you. This is to you.
4 It is from Laura in regards to Bennett and it is
5 now November 2nd and it looks like the
6 recommendation has been made to remove Bennett,
7 correct?

8 A. Yes, and accepted.

9 Q. And accepted by you and now you are taking
10 it upon yourself based on what Father Bennett told
11 you to review it on your own?

12 A. No. I reviewed a number of cases that
13 were particularly complex. This became --

14 Q. Talking about this one now. Let's --
15 let's focus on this.

16 A. Yes, but --

17 Q. This seems -- I read this to mean that you
18 have now asked that the file be forwarded to you so
19 you can review this on your own?

20 MR. KLENK: I object to the form of the
21 question.

22 BY MR. ANDERSON:

23 Q. Is that correct?

24 A. Well, I did ask for the file.

1 Q. Okay.

2 Why?

3 A. Because it was so terribly complicated and
4 because I wanted to in fairness read the evidence
5 of the victims themselves and not just take it in a
6 report from somebody else or Father Smilanic.

7 Q. So that you're --

8 A. I wanted to hear the voice of the victims.

9 Q. You really have questions about whether it
10 happened --

11 A. No.

12 Q. -- and it --

13 A. I wanted to --

14 Q. Let me finish the question.

15 A. I'm sorry. Yes. You're correct. I'm
16 sorry.

17 MR. KLENK: Some of his questions are quite
18 long. Please pause.

19 THE WITNESS: I'm sorry.

20 BY MR. ANDERSON:

21 Q. So you're referring to the complexity of
22 it?

23 A. Uh-huh.

24 Q. The fact is that based on what

1 Father Bennett has told you, you had questions
2 about whether he had sexually abused?

3 A. No. I had questions about the form, the
4 legal form in order to make a case that could be
5 defended.

6 Q. So you're more concerned about the rights
7 of Bennett and the process than you are about the
8 children at risk if he remains in ministry?

9 A. No. The children at risk were, I thought,
10 protected and they were in this case by the
11 monitoring and the restrictions. I was interested
12 in fairness, the same values that permeate any
13 legal system.

14 Q. Up until this point in time, how many
15 times have you reviewed a file after the Board had
16 made a recommendation for removal?

17 A. I can't recall exactly.

18 Q. Would this have been the first?

19 A. I don't believe so.

20 Q. Can you identify any other time to date?

21 A. I'm sorry. I haven't had a chance to
22 think through those number of cases that you
23 brought forward.

24 Q. Look at 75. This is November 7, 2005 and
189

1 this is from you to Leah McCluskey?

2 A. Uh-huh.

3 Q. I'm writing to you with regard to the
4 matter of Reverend Joseph Bennett, a priest --

5 A. Uh-huh.

6 Q. -- who has been accused of sexual
7 misconduct by blank.

8 A. Uh-huh.

9 Q. I had initially indicated that I accepted
10 the Review Board's recommendation that there was a
11 reasonable cause to suspect that the misconduct did
12 occur. However, I have since reconsidered this
13 matter --

14 A. Uh-huh.

15 Q. -- and would like to postpone a final
16 decision for the time being.

17 So what made you reconsider?

18 A. The voice of the victims and the
19 witnesses' disagreement among themselves, the
20 complexity of the case that I knew was going to be
21 subject of a defense. I wanted to have the voice
22 of the victims as the defense was made.

23 Q. It sounds like you -- had you interviewed
24 any of these victims?

1 A. I did not personally interview those
2 victims. That's why I wanted the --

3 Q. You were acting on your own here, were you
4 not, not on the recommendation of anybody other
5 than Father Bennett, were you?

6 A. I --

7 MR. KLENK: Objection to the form of the
8 question that Father Bennett recommended anything.

9 THE WITNESS: Father Bennett did not recommend
10 this at all.

11 BY MR. ANDERSON:

12 Q. Well, when you talk about the voice of the
13 victims --

14 A. Yes.

15 Q. -- what is it about that that caused you
16 to reconsider?

17 A. When you read an actual victims's
18 testimony or you talk to a victim, it's very
19 different from just getting a conclusion and I
20 wanted to --

21 Q. Did you talk to any of these victims?

22 MR. KLENK: Please -- please let him finish his
23 answer.

24 THE WITNESS: No.

1 MR. ANDERSON: I'm sorry.

2 THE WITNESS: No. No. I read the witness
3 they'd given to the Review Board.

4 MR. ANDERSON: Okay.

5 BY MR. ANDERSON:

6 Q. So the only person involved here between
7 the victims and Bennett that you had talked to was
8 Bennett, right?

9 A. I don't understand the question.

10 Q. You hadn't talked to any of the victims?

11 A. No. That's why I asked for their
12 testimony.

13 Q. Okay.

14 A. This was the testimony that was going to
15 be given to his lawyer.

16 Q. Now, before you said you changed your mind
17 because Bennett didn't have a lawyer, a canon
18 lawyer. Now, you're saying that you changed your
19 mind because the voice of the victims and the
20 complexity.

21 Which is it, Cardinal?

22 A. No. It's the same. It's exactly the
23 same. This complex case and the voice of the
24 victims were going to be presented now for the

1 first time to his defense lawyer. I wanted to hear
2 it too.

3 Q. You wanted to what?

4 A. I wanted to listen to it as well from the
5 testimony they had given. It was going to go to
6 his defense lawyer.

7 Q. So you wanted to override the Board?

8 A. No. I didn't over -- do that at all. I
9 did not override the Board.

10 Q. Well, you have that right, don't you?
11 You're the cardinal.

12 A. I have the right to ask them to reconsider
13 if I think they've made a mistake, yes, I could do
14 that but I didn't think they made a mistake here.
15 As it says, assure them this does not represent any
16 lack of confidence in them for the fine work they
17 do. I didn't override the Board.

18 Q. Did you ever doubt the facts or the
19 allegations of the -- of the reports made by the
20 victims?

21 A. There was contrary witnesses. The sisters
22 did not agree among themselves. The sister who had
23 been a nun at the time adamantly disagreed. In
24 fact, denied under oath that any of this happened.

1 It was a complicated case but I accepted their
2 recommendation.

3 Q. Were you getting information from Bennett
4 that conflicted with the accounts of the victims
5 that caused you to -- to wonder whether or not he
6 had abused?

7 A. I got no information from Bennett about
8 the cases. His complaint was simply could I have a
9 chance to have a canonical lawyer in my defense in
10 order to complete the process.

11 Q. Did you receive information about the
12 accounts given by the victim pertaining to certain
13 physical characteristics of Bennett?

14 A. Not from Father Bennett himself.

15 Q. Well, did you hear it from Father Grace?

16 A. I read it.

17 Q. Okay.

18 Showing you --

19 A. That was the voice of the victims.

20 Q. Showing you Exhibit 212. This is
21 November 9th and this is a memo you reviewed?

22 A. No. This is memo to file, sir.

23 Q. Have you reviewed it before today?

24 A. No.

1 Q. I'm going to --

2 MR. KLENK: I -- I haven't seen this before.

3 MR. ANDERSON: That's fine. You can read it.

4 I'm going to ask a question. I'll read it.

5 BY MR. ANDERSON:

6 Q. The second paragraph says concerning Joe's
7 11-19 appointment with the Review Board.

8 That means he's going before the Review
9 Board, right?

10 A. Yes, with -- with an attorney if they can
11 find a canon -- canonical lawyer.

12 Q. And it states he has a dermatologist, one,
13 two, he has a typewritten report from the
14 dermatologist --

15 A. Uh-huh.

16 Q. -- and three, I suggested points -- that
17 means Father Grace is suggesting points -- that
18 Father Bennett should make with the Board.

19 Is that appropriate for Grace to be doing?

20 A. Well, perhaps not but he is the Vicar for
21 Priests. He can speak to the priests about their
22 cases.

23 Q. And you're the vicar for the vicar, right?

24 A. I'm the Archbishop. He's my vicar.

1 Q. Yeah, but you're his vicar?

2 A. No, sir.

3 Q. As the Archbishop, aren't you?

4 A. No. A vicar --

5 Q. In any case, you're his Archbishop?

6 A. Yes, I am.

7 Q. And you -- are you suggesting to him that

8 he suggest to Bennett that --

9 A. No, I did not.

10 Q. Okay.

11 You'll see that at 3a, he's suggesting
12 that Bennett, number one, should make the following
13 points with the Board, 1a, accuser spoke of
14 birthmark. There is no birthmark.

15 A. That's in the dermatologist's report, I
16 believe.

17 Q. B, accuser spoke of freckles. Even a
18 child knows that, quote, freckles, unquote, are not
19 purplish blue. They are brown.

20 Did you know that freckles are not
21 purplish blue?

22 A. I'm not sure either.

23 Q. I didn't know that.

24 And, C, dermatologist characterized

1 purplish blue marks as age spots not likely there
2 at the time of the allegation.

3 Now, these are all suggestions being made
4 by Grace to Bennett to be brought to the Board,
5 right?

6 A. Well, the dermatologist report is brought
7 to the Board. It's in writing from the
8 dermatologist, not from Grace.

9 Q. It looks like Father Grace is being an
10 advocate for the priest, not the children now here,
11 doesn't it?

12 A. You could draw that conclusion.

13 Q. Don't you?

14 A. I don't know Father Grace's frame of mind.

15 Q. This is the same Father Grace we talked
16 about getting McCormack, isn't it?

17 A. He's a trained lawyer, sir.

18 Q. Well, look, you know, he's -- I'm
19 protecting my clients because they're victims.
20 Father Grace is protecting this offender.

21 A. At that point --

22 MR. KLENK: Excuse me. There's no question
23 pending.

24 THE WITNESS: I'm sorry.

1 MR. KLENK: He just made a speech. Please ask
2 a question, Mr. Anderson.

3 Please wait for the question.

4 THE WITNESS: Okay. I'm sorry.

5 BY MR. ANDERSON:

6 Q. Simply because he's a lawyer, does that
7 excuse his protection of Bennett?

8 A. No.

9 Q. Look at 76.

10 A. 76, please. Thank you.

11 Q. You'll see this is to the file, again,
12 from Grace regarding Bennett, November 14th. Today
13 I received a copy of Joe's dermatologist's report.
14 I called Joe to suggest that he ask the
15 dermatologist for a clarification, one,
16 specifically, since Joe had stated to me that the
17 scrotum marks were/might be aging marks, did the
18 doctor have an opinion on whether the spots would
19 have been present years ago at the time of the
20 allegation.

21 You're aware, Cardinal, that these -- this
22 whole issue now is did he have freckles on his
23 scrotum, right?

24 A. Yes, sir.

1 Q. Because the victim had reported that he
2 had freckles on his scrotum?

3 A. That's correct.

4 Q. And now Father Grace -- now there is
5 information from a dermatologist that's he got
6 spots on his scrotum, right?

7 A. Yes, sir.

8 Q. And Grace is -- looks like he's trying to
9 explain it away.

10 Do you read it that way?

11 A. It could be read that way.

12 Q. The second point here is secondly, some
13 mark bigger than a golf ball, smaller than a soft
14 ball was alleged on his back.

15 You're aware that the victim also said
16 that he had a mark, a birthmark on his back, right?

17 A. Yes.

18 Q. And now the dermatologist has revealed
19 that he's got a mark on his back but it looks like
20 Grace is trying to quibble about the size of it.

21 Do you read it that way?

22 A. I think that's a legitimate way to read
23 it.

24 Q. It turns out that, in fact, Grace has

1 marks on his back, doesn't he -- I mean, not Grace,
2 Bennett?

3 A. I presume he does. I --

4 MR. KLENK: Objection, foundation. I don't
5 know how this witness knows that.

6 BY MR. ANDERSON:

7 Q. Well, you're aware that that was an issue
8 before the Board on -- on whether or not
9 Father Bennett had marks on his back as --

10 A. Yes. Yes, I am.

11 Q. -- at least one victim has alleged?

12 A. Yes, I am.

13 Q. And when she was --

14 A. I believe it was a birthmark as the voice
15 of the victim had it.

16 Q. The voice of the victim had said she
17 thought he had a birthmark. She, of course, was
18 eight years old at the time of the alleged abuse,
19 right?

20 A. Sure. That's right.

21 Q. And the dermatologist, you're aware, on
22 Exhibit 76 called it a keratosis,
23 K-E-R-A-T-O-S-I-S, right?

24 A. Yes. I don't know what that means, sir.