

STATE OF NEW YORK
SUPREME COURT COUNTY OF ALBANY

STIPULATION AND ORDER CONCERNING THE
DEPOSITION OF DIOCESE OF ALBANY BISHOP
EMERITUS HOWARD J. HUBBARD IN CHILD VICTIMS
ACT CASES

EXAMINATION OF BISHOP EMERITUS HOWARD J.
HUBBARD, held before Laura A. Couch, a
Shorthand Reporter and Notary Public in the
State of New York, via Zoom, on Tuesday,
April 20, 2021, commencing at 10 a.m.

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S T I P U L A T I O N S

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6 It is hereby stipulated and agreed by and
7 between the attorneys for the parties hereto
8 that the filing, sealing and certification of
9 the within deposition are waived; that all
10 objections, except to the form of the
11 question, are reserved to the time of trial;
12 that the within deposition may be signed and
13 sworn to before any Notary Public; and that
14 the attorney for the examining party shall
15 furnish one copy of the within deposition to
16 the attorney for the party examined, without
17 charge.

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MR. ANDERSON: Good morning, Bishop. It has been 16 years since we met one another. Just in advance, there are some agreements so that this can be done as comfortably for you and for all counsel involved to be given a chance to ask the questions that need to be asked.

We have reached some agreements in terms of how we want to conduct this, and one agreement is that there is an Exhibit A that is going to be marked and sealed, which is called a roll list, and that will have the names of various victim survivors whose names will be under seal by agreement of all parties and order of the court.

There is also, for purposes of this deposition and the use of the testimony for all purposes both as substantive evidence and in discovery and for purposes of trial, a stipulation which has been marked Exhibit 1. The stipulation will be incorporated into this record and everybody

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that is participating in this process and proceeding has signed the stipulation. The stipulation, among other things, provides that this is a deposition to be used for all purposes. This is a deposition to be used at trial, if necessary. This is a deposition being taken under a protective order and under the supervision of Judge Mackey. And there are other provisions in Exhibit 1 and the stipulation.

So with those housekeeping matters in mind, is there anything else, counsel, that you want to add before we swear the witness, other than noting that there are a number of lawyers on this call, all of whom, and on this transcript proceeding that have all signed the stipulation.

MR. O'CONNOR: Very briefly. Thank you, Jeff.

First off, I appreciate the collegiality and the courtesy which we have all exhibited to get this thing

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together. That is number one.

Number two, so the Bishop is 82 years old. We have been provided with I think over 10,000 pages of documents over the past two weeks. I urge you, and Jeff, you courteously provided me with a copy of what you are going to use today. But if you going to use exhibits, to the extent possible, if you can identify the exhibit, the page number and get right to it, I think it will be good for everybody to get this thing going. Also, I think it would assist the Bishop to answer your question to the best of his ability. I understand that a lot of these events were 20, 30, 40 years ago. So, you know, in light of the amount of the exhibits and the time that has passed, I urge you all to be patient with Bishop Hubbard.

And lastly, I already talked to Jeff and Cynthia about this. My plan is to take breaks every hour on the hour. And when I say breaks, I'm talking five

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1 minutes. This is not a break that is
 2 going to turn into 15 minutes. We will
 3 set the time of the break, we will set the
 4 timer coming back. If you aren't back on
 5 by the time we are coming back, we are
 6 going to start anyway. And then we will
 7 take a lunch break at a naturally
 8 occurring spot. Jeff, you and I can agree
 9 to that, probably around 12:30 or 1, and
 10 that will be a half hour break just for
 11 the Bishop to stretch and get a quick bite
 12 to eat.

13 So that is about all I have to say.
 14 Is that fair?

15 MR. ANDERSON: Sure. And Bishop,
 16 also, I will also invite you that if at
 17 any time you feel you want to take a break
 18 for any reason, that is fine. Just say I
 19 would like to take a break. And the only
 20 thing that we would ask is you answer the
 21 question put before you before we take a
 22 break and we will accommodate you on that.
 23 And whatever is needed to make this as
 24

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1 comfortable as possible for you, to use
 2 the time wisely. So you just let us know.
 3 BISHOP HUBBARD: Thank you.
 4 MR. ANDERSON: Okay. Let's go
 5 ahead then and swear the witness.
 6 VIDEOGRAPHER: We are on the
 7 record. The time is approximately 10:07
 8 a.m. Today's date is Tuesday, April 20th,
 9 2021.
 10

11 This is a video deposition of
 12 Bishop Emeritus Hubbard in the matter of
 13 the Stipulation and Order Concerning the
 14 Deposition of the Diocese of Albany and
 15 Bishop Emeritus Howard J. Hubbard, et al.
 16 It is taking place in the Supreme Court,
 17 State of New York, County of Albany.

18 My name is David Shereck, certified
 19 legal videographer with Shereck Video.
 20 This deposition is being conducted via
 21 Zoom, and all participants are
 22 participating remotely via Zoom as well.
 23 The court reporter is Laura Couch. And
 24 will you please swear in or affirm the

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1 {HUBBARD - BY MR. ANDERSON}
 2 witness.
 3 BISHOP EMERITUS HOWARD J. HUBBARD,
 4 having been first duly sworn by the Notary
 5 Public, was examined and testified as follows:
 6 EXAMINATION BY MR. ANDERSON:

7 Q Good morning, Bishop. Would you please state
 8 your full name for the record?

9 A Howard J. Hubbard.

10 Q We have met before, but as you know, my name
 11 is Jeff Anderson, and I am one of the counsel
 12 representing various plaintiffs, survivors
 13 that are participating in this action now
 14 being -- and this deposition being taken
 15 under a protective order. I want to just
 16 begin by asking how you are feeling today.

17 And how are you feeling physically today?

18 A I feel good today. Yes.

19 Q Good.

20 And at the present time is there any
 21 medication that you are taking that in any
 22 way impairs your memory or your ability to
 23 listen to and/or give answers to questions
 24 under oath today?

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1 {HUBBARD - BY MR. ANDERSON}
 2 A No.
 3 Q In terms of your health, it has been
 4 represented that you have had some health
 5 difficulties, and as a result we have
 6 arranged to have this deposition and take
 7 this testimony for all purposes. Is there
 8 anything you want to share about your current
 9 health that you think we should know for
 10 purposes of this proceeding?

11 MR. O'CONNOR: Note my objection to
 12 that, Jeff. I'm not sure if that is
 13 really open game here. His health is not
 14 an issue right now.

15 MR. ANDERSON: All right. Fair
 16 enough.

17 Q Bishop, where are you currently living and
 18 your current status?

19 A I'm living at the Cathedral of the Immaculate
 20 Conception rectory, which is immediately
 21 across from our Cathedral in Albany, the
 22 Cathedral of the Immaculate Conception.

23 And the second part of the question?

24 Q And your current status and/or title is?

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 **A** My title is Bishop Emeritus, but I also am on
- 3 a voluntary leave of absence because of some
- 4 of the allegations which have been made
- 5 against me. And because of that, I felt it
- 6 was best for the Diocese and all involved to
- 7 take a voluntary leave of absence until those
- 8 issues are resolved.
- 9 **Q** And so when did you take what you call a
- 10 voluntary leave of absence, Bishop?
- 11 **A** That would have been in August of 2019.
- 12 **Q** And is that the first time in your clerical
- 13 career that you took such a voluntary leave
- 14 of absence?
- 15 **A** Yes.
- 16 **Q** You said, I believe, that you took that
- 17 because of an allegation that had been made,
- 18 is that correct?
- 19 **A** There was several allegations made through
- 20 the Child Victims Act.
- 21 **Q** And it was the allegations made against you
- 22 under the Child Victims Act that caused you
- 23 to take a voluntary leave of absence?
- 24 **A** Yes.

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 allegations made directly against you of
- 3 sexual misconduct, correct?
- 4 **A** Correct.
- 5 **Q** And at that time you were then the Bishop,
- 6 correct?
- 7 **A** Correct.
- 8 **Q** And at that time you did not take a voluntary
- 9 leave or a voluntary leave of absence as you
- 10 did more recently, correct?
- 11 **A** Correct.
- 12 **Q** If you did that, if you made the decision to
- 13 take a voluntary leave of absence in August
- 14 as a result of the Child Victims Act, why
- 15 didn't you do the same thing when allegations
- 16 were first brought against you similar in
- 17 nature in 2004?
- 18 **MR. COSTELLO:** Object to the form.
- 19 **You may answer.**
- 20 **A** I didn't do it because in the present situation
- 21 I am a Bishop Emeritus. I'm retired. In
- 22 2004 I was the Ordinary of the Diocese and it
- 23 would have left the Diocese, and it would
- 24 have left the Diocese without a Bishop

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 **Q** When did you first get notice of allegations
- 3 made to you -- against you under the Child
- 4 Victims Act that caused you to take a
- 5 voluntary leave of absence in August of 2012?
- 6 **A** I don't know the exact date, but it was after
- 7 the Child Victims Act was open to people to
- 8 make allegations.
- 9 **Q** So is it correct, Bishop, that allegations of
- 10 sexual abuse by you had been made against you
- 11 years ago, correct?
- 12 **A** That is correct.
- 13 **MR. COSTELLO:** I object to the form
- 14 of the question.
- 15 **You may answer.**
- 16 **A** That is correct.
- 17 **Q** And at the time that those allegations were
- 18 made against you years ago, when was the
- 19 first time in time that allegations of sexual
- 20 abuse were made against you?
- 21 **A** It was in 2002. The exact date I cannot tell
- 22 you. Excuse me. It was 2004 and the exact
- 23 date I cannot tell you.
- 24 **Q** And at that time there were several

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 administrator.
- 3 **Q** Well, the Vatican and the Pope has the power
- 4 upon your voluntary leave, should you so
- 5 choose, to appoint a temporary administrator,
- 6 does he not?
- 7 **A** He does, and I informed the Holy See of the
- 8 allegation made against me, and there was no
- 9 request on this part that I take a voluntary
- 10 leave.
- 11 **Q** So the only difference between you having
- 12 taken a leave now as opposed to when the
- 13 allegations were first made against you in
- 14 2004 is that you face legal liability under
- 15 the Child Victims Act, when you didn't in
- 16 2004 because of the statute of limitations,
- 17 correct?
- 18 **A** No.
- 19 **MR. COSTELLO:** Object to the form.
- 20 **A** No. It was because I was concerned that
- 21 there would be a lack of leadership in the
- 22 Diocese because I was the Ordinary in 2004.
- 23 Now I'm retired and am a Bishop Emeritus.
- 24 **Q** Did you consult in 2004 with the Pontiff

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1 {HUBBARD - BY MR. ANDERSON}
 2 about whether you should leave and take a
 3 leave, voluntary or not, back then?
 4 A I didn't consult with him directly, but I
 5 notified the apostolic nuncio in Washington.
 6 Q And who was the nuncio then?
 7 A I can't recall.
 8 Q And did you have an actual conversation with
 9 the nuncio that you had been accused in
 10 multiple allegations of sexual misconduct of
 11 minors had been made against you in 2004?
 12 MR. O'CONNOR: Object to the form.
 13 A I did.
 14 MR. O'CONNOR: Object to the form.
 15 A I did.
 16 Q And what was the nuncio's response to you
 17 when you brought that information to him?
 18 A I told him that at the time I was prepared to
 19 turn the matter over to the District
 20 Attorney, which I did. And then since they
 21 were beyond the statute of limitations at
 22 that time, that I would, at the request of
 23 our Diocesan review board, support hiring an
 24 outside firm to investigate these charges,

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1 {HUBBARD - BY MR. ANDERSON}
 2 because law enforcement indicated to us that
 3 they were beyond the statute of limitations.
 4 So the only investigation that could be done
 5 was an independent investigation. And we
 6 contacted Mary Jo White and her firm in New
 7 York City. She was a former federal
 8 prosecutor, and we asked them to do an
 9 investigation.
 10 Q And referring to your conversations with the
 11 apostolic nuncio, how did you communicate
 12 with him? Was that by telephone and/or
 13 writing?
 14 A I cannot recall. I just know I communicated
 15 with him. I don't remember whether it was by
 16 phone or by written correspondence.
 17 Q And when you communicated to the nuncio the
 18 allegations that had been made against you
 19 and the actions that you were intending to
 20 take, what was the nuncio's response to the
 21 information you provided to him in 2004?
 22 A As far as I can recall, he just accepted the
 23 information I gave him and that was -- I
 24 don't remember any specific response except

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1 {HUBBARD - BY MR. ANDERSON}
 2 that he felt the path I was taking was
 3 appropriate to do.
 4 Q Did the nuncio tell you that he would be
 5 transmitting the information you gave him to
 6 the Pontiff?
 7 A I do not recall.
 8 Q Who was then the Holy Father?
 9 A That was 2004. I think it was John Paul, II,
 10 but it could have been Benedict, XVI. I'm
 11 not sure of the year of transition.
 12 Q You had -- have had personal meetings with
 13 John Paul, II, had you not, before 2004?
 14 A I did.
 15 Q You have had business with him by the usual
 16 Quinquennial in making the Quinquennial
 17 reports and following up on the ad limina
 18 visits, correct?
 19 A Correct.
 20 Q How many ad limina visits have you made with
 21 John Paul, II, would you say, before 2004?
 22 A Well, my first was with Paul, VI. And then
 23 until his death every four -- every four
 24 years we would have ad limina visit, and he

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1 {HUBBARD - BY MR. ANDERSON}
 2 would have been the Pontiff. So if you go
 3 from 1978 to when he passed away, divided by
 4 four, that is how many times I met with him.
 5 Q Is it correct to say that you do have limina
 6 visits every five years?
 7 A That may be correct. It is established by
 8 the code. Sometimes it is waived for six
 9 months because of the Holy Father's schedule.
 10 But yes, I guess it is five years.
 11 Q And after you advised the papal delegate or
 12 nuncio of the allegations that had been made,
 13 did you ever hear back from the nuncio in
 14 writing or by phone or any representative of
 15 the Pontiff, then John Paul, II, about what
 16 action you should take or not take?
 17 MR. COSTELLO: Object to form.
 18 Asked and answered already.
 19 You may answer it.
 20 A I do not recall one way or another whether I
 21 received anything from the Holy See.
 22 Q Have you ever had any discussions with any of
 23 the Holy See's, present or past, on the
 24 topic, you and he, of sexual abuse and the

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 crisis of sexual abuse of minors in the
- 3 priesthood?
- 4 MR. COSTELLO: Object to the form.
- 5 You may answer.
- 6 A I never had any personal conversation with
- 7 the Holy Father. He would always give a
- 8 presentation to the Bishops from our
- 9 Province, that is New York State, and he may
- 10 have covered that then, but I can't recall
- 11 specifically if he did.
- 12 Q Have you ever been asked by the papal delegate,
- 13 the apostolic nuncio or any representative of
- 14 the Holy Father whether or not you yourself
- 15 have committed the crime of sexual abuse
- 16 against any minors?
- 17 MR. COSTELLO: Object to the form.
- 18 You may answer.
- 19 A I certainly told the nuncio that I had not
- 20 committed any such offense.
- 21 Q So did the nuncio ask you questions?
- 22 A I don't recall.
- 23 Q So is it fair to say that the sum and
- 24 substance of the conversation about whether

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 or not you had committed such an offense was
- 3 your assertion to the nuncio that you denied
- 4 the offenses and the allegations against you,
- 5 correct?
- 6 MR. COSTELLO: Object to the form.
- 7 You may answer.
- 8 A To the best of my recollection, yes.
- 9 Q And to your knowledge, did the nuncio or any
- 10 representative of the Vatican or the then
- 11 Pontiff, do any investigation to see if your
- 12 assertion and your denial was correct?
- 13 A I only know that when the investigation was
- 14 completed, a copy was forwarded to the
- 15 nuncio.
- 16 Q And the investigation you are referring to is
- 17 the one in which you and your office and your
- 18 attorneys retained Mary Jo White, correct?
- 19 MR. COSTELLO: Objection.
- 20 A It was the Diocesan Review Board that
- 21 determined that the investigation would be
- 22 done by Mary Joe White's firm.
- 23 Q So my question now is directed to any
- 24 investigation that was done by the Holy See

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 and/or his representatives, including the
- 3 papal nuncio. To your knowledge, was the
- 4 papal nuncio or the Holy See at that time or
- 5 at any time since, have they conducted any
- 6 investigation pertaining to the allegations
- 7 of sexual misconduct made against you that
- 8 you had denied?
- 9 MR. COSTELLO: Object to the form.
- 10 You may answer.
- 11 A I'm not aware.
- 12 Q Are you aware of any involvement by the
- 13 Congregation for the Doctrine of Faith in
- 14 looking at the allegations that have been
- 15 made against you past and/or present?
- 16 A I'm not aware one way or another.
- 17 Q Has one of the officials from the Vatican,
- 18 who is an investigator by the name of
- 19 Scicluna, do you know Father -- I think it is
- 20 Cardinal Scicluna, who has done investigations
- 21 of sexual misconduct of bishops and others,
- 22 has he ever made contact with you or anybody
- 23 from his office?
- 24 A Not that I recall.

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 MR. O'CONNOR: Jeff, could you
- 3 spell Scicluna for me, please.
- 4 MR. ANDERSON: S-c-h-i-l-i-a-n-a.
- 5 MR. O'CONNOR: Thank you.
- 6 MR. ANDERSON: S-c-i-c-l-u-n-a. He
- 7 has done a lot of papal investigations.
- 8 MR. O'CONNOR: Thank you.
- 9 Q Bishop, when you reported to the papal nuncio
- 10 that you had been accused in 2004 of -- and
- 11 you denied the allegations, did the papal
- 12 nuncio press you for details of what the
- 13 allegations that were made against you?
- 14 MR. COSTELLO: Object to the form.
- 15 You may answer.
- 16 A To the best of my recollection, he accepted
- 17 what I shared with him and didn't press for
- 18 any further information.
- 19 Q So how long would you estimate this
- 20 conversation that you had with the papal
- 21 nuncio on the topic of the allegations made
- 22 against you to have lasted?
- 23 A That was 17 years ago. I think it was a very
- 24 short conversation. I don't think more than

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1 {HUBBARD - BY MR. ANDERSON}
 2 ten minutes or 15.
 3 Q And since that conversation with the papal
 4 nuncio in 2004 on this topic, has any other
 5 representative from the Vatican in any way
 6 ever contacted you to get more information
 7 and/or investigate the allegations made
 8 against you?
 9 MR. COSTELLO: Objection to the
 10 form.
 11 A Not to my knowledge.
 12 MR. COSTELLO: You may answer.
 13 A Not to my knowledge.
 14 Q Were you concerned in 2004 that once you
 15 disclosed the allegations made against you
 16 that the Vatican would conduct an
 17 investigation?
 18 A I would have certainly accepted that, but I
 19 didn't have any anxiety about it. If they
 20 wanted to do the investigation, I would have
 21 welcomed it.
 22 Q You told the nuncio, did you not, that the
 23 statute of limitations for criminal
 24 prosecution and the statute of limitations

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1 {HUBBARD - BY MR. ANDERSON}
 2 for civil action that could be brought
 3 against you in New York had expired, did you
 4 not?
 5 MR. O'CONNOR: Object to the form.
 6 A I don't know if I did or didn't share that
 7 with him. I think I may have told him that
 8 we had a prior investigation because the
 9 statute of limitations was up and the
 10 District Attorney said they had no authority.
 11 Q Did you, after the conversation with the
 12 nuncio then in 2004 and following that, have
 13 transmitted to the Pontiff or his office, the
 14 nuncio or his office the results of the --
 15 what you called the independent investigation
 16 done by the personnel board by Mary Jo White?
 17 Was that ever transmitted to the Vatican or
 18 any representative there?
 19 MR. COSTELLO: Object to the form.
 20 You may answer.
 21 A To the best of my recollection, it was
 22 submitted to the nuncio, the final report.
 23 Q And what leads you to believe that the nuncio
 24 received that?

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1 {HUBBARD - BY MR. ANDERSON}
 2 A Well, sometimes they would send a letter
 3 saying we received your correspondence. I
 4 don't know if that is something that
 5 happened. That is the ordinary course of
 6 things.
 7 Q And it is an investigation that was paid for
 8 by the Diocese, correct?
 9 A Correct.
 10 Q And that was an investigation that ultimately
 11 hired -- the Diocese hired Mary Jo White to
 12 do and at the rate of \$770 an hour, correct?
 13 MR. COSTELLO: Object to the form.
 14 You may answer.
 15 A I don't know the rate per hour, but it was
 16 the going rate for a firm of that nature at
 17 the time.
 18 Q Well, at that time, according to the research
 19 we have done, the going rate was around \$200
 20 an hour and the rate paid, according to the
 21 records in that investigation, is that she
 22 billed it at \$770 an hour. Do you have any
 23 reason to dispute that, Bishop?
 24 MR. COSTELLO: Objection to the

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1 {HUBBARD - BY MR. ANDERSON}
 2 form.
 3 A I don't --
 4 MR. COSTELLO: Objection to the
 5 form.
 6 You may answer.
 7 A I don't have any reason to dispute it because
 8 I was never in dialogue with her about her
 9 fees. The only communication I had with her
 10 is when she interviewed me.
 11 Q And how long did she interview you for? How
 12 much time did she spend interviewing you?
 13 A I can't recall exactly, but it was several
 14 hours.
 15 Q According to the records, this is publicly
 16 available, the Diocese paid her \$2.4 million
 17 for that investigation and report. Do you
 18 dispute that?
 19 MR. COSTELLO: Object to the form.
 20 You may answer.
 21 A No.
 22 Q Bishop, I would like to just go to your early
 23 years and have a conversation with you about,
 24 first, what, when you go back to your early

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1 {HUBBARD - BY MR. ANDERSON}

2 years, drew you to the vocation of the

3 priesthood, do you think?

4 A I think it was the example of the priests in

5 my local parish, St. Patrick's in Troy. We

6 had four priests at that time, and the

7 younger priests were very much involved with

8 the youth and would go to our athletic events

9 and often take us for ice cream or soda

10 afterwards. And then also, I served as an

11 altar boy for four years and I got to know

12 the priests fairly well, as a youngster

13 might, and I think that was the biggest

14 attraction.

15 Q When I looked at your history I see some

16 things about your education. And before we

17 go to those early years, I would just like to

18 ask you some questions about the preparation

19 you did for this deposition and the giving of

20 this testimony under oath. Do you understand

21 that you first took an oath to tell the whole

22 truth and nothing but the truth so help you

23 God today, correct?

24 A Correct.

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1 {HUBBARD - BY MR. ANDERSON}

2 Q Is it your intention to do that today?

3 A Yes.

4 Q Are you familiar in Catholic Doctrine,

5 principal and/or teaching with the Doctrine

6 of Mental Reservation?

7 MR. COSTELLO: Object to the form.

8 You may answer.

9 A I've heard it discussed in seminary formation,

10 yes.

11 Q And it is the principle and/or a teaching

12 that says that you can be given a license to

13 omit the truth or distort the truth if it is

14 for the benefit and the good of the Mother

15 Catholic Church, correct?

16 MR. COSTELLO: Object to the form.

17 Is that a statement or a question?

18 MR. ANDERSON: Question.

19 MR. COSTELLO: You may answer.

20 Q Is that a correct recitation of the Doctrine

21 of Mental Reservation, Bishop?

22 A I don't feel I'm competent to answer that

23 question.

24 Q Do you have any intention to utilize Mental

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1 {HUBBARD - BY MR. ANDERSON}

2 Reservation in the testimony you are being

3 asked to be giving in this proceeding?

4 A I have no intention to exercise Mental

5 Reservation.

6 Q Okay. Thank you.

7 What did you do or what did you review in

8 preparation for giving of testimony this

9 week?

10 A I used the exhibits that were submitted by

11 the various attorneys.

12 Q Beyond the exhibits that the various attorneys

13 supplied in advance of this, did you review

14 any other documents, your own personal

15 papers, Diocesan documents or anything else?

16 A No.

17 Q Who did you consult with prior to today's

18 deposition, and of course, other than your

19 own lawyer?

20 A Well, I consulted with four attorneys, two

21 that are representing me personally, Terry

22 O'Connor and Anne Hurley, and I consulted

23 with the Diocesan attorneys, Michael Costello

24 and Marie Danek.

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1 {HUBBARD - BY MR. ANDERSON}

2 Q And in preparation for this deposition, when

3 in time did you consult with Terry O'Connor

4 and Anne Hurley?

5 A I have been consulting with them since I

6 hired them as my attorneys back in August or

7 September of 2019. And along those lines, I

8 consulted with them about this deposition

9 today.

10 Q That is fine, and I don't want to ask any

11 questions or have you answer any questions in

12 which you disclose any consultations and/or

13 communications between yourself and your

14 attorneys, Terry O'Connor and Anne Hurley.

15 I would like to ask you then about what

16 consultations you had with Mike Costello and

17 when did you have consultations pertaining to

18 this deposition with Mike Costello?

19 MR. COSTELLO: I'm going to object

20 to the form. Are you inquiring about what

21 was discussed or whether there was

22 discussions?

23 Q The question was when did you have consultations

24 with Mike Costello --

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1 {HUBBARD - BY MR. ANDERSON}

2 MR. COSTELLO: You may answer.

3 Q -- concerning the taking of this deposition?

4 MR. COSTELLO: You may answer.

5 A Over the past month.

6 Q And anybody else from Mr. Costello's office?

7 A Just the other attorney that is working with

8 him on these matters --

9 Q That would be?

10 A Marie Danek.

11 Q Marie Danek. Okay.

12 And what was your purpose in discussing

13 the deposition with Mike Costello and his

14 partner, Marie Danek?

15 MR. COSTELLO: Object to the form.

16 You may answer.

17 A The purpose was to see if they had any advice

18 or counsel to me in my deposition today.

19 Q And they represent the Diocese in this matter

20 and in these matters pending here today,

21 correct?

22 A That is correct.

23 MR. O'CONNOR: Jeff, can I just

24 jump in for a second to be clear, and you

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1 {HUBBARD - BY MR. ANDERSON}

2 can go on. I'm not telling you to stop

3 anything.

4 But myself and Anne Hurley

5 represent the Bishop on the cases where he

6 was sued as a direct defendant. Otherwise,

7 the Bishop is being produced here as a

8 non-party witness on behalf of the

9 Diocese, really a party witness on behalf

10 of the Diocese. So just to make that

11 distinction clear. And those cases I have

12 nothing to do with it.

13 Q So I think I'll get to the heart of the

14 matter then.

15 The question for the witness and his

16 counsel to answer is are the conversations

17 that you had with Mike Costello and Marie

18 Danek considered to be confidential and/or

19 privileged?

20 MR. COSTELLO: Objection. And on

21 behalf of myself, they are privileged.

22 MR. ANDERSON: That is what I

23 needed to know.

24 MR. COSTELLO: Right. I'm

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1 {HUBBARD - BY MR. ANDERSON}

2 directing him not to answer those

3 questions.

4 MR. ANDERSON: That's all I needed

5 to know.

6 MR. COSTELLO: Thank you.

7 Q Have you consulted with any other individuals

8 besides the lawyers that we have discussed

9 here concerning the giving of testimony for

10 trial and this deposition?

11 A No.

12 Q Have you spoken with Bishop Ed Scharfenberger --

13 A No.

14 Q -- about it?

15 A No.

16 Q Who besides your attorneys then know that you

17 are providing testimony under oath pertaining

18 to these matters?

19 A As far as I'm aware, they are the only ones

20 who know.

21 Q Who is paying for your attorneys, Anne Hurley

22 and Terry O'Connor?

23 MR. COSTELLO: Object to the form.

24 MR. O'CONNOR: Objection.

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1 {HUBBARD - BY MR. ANDERSON}

2 MR. COSTELLO: You may answer.

3 MR. O'CONNOR: I object to that.

4 So Jeffrey, why is that relevant as to who

5 is paying my fees? You know, I don't

6 think that is a relevant issue here.

7 MR. ANDERSON: I asked the question

8 because I thought it was. But what is

9 your instruction?

10 MR. O'CONNOR: I'll direct him to

11 answer the question because I don't want

12 to be obstructionist here, but I'll want a

13 ruling on that for sure.

14 Q You may answer, Bishop. Who is paying?

15 A I'm responsible.

16 Q Individually?

17 A Yes.

18 Q You continue to receive the Bishop Emeritus'

19 compensation, and you still have all the pay

20 and privileges that a Bishop Emeritus is

21 afforded, correct?

22 MR. COSTELLO: Object to the form.

23 You may answer.

24 A No. I wouldn't say that is true. I have

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{HUBBARD - BY MR. ANDERSON}

been on a voluntary leave of absence of ministry, and therefore, I cannot exercise my previous priestly office. I do receive the standard pension that any priest receives, and I do receive health care, and I do have room and board at the Cathedral.

Q Let's go back then to any other time in which you've given testimony under oath such as this and in deposition. I know that in 2005 on September 30th you and I met and I took your deposition back then in a case out in Nebraska pertaining to a priest in the Diocese of Albany. Other than that deposition, have you given sworn testimony in deposition any other time before today?

A I started with the best, and I don't think to my recollection I have had any other depositions.

Q What do you mean when you say "the best"?

A Well, I understand you have an excellent reputation as an attorney.

Q Oh, well, I -- well, thank you. That is not what I was getting at.

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{HUBBARD - BY MR. ANDERSON}

A Well, I was, upon graduating from high school, thinking about three possible careers, journalism, law and the priesthood, and I applied for applications to Siena College, and I attended the freshman orientation.

During the course of the summer my father came home one night and mentioned that a colleague of his, son, was entering the seminary, and I was pleasantly surprised how positive my parents were about their son entering the seminary. Because I was one of three children, I was the only boy, and I had never discussed this matter with them. And it kind of gave me permission to say well, I have been thinking about this myself. And as a result, in very short order I contacted my pastor, and he referred me to the seminary rector at Mater Christi for an application, and I was accepted within the month, and I began there the day after Labor Day. But in terms of choosing Mater Christi, if I was going to be a candidate for the Diocese of

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{HUBBARD - BY MR. ANDERSON}

MR. COSTELLO: You got it. You got it. Any further questions for the witness?

MR. ANDERSON: I'm all done here.
(Laughter.)

Q Let's go back in time then, Bishop, and I'll bring you back to your early years. You talked about what drew you to the vocation, and you were inspired by some other priests and religious. And when we look at your early education, it looks like 1943 to '56 you were at St. Patrick's School in Troy and LaSalle Institute in Troy, is that right?

A That is correct. I would say from kindergarten through third grade I was in public school at Haskell School in Lansingburgh.

Q And in 1956 you entered minor seminary, did you not?

A I did.

Q And so what were you thinking then? What drew you to that particular school at that point in time?

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{HUBBARD - BY MR. ANDERSON}

Albany, that is where the newly formed candidates would matriculate.

Q And then in the late 50's and early 60's it appears you then went to St. Joseph's Seminary, Dunwoodie, correct?

A That is correct. Mater Christi was just a two-year program of seminary formation. And then if you continued on, you went to one of seven or eight what we call major seminaries at the time, and I was assigned to St. Joseph's in Dunwoodie, which is the seminary for the Archdiocese of New York.

Q And you had an interest in journalism, law or another career or vocation, at some point in time it appears that you really get drawn to social services. Tell us about that and how that came to be, Bishop?

A Well, to be honest with you, I didn't get drawn to it. I was assigned to it.

Q How did that happen?

A Well, at the end of my first year as an associate pastor at the Cathedral of The Immaculate Conception and as principal of the

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{HUBBARD - BY MR. ANDERSON}

1 grammar school sponsored by the parish, the
2 Bishop asked me to become the associate
3 editor of The Evangelist, and I hesitated.
4 And he said well, think about it and get back
5 to me. And I thought about it and I got back
6 to him. And he said well, what did you
7 conclude? And I concluded that the thought
8 makes me really sick. So then he said would
9 you then consider going to the School of
10 Social Work to be part of Catholic Charities?
11 And I said I would do that. So it was at the
12 request of the Bishop that I went to the
13 School of Social Work and Catholic Charities.
14 And then at the end of the first year I was
15 assigned to Catholic Charities of Schenectady
16 to do an internship between semesters. Then
17 I also became involved in an organization
18 known as the Interfaith Task Force, which
19 worked in Arbor Hill and the south end of
20 Albany with the poor and the forgotten in
21 those neighborhoods.

22 And at the end of that summer program the
23 participants, about 40, got together and we
24

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{HUBBARD - BY MR. ANDERSON}

1 agreed that it was sad that we only worked
2 for six weeks in the summer and then
3 everything died down until the following
4 summer. So it was suggested that each one of
5 us would contact our major superior, which in
6 our case was the Bishop, to express the fact
7 we needed someone to do this type of ministry
8 full time. And I went to report that to the
9 Bishop, thinking that that is what it was, a
10 report. And he said would you be willing to
11 do that? So that is how I got the job.

12 **Q** So that would have been about 1965 at your
13 first parish where you were assigned as
14 associate pastor at Cathedral of the
15 Immaculate Conception?

16 **A** That is when the offer of The Evangelist or
17 Catholic Charities came. And I did a year of
18 social work at the University. And then
19 during the summer, between the first and
20 second semesters, I was involved with this
21 task force, and I never returned to Catholic
22 University.

23 **Q** I would like to go back then to your
24

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{HUBBARD - BY MR. ANDERSON}

1 formation prior to ordination. According to
2 the record, of course, as you said, you went
3 to Catholic University for some postgraduate
4 studies but didn't get a degree there, but
5 you had gotten a degree from -- where did you
6 get your degree?
7

8 **A** Well, I got my bachelor's from St. Joseph's
9 in Dunwoodie or Yonkers.

10 **Q** Okay. Got it.

11 **A** Then --

12 **Q** And -- go ahead.

13 **A** Well, then I got my second degree from the
14 Gregorian University in Rome.

15 **Q** And what was that degree in then?

16 **A** They called it a license in theology, which
17 in our parlance would be a master's degree in
18 theology.

19 **Q** When a young priest or a candidate in
20 formation is sent to Gregorian, often times
21 it means that his superiors or the superiors
22 see promise for leadership. Were you ever
23 informed that a reason you were sent to
24 Gregorian was because you had a promise to be

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{HUBBARD - BY MR. ANDERSON}

1 and rise -- be a leader and rise in the ranks
2 of the clerical culture?
3

4 **MR. COSTELLO:** Object to the form.
5 You may answer.

6 **A** No. But it should be noted that two others
7 who were asked to participate at the
8 Gregorian refused the offer. And in our
9 class of 1964 when I was ordained, there were
10 over 80 -- no, excuse me, over 60 that were
11 ordained, and two have been made bishops,
12 myself and Bishop Rahm.

13 **Q** It is correct to say that you were ordained
14 on December 18, 1963 as a priest of the
15 Diocese of Albany, correct?

16 **A** Correct.

17 **Q** And the Bishop, presenting bishop was then
18 William Scully?

19 **A** He was a Bishop of the Diocese. I was
20 ordained by the rector of the North American
21 College in Rome.

22 **Q** That is because you happened to be in Rome,
23 but your superior was Scully?

24 **A** My superior was Bishop Scully. I could only

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1 {HUBBARD - BY MR. ANDERSON}

2 have been ordained with his approval.

3 **Q** And at the time of your ordination, then, you

4 made some vows, and the first is you made a

5 vow and a promise of obedience to the bishop

6 and its successors, correct?

7 **A** Correct.

8 **Q** What is and what was that vow of obedience

9 that you made then that you are still under?

10 **MR. O'CONNOR:** Object to the form.

11 **MR. COSTELLO:** Same objection.

12 **A** That if the Bishop asks me to do something

13 and he is firm about it, that I would be

14 responsive to his request.

15 **Q** And that vow then also is to all then

16 existing bishops and any bishop that follows

17 while you are a priest, correct?

18 **A** Correct.

19 **Q** And the vow of obedience you are under now as

20 Bishop Emeritus is a vow of obedience directly

21 to the Holy Father, correct?

22 **MR. COSTELLO:** Object to the form.

23 You may answer.

24 **A** I think I would also have a vow of obedience

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1 {HUBBARD - BY MR. ANDERSON}

2 to the ordinary of the Diocese where I

3 reside. And then I would have a vow of

4 obedience to the Holy Father.

5 **Q** The vow of obedience means that you are

6 effectively required to follow the mandates

7 of the bishop in all matters of life and

8 faith as a priest, correct?

9 **MR. COSTELLO:** Object to the form.

10 You may answer.

11 **A** If the bishop gives a directive or asks you

12 to assume an assignment or asks you to

13 discontinue a particular activity, then an

14 obedience, you would have to obey that.

15 **Q** You also at the time and as a part of your

16 formation make a promise or a vow of celibate

17 chastity, also known as a vow of celibacy,

18 correct?

19 **A** Correct.

20 **Q** When did you first make the vow of celibacy?

21 **A** I made it, and I'm not sure whether it was at

22 the diaconate or at subdiaconate, but I made

23 it in either July or October of 1963.

24 **MR. O'CONNOR:** Can you spell that

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1 {HUBBARD - BY MR. ANDERSON}

2 word, Bishop, just for the stenographer,

3 diaconate.

4 **MR. ANDERSON:** I'm going to give

5 her the spellings, Terry, at the end of

6 this so we don't have to take time out to

7 spell it, because there is going to be a

8 lot of Latin.

9 **MR. O'CONNOR:** Perfect. Thank you,

10 Jeff.

11 **Q** What is the vow of celibacy that you made in

12 the diaconate that continued and made at the

13 time of your ordination?

14 **A** To live a chaste life.

15 **Q** And what is that?

16 **A** It means that you do not have a sexual

17 relationship with another person.

18 **Q** At the time you made the vow of celibacy, did

19 you understand that once ordained as a priest

20 you were required both by the Vatican, the

21 Pontiff and your Bishop to maintain that vow?

22 **A** Yes.

23 **Q** Since having made it in 1963 in the diaconate

24 and/or as a priest ordained in Albany in

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1 {HUBBARD - BY MR. ANDERSON}

2 1963, have you violated the vow or promise of

3 celibacy made?

4 **A** No.

5 **MR. O'CONNOR:** I didn't hear you,

6 Bishop.

7 **A** No.

8 **Q** When you say the vow of celibacy is to not

9 have a sexual relationship, what training --

10 tell me more about that. What does that

11 mean?

12 **MR. COSTELLO:** Object to the form.

13 You have multiple questions before the

14 Bishop.

15 **Q** Let me ask a better question.

16 When you say the vow of celibacy is to not

17 have a sexual relationship, what does that

18 mean? What does that vow mean?

19 **A** Well, it would mean, first of all, that you

20 shouldn't be reading literature or viewing

21 films that promote inappropriate sexual

22 behavior, that you should not be involved in

23 any sexual relationship with another person,

24 man, woman or child.

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{HUBBARD - BY MR. ANDERSON}

- 2 Q What training did you receive in advance of
3 having made the vow of celibacy in managing
4 that and your own sexuality?
5 A Well, it was frequently something that was
6 presented at the various seminaries as parts
7 of retreats and days of recollection. It was
8 also something that your spiritual director
9 discussed with you one-on-one. Everyone had
10 a spiritual director at the time. This was
11 true in all three seminaries that I attended,
12 Father Christie's, St. Joseph's in Yonkers
13 and North American College in Rome.
14 Q What did you understand the purpose of the
15 vow of celibacy that you made and were
16 required to take and live by to be?
17 MR. COSTELLO: Object to the form.
18 You may answer.
19 A I think the primary purpose is availability,
20 that you would give your yourself completely
21 and totally to your ministry and that you
22 would not have to be responsible for
23 supporting a wife and raising a family.
24 Q How did you then thus express your own

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{HUBBARD - BY MR. ANDERSON}

- 2 sexuality while living under the vow and
3 promise of celibacy?
4 A Well, I mean, I'm a sexual being. I think my
5 sexual instincts sometimes are useful in
6 interacting with others. My sexual inclinations
7 can kick in in relation to others, but not in
8 a sexual way.
9 Q You said your sexual instincts to be helpful.
10 How are your sexual instincts helpful at the
11 same time being required to be celibate?
12 MR. O'CONNOR: Object to the form.
13 I'm not sure that is what he said.
14 But you can answer.
15 A Well, I think part of sexuality is to express
16 compassion, concern and empathy for another,
17 and I think you can draw upon that part of
18 your being in serving others pastorally without
19 engaging in sexual activity.
20 Q Does masturbation and the practice of it
21 violate the vow of celibacy?
22 A Yes.
23 Q Do you deny ever having masturbated?
24 A No.

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{HUBBARD - BY MR. ANDERSON}

- 2 MR. O'CONNOR: Object to the form.
3 MR. COSTELLO: Object to the form.
4 You may answer.
5 Q What is your sexual orientation?
6 A Heterosexual.
7 MR. O'CONNOR: So I'm going to want
8 a ruling on this line of questioning down
9 the road. So note my objection for the
10 record.
11 Q How does a priest get taught on human
12 sexuality beyond what you have said in terms
13 of managing their sexuality?
14 MR. COSTELLO: Object to form.
15 A You are talking about post ordination?
16 Q Yes.
17 A I think there are three ways of doing that,
18 at least in my experience. One is that you
19 have a spiritual director and you discuss
20 these matters with your spiritual directors.
21 Number two, that you read literature on the
22 matter to remind you of what the commitment
23 is and how best to fulfill it. And third,
24 here in our Diocese, at least, we have some

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{HUBBARD - BY MR. ANDERSON}

- 2 priest support groups, and we discuss all
3 matters relative to priestly ministry,
4 including, at times, the exercise of the vow
5 of celibacy.
6 Q How do you form a sexual identity if you are
7 required to be celibate?
8 A Well, I think your identity is part of who
9 you are. Whether you enter into an intimate
10 relationship with another is another
11 question.
12 Q How do you --
13 MR. O'CONNOR: Jeff, whenever a
14 natural break is in the next five or ten
15 minutes, you tell me. All right? We will
16 take a five-minute break.
17 MR. ANDERSON: Sure.
18 MR. O'CONNOR: You can keep on
19 going.
20 MR. ANDERSON: I just have a couple
21 more questions here.
22 MR. O'CONNOR: Yeah.
23 Q How do you form a sexual identity if you are
24 celibate but supposed to be living as a

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1 {HUBBARD - BY MR. ANDERSON}

2 priest

3 MR. COSTELLO: Object to the form.

4 A I have been -- my identity was formed

5 biologically. It was formed by interacting

6 with my mother and my two sisters, and it is

7 formed now by interacting with parishioners

8 and people I served. Sexual identity, in my

9 mind, does not limit itself to sexual

10 activity, and I think there is a distinction

11 between the two.

12 Q And how then do you express yourself sexually

13 and remain celibate?

14 MR. O'CONNOR: Object to the form.

15 A I think I can draw upon some of the qualities

16 of sexuality, empathy, compassion, concern

17 for others and apply that in my priestly

18 ministry.

19 Q And it is correct to say that in the priestly

20 ministry you do counsel couples and Catholics

21 and others in human sexuality and marriage,

22 correct?

23 A That is correct.

24 Q And you also hear confessions as a priest

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1 {HUBBARD - BY MR. ANDERSON}

2 and provided to you, I'm not going to take

3 the time to put it in front of you unless it

4 is necessary, but it was marked Exhibit 2.

5 And Exhibit 2 was entitled From the Supreme

6 and Holy Congregation of the Holy Office, an

7 instruction on the manner of proceeding in

8 cases of solicitation. It is in English from

9 the Vatican Press dated 1962 marked

10 confidential. Did you review that document,

11 Bishop?

12 A I did.

13 Q Is this a document that had been made

14 familiar to you while you were a priest

15 and/or after you became a Bishop?

16 A To the best of my recollection, no.

17 Q Were you aware that the Vatican, as this

18 document effectively states, is that there

19 was instruction that came from the Holy

20 Office to all the bishops globally,

21 worldwide, on the manner proceeding cases of

22 solicitation which required every priest,

23 ordinary and official, namely, patriarchs,

24 archbishops, bishops and other diocesan

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1 {HUBBARD - BY MR. ANDERSON}

2 that by nature does have the penitent disclosed

3 sexual secrets, correct?

4 A Correct.

5 MR. COSTELLO: Objection to the form.

6 A Correct.

7 MR. ANDERSON: This will be a good

8 time to take a break.

9 MR. O'CONNOR: So let's, just to be

10 clear, though, I don't want this to drag

11 on because we have time limits. So right

12 now my Apple clock says 11:06. What do

13 you say we come back in like five minutes,

14 seven minutes? We will come back and we

15 will start the camera at 11:15 sharp. How

16 does that sound, Jeff?

17 MR. ANDERSON: All right.

18 VIDEOGRAPHER: Off the record at

19 11:06.

20 (Off the record.)

21 VIDEOGRAPHER: We are back on the

22 record at 11:15. Go ahead.

23 BY MR. ANDERSON:

24 Q Bishop, one of the exhibits that we sent you

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1 {HUBBARD - BY MR. ANDERSON}

2 ordinaries, even of the oriental right, to

3 keep secret any matters pertaining to

4 solicitation in the confessional or sexual

5 abuse of minors?

6 MR. COSTELLO: Objection to the

7 form.

8 You may answer if you can.

9 A I'm aware that that is what the document says

10 because you provided the document to me in

11 your exhibit, but I had not seen this document

12 previously.

13 Q Are you aware that the Vatican issued such a

14 practice and a protocol?

15 A I am now.

16 MR. COSTELLO: Object to the form.

17 Q Did you apply as a bishop the practice of

18 adherence to secrecy of any matters

19 pertaining to solicitation in the confessional

20 that came to your attention or allegations of

21 sexual abuse?

22 MR. COSTELLO: Object to the form.

23 You can answer.

24 MR. O'CONNOR: Object to the form.

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{HUBBARD - BY MR. ANDERSON}

Can you break that down, Jeff.

MR. ANDERSON: Yes.

Q Did you apply the practice of keeping secret any allegations of sexual abuse of minors or solicitations in the confessional?

MR. COSTELLO: Object to the form.

You may answer.

A To the first, I've never had a complaint of that nature, namely, cessation and confession. To the second, correct me if I misunderstood the sacrament, but I think the sacred applies only after canonical trial has begun, and there would be nothing to prohibit a bishop from making such a communication with a public official as long as before a canonical trial. But I don't know if this document is even operative today. I don't think it is.

Q I'm going to ask you some questions, Bishop, then before you became ordained. And that is while in formation, did it ever come to your attention in formation in your deaconate or otherwise, that there were suspicions or

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{HUBBARD - BY MR. ANDERSON}

A To the best of my recollection, there were occasions when the vow of celibacy would be discussed, and it would include having no sexual relationship with any person, be it adult or minor.

Q Did the problem of sexual abuse of minors by clerics get discussed by anybody that you are aware of in the clerical culture prior to your ordination?

A Not to my recollection, no.

Q Then the period of time from your ordination in 1963 -- was it '63 or '65?

A '63.

Q Yeah, '63 to your installation and appointment as Bishop in 1977, I would like to direct your attention to that timeframe. During that timeframe in which you are a priest and you are assigned by the bishop operating under the vow of obedience and celibate chastity, and having founded Hope House and Providence House, working as a parish priest and at various assignments, at any time before being appointed and installed

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{HUBBARD - BY MR. ANDERSON}

reports of clerics abusing kids that ever came onto your radar?

MR. COSTELLO: Object to the form.

A No. That never came to my attention. However, I know that someone has made an allegation that sometime in 1956 he told me about a priest who had abused him. I have no recollection of that whatsoever. But I know that allegation has been made.

Q And as you testify here today, at least you have no memory of any reports having been made to you prior to your ordination of a priest of suspicions of sexual abuse, is that correct?

A That is correct.

Q And had the topic of sexual abuse of minors being a problem or a concern been addressed by colleagues while you were in formation or the priests that were teaching you as a part of your formation, was that ever discussed?

MR. COSTELLO: Object to the form.

Multiple questions.

You may answer.

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{HUBBARD - BY MR. ANDERSON}

as Bishop in 1977 from your ordination, did you ever receive any report of sexual abuse of minors by other clerics?

A No.

Q Did you ever have any suspicions while a priest during that timeframe of other clerics abusing minors?

MR. COSTELLO: Object to the form.

You may answer.

A No.

MR. O'CONNOR: The answer again.

You were kind of talked over slightly, Bishop.

A No.

Q Did you ever hear reports of other clerics in the diocese abusing minors during that period of time?

A To the best of my recollection, no. However, I did serve as chair of the priest personnel board, and I may have been aware of the allegation made against one of the priests of our diocese. I did not deal with it directly, but in that capacity the priest was

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 removed from ministry and I would have had to
- 3 be informed about it.
- 4 Q And do you remember who that priest was?
- 5 A I do.
- 6 Q Who was it?
- 7 A I guess I would like to ask my attorney.
- 8 BISHOP HUBBARD: Am I free to give
- 9 that information?
- 10 MR. O'CONNOR: Yes, from my
- 11 perspective.
- 12 Michael?
- 13 MR. COSTELLO: I'm just going to
- 14 object. I think we need to -- he can
- 15 answer the question, but I don't know if
- 16 this individual is still alive and there
- 17 is some privacy issues and so forth
- 18 involved.
- 19 Q You may answer the question.
- 20 Who is that priest?
- 21 A Father Dozia Wilson.
- 22 Q According to the assignment history after
- 23 having been at the Cathedral of the
- 24 Immaculate Conception, you were in residence

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 Q Did you use alcohol at that time?
- 3 A No. Not when Hope House was founded, no.
- 4 Q Have you ever had a drinking problem?
- 5 A No.
- 6 Q Have you ever had blackouts --
- 7 A No.
- 8 Q -- from drinking?
- 9 A No.
- 10 Q At that time you were kind of referred to as
- 11 the street priest, affectionately, correct?
- 12 A I never used that designation but the papers
- 13 did from time to time.
- 14 Q In 1973, '74, you were identified in the
- 15 Catholic directory, the official Catholic
- 16 directory, as a coordinator of the Diocese of
- 17 Albany's urban apostolate. What does that
- 18 mean?
- 19 A Well, at that point in time, in light of the
- 20 civil rights movement of the time, the church
- 21 was trying to get more involved in social
- 22 policy and social justice issues. And so the
- 23 urban apostolate was the parishes serving in
- 24 inner cities of our diocese would gather

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 at St. John the Baptist in '66 to '76,
- 3 correct?
- 4 A Correct.
- 5 Q And it was during that time that you founded
- 6 Hope House and ultimately Providence House,
- 7 correct?
- 8 A Just the reverse. I founded Providence House
- 9 and Hope House was second.
- 10 Q And Providence House is what?
- 11 A Providence House was a storefront social
- 12 action/social service center. We would host
- 13 community meetings there. We would talk with
- 14 people who were having difficulty paying
- 15 their rents, who needed food and needed
- 16 clothing, needed tutorial help for their
- 17 children, summer day camp programs, things of
- 18 that nature.
- 19 Q And the Hope House was a drug abuse treatment
- 20 center, correct?
- 21 A That is correct.
- 22 Q At that time did you yourself use drugs or
- 23 alcohol?
- 24 A No.

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 together on a monthly or quarterly basis to
- 3 discuss some of the pressing issues and how
- 4 the church might address these both
- 5 legislatively and through the education of
- 6 our parishioners. So I coordinated that
- 7 activity.
- 8 Q And then in 1973 to '76 you are identified as
- 9 being on the priest personnel board, correct?
- 10 A That is correct.
- 11 Q And you were a member of that from, also,
- 12 chair from '74 to '76, correct?
- 13 A I thought it was a little before '74, but I
- 14 may be incorrect on that.
- 15 Q And there was while on the priest personnel
- 16 board that you got the information pertaining
- 17 to Father Dozia Wilson, correct?
- 18 A Right.
- 19 Q During the period of time that -- from going
- 20 back to your ordination to your installation
- 21 as Bishop in 1977, what other time, if any,
- 22 did you get or receive any report of sexual
- 23 abuse by clerics or have suspicions of sexual
- 24 abuse by clerics other than Dozia Wilson?

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1 {HUBBARD - BY MR. ANDERSON}
 2 MR. COSTELLO: Object to the form
 3 of the question.
 4 MR. O'CONNOR: Wasn't that asked
 5 and answered, too, Jeff?
 6 MR. ANDERSON: No.
 7 MR. O'CONNOR: Okay. The Bishop
 8 can answer.
 9 A To my recollection I had no reports and no
 10 suspicions.
 11 Q Wilson was the only one who was on your radar
 12 during '63 to '77 as having been suspected of
 13 sexual abuse of minors, is that correct?
 14 MR. COSTELLO: Object to the form.
 15 You may answer if you can.
 16 A He was the only one I knew about.
 17 Q Well, is he the only one you heard about?
 18 A No.
 19 Q Okay. Who had you heard about?
 20 A I meant I hadn't heard about anybody.
 21 Q Did you ever witness anybody engaging in
 22 conduct suspicious of sexual abuse?
 23 A No.
 24 Q Had you ever had anybody raise concerns with

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1 {HUBBARD - BY MR. ANDERSON}
 2 you about your sexual conduct toward them or
 3 your conduct toward them being sexual?
 4 MR. O'CONNOR: Other than these
 5 lawsuits, Jeff?
 6 Q Well, at that timeframe, '63 to '77, did
 7 anybody ever say to you Father, I have
 8 concerns about your conduct being sexual or
 9 inappropriate?
 10 A No.
 11 Q Did you ever have personal concerns about
 12 your conduct as a priest being sexual or being
 13 interpreted as sexually inappropriate?
 14 A No.
 15 (Pause.)
 16 REPORTER: I got the no. He said
 17 no.
 18 MR. COSTELLO: Okay, we didn't hear
 19 it.
 20 MR. O'CONNOR: You know, some of
 21 the stuff for whatever reason seems to be
 22 blanked out or delayed, Jeff, on the video
 23 anyway.
 24 Q On the priest personnel board, were there

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1 {HUBBARD - BY MR. ANDERSON}
 2 notes made of the meetings?
 3 A To the best of my recollection, yes.
 4 Q Who took the notes pertaining to Dozia
 5 Wilson?
 6 A I don't remember.
 7 Q Were other records created by the priest
 8 personnel board while you were on it other
 9 than the notes of the minutes?
 10 A To the best of my recollection there were
 11 minutes made or kept. But it is a long time
 12 ago and that is the best I can remember. I
 13 know that we made notes of the minutes.
 14 Q In 1976, '77 you were appointed by the
 15 presiding bishop to be vicar general,
 16 correct?
 17 A Correct.
 18 Q And at that time the bishop was?
 19 A Bishop Edwin Broderick.
 20 Q And the vicar general's job on the
 21 appointment made of you as vicar general,
 22 what was your role to the bishop as vicar
 23 general?
 24 A Well, the vicar general is in the diocesan

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1 {HUBBARD - BY MR. ANDERSON}
 2 hierarchy the second person in command. So
 3 if the bishop is absent or unavailable and
 4 something needs to be addressed immediately,
 5 it is the vicar general that has that
 6 responsibility. He also is a member of the
 7 corporate boards of the diocese. So he is --
 8 the bishop and the vicar general are usually
 9 always members of any diocesan corporations.
 10 Q As vicar general under then Bishop Broderick,
 11 what files did you have access to pertaining
 12 to the priest?
 13 A The only files that I recall, I might have
 14 had access to other files. I can only say
 15 the only files that I ever relied upon were,
 16 I assume, with the priest personnel board.
 17 And if there was measures relative to some
 18 diocesan corporations that required some
 19 response, I would have been privy to that
 20 correspondence.
 21 Q Was there a priest file kept by the then
 22 Bishop Broderick?
 23 A If there was, I was not aware of it.
 24 Q At that time the Chancellor -- where is that.

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 Besides Bishop Broderick, who had access
- 3 to the priest file?
- 4 A I would have as the chairman to the priest
- 5 personnel board.
- 6 Q And in 1976 it looks like the vicar general --
- 7 the Chancellor was Howard Russell, correct?
- 8 A What is the year?
- 9 Q 76.
- 10 A Yes. He was, but I think he resigned from
- 11 ministry that year. I don't know when during
- 12 that year. I know he was not the Chancellor.
- 13 He had already left ministry when I became
- 14 bishop.
- 15 Q And to your knowledge, did you ever as your
- 16 function as a priest under Broderick or as
- 17 the chair of the personnel board and a member
- 18 of it, ever review any of the priest files to
- 19 see if there was evidence of sexual abuse in
- 20 them?
- 21 MR. COSTELLO: Object to the form.
- 22 You may answer if you can.
- 23 A Not to the best of my recollection, no.
- 24 Q To your knowledge did Bishop Broderick ever

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 the archdiocese of Boston, and after I became
- 3 Bishop the archbishop of Boston contacted me
- 4 and said that things were not working out
- 5 with Father Wilson. It didn't have anything
- 6 to do with a sexual matter. It had to do
- 7 with a clash between himself and other
- 8 members of the community that he was serving,
- 9 especially those in leadership positions.
- 10 And that is the first time that I had to deal
- 11 with the issue of clergy sexual abuse.
- 12 Q And then when in time was the next you had to
- 13 deal with the issue of sexual abuse?
- 14 A To the best of my recollection, it was an
- 15 allegation of sexual abuse with a pastor down
- 16 in Delaware County.
- 17 Q And his name?
- 18 A Carl Stone.
- 19 Q And how did that come to your attention?
- 20 A I think that we got a report from a state
- 21 trooper.
- 22 Q What agency was the trooper with?
- 23 A I assume Troop G, but that is the headquarters
- 24 in our area. But it didn't come to me

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 express that there should be a review of the
- 3 priest files to see if there was evidence of
- 4 sexual abuse by the clerics in those files?
- 5 A Not to my knowledge.
- 6 Q Was the problem of sexual abuse by priests of
- 7 the Diocese of Albany of minors on your radar
- 8 when you got appointed by Bishop Broderick to
- 9 be vicar general?
- 10 MR. COSTELLO: Object to the form.
- 11 What do you mean by radar, Jeff?
- 12 Q Were you aware there was a problem?
- 13 MR. ANDERSON: That is what I mean.
- 14 MR. COSTELLO: You may answer.
- 15 A No. I was not aware that there was a
- 16 problem.
- 17 Q When did you first become aware there was a
- 18 problem of sexual abuse of minors by clerics?
- 19 A I think it had to do with Father Wilson. He
- 20 was approached by the District Attorney -- I
- 21 mean, Bishop Broderick, my predecessor, was
- 22 approached by the District Attorney and
- 23 informed him of an allegation of abuse. And
- 24 then he received a position to function in

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 directly. It came to the Chancellor, and he
- 3 brought it to my attention.
- 4 Q And the Chancellor was then Robert Ruse?
- 5 A Correct.
- 6 Q And what did Robert Ruse communicate to you
- 7 that as Bishop about Father Stone?
- 8 A He communicated that the trooper said that he
- 9 was involved in inappropriate conduct with a
- 10 minor and that he hoped that the Diocese
- 11 would address the issue.
- 12 Q And as Bishop you were the one ultimately
- 13 responsible to address it, correct?
- 14 A Correct.
- 15 Q Because you are both the ordinary and the one
- 16 ultimately responsible for the supervision of
- 17 the priests, the retention of the priests,
- 18 and the imposition of any restrictions upon
- 19 them, if appropriate, correct?
- 20 A Correct.
- 21 Q And so when Father Ruse, the then Chancellor,
- 22 brought this information to you about the
- 23 arrest of Stone from the trooper, what did
- 24 you do?

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 A I'm not sure there was an arrest. It was a
- 3 complaint from the trooper. I'm not aware
- 4 that there was an arrest.
- 5 Q Okay, complaint. What did you do?
- 6 A I called the priest in, confronted him with
- 7 it, and then had him evaluated. And to the
- 8 best of my recollection, I had him sent to a
- 9 treatment program.
- 10 Q Was that at Servants of The Paraclete or
- 11 St. Luke's?
- 12 A I can't remember off the top of my head.
- 13 Q What treatment programs, to your knowledge,
- 14 had been utilized by your predecessor, Bishop
- 15 Broderick, if any, for similar reasons?
- 16 A I can only speak to the ones that I used, and
- 17 that was Servants of The Paraclete, The House
- 18 of Affirmation, St. Josh Vianney and Guest
- 19 House. Guest house was used more for anyone
- 20 who had a problem with alcohol.
- 21 Q Had you used St. Luke's?
- 22 A I think we did. Where was that located?
- 23 Q I assume in Maryland.
- 24 A I think we did.

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 MR. COSTELLO: Object to the form.
- 3 A Correct.
- 4 Q And it is also a common practice that you
- 5 employed as a Bishop that when there was a
- 6 problem or suspicion of sexual abuse of a
- 7 minor that you would send them to a facility
- 8 and their privilege would be waived so you
- 9 could find out how they are doing, correct?
- 10 MR. COSTELLO: Object to the form.
- 11 You may answer.
- 12 A Yes. Correct.
- 13 Q And in the case of Father Stone, what
- 14 happened?
- 15 A Well, it was recommended that he be returned
- 16 to ministry. And then at some point after
- 17 his return another allegation came in, and
- 18 with that I removed him from ministry.
- 19 Q And when he was first sent to treatment and
- 20 he was removed from ministry, what were the
- 21 parishioners at his parish told about the
- 22 reason for his removal initially when sent to
- 23 treatment?
- 24 A I don't know exactly. I would imagine he

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 Q And when you sent him to treatment, do you
- 3 know if that was at Servants of The Paraclete,
- 4 House of Affirmation or St. Luke's?
- 5 A I can't remember. I would have to check
- 6 with -- I would have to check with the file.
- 7 Q When you did send him to treatment, that was
- 8 because you had gotten a report of sexual
- 9 abuse of a minor, correct?
- 10 A Correct.
- 11 Q And you wanted him to be rehabilitated,
- 12 correct?
- 13 A Correct.
- 14 MR. COSTELLO: Object to the form.
- 15 You may answer.
- 16 Q And when you did send him to treatment, to
- 17 the treatment facility, you understood that
- 18 he had given you permission to get
- 19 information about his progress or lack of
- 20 progress in treatment, correct?
- 21 A Correct.
- 22 Q In other words, he waived his medical
- 23 privilege as it pertained to you as the
- 24 Bishop, correct?

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 said that he was going away for a period
- 3 of -- a period of -- I don't think he would
- 4 have said he was going away for treatment,
- 5 but he would acknowledge that he would not be
- 6 present in the parish for the next few
- 7 months.
- 8 Q He did not tell the parishioners the truth
- 9 that he was being sent away because he had
- 10 been -- because he had sexually abused a
- 11 minor, correct?
- 12 A It would not have included that he sexually
- 13 abused a minor.
- 14 Q You did not tell the parishioners the truth
- 15 about the reason for his removal, correct?
- 16 MR. COSTELLO: Objection to form.
- 17 You can answer.
- 18 Q You can answer.
- 19 A My perspective is we did not reveal the
- 20 reason for his treatment.
- 21 Q And the reason for his treatment was he had
- 22 been accused of sexually abusing a minor,
- 23 correct?
- 24 A That is correct.

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 Q So you did not tell the truth?
- 3 MR. O'CONNOR: Objection to form.
- 4 MR. COSTELLO: Objection to form.
- 5 Q Is that correct, Bishop?
- 6 MR. COSTELLO: Same objection.
- 7 A First of all, I'm not sure that I made the
- 8 communication. It may have come from Father
- 9 Stone. But if I had made the communication,
- 10 I would not have revealed that he had been
- 11 accused of sexually abusing a minor.
- 12 Q And the fact is, as a matter of practice and
- 13 protocol, you as the Bishop were required to
- 14 keep that secret to avoid scandal and protect
- 15 the reputation of the church, of the Diocese,
- 16 correct?
- 17 MR. COSTELLO: Object to the form.
- 18 MR. O'CONNOR: Form.
- 19 MR. COSTELLO: You may answer if
- 20 you can.
- 21 A I think both were reasons for not disclosing
- 22 fully the reason for his treatment.
- 23 Q And so on his return from the treatment
- 24 center, whichever one it was, did you get

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 some kind of report from them about his status
- 3 and/or their diagnosis or an assessment?
- 4 A I assume that I did because that was pretty
- 5 standard procedure.
- 6 Q And you as Bishop had the power to return him
- 7 to ministry and you did, correct?
- 8 A Correct.
- 9 Q But you put him in another parish than the
- 10 one he had been removed from earlier, correct?
- 11 A No. I don't think so.
- 12 Q And when you put him back in the parish after
- 13 his having been sent to treatment, you did
- 14 not tell the parishioners on his return that
- 15 he had been send to treatment for suspicions
- 16 of sexual abuse?
- 17 MR. COSTELLO: Objection.
- 18 A That would be correct.
- 19 Q Did you report to any law enforcement agency
- 20 what you learned from Father Stone about what
- 21 he had done to a child?
- 22 A No. It was the law enforcement agent that
- 23 reported it to the Diocese.
- 24 Q Did you report anything?

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 A No.
- 3 Q Did you provide any of the information you
- 4 got from the treatment center pertaining to
- 5 Father Stone about what he had done to kids
- 6 or to a kid to law enforcement?
- 7 A No. Law enforcement reported it to me.
- 8 Q I'm not talking about the treatment. The
- 9 report you got from the treatment center
- 10 preceding his return to ministry, did you
- 11 provide that report to law enforcement?
- 12 MR. COSTELLO: Object to the form.
- 13 You may answer if you can.
- 14 A No.
- 15 Q As a social worker, when did you consider
- 16 yourself to be a mandated reporter under New
- 17 York Law?
- 18 A I don't know as a social worker. First of
- 19 all, I never got my degree. So people would
- 20 question whether I was a bona fide social
- 21 worker. As far as I understand it, at that
- 22 time and presently, a priest is not a mandated
- 23 reporter in New York State.
- 24 Q My question to you is, Bishop, have you ever

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 considered yourself to be a mandated
- 3 reporter?
- 4 MR. COSTELLO: Object to the form
- 5 of the question. Calls for a legal
- 6 conclusion.
- 7 A Since 2002 we have made a public commitment,
- 8 as Bishops we made it a public commitment to
- 9 report every case, whether within or beyond
- 10 the statute to local law enforcement.
- 11 Q So my question to you is when in time did you
- 12 ever consider yourself to be a mandated
- 13 reporter under New York Law?
- 14 MR. O'CONNOR: Object to the form.
- 15 A As far as I know, I have never been a mandated
- 16 reporter under New York Law.
- 17 Q Have you yourself ever made or directed to be
- 18 made a report to law enforcement of suspicions
- 19 of sexual abuse of minors by clerics?
- 20 A As of the charter of 2002, every bishop --
- 21 I'll put it this way. As of 2002 in the
- 22 Diocese of Albany, every report that came in
- 23 of sexual abuse of a minor had to be
- 24 forwarded to the local District Attorney.

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1 {HUBBARD - BY MR. ANDERSON}

2 Q My question to you is before 2002, did you
3 ever report or direct any of those under you
4 as Bishop to report suspicions of sexual
5 abuse of minors to law enforcement?

6 MR. COSTELLO: Objection to the
7 form of the question.

8 You may answer if you can.

9 A To the best of my knowledge, I never did.

10 Q Did you report Father Dozia Wilson, what you
11 learned while on the priest personnel board
12 about him and what he had done, to law
13 enforcement?

14 A No.

15 Q And then when Father Stone was returned to
16 ministry after having been sent to treatment,
17 did you ever provide any information that was
18 garnered by you as the Bishop, including any
19 treatment reports and other information to
20 any secular authorities outside of the circle
21 of the Bishop?

22 MR. COSTELLO: Object to the form.

23 A I never reported him to any secular
24 authorities.

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1 {HUBBARD - BY MR. ANDERSON}

2 into that parish where he reoffended, did you
3 ever sit down with Father Stone and ask him,
4 Father, how many kids have you actually
5 sexually abused?

6 MR. COSTELLO: Object to the form
7 of the question.

8 You may answer.

9 A Not to my knowledge.

10 Q Have you ever sat down with a priest under
11 your charge as a Bishop and ask that priest
12 if they sexually abused and if so how many
13 kids?

14 A I have done that in one or two cases.

15 Q Did you ever do it before 2002?

16 A Yes.

17 Q You did not do that with Father Stone,
18 correct?

19 A Correct.

20 Q Did you do that with Father Wilson?

21 A No.

22 Q When you removed Father Stone on his
23 re-offense from ministry, what did you tell
24 the parishioners for the reason of his

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1 {HUBBARD - BY MR. ANDERSON}

2 Q And then Father Stone went on to reoffend,
3 did he not?

4 A Yes.

5 Q How soon after you returned him to ministry
6 did he reoffend?

7 A At that time it wasn't long, but I can't
8 recall the exact time. But once I received
9 the complaint of his re-offense, he was
10 removed from ministry.

11 Q And we are talking about a matter of weeks or
12 months that he reoffended after he returned
13 to ministry?

14 A I think it was -- may have been more than
15 weeks or months. I think it was maybe a
16 couple of years. I'm speculating on this.

17 Q In any case, you removed him then from
18 ministry?

19 A Yes.

20 Q Having learned of his re-offense, how did you
21 learn he reoffended?

22 A I can't remember.

23 Q When you sent him to treatment and he
24 returned from treatment and you put him back

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1 {HUBBARD - BY MR. ANDERSON}

2 removal?

3 A I don't remember.

4 Q Did you tell them --

5 A We did not tell them he was accused for
6 abusing a minor.

7 Q Did you ever make any effort to find out who
8 the minors were that he had abused, both
9 before and on his re-offense?

10 A No, I didn't.

11 Q Did you ever --

12 A I did on another instance, and I decided that
13 that was not a good procedure.

14 Q We are talking about Stone now. So you
15 didn't make an effort. Did you direct
16 somebody make an effort to find out who those
17 kids were that he had abused so that you
18 could help or get them help?

19 MR. COSTELLO: Object to form.

20 A Not to the best of my recollection.

21 Q And did you give any signs to the parishioners
22 at the parish where he was removed a second
23 time about the fact that he had posed a peril
24 to the kids?

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 A Not to my best recollection.
- 3 Q So what did you do with him then, Father
- 4 Stone, after you removed him from the
- 5 ministry the second time and following the
- 6 re-offense?
- 7 A I met with him. He was removed from ministry.
- 8 He was not allowed to function publically,
- 9 and he was responsible for his own support.
- 10 Q And he was provided his usual pay and pension
- 11 and privileges, however, as he continued as a
- 12 priest under your charge, correct?
- 13 MR. COSTELLO: Object to the form.
- 14 You may answer.
- 15 A He receives the benefits to which he was
- 16 entitled, but he was not able to function as
- 17 a priest.
- 18 Q And who besides you as the Bishop and those
- 19 under your immediate circle, the vicar
- 20 general and/or the Chancellor, knew that you
- 21 had removed him for a second time for having
- 22 offended minors?
- 23 A The group that you had spoken about.
- 24 REPORTER: Could you repeat that,

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 please.
- 3 MR. O'CONNOR: Can you repeat both
- 4 the question and the answer? Thanks.
- 5 Q Who if anybody besides the Chancellor, the
- 6 vicar general and yourself knew that you had
- 7 removed him a second time for sexual abuse of
- 8 minors?
- 9 A Probably those two you mentioned, and I would
- 10 suggest probably the chair of the priest
- 11 personnel board.
- 12 Q When is the next time you received information
- 13 that one of the priests or clerics working in
- 14 the Diocese had or were suspected of offending
- 15 a minor?
- 16 A I'm only hesitating because I know that I
- 17 dealt directly with 11 cases between 1977 and
- 18 2002. I'm not sure I can give them to you in
- 19 sequential order because I don't have any
- 20 file like that in front of me.
- 21 Q That is all right. So Bishop, what we will
- 22 do is just go in sequential order as best you
- 23 can remember them to just walk through those
- 24 and how they came to you and what you can

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 remember about that. We can worry about the
- 3 dates later.
- 4 So after Stone, who next would you think
- 5 came onto your radar as having committed an
- 6 offense against minors?
- 7 A I think it may have been Father David
- 8 Bentley.
- 9 Q How did you learn of Bentley?
- 10 A I was contacted by the Commissioner of Social
- 11 Services in the county where he was serving
- 12 as a pastor.
- 13 Q And what were you told?
- 14 A We were told that they had received a
- 15 complaint that Father Bentley had abused a
- 16 certain individual, that they were providing
- 17 assistance to the individual and the family,
- 18 but they wanted us to do something about
- 19 Father Bentley.
- 20 Q And what did you do?
- 21 A Met with him, and he admitted that he had
- 22 engaged in this behavior, and he was sent for
- 23 treatment.
- 24 Q And how many kids did he admit to having

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 sexually abused?
- 3 A I was only aware of the one, and that is what
- 4 I confronted him with.
- 5 Q And did you make any effort to contact the
- 6 family of the kid to whom he admitted to you
- 7 having sexually abused?
- 8 A No, I did not because --
- 9 Q I'm sorry, I didn't hear you.
- 10 A No, I did not because the Commissioner that
- 11 had contacted the Diocese said that they were
- 12 providing assistance to the family. So I did
- 13 not make that contact.
- 14 Q Did you or anybody at your direction report
- 15 the information and the admission he made to
- 16 you to law enforcement?
- 17 A No.
- 18 Q Why didn't you call up law enforcement and
- 19 say Father Bentley just admitted to me that
- 20 he committed the crime of sexual abuse of a
- 21 minor, which was a felony? Why didn't you do
- 22 that?
- 23 MR. COSTELLO: Object to the form.
- 24 A Why didn't the Commissioner of Social Service

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 call the law enforcement?
- 3 Q Because I'm asking you, Bishop, why didn't
- 4 you after he admitted to you having committed
- 5 the felony of child sexual abuse, at his lips
- 6 to your ears, why didn't you call up the
- 7 police and say I have a priest that just
- 8 admitted a crime to me?
- 9 MR. COSTELLO: Object to the form.
- 10 You may answer.
- 11 A Because I was not a mandated reporter.
- 12 Q So your answer is you don't think the law
- 13 requires you to do that?
- 14 MR. COSTELLO: Object to the form.
- 15 A I don't think the law then or even now
- 16 requires me to do it. Would I do it now,
- 17 yes. But did I do it then, no.
- 18 Q We are talking about then, and is it also
- 19 correct that you were also operating under
- 20 the Canon Law, and that is the law of the
- 21 church promulgated by the Holy Father and
- 22 that office, and the Canon Law required you
- 23 as a Bishop to keep secret anything that
- 24 would be scandalous, correct?

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 MR. COSTELLO: Object to the form
- 3 of the question.
- 4 You may answer.
- 5 Q Is that correct?
- 6 A No. I don't think that is correct. I don't
- 7 think there is anything in Canon Law that
- 8 would prohibit me from doing that.
- 9 Q Why didn't you?
- 10 A Because of the reasons you cited before, the
- 11 reason of scandal and respect for the
- 12 priesthood.
- 13 Q Then what was done with Father Bentley? What
- 14 did you do with him?
- 15 A Sent him for treatment.
- 16 Q Where?
- 17 A Again, I'm not sure. If I check my files, I
- 18 could share that information with you. I
- 19 just don't remember which facility.
- 20 Q And you got a waiver of his medical privilege
- 21 so you could find out how he did and contact
- 22 the treatment facility if necessary, correct?
- 23 A Correct.
- 24 MR. COSTELLO: Object to the form.

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 Calls for a legal conclusion.
- 3 Q And did you ultimately return Father Bentley
- 4 to ministry?
- 5 A I did.
- 6 Q You did.
- 7 How long after he returned from treatment?
- 8 A I think shortly after he returned from
- 9 treatment.
- 10 Q And when you placed him in ministry, that was
- 11 in a parish, correct?
- 12 A My recollection is it was in a hospital
- 13 setting.
- 14 Q And did you warn anybody at that assignment
- 15 and/or the parish affiliated with the
- 16 hospital about the fact that he had been sent
- 17 to treatment for sexual abuse of a minor and
- 18 that he had admitted to you that he was a sex
- 19 criminal?
- 20 MR. COSTELLO: Object to the form.
- 21 A No, I did not.
- 22 Q You can answer.
- 23 A No, I did not.
- 24 Q So outside the circle of the Bishop, nobody

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 else knew besides you and your inner circle,
- 3 correct?
- 4 MR. COSTELLO: Objection.
- 5 A The people at the treatment facility.
- 6 Q Who would be the next one in time
- 7 approximately? I'm not worried as much about
- 8 time as much as chronology, rough chronology.
- 9 A It may have been Father James Rosch.
- 10 Q And how did that come to you?
- 11 A I think it came from a parent. I'm not sure.
- 12 I think it came from the parent.
- 13 Q When this report was made to you from the
- 14 parent, did you record it?
- 15 A Record it with some type of mechanical
- 16 device?
- 17 Q No. Make notes.
- 18 A I don't recall if I did or not.
- 19 Q Was it your practice then to keep and make
- 20 notes of reports of sexual abuse by clerics
- 21 under your authority or not?
- 22 A Not necessarily. If I knew what the
- 23 complaint was and I had an admission from the
- 24 cleric that he engaged in this conduct, I

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1 {HUBBARD - BY MR. ANDERSON}
 2 didn't think I had to make a lot of notes
 3 about that.
 4 Q Father James Rosch, on the report of the
 5 parent, what did the parent report to you?
 6 A I don't remember. I know it was -- I know it
 7 was that they believed their son was abused
 8 by him, and that's all I remember.
 9 Q And so you knew at that time the son -- it
 10 was reported that the son had been sexually
 11 abused by Father Rosch. You also knew that
 12 to be a felony, did you not?
 13 MR. COSTELLO: Object to the form.
 14 A I knew it was a crime. I don't know the
 15 level of the crime.
 16 Q What did you do on the report from the
 17 parent?
 18 A I had him sent to treatment.
 19 Q Do you have the name of the parent that made
 20 the report?
 21 A I don't know. I would have to check the
 22 file.
 23 Q Do you have a recollection of it being
 24 recorded in the file of the priest?

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1 {HUBBARD - BY MR. ANDERSON}
 2 A I'm sorry, I didn't hear the question.
 3 Q Do you have recollection of the identity of
 4 the parent and the child being recorded in
 5 the file maintained by the Diocese pertaining
 6 to Rosch?
 7 A I don't have the name of the parent in my
 8 mind right now.
 9 Q And so after having gotten the report from
 10 the parent, what did you do, Bishop?
 11 A I called the priest in. I confronted him
 12 with the allegation. He admitted it, and I
 13 told him he had to go away for treatment.
 14 Q And when you confronted him with the
 15 allegation, did you ask him if there were
 16 others?
 17 A No, not to my best recollection.
 18 Q And when he admitted it, he admitted to you
 19 that he had committed the crime of sexual
 20 abuse of a minor while working as a priest,
 21 correct?
 22 MR. COSTELLO: Object to the form.
 23 A I missed the last two words of your question.
 24 I'm sorry.

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1 {HUBBARD - BY MR. ANDERSON}
 2 Q When you confronted him, he admitted to you
 3 that he had committed the crime of sexual
 4 abuse of a minor while working as a priest,
 5 correct?
 6 A Yes.
 7 MR. COSTELLO: Same objection.
 8 MR. O'CONNOR: Jeff. Jeff, in
 9 about five to seven minutes I want to take
 10 maybe a 20-minute break for lunch.
 11 MR. ANDERSON: Sure.
 12 MR. O'CONNOR: Pick a time you want
 13 to stop. I'm not going to pick a time you
 14 stop.
 15 MR. ANDERSON: Well, whatever the
 16 witness and you choose, we will be happy
 17 to accommodate. So I'll continue and in
 18 about 15 minutes we will --
 19 MR. O'CONNOR: Why don't we go to
 20 12:15.
 21 MR. ANDERSON: Fine.
 22 MR. O'CONNOR: That way we can
 23 incorporate both our five-minute break and
 24 our lunch stop so we can make it quick.

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1 {HUBBARD - BY MR. ANDERSON}
 2 MR. ANDERSON: All right.
 3 Q So after having confronted him and after him
 4 having admitted it, do you remember what
 5 treatment center you sent him to?
 6 A I would have to review the file.
 7 Q So it is pretty much the same protocol you
 8 testified to earlier. Sent him to a
 9 treatment center, got a report. They gave
 10 you some information under a waiver, and then
 11 did you return Father Rosch to ministry?
 12 A Yes.
 13 Q And when you returned him to the ministry,
 14 did you tell those at the assignment where
 15 you sent him that Father Rosch had not only
 16 admitted to sexual abuse of a minor, but he
 17 had been sent to treatment by you?
 18 A No.
 19 Q So you did not warn them at that new
 20 assignment and those under his charge,
 21 correct?
 22 A Correct.
 23 MR. COSTELLO: Objection to the
 24 form.

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 Q At any time up until that time had you warned
- 3 anybody about the peril that you knew existed
- 4 pertaining to the priests you've already
- 5 shared with us that have committed sexual
- 6 abuse of minors?
- 7 MR. COSTELLO: Object to the form.
- 8 A I relied on the professional assessment of
- 9 the people at the treatment centers.
- 10 Q So they never told you not to warn people,
- 11 though? They just told you whether or not
- 12 they thought the priest was fit, right?
- 13 A That is correct.
- 14 Q So my question is when, if ever, did you ever
- 15 warn parishioners that you had a priest who
- 16 had admitted committing the crime of sexual
- 17 abuse to you?
- 18 A There was not a time when I warned parishioners
- 19 prior to 2002.
- 20 Q So did Rosch reoffend?
- 21 A No.
- 22 Q To this date, do you know how many kids he
- 23 abused?
- 24 A No, I don't.

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 Q Did you ever make any effort to find out the
- 3 identities of other kids, if there were, that
- 4 he abused?
- 5 A Not at the time, no. In fact, when we
- 6 established the independent mediation program
- 7 in 2003, we invited any victim of clergy
- 8 sexual abuse to come forward to receive
- 9 therapy and treatment, but prior to that.
- 10 Q Did you ever ask Rosch how many kids he had
- 11 abused and/or their identities?
- 12 MR. COSTELLO: Object to the form.
- 13 A Not that I recollect.
- 14 Q Who would be the next, Bishop, where there
- 15 was a report made to you or information that
- 16 came to you as Bishop that one of the priests
- 17 of the Diocese had abused?
- 18 A I think Edward Leroux.
- 19 Q And how did that information come to you?
- 20 A It didn't come from law enforcement, so I
- 21 assume it was from a parent.
- 22 Q And what did you do?
- 23 A Did the same thing that I did according to
- 24 what I considered the best practice at the

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 time, and I had the priest in, I confronted
- 3 him, he admitted to the behavior, and he was
- 4 sent to a treatment facility.
- 5 Q Did you ask him how many kids he had actually
- 6 abused or just pertaining to the one report
- 7 that had been made that caused you to
- 8 confront him?
- 9 A I just asked him about the cause that had
- 10 been made.
- 11 Q Do you remember what treatment center you
- 12 sent Leroux to?
- 13 A I can't remember.
- 14 Q You did get a waiver and sent him to a
- 15 center. He returned to ministry, is that
- 16 correct?
- 17 A Correct.
- 18 MR. COSTELLO: Object to the form.
- 19 Q You returned him to ministry because that
- 20 was -- because you were the Bishop, right?
- 21 It was your decision?
- 22 A It was my decision, yes.
- 23 Q And when you returned him to ministry, did
- 24 you warn any of those in the parish or the

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 location where he was returned to ministry
- 3 that he had admitted to the crime of sexual
- 4 abuse of at least one minor and been sent to
- 5 treatment by you for that reason?
- 6 A No.
- 7 MR. COSTELLO: Object to the form.
- 8 Q Did you make any inquiry of Leroux about the
- 9 identities of other kids he may have abused
- 10 besides the one he admitted to you?
- 11 A No.
- 12 Q And when you removed Leroux and all of these
- 13 others from ministry, is it correct to say
- 14 that you never really told the parishioners
- 15 the real reason for the removal? In fact,
- 16 you disguised it, correct?
- 17 MR. O'CONNOR: Object to the form.
- 18 MR. COSTELLO: Object to the form
- 19 of the question.
- 20 You may answer if you can.
- 21 Q Is it correct, Bishop, to say that of the
- 22 priests that we talked about, when you
- 23 returned them to ministry -- excuse me --
- 24 when you removed them from ministry for

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1 {HUBBARD - BY MR. ANDERSON}

2 sexual abuse and sent them to treatment, the

3 reason you gave to the parishioners where you

4 removed the offender from, you disguised the

5 real reason for the removal, is that correct?

6 MR. O'CONNOR: Object to the form.

7 MR. COSTELLO: Object to the for of

8 the question.

9 You may answer if you can.

10 A I'm not comfortable with the word disguised,

11 but we didn't reveal fully why the person was

12 removed.

13 Q Okay. Are you comfortable with withholding

14 the truth?

15 MR. O'CONNOR: Objection.

16 Q Is it correct to say you withheld the truth?

17 MR. COSTELLO: Objection to the

18 form.

19 A We could say a priest went away for health

20 reasons, and that is not untruthful, but it

21 is not the full truth.

22 Q And to say for health reasons is really

23 speaking in a euphemism or a code, isn't it?

24 MR. O'CONNOR: Object to the form.

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1 {HUBBARD - BY MR. ANDERSON}

2 A Not revealing the total reason, but it is

3 also for health purposes.

4 Q I know you were thinking about the priests in

5 this case, Father Leroux, Father Rosch and

6 the others before, but did you consider the

7 peril that you were placing kids in by

8 returning these priests to ministry at that

9 time, Bishop?

10 MR. COSTELLO: Objection.

11 A I certainly was aware from talking to victims

12 of what a horrendous abuse it was, but -- could

13 you give me the question again?

14 Q Did you consider the peril of returning these

15 priests who had admitted offending kids to a

16 ministry?

17 A I didn't consider that, and my understanding

18 is that no one who was returned to ministry

19 during this period of time reoffended. We

20 have no record of re-offense.

21 Q You already told us about Father Stone having

22 reoffended, right?

23 A Yes. I'm sorry.

24 Q Let's just go to the peril. You say you

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1 {HUBBARD - BY MR. ANDERSON}

2 considered the peril, but what did you do to

3 warn or protect the kids at risk, if

4 anything, Bishop, when you returned these

5 offenders to ministry?

6 MR. COSTELLO: Objection to the

7 form of the question.

8 You may answer if you can.

9 A I'm not aware of anything specifically that I

10 did to inform the parishioners.

11 Q Did you report Leroux to law enforcement and

12 what he had admitted to you?

13 A No, I did not.

14 Q And did you provide any of the documents that

15 you got from the treatment center about his

16 sexual history to law enforcement or anybody

17 outside the circle of the Bishop or your

18 office?

19 A No.

20 MR. ANDERSON: Okay. Do you want

21 to take a break now? Would you like to

22 take a break, Bishop? Would that work?

23 BISHOP HUBBARD: That would be fine

24 with me.

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1 {HUBBARD - BY MR. ANDERSON}

2 VIDEOGRAPHER: Going off the record

3 at 12:17.

4 (Off the record.)

5 VIDEOGRAPHER: We are back on the

6 record 12:46.

7 BY MR. ANDERSON:

8 Q Hi, Bishop. How are you feeling?

9 A Okay. Thank you.

10 Q Okay.

11 I'm going to continue along some of the

12 same line we have been talking about, and you

13 identified for us six different priests --

14 excuse me, five different priests who came to

15 your attention. So I would like to continue

16 along that same line of questions about

17 information you received pertaining to

18 priests and/or religious in the Diocese while

19 you were a Bishop. And we are now before

20 2002.

21 So the last one we just discussed was

22 Father Edward Leroux, and I would like to

23 direct your attention, then, to identify for

24 us another priest that came to your attention

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{HUBBARD - BY MR. ANDERSON}

as Bishop who had sexually abused or was suspected of having sexually abused minors while a priest in the Diocese?

I think the next may have been John Fitzpatrick. John Fitzpatrick, it was reported to me that he had abused a minor and then he admitted to it. We had him evaluated. He was sent for treatment. And you had asked me before did I ever contact victims. This was one instance that kind of formulated how I responded to victims. I asked him if there were other victims, and he gave me two or three names that I recall, and I reached out to two of these victims, and both of them were traumatized by my call. They were traumatized because I knew about it. They had either dealt with it or hadn't dealt with it or didn't want to deal with it with myself. And that in large measure led me following that to establish the independent mediation program where people could come forward confidentially and share trauma they experienced, and I know how

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{HUBBARD - BY MR. ANDERSON}

Q So he was returned to ministry but not in a parish? He was working at the pastoral center, correct?

A Correct.

Q And it is also correct to say, with the exception of having contacted the victims, law enforcement were not informed of what you learned from Fitzpatrick admitting it and/or what was learned from the treatment facility about his history, correct?

A That is correct.

MR. COSTELLO: Object to the form.

Q And this, however, there was a little different practice that you employed here, and that practice that was different than those you recited earlier was you had or made some contact with two victims or three, I think you said. Tell us what caused you to deviate from what you had done before as it pertains to Fitzpatrick by having made an effort to contact some victims. Tell us how that came to be.

A Primarily it came because I had personally

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{HUBBARD - BY MR. ANDERSON}

horrible that was for them, and then received counseling and some financial assistance. So Fitzpatrick did return to ministry for a short period of time and then resigned.

Q So we have pretty much the same practice that had been recited with the other five. A report made, he admitted it, a child sexual abuse to you as the Bishop, he was sent to treatment, correct?

A Right.

Q And where was he sent, do you remember?

A I'm sorry, I don't. If I said I do remember, I know they went to treatment but I can't remember specifically which facility they were treated at.

Q And as it pertains to John Fitzpatrick, after he is returned from treatment and you have gotten the records from them, you returned him to ministry and placed him back in a parish, is that correct?

A No. Fitzpatrick was placed in the pastoral center, and he was working on pastoral planning.

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{HUBBARD - BY MR. ANDERSON}

spoken to some victims, and I was more aware of how traumatic this experience was for them and the lifelong consequences it could have without intervention. So based upon that, the time that I met with Fitzpatrick, I thought maybe I should be more proactive in reaching out to victims. But that experience did not prove to be a beneficial one for the victims, and I did not continue to do that, except once we established the IMAP program in 2004, Independent Mediation Assistance Program.

Q And when you made the decision to speak with the victims of Fitzpatrick, how was it you discerned their identity? Was it from Fitzpatrick?

A From Fitzpatrick.

Q And did you do that because somebody else outside of yourself suggested that would be a good thing to do or is that just something you did out of your own conscience or awareness?

A As I mentioned, I had had the opportunity of

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1 {HUBBARD - BY MR. ANDERSON}

2 talking with some victims of priests that had

3 previously been accused, and I think was more

4 aware or conscious of how traumatic this was

5 for the victims, and that is why I reached

6 out to them. But that experience was not a

7 good experience. And while I felt we needed

8 to be more proactive in responding to the

9 victims, this was not the format for it.

10 Q Well, it is correct to say, Bishop, that of

11 all the priests that we have talked about who

12 you sent to treatment who had offended and

13 have admitted offending, and including John

14 Fitzpatrick, all of the victims and/or the

15 families of the victims were all Catholic,

16 correct?

17 A I think they were. I can't say that

18 absolutely, but certainly the majority were.

19 Q And so you know that as the Bishop of the

20 Diocese you were the shepherd of the flock

21 and in charge of the care of all of the souls

22 in that flock, correct?

23 MR. COSTELLO: Object to the form.

24 A That is correct.

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1 {HUBBARD - BY MR. ANDERSON}

2 Q What made you think at the time you contacted

3 these victims as the Bishop that in the

4 Catholic community you contacting them as the

5 Bishop wouldn't be traumatizing to them?

6 What made you think that?

7 MR. COSTELLO: You have multiple

8 questions advanced. Objection.

9 You may answer if you can.

10 Q Let me phrase that question differently.

11 MR. ANDERSON: Thank you, Mike. I

12 will do better.

13 Q What made you think that you as the Bishop

14 would not be traumatizing them by contacting

15 them personally instead of a professional

16 trained in doing so?

17 A Well, I thought, first of all, it was a

18 pastoral gesture on my part to let them know

19 that I felt deeply sorry for what they had

20 had endured, and that if there was some way

21 in which the Diocese could be of help to

22 them, given what they had experienced at the

23 hand of a priest of the Diocese, that that

24 would be well received. I knew that other

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1 {HUBBARD - BY MR. ANDERSON}

2 victims had come to me and they thought it

3 was helpful to talk to me, and based upon

4 that I thought it would be helpful if I reached

5 out. As it turned out, that was not a good

6 move. But it helped me appreciate that

7 another approach might take place, and that

8 is what I did later on in my ministry in

9 2003.

10 I would also note in this regard, that I

11 appointed a task force in 2002 to review the

12 cases that I had dealt with during the course

13 of my ministry, and I --

14 Q Okay. I'm sorry to interrupt you, but we

15 will get to that.

16 But I want to go back to your decision to

17 contact these victims. And that was your

18 decision, not on the advice of a professional,

19 correct?

20 A That is correct. Yes.

21 Q And did you make notes and/or a record of

22 this decision that you made and why you made

23 it in contacting these victims of Father

24 Fitzpatrick?

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1 {HUBBARD - BY MR. ANDERSON}

2 A No. I did not make any notes.

3 Q What year was that, Bishop?

4 A I'm not sure. I would say it was in the

5 mid-90's, but I'm not sure of the exact date.

6 Q We do need to know the identities of these

7 individuals whom you contacted.

8 A I don't have those. I don't have those now

9 at this point. There was no reason for me to

10 keep their identities. They obviously did

11 not want to talk and I certainly was not

12 going to put them in that position.

13 Q And why didn't you, knowing what you did,

14 that there were multiple victims, report it

15 to law enforcement so that they could

16 investigate this further?

17 A Because that was not the standard of practice

18 that our Diocese had in place at the time and

19 any other Diocese throughout the country.

20 Q And did it occur to you that somebody other

21 than you as the Bishop was much more equipped

22 to contact these victims with a background?

23 A Well, it occurred to me after I --

24 MR. COSTELLO: Object to the form

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1 {HUBBARD - BY MR. ANDERSON}
 2 of the question.
 3 A -- made the outreach. But it didn't occur to
 4 me before I made the outreach because, as I
 5 said, victims had come and I had spoke with
 6 many victims, and they took the initiative.
 7 So they found that to be helpful and I
 8 thought that maybe for those that were
 9 reluctant to reach out, that my outreach
 10 might be of solace to them, and that is why I
 11 undertook it. And on that limited experience
 12 I decided that was not a good approach.
 13 Q And you said that you believed and reached
 14 that belief that these victims you contacted
 15 were traumatized further. What leads you to
 16 believe that they were traumatized further?
 17 What made you say that?
 18 A One I remember said I didn't know anybody
 19 else knew about this. And I could just tell
 20 by his response, I mean, he made it clear
 21 that he was surprised that I knew it, number
 22 one. And number two, just from the quaver of
 23 his voice and so forth, it was obvious that
 24 he was very uncomfortable.

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1 {HUBBARD - BY MR. ANDERSON}
 2 Q What about the other two or --
 3 A I only contacted two. I said he gave me two
 4 or three names. I contacted two. I didn't
 5 go any further.
 6 Q And what did the second one do or say in
 7 response to you having contacted him?
 8 A I think he indicated that he was
 9 uncomfortable in knowing that other people
 10 knew information about the fact that he was
 11 abused, and it was something he had put
 12 behind him and now I was raising it afresh
 13 for him, and he was not at that time, anyway,
 14 prepared to deal with it.
 15 Q So both of them expressed some degree of
 16 shame to you, correct?
 17 A Correct. Shame that somebody besides the
 18 abuser was aware of it and now had contacted
 19 them.
 20 Q Did that experience then inform you so that
 21 you made the choice not to make any other
 22 efforts to contact victims again until
 23 sometime after 2002?
 24 A Personally that I would take the initiative,

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1 {HUBBARD - BY MR. ANDERSON}
 2 yes. Even now I wouldn't do that.
 3 Q Well, after this experience with Father
 4 Fitzpatrick and having contacted these
 5 victims and believing that you traumatized
 6 them further by doing so, did it occur to you
 7 that maybe you should get some guidance from
 8 professionals about what you should do so
 9 that they wouldn't be traumatized, that you
 10 are not equipped to do that? Did you think
 11 about that then?
 12 MR. COSTELLO: Objection to the
 13 form of the question.
 14 You may answer if you can.
 15 A I spoke to some people about it, including
 16 the members of the review board at the time,
 17 and they agreed that I should not continue
 18 reaching out by myself.
 19 Q And so did you ever then before 2002 have a
 20 professional trained in understanding the
 21 traumatogenic dynamics of abuse do that so
 22 that it would be done better?
 23 A No. We did hire a victims assistance
 24 coordinator in 2002, but prior to that we had

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1 {HUBBARD - BY MR. ANDERSON}
 2 not formed that office for the Diocese.
 3 Q Did you offer those victims compensation that
 4 you reached out to?
 5 A No.
 6 Q Did you know the statute of limitations had
 7 expired on the crimes that had been committed
 8 on them?
 9 A I'm not sure it had.
 10 Q Do you know how long ago before the time that
 11 you contacted them, Fitzpatrick had abused
 12 them?
 13 A No.
 14 Q Did you do this under the guidance of legal
 15 counsel?
 16 A No.
 17 Q Father Fitzpatrick would be number six. Who
 18 else do we have then that would be number
 19 seven, somebody else who you became aware of
 20 had been a priest who had sexually abused a
 21 minor in the Diocese?
 22 A Father McDermott, James McDermott.
 23 Q What did you do -- how did you learn that
 24 Father McDermott had sexually committed the

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 crime of sexual abuse of a minor?
- 3 A I can't remember exactly who came forward.
- 4 It was not law enforcement. So it was
- 5 someone, a parent or someone from the parish.
- 6 And again, I had him in, he admitted to the
- 7 misconduct, and he was sent for treatment.
- 8 And at the end of treatment he decided that
- 9 he was going to resign from ministry.
- 10 Q Did you learn from him through the treatment
- 11 and/or from himself, from Father McDermott,
- 12 that he realized that he could not control
- 13 his sexual impulses and he made the personal
- 14 decision as opposed to you to resign from
- 15 ministry?
- 16 MR. COSTELLO: Object to the form
- 17 of the question.
- 18 You may answer.
- 19 A I think that the course of treatment probably
- 20 helped him appreciate that continuing to
- 21 minister was not something that he wanted to
- 22 do.
- 23 Q How many kids did he admit to you or did you
- 24 learn he had abused?

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 A Well, there was a room in which the files
- 3 were kept.
- 4 Q And on McDermott, as an example, would there
- 5 be two files on McDermott? One, a general
- 6 file that shows his assignments, and another,
- 7 a secret file that contains scandalous
- 8 material?
- 9 MR. COSTELLO: Object to the form.
- 10 You may answer.
- 11 A There was at one time, but that is no longer
- 12 the case. I began putting all the files that
- 13 we had at the chancery into one back in 2013.
- 14 Q Did Bishop Broderick, to your knowledge, your
- 15 predecessor, keep two files, one general
- 16 personnel file and another, a secret file
- 17 that contained scandalous material?
- 18 A It was a sealed file.
- 19 Q Sealed file, okay.
- 20 And who had access to the sealed file as
- 21 you understood it under Bishop Broderick?
- 22 A I would assume it was himself and the
- 23 Chancellor and the vicar general.
- 24 Q Are you familiar with the Canon under the

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 A I only know the one when we received the
- 3 complaint.
- 4 Q Did the treatment history you got reflect
- 5 that he had a history of abuse of others?
- 6 A I don't recall.
- 7 Q Did you report McDermott to law enforcement?
- 8 A No.
- 9 Q What did you do with the treatment records
- 10 you received?
- 11 A I assume they are in the file of Father
- 12 McDermott.
- 13 Q And that would be what you call the priest
- 14 file or the personnel file?
- 15 A Yes. All the files are in one that are at
- 16 the chancery.
- 17 Q And where at the chancery --
- 18 MR. O'CONNOR: Excuse me, Jeff.
- 19 Bishop, you have to speak up just a
- 20 little bit.
- 21 Q Where at the chancery was that personnel file
- 22 on McDermott and others housed?
- 23 A Where was it housed?
- 24 Q Yes. Where was it kept?

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 1983 Canon Law and its predecessor, I think
- 3 it was 1913, of the Canon that required any
- 4 file that contains scandalous material be
- 5 kept in a separate and/or secret archive?
- 6 Are you familiar with that particular Canon?
- 7 MR. COSTELLO: Object to the form
- 8 of the question.
- 9 You may answer if you can.
- 10 A I knew that there was such a canon, yes.
- 11 Q It is numbered Canon 489, and when we talked
- 12 about a secret file, that sealed file was
- 13 kept secret for the Bishop's eyes and his
- 14 designees only. That would be the
- 15 Chancellor, perhaps the vicar general and the
- 16 then Bishop Broderick, correct?
- 17 A Correct.
- 18 Q And then as you took over the Diocese, did
- 19 you continue the same policy retention --
- 20 excuse me, file retention policies as Bishop
- 21 Broderick had used, that is keeping two
- 22 files, one general personnel file and another
- 23 sealed file?
- 24 A Yes.

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1 {HUBBARD - BY MR. ANDERSON}

2 Q And the scandalous material went into the

3 sealed file, correct?

4 A Correct.

5 Q And the sealed files, were they kept under a

6 lock and key?

7 A I think they were, yes.

8 Q How many secret files did the Diocese have

9 and maintain up until 2002?

10 A I have no idea.

11 Q How many secret files did you review over

12 your tenure as Bishop?

13 A Could you give me the question again, please.

14 Q How many sealed or secret files did you cause

15 to review or have cause to review over your

16 tenure as Bishop until 2002?

17 A I would say 11, maybe 13.

18 Q Do you know if you actually reviewed all the

19 secret files that have been housed and kept

20 by your predecessor?

21 A No. The only files that I reviewed during my

22 tenure of the sealed files were when there

23 was a report of misconduct on the part of a

24 priest, and then I would look at the sealed

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1 {HUBBARD - BY MR. ANDERSON}

2 file to see if there was anything prior that

3 would substantiate a report that I received.

4 Q So if I'm hearing you correctly then,

5 McDermott, as an example, when you get a

6 report on McDermott, you say oh, there is a

7 report on McDermott of scandal which is

8 sexual abuse of minors, so then you would go

9 to see if there is a secret file, correct?

10 A A sealed file, yes.

11 Q Sealed file, okay.

12 Do you have any idea of the number of

13 sealed files there were housed by the Diocese

14 of Albany at the time of your resignation?

15 A No. I had no idea because I was only in that

16 room once. It was when I was Bishop Emeritus.

17 And when I wanted the sealed file, I would

18 ask the Chancellor to get the file and bring

19 it to me. But I was only in the room itself

20 once. I had no idea how many files were in

21 that room.

22 Q So we covered McDermott.

23 Did you not go to the files that were

24 sealed and do that because you didn't want to

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1 {HUBBARD - BY MR. ANDERSON}

2 see how many priests there were in them that

3 had offended children in the past and/or

4 present?

5 MR. COSTELLO: Object to the form.

6 A Well, the files contain more than just abuse

7 of minors. There was other things,

8 complaints that people had made about a

9 priest, about maybe alcohol, about maybe how

10 finances were being handled and so forth. So

11 there was more than just material in there

12 that dealt with the abuse of minors.

13 Q I understand that there wouldn't be any

14 scandalous material that is deemed to be

15 such. But my question to you, Bishop, is

16 didn't you want to know how many priests and

17 what priests had sealed files that contained

18 materials that would tell you if they were a

19 risk to other kids? Did you ever make an

20 effort to review those files to see if you

21 had priests in ministry that were documented

22 abusers according to the sealed files?

MR. COSTELLO: Object to the form.
You may answer.

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1 {HUBBARD - BY MR. ANDERSON}

2 A Well, first of all, they would have

3 information that a complaint was made against

4 a priest. I don't know if it was documented

5 that the abuse was verified. But no, I did

6 not make a review of the files. It was

7 something I was going to do, except when

8 there was an allegation against a priest of a

9 serious nature, and then I would review the

10 file to see if there was a history.

11 Q Do you regret not being more proactive about

12 reviewing the files that did exist that

13 document reports of sexual abuse?

14 MR. COSTELLO: Object to form.

15 A Well, yes. We can judge -- I can judge how I

16 acted historically and how I would act today

17 based upon the knowledge that I have today.

18 To give you an instructive analogy, at Easter

19 I went to my niece's for dinner, and one of

20 her grandchildren was there with the rest of

21 the family. And he had had his tonsils out

22 the day before, outpatient. I had my tonsils

23 out in the mid-1940's. I was in the hospital

24 for three days. Things change. As

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1 {HUBBARD - BY MR. ANDERSON}

2 information and awareness and experience

3 enable us to make different decisions in

4 different points of time, given our

5 understanding and knowledge. And I certainly

6 cannot say that what I did was the best

7 practice, but it was the best practice that I

8 had in my own mind at the time, trying to use

9 the standards that were available at the

10 time.

11 Q I heard your analogy. Let me offer you one.

12 The expression you can't see if you don't

13 look, Bishop, you can't see if you don't

14 look, do you know how many files existed in

15 the Diocese of Albany that you didn't look at

16 that were sealed that contained information

17 pertaining to the child sexual abuse by

18 priests that later went on to abuse other

19 kids because you didn't look?

20 MR. COSTELLO: Object to the form

21 of the question.

22 A To my knowledge -- to my knowledge, the only

23 people that came forward during my tenure, at

24 least up until 2002, were priests active in

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1 {HUBBARD - BY MR. ANDERSON}

2 ministry.

3 Q Other than -- go ahead. I'm sorry, Bishop.

4 A There were priests that were currently active

5 in ministry.

6 Q Other than sending these priests who you have

7 talked about and that we are now talking

8 about before 2002 who offended children,

9 other than sending these priests to a

10 treatment center where it is confidential,

11 and then getting the information from them

12 and then talking to the priest and getting

13 their version of what they had done, can you

14 identify any other practice that you

15 employed, besides sending them to treatment

16 and/or talking to the priest, that protected

17 other kids from future abuse?

18 A Yes. When they returned and if they were

19 restored to ministry, they had to continue

20 counseling, and they also had to have a

21 spiritual director.

22 Q Who did you refer them to for counseling?

23 A There was a variety of people. Some went to

24 psychologists or psychiatrists within the

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1 {HUBBARD - BY MR. ANDERSON}

2 community, and some went to a counselling

3 center.

4 Q Is there anything else that you did as Bishop

5 to ensure the safety and future protection of

6 kids beyond sending them to treatment, asking

7 the priest what they did and/or having them

8 seek counsellors?

9 A Well, what I was referring to in your

10 previous question was continued treatment and

11 support after they returned and were restored

12 to ministry. So it wasn't just the treatment

13 at the facility, but it was an ongoing

14 program of support and counseling.

15 Q Would you agree that when you look at your

16 obligations to the flock and the children in

17 it, that the safety of the children must come

18 first?

19 A Yes, it should.

20 Q Did you put the safety of the children first

21 when you sent these priests to treatment and

22 returned to them to ministry?

23 A No, I would not say that was true.

24 Q Would you agree with this statement or

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1 {HUBBARD - BY MR. ANDERSON}

2 disagree, telling the truth and warning of a

3 risk are good safety practices?

4 MR. COSTELLO: Object to the form.

5 You may answer.

6 A Yes. I would say that is a good principle.

7 Q When, if ever, did you ever warn the

8 parishioners and their families of a risk

9 known to you of sexual abuse by priests we

10 discussed or will be discussing?

11 A I did not do that before 2002.

12 Q With this statement, tell me if you agree or

13 disagree. The Bishop shouldn't gamble with

14 the children's safety?

15 MR. COSTELLO: Object to the form.

16 You may answer.

17 A I would agree with the statement.

18 Q And did you gamble with the safety of the

19 children when you chose to hear these priests

20 admit it, not report it to the police and

21 then send the priest to treatment?

22 MR. COSTELLO: Objection.

23 A At the time I did that, I thought I was

24 preventing the priest from further

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1 {HUBBARD - BY MR. ANDERSON}

2 misconduct, and so I thought I was protecting

3 the victims in that sense.

4 Q But you were really thinking about the

5 priests and not the safety of the kids,

6 weren't you?

7 A No. I was thinking about the safety of the

8 kids because there were certain people that

9 received treatment that didn't go back to

10 ministry.

11 Q Would you agree or disagree with this

12 statement? Anybody that has responsibility

13 for placing adults in a position of trust

14 must be certain they are not putting children

15 at risk.

16 MR. COSTELLO: Object to the form

17 of the question.

18 Q Agree or disagree?

19 A I don't know if you could ever have certitude

20 that someone couldn't offend against a child.

21 But I think you would have to have the

22 responsibility of knowing that -- knowing

23 that it was unlikely that a person would do

24 anything inappropriate with a child.

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1 {HUBBARD - BY MR. ANDERSON}

2 Q Would you agree or disagree with this

3 statement? It is never okay to hide a

4 history of sex crimes from police or

5 prosecutors?

6 MR. COSTELLO: Object to the form

7 of the question.

8 You may answer if you can.

9 A Well, certainly I agree with that because

10 that is our policy at the present time.

11 Q Yeah, but in the past you did hide this, any

12 sex crimes by these priests both from the

13 police and prosecutors, didn't you, Bishop?

14 MR. O'CONNOR: Objection to form.

15 MR. COSTELLO: Object to the form.

16 A Because sometimes police or prosecutors

17 contacted me and asked me to do something

18 about it.

19 Q But you never reported any of these to police

20 that we have talked about so far, correct?

21 A No. I didn't report it, but they did report

22 to me and asked me to do something about it.

23 Q Would you agree with this or disagree?

24 Anyone who does hide a known danger from

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1 {HUBBARD - BY MR. ANDERSON}

2 parents to their kids from law enforcement is

3 responsible for the harm caused?

4 MR. O'CONNOR: I object to that.

5 MR. COSTELLO: Object to the form

6 of the question.

7 MR. O'CONNOR: And I object to the

8 line, Jeffrey. The reptile stuff is fine

9 and dandy, but it is not really

10 applicable. You can ask him factual

11 questions about the case, but this is all

12 from the reptile, and I object to it and

13 it is not proper. You can ask him

14 questions about his conduct, his

15 involvement with the cases. And if you

16 want to get the judge on the phone, that

17 is fine, because this is -- I have been

18 down this road. I heard of the book. It

19 is an interesting book.

20 MR. COSTELLO: These are rhetorical

21 questions and they are not a proper part

22 of this deposition.

23 MR. ANDERSON: So you are asking me

24 to move on. I'll move on.

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1 {HUBBARD - BY MR. ANDERSON}

2 MR. COSTELLO: All right.

3 Q We talked about McDermott. Let's continue

4 along the same lines of other reports that

5 you got of priests in the Diocese, religious

6 or priests, who have been reported to you to

7 have abused minors. Who else?

8 A Mark H-a-i-g-t-h (SIC).

9 Q H-a-i-g -- spell that again for me, would you

10 please, Bishop. I'm so sorry.

11 MR. O'CONNOR: H-t.

12 A H-a-i-g-h-t.

13 Q How did Father Haight come onto your radar as

14 an abuser?

15 A It came from a parent at the parish he was

16 associated with, St. Joseph's in Scotia.

17 MR. ANDERSON: We will need the

18 name of that parent. Do you want to give

19 that on this record or should we have that

20 under seal, Counsel?

21 MR. O'CONNOR: Sealed.

22 MR. COSTELLO: Under seal.

23 MR. ANDERSON: We will probably ask

24 you to inquire on that and put that under

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 seal.
- 3 Q On that same topic, Bishop, when you went to
- 4 the victims, did you learn about pertaining
- 5 to Fitzpatrick or was it McDermott. If you
- 6 discerned their identities, we will need to
- 7 have their identities and provide to counsel
- 8 so they can be placed under seal.
- 9 A I don't know if I have the identities, but if
- 10 I have them I will turn them over to counsel.
- 11 Q Okay. We will do that.
- 12 So as it pertains to Father Haight, he was
- 13 at St. Joseph's, apparently reports to you
- 14 sexual abuse, what did you do?
- 15 A I followed the procedure that I've already
- 16 mentioned in our interaction. I called him
- 17 in, I obtained from him that he had engaged
- 18 in such behavior. I had a psychologist
- 19 interview him, and I sent him for treatment.
- 20 Q Did you ask him how many kids he had abused?
- 21 A No, I did not.
- 22 Q Have you since learned?
- 23 A I have learned, yes.
- 24 Q What have you learned?

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 A I have learned that there were a number of
- 3 other cases. I don't know the exact amount,
- 4 but it was more than a couple.
- 5 Q Do you remember where you sent him to
- 6 treatment?
- 7 A Yes. He went to Jemez Springs. I remember
- 8 that.
- 9 MR. ANDERSON: Jemez Springs. We
- 10 will give you the spelling. It is a
- 11 Servants of The Paraclete facility. It is
- 12 also referred to as Via Chai. Jemez
- 13 Springs, run by a religious order called
- 14 the Servants of The Paraclete. We will
- 15 give you all the spellings, Laura.
- 16 Q Did you speak with Liam Hoare or Father
- 17 Fitzgerald there?
- 18 A Liam Hoare, I think. I never spoke with
- 19 Father Fitzgerald. I think he was no longer
- 20 the director at that time.
- 21 Q And did you return Father Haight to ministry
- 22 after having sent him to the Servants of The
- 23 Paraclete?
- 24 A I did.

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 Q And did he reoffend?
- 3 A To my knowledge, he did not reoffend, but
- 4 other abuses prior to his treatment did come
- 5 forward and we removed him from ministry.
- 6 Q And when you did, you removed him from active
- 7 ministry so you restricted his faculties to
- 8 minister? Is that a correct term or not?
- 9 A No. He was removed publically from any
- 10 priestly ministry.
- 11 Q So removed publically from ministry, but he
- 12 was allowed to continue to be a minister to
- 13 the Diocese and a priest of the Diocese at
- 14 Albany by you, correct?
- 15 MR. COSTELLO: Object to the form.
- 16 A No.
- 17 Q Was he removed from the clerical state?
- 18 A That would be my definition of it. I'm not a
- 19 Canonist, but he was not allowed to function
- 20 any further as a priest.
- 21 Q But that would be publically, correct?
- 22 A It would be public if he -- if he presented
- 23 himself as a priest and it was reported to me
- 24 or if he tried to go to another Diocese and

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 present him as a priest, we would have told
- 3 him he was ineligible.
- 4 Q Is it correct, Bishop, that the only priest
- 5 whom you petitioned for laicization by reason
- 6 of sexual abuse was Mercure?
- 7 A I think that is correct. There might be
- 8 another but I'm not sure. I know Mercure was
- 9 laicized.
- 10 Q And the reason you petitioned for his
- 11 laicization was because he was criminally
- 12 convicted, and days before he was sentenced
- 13 you made and filed that petition to limit
- 14 public scandal, correct?
- 15 MR. COSTELLO: Object to the form.
- 16 You may answer.
- 17 A It was already a public scandal.
- 18 Q Yeah, but you did something to try to
- 19 diminish what had already become a huge
- 20 public scandal by reason of that trial and
- 21 conviction, correct?
- 22 MR. COSTELLO: Object to the form.
- 23 A I can't -- I did it because I thought in was
- 24 in the best interest of the church.

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1 {HUBBARD - BY MR. ANDERSON}

2 Q But he is the only one you ever petitioned

3 for laicization on that was sexually abusive

4 of children, correct?

5 A Correct.

6 Q He is the only one you sought to remove from

7 the clerical state. All the other priests

8 were allowed to remain priests in the Diocese

9 in various ways, correct?

10 A No.

11 MR. COSTELLO: Form.

12 A That is not true. They were not able to

13 function in any public capacity in our

14 Diocese.

15 Q After 2002?

16 A No.

17 Q What priests were --

18 A Haight was removed before 2002.

19 Q Okay.

20 A The case we started talking about here.

21 Q And when was Haight removed?

22 A I'm going to say 1997, but I'm not sure of

23 the exact date. I can give you that

24 information when I review the file.

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1 {HUBBARD - BY MR. ANDERSON}

2 Q And he was removed after having been sent to

3 treatment because other allegations that had

4 been made against him came forward and were

5 made known to you, correct?

6 A Correct.

7 Q And of all those allegations that now were

8 made known to you in addition to the

9 treatment records you had gotten from Liam

10 Hoare and the Servants of The Paraclete were

11 not made available to the police by you,

12 correct?

13 MR. COSTELLO: Objection.

14 A Correct.

15 Q Who is the next one that would be on this

16 list of individual priests who you became

17 known or became known to you as offenders?

18 A I don't have the list in front of me. Edward

19 Pratt.

20 Q How did Pratt come to be known to you as an

21 offender of children?

22 A A complaint from a victim.

23 Q And in that case did you ask Pratt if he had

24 abused?

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1 {HUBBARD - BY MR. ANDERSON}

2 A Yes, I did.

3 Q And he admitted it?

4 A He admitted it, yes.

5 Q Did you ask him how many kids?

6 A No.

7 Q Do you know?

8 A I know there was more than the one that came

9 forward. I don't know the exact number.

10 Q He was sent to treatment?

11 A Yes.

12 Q Returned to ministry?

13 A Yes.

14 Q Reoffended?

15 A Not after returned to ministry.

16 Q You identified that there were 11 by your

17 memory, I think, in number. We have gone

18 through eight. Do you have by name -- we

19 have gone through nine perhaps, nine with

20 Pratt. Do you remember the other two of the

21 11 that you enumerated?

22 A Did you consider Stone in those 11?

23 Q Yes.

24 A Mancuso.

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1 {HUBBARD - BY MR. ANDERSON}

2 Q As it pertains to Mancuso became known to you

3 that he had offended, you sent him to

4 treatment?

5 A No. I did not send him to treatment because

6 that complaint came in maybe in April of 2002

7 and we had not completed -- we had only

8 completed the investigation I think in late

9 May or early June. So I think we offered him

10 treatment when he was removed from ministry

11 but he didn't take it as far as I recall.

12 Q And what happened to him then after this came

13 onto your radar?

14 A He and Pratt were both publically removed

15 from ministry, along with the others who were

16 still active in ministry in accord with the

17 2002 charter.

18 Q And was he restricted or removed before the

19 charter?

20 A He was -- I told you. Those cases came in in

21 the late spring of 2002. We had determined,

22 I think around the time that the charter was

23 being discussed in Dallas that both Pratt and

24 Mancuso were guilty of sexual abuse. So when

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1 {HUBBARD - BY MR. ANDERSON}
 2 we removed the other priests that were active
 3 in ministry, they were listed with those
 4 priests. So they were publically removed in
 5 June of 2002.
 6 Q Do you remember the name of the eleventh?
 7 (Pause.)
 8 Q That is okay. We are going to move on.
 9 I'm going to ask you some other questions
 10 here, Bishop, because I think you are maybe
 11 the longest-standing Bishop in one Diocese
 12 that I have ever encountered in all these
 13 years. 37 years as a Bishop, isn't that
 14 right?
 15 A Yes. Longer than that if you count my time
 16 as Emeritus.
 17 Q Yes, yes. So it has been almost 40, I guess.
 18 (Witness nodded.)
 19 Q Anyway, this goes to obligations of those
 20 under the Bishop and as Bishop what you would
 21 expect of those under your charge to do as it
 22 pertains to suspicions of sexual abuse. As
 23 Bishop, of course, you were the one that is
 24 ultimately responsible for the placement of

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1 {HUBBARD - BY MR. ANDERSON}
 2 any priest, correct?
 3 A Correct.
 4 Q You are the one that is responsible for,
 5 ultimately, the supervision of that priest in
 6 that assignment where placed, correct?
 7 MR. COSTELLO: Object to the form.
 8 You may answer.
 9 A Ultimately, yes. But day-to-day supervision,
 10 no. That is not possible.
 11 Q You have to delegate that, correct?
 12 MR. COSTELLO: Objection.
 13 A No, not necessarily delegate it, but our
 14 Diocese is 10,400 square miles. It goes 120
 15 miles east and west, 120 miles north and
 16 south. To expect that one man is going to
 17 supervise every priest in that large
 18 territory is unrealistic.
 19 Q It is the Bishop's responsibility to set up a
 20 system for supervision of the clerics that he
 21 places, correct?
 22 MR. COSTELLO: Object to the form.
 23 You may answer.
 24 A Well, we have deans and now vicars that are

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1 {HUBBARD - BY MR. ANDERSON}
 2 in local areas, and if information comes to
 3 them about inappropriate behavior on the part
 4 of a cleric, they are to report to the
 5 Bishop.
 6 Q Is it correct that while you were a Bishop
 7 and placing priests in various assignments in
 8 schools, in parishes and in other assignments
 9 that it is your expectation that if there
 10 were suspicions of sexual abuse of minors by
 11 any of those priests, the other people in the
 12 parishes, lay and otherwise, would report it
 13 up the line to you, correct?
 14 A Correct.
 15 MR. COSTELLO: Objection.
 16 Q So if a secretary to a priest witnessed or
 17 became aware of a priest abusing a child, you
 18 would have expected as a Bishop that
 19 secretary to report that up the line to you,
 20 correct?
 21 MR. COSTELLO: Object to the form.
 22 A Ultimately to me, yes.
 23 Q Yes.
 24 And if a child was sleeping over with a

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1 {HUBBARD - BY MR. ANDERSON}
 2 priest alone in a rectory and others became
 3 aware of that in that parish, you would
 4 expect that would be reported up the line to
 5 you as well, correct?
 6 A I would today. Whether I would have thought
 7 of that in 1977, I don't know if I would have
 8 come to that conclusion.
 9 Q Well, wouldn't you have thought in 1977 and
 10 even before that a priest sleeping with a kid
 11 in his bed in his rectory is suspicious of
 12 sexual abuse?
 13 MR. COSTELLO: I object to the
 14 form.
 15 A I didn't hear you say in his bed. I thought
 16 you said that he was sleeping in the rectory
 17 with -- in the rectory where the priest was.
 18 Yes, if I heard it was in his bed, that would
 19 be an entirely different matter.
 20 Q What about in the 70's priests having kids
 21 stay over at the rectory overnight, would
 22 that have been suspicious of sexual abuse in
 23 your view?
 24 A In 1977, probably not. In 1977 it was not

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{HUBBARD - BY MR. ANDERSON}

unusual for me in the station wagon that I owned at that time to take a group of five or six kids down to see a Yankee ball game or down to see a game at some college, and I know that I never had any intention of abusing any of those minors, and I never did. But I thought it was an act of kindness on my part to provide them with that opportunity. I know that today you can't do that, but in 1977 that was not my understanding.

Q In the 1970's would it have been suspicious for a priest to take kids on camping trips and sleep overnight?

MR. COSTELLO: I object to the form of the question. These are --

A No, I don't think that would be suspicious at all in 1977.

Q In fact, that is something you did with kids?

A I don't ever remember taking kids overnight, but I was a counselor at Camp Tekakwitha for four years. I had eight to ten kids in my cabin and they slept with me in that cabin overnight. I didn't think there was anything

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{HUBBARD - BY MR. ANDERSON}

And it is an article dated August 14, 2019. And the title of it at page one it says, Hubbard's past defenses of abuse of priests and of himself. At page two of this there is at the sixth paragraph down a reference, I'll just read it for brevity. It says, "In 1993, amid the first rumblings of a national awakening to the crisis of after-clergy sexual abuse of children, the Albany Diocese formulated a procedure to investigate abusers and protect victims/a policy that notably failed to include a mandate to alert law enforcement."

First, two questions, Bishop. Is that the policy you are referring to, the '93 policy?

MR. O'CONNOR: Could I just jump in one second, Jeff? Could you just identify the exhibit number and the page for me? Thank you.

MR. ANDERSON: 207, page two.

MR. O'CONNOR: Thank you, sir.

MR. COSTELLO: And this is an article published in what publication?

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{HUBBARD - BY MR. ANDERSON}

wrong with that.

Q Did you ever employ, before 2002, any policies or practices pertaining to childhood sexual abuse?

A Prior to 2002?

Q Yes.

A Yes. We had a manual put out in 1993.

Q We have never seen that manual. Where was it published?

A It was published in the Diocese, and then it was distributed to the parishes of the Diocese.

MR. COSTELLO: Jeff, we will get you a copy.

Q Did that manual in 1993 mandate a report of any suspicious -- any suspicions of sexual abuse of minors be reported to law enforcement?

MR. COSTELLO: Object to the form.

A To be honest with you, I'm not sure. I could make the schedule available to you.

Q There is an exhibit that we had referred you to before that we have marked Exhibit 207.

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{HUBBARD - BY MR. ANDERSON}

Got it. Thank you.

BISHOP HUBBARD: Could you tell me what paragraph this is on page two?

Q Well, my question is this, Bishop. It says in 1993. Do you see it there? So the question is two parts, first, you said you had a policy in 1993, correct?

A Correct.

Q It is also correct to say that the policy did not mandate reporting to police, correct?

A That is what it says.

Q I'm going to go back to Exhibit 207, and this is again the same article, but there is another portion of it. And this is now at page two of the same article. And at the bottom I'm going to read from the article and then ask you questions. Okay? It states at the bottom of the article at page two, quote, first it says, "And at a 2002 public forum at Albany Law School, Hubbard replied to criticism from angry Catholics and victims of clergy sexual abuse with repeated apologies and assurances that the new church rules had

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1 {HUBBARD - BY MR. ANDERSON}
 2 excised pedophiles from the priesthood."
 3 Then it stays, quote, "I would acknowledge in
 4 past we did not always handle the problem
 5 well." Unquote, Hubbard told the audience.
 6 Is that what you said, Bishop?
 7 A It certainly is my sentiment. And you are
 8 asking me to go back 19 years here. So I
 9 can't testify that those were my exact words,
 10 but certainly they expressed the sentiments
 11 that I had at that time.
 12 Q After that quote it states, in quotes, "It
 13 was only in the late 70's that the church
 14 began to appreciate the compulsive and
 15 addictive nature of sexual misconduct."
 16 Unquote. What caused you to appreciate in
 17 the 70's the compulsive and addictive nature
 18 of sexual misconduct?
 19 A Well, certainly the records that I received
 20 from the local psychologists that we used and
 21 from the treatment centers underscored that
 22 this was a problem that was not limited to
 23 one time and that it was an addictive problem
 24 that had to be addressed constructively or

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1 {HUBBARD - BY MR. ANDERSON}
 2 there was a likelihood that the abuse would
 3 recur.
 4 Q So once you learned that, Bishop, what
 5 practice then did you employ that recognized
 6 that this was a problem that reoccurs and to
 7 protect kids from future harm that was
 8 different from what you had done before that?
 9 A Well, I believe that through treatment people
 10 can learn how to control that addictive issue
 11 that they have and not reoffend going
 12 forward. But without proper treatment and
 13 recommendations by the professions we relied
 14 upon, the likelihood that the person would
 15 reoffend is probably great, and that is why
 16 we always insisted that treatment take place
 17 once a report was received.
 18 Q So who is the local psychologist that you
 19 relied upon in the 70's in garnering this
 20 information?
 21 A Dr. John Wockner.

MR. COSTELLO: Hey Jeff, excuse me.
 This is Mike. I have to jump off for
 about an hour for a hearing on another

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1 {HUBBARD - BY MR. ANDERSON}
 2 case, and I'll jump back on. But Marie
 3 will just resume for me. All right?
 4 MR. ANDERSON: Okay.
 5 Let's take down Exhibit 2.
 6 MR. O'CONNOR: Hey, Jeff, let's
 7 also take five, Jeff. We have been going
 8 for about an hour and ten minutes.
 9 MR. ANDERSON: Sure enough.
 10 MR. O'CONNOR: Just five minutes.
 11 It is 1:52 on my Apple clock from
 12 Cupertino. We will recommence at 2 o'clock
 13 or 1400 hours. How does that sound?
 14 MR. ANDERSON: Okay.
 15 VIDEOGRAPHER: Going off the
 16 record, 1:52.
 17 (Off the record.)
 18 VIDEOGRAPHER: Back on the record
 19 at 2:01. Go ahead.
 20 BY MR. ANDERSON:
 21 Q Okay, Bishop, let's see, are you able to see
 22 me?
 23 A I am.
 24 Q Bishop, in one of the exhibits that I had

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1 {HUBBARD - BY MR. ANDERSON}
 2 sent in advance and we marked P3, it is
 3 called The Problem of Sexual Molestation by
 4 Roman Catholic Clergy: Meeting the Problem
 5 in a Comprehensive and Responsible Manner.
 6 It was a report prepared and submitted to the
 7 Catholic bishops, and all of them in advance
 8 of their national conference in Collegeville
 9 in 1985. It was a report prepared by Father
 10 Tom Doyle, who had been the Canon lawyer to
 11 the papal delegate, Pio Laghi, prepared also
 12 with Dr. Father Michael Peterson, the
 13 director at St. Luke's, the treatment center
 14 that had treated priests, and also a defense
 15 lawyer, Ray Mouton, who had represented
 16 Father Gluthe in the crisis that had broken
 17 out in Louisiana. This report and their
 18 presentation was made to all the Catholic
 19 bishops in 1985 at their meeting in
 20 Collegeville. My question to you first is
 21 did you ever see the report?
 22 A I don't think I saw the report before you
 23 sent it as an exhibit, but I was present when
 24 the report was made. So I certainly heard

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1 {HUBBARD - BY MR. ANDERSON}

2 the report. I remember the presentation.

3 Q And the presentation was made by Doyle and

4 Peterson, correct?

5 A To the best of my recollection, yes.

6 Q And as a result of that presentation made to

7 you as one of the bishops assembled to

8 address what is then the crisis of pedophilia

9 in the Catholic church and the problem of

10 sexual molestation by priests, did you as a

11 Bishop change any of the practices you

12 employed based on the information you got at

13 Collegeville and the presentation given you

14 by Doyle and Peterson?

15 A I don't know if I changed it immediately, but

16 as a result of that presentation the bishops

17 formed a committee on sexual abuse of minors

18 in the church, and we received reports on

19 that over the next several years. And as a

20 result of that I established the review board

21 and issued the policies that came out in

22 2003.

23 Q And that review board you are referring to

24 being established in response to the report

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1 {HUBBARD - BY MR. ANDERSON}

2 Q I'm showing you Exhibit P114. Do you have

3 that in front of you, Bishop?

4 A I do now, but it is hard to read.

5 Q At first this is taken from the file of Dozia

6 Wilson. Okay? Father Dozia Wilson who you

7 already mention is somebody whom you came to

8 know as an abuser of children. And we have

9 already talked about him and how you dealt

10 with that priest. And this comes from that

11 file, but it pertains to a number of topics

12 that I think we want to cover.

13 A Can I interrupt you for a second, please? I

14 have just one page. Is there more than one

15 page in this?

16 Q It is just one page.

17 A One page, okay.

18 Q Yes, one page.

19 A And where is this from?

20 Q From the file of Dozia -- Father Dozia

21 Wilson.

22 A Okay. This is a file from the Diocese?

23 Q Yes.

24 A Okay. Thank you.

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1 {HUBBARD - BY MR. ANDERSON}

2 was in what year?

3 A 1993.

4 Q Yeah. So that is eight years after this

5 report Bishop, right?

6 A It was eight years after the report but it

7 was within months after the bishops'

8 committee's report that was precipitated by

9 this document that you allude to.

10 Q So how, if at all, other than the commission

11 that you established in '93, how did the

12 practices you have been sharing with us in

13 any way pertaining to sexual molestation by

14 priests change at all after 1985 and before

15 2002?

16 A I don't think in terms of policy or practice

17 there was anything done differently in those

18 years.

19 Q I'm going to refer you to another exhibit,

20 and this is Exhibit P114, and this may be an

21 exhibit that is worth putting up because it

22 is going to require a little translation.

23 (Exhibit P114 shown on screen.)

24 MR. ANDERSON: Thank you.

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1 {HUBBARD - BY MR. ANDERSON}

2 Q Do you recognize the handwriting?

3 A No, I don't.

4 Q Okay. I'm going to read some of this and

5 then ask you questions pertaining to it. At

6 the top of this it says, "These letters were

7 in the, quote, 'not to be in Wilson's file

8 folder,'" unquote. So the question I have is

9 that means that that would go in the sealed

10 file, correct?

11 A I would assume that that is the case, yes.

12 Q And then the next sentence says, "Please advise

13 regarding disposition." Do you see that?

14 A I'm having trouble finding it.

15 Q Okay. Well, looking at this letter, do you

16 remember who else was involved with the Dozia

17 Wilson in your handling of him when the

18 sexual abuse surfaced?

19 A Well, the sexual abuse with Dozia Wilson

20 first occurred before I was Bishop. So I

21 don't know when this was written, and I don't

22 know if it was directed to me because I'm

23 seeing no date on this file.

24 Q This document is going to be held for some

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1 {HUBBARD - BY MR. ANDERSON}
 2 questions for documents and retention of
 3 documents. So in the document there is a
 4 reference to a Donlon. Was there a Father
 5 Donlon who was a judicial figure?
 6 **A** Yes.
 7 **Q** And was he a Canon lawyer?
 8 **A** Yes.
 9 **Q** Did he help you get help for some of the
 10 priests that had legal problems, Canon and/or
 11 otherwise?
 12 **A** He may have helped with canonical problems.
 13 He never helped with any governmental court
 14 or civil institutions.
 15 **Q** Do you remember relying upon him while Bishop
 16 or on the priest personnel board in helping
 17 you deal with Dozia Wilson?
 18 **A** If it was a canonical issue, I certainly
 19 would have spoken with him about it. But I'm
 20 not sure this is his memorandum. I don't
 21 know whose memorandum this is.
 22 **Q** At the bottom, two-thirds of the way down,
 23 there is a signature that says Terry right
 24 below please shred this document. Do you

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1 {HUBBARD - BY MR. ANDERSON}
 2 know who Terry would be at that time?
 3 **A** I don't know what time it is because it is
 4 not dated. But I think it is not Terry. I
 5 think it is Tony.
 6 **Q** Oh, okay. Tony. Who do you think Tony is?
 7 **A** Well, he was also a canon lawyer that worked
 8 for the Diocese.
 9 **Q** What is his last name?
 10 **A** Diacetis.
 11 It could be Terry, but Terry didn't
 12 become -- she became our victims assistance
 13 coordinator, and I don't think she would have
 14 been involved in canonical matters and
 15 further more she didn't come on board until
 16 2002. So I assume that if this was before
 17 2002 and he was removed in 1991, I assume
 18 that this is Tony Diacetis.
 19 **Q** So anyway, Diacetis is D-i-a-c-e-t-i-s,
 20 correct?
 21 **A** Correct.
 22 **Q** Going back to this document, under the please
 23 advise regarding disposition it states some
 24 items in the folder I put in red "psychological

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1 {HUBBARD - BY MR. ANDERSON}
 2 folder," and psychological folder is in
 3 quotes. Bishop, my question to you is did
 4 you keep a separate or did the Diocese keep a
 5 separate psychological folder pertaining to
 6 this priest and priests who offend kids?
 7 **A** Not that I'm aware of. I would assume that
 8 he is talking about the sealed file.
 9 **Q** It then goes on to state, and I don't expect
 10 you to be able to read it, but I will read
 11 it. It says, "In addition to psych reports,
 12 I have put correspondence from you and others
 13 regarding his treatment in this folder. It
 14 seemed logical." Then it goes on to state,
 15 "Some items clearly belonged in his personnel
 16 file, e.g. personnel survey form. So that is
 17 the same file we talked about before, not the
 18 sealed file but the personnel file, correct?
 19 **A** That is what I would assume, yes.
 20 **Q** Okay. Thank you.
 21 And then it goes on to state, "Press
 22 clippings will be put in a separate folder."
 23 My question to you is was there a separate
 24 folder kept for press clippings?

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1 {HUBBARD - BY MR. ANDERSON}
 2 **A** Not that I'm aware of. I would assume that a
 3 press clipping, unless it was about some type
 4 of sexual abuse, would be in his regular
 5 file.
 6 **Q** Well, this would be about sexual abuse, no
 7 doubt about that, given what we have in this
 8 file. So when it says press clippings will
 9 be put in a separate folder, would that be
 10 the sealed file, the priest personnel file or
 11 some other folder?
 12 **A** I would assume, again, it is an assumption on
 13 my part, but knowing practice, that would
 14 probably go in the sealed file.
 15 **Q** Okay.
 16 It then goes on to state, "A large folder
 17 with legal materials and notifications to the
 18 insurance company will be sent to Mike." Do
 19 you know who Mike is? Do you know who the
 20 Mike is that is being referred to here?
 21 **A** I assume it is the man that just excused
 22 himself for the deposition, Mike Costello.
 23 **Q** Then it says, "Please shred this note." How
 24 often did you as Bishop shred notes and/or

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1 {HUBBARD - BY MR. ANDERSON}

2 documents that pertained to sexual abuse by a

3 priest in the Diocese?

4 **A** I can't recall ever doing that.

5 MS. DANEK: Objection to the form.

6 **A** I can't recall ever doing that. Obviously,

7 it wasn't shredded.

8 **Q** That is right, but it does say that it should

9 be. So my question to you is do you know who

10 did shred it?

11 **A** I don't know of anybody shredding. I

12 certainly didn't do that. Maybe that was his

13 advice to me, but I didn't follow it if it

14 was me that it was addressed to.

15 **Q** In Exhibit 115, which is a letter from Liam

16 Hoare, The Servants of Paraclete to you, it

17 says, "Under present legal advisement, we

18 must request that once these documents have

19 been read, please destroy them or return them

20 to me and I will see to their disposal."

21 Bishop, this says that that is what you do

22 and that is what they are asking you to do

23 and if you won't they will. Is that something

24 that was common practice?

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1 {HUBBARD - BY MR. ANDERSON}

2 MR. O'CONNOR: No. I object to the

3 form of that question.

4 MS. DANEK: I object to the form.

5 MR. O'CONNOR: Jeff, break that

6 down, please.

7 MR. ANDERSON: Yeah.

8 MR. O'CONNOR: Because it doesn't

9 say what you just said it says.

10 **Q** It says, "Under our present legal advisement

11 we must ask that once these documents have

12 been read, please destroy them or return them

13 to me and I will see to their disposal." My

14 question to you is did you destroy the

15 documents?

16 **A** No, I didn't. Otherwise, you wouldn't have

17 them.

18 **Q** The instruction from Liam Hoare was to do

19 that or return them to him. Did you return

20 them to him?

21 **A** Well, I might have returned the original, but

22 obviously, made a copy and put it in the

23 file.

24 **Q** So tell me about what other documents may

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1 {HUBBARD - BY MR. ANDERSON}

2 have been destroyed? Was it your practice to

3 have the reports?

4 MS. DANEK: Object to the form.

5 That is not his testimony.

6 MR. O'CONNOR: Objection.

7 **Q** Let me ask you this. Did you destroy any

8 documents pertaining to sexual abuse?

9 **A** Not to my knowledge. Not to my recollection,

10 rather.

11 **Q** Was there any practice employed by the

12 Diocese while you were Bishop, at least until

13 2002 that did cause documents to be

14 destroyed?

15 **A** Not that I'm aware of. Certainly not under

16 my policy.

17 **Q** In this same document 114 at the bottom it

18 says, "P.S., Generally I have been putting

19 canonical stuff with the complaints. However,

20 since the letters from Donlon were in this

21 folder, I am sending them to you regarding

22 disposition." What can you tell me about

23 that? Was there a practice of putting

24 canonical stuff with complaints, and if so,

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1 {HUBBARD - BY MR. ANDERSON}

2 where?

3 **A** There is only two files that I recall us

4 having at the chancery, and that was the

5 personnel file, which was assignments and so

6 forth, and then there was a sealed file. I'm

7 not aware of any other file that you would be

8 referring to, unless there is something in

9 this memo about finding material that should

10 have been in the general file but not in the

11 sealed file, and I'm just wondering if he is

12 trying to make sure those files are

13 appropriately separated.

14 **Q** So in Exhibit 207, which I have already

15 showed you before, just for purposes of

16 brevity, I'm going to ask you a question. It

17 says that in that article of the Albany Times

18 Union, it says that you are calling the zero

19 tolerance policy being considered by the

20 Catholic bishops as a part of the charter,

21 quote, "a simplistic one-size fits all

22 policy" that you opposed. Why did you

23 consider that to be a simplistic one-size

24 fits all policy, and why is one of the

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1 {HUBBARD - BY MR. ANDERSON}

2 bishops opposed to a zero tolerance?

3 A Well, this is going to take a little longer

4 answer that I have been giving.

5 Q Well, I'm sorry to interrupt that, but let me

6 put it this way. You did oppose zero

7 tolerance policy as being considered by the

8 284 bishops assembled in Dallas, correct?

9 A I made an amendment to the charter that we

10 not include the zero tolerance policy.

11 Q Okay.

12 A That amendment was backed by about a third of

13 the bishops present. It did not -- it did

14 not receive the endorsement of the body of

15 bishops. And then when the charter was

16 presented with the no tolerance policy, I

17 voted for the charter.

18 Q So Bishop, is it correct to say that also

19 after, as a result of the Dallas charter,

20 that you did remove six priests against whom

21 allegations of childhood sexual abuse had

22 been made over the last 15 years?

23 A That is correct.

24 Q And those are all priests whose names had

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1 {HUBBARD - BY MR. ANDERSON}

2 never been publically made available by you

3 before you retired under the Dallas charter,

4 correct?

5 A Correct.

6 Q There is an exhibit, Exhibit P11, which is 42

7 pages. I'm not going to ask you about it

8 because it is 42 pages, other than to ask

9 this. In 2003 this task force and revised

10 policy and clergy abuse marked as that

11 Exhibit 11, that policy says that allegations

12 of child sexual abuse occurring within the

13 previous five years or within the applicable

14 statute of limitations will be handed over

15 promptly by the Diocese to the DA. Why was

16 that limitation put on it that it has to be

17 within the applicable statute of limitations

18 or five years. Why didn't you go back all

19 the way and turn over all the information

20 that was available to the diocese?

21 A Please, would you give me the page number?

22 Q I don't have that. My question is --

23 A You are asking me to give a response to

24 something you've read to me, and I can't find

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1 {HUBBARD - BY MR. ANDERSON}

2 it. So I can't give you a response until I

3 read what you are quoting.

4 Q I'll find it then.

5 Then my next question is that policy was a

6 published -- the Diocese and you as the

7 bishop for the Diocese announced that you

8 would no longer include confidentiality

9 agreement in any financial settlements. Is

10 it correct that is up until then, 2003, and

11 as required by the Dallas charter, you had

12 engaged in confidentiality settlements with

13 the victims and their families pertaining to

14 sexual abuse of all the priests when

15 settlements were made, correct?

16 MS. DANEK: Object to the form.

17 A It is correct that we made a commitment to

18 have no confidentiality settlement. That was

19 made sometime in 2002 prior to the Dallas

20 conference. But we said that we would no

21 longer have confidential settlements, and

22 that has been the policy since that time on.

23 Q In December of 2003 the Diocese of Albany

24 released its John Jay numbers, that there

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1 {HUBBARD - BY MR. ANDERSON}

2 were 53 clerics accused, including 52 priests

3 and one deacon. It is also correct to say

4 that while you released the numbers, 53, you

5 did not name those clerics accused and/or

6 make that information public, correct?

7 A When was this article that you are referring

8 to?

9 Q It is not an article. Well, it was published

10 by the Diocese and the John Jay numbers in

11 2003, December of 2003, the Diocese and you

12 as Bishop announced that there were 53

13 clerics accused and reported by the Diocese

14 to John Jay?

15 A Well, did they ask for -- did John Jay ask

16 for the numbers or did they ask for the

17 names? I don't know.

18 MR. O'CONNOR: What Exhibit is

19 that?

20 A If they just asked for the numbers, then that

21 would have been sufficient.

22 MR. O'CONNOR: What exhibit is

23 that, Jeff, out of curiosity.

24 Q It is not an exhibit. They published, the

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{HUBBARD - BY MR. ANDERSON}

Diocese published that there were 53 clerics accused under the John Jay study, okay, who the bishops commissioned as a part of the Dallas charter, and that was made public by a lot of bishops. My question to you is, Bishop, you made the decision not to make those names public, correct, at that time?

A Well, I don't know --

MS. DANEK: Object to the form.

-- where they got their figures from. Did they ask us? Did they just ask for the figures? If that is the case, that is what we would have done. If they asked for the names, I don't know if we were publishing names at that time. We certainly published anybody who had been removed from ministry and was still in ministry in 2002. And we certainly published anybody who was removed from ministry post 2002. I don't know where John Jay got their information from. So to say that we didn't supply that to them, I'm not sure that is correct.

I'm talking about public disclosure. Is it

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{HUBBARD - BY MR. ANDERSON}

correct, according to the files that are available and the disclosures that were made by Diocese, that the names known to the Diocese and those who were accused of sexual abuse were never revealed by the Diocese of Albany until 12 years later in 2015, is that correct.

MR. O'CONNOR: Object to the form.

MS. DANEK: Object to the form.

A It is probably correct.

MR. O'CONNOR: I didn't hear the answer. I'm sorry.

A It is probably correct.

In 2004, the next year, actually February of 2004, there was a public disclosure, an authorship of a 1995 letter to Cardinal John O'Connor attributed to a Father John Minkler as Exhibit 117 in these exhibits. My question to you is in there it states that this letter was sent to Cardinal O'Connor in New York, then Cardinal Archbishop of New York. Are you aware that he did receive that letter in 1995?

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{HUBBARD - BY MR. ANDERSON}

A I am now. I wasn't aware of it at the time.

Q So that leads to my next question.

After this letter was sent to Cardinal O'Connor, did Cardinal O'Connor or any of his designees ever contact you concerning this letter and/or do any followup with you concerning this letter and the allegations in it?

A To the best of my recollection, no.

Q My next question to you, Bishop, is were you ever arrested?

A No.

Q Were you ever brought to the police station after having been in Washington Park?

A No.

Q Were you ever detained or questioned by police while being with a youth who may have been working for a sale of sex?

A No.

Q Did you ever buy and pay for sex?

A No.

Q The 2004 Mary Jo White investigation that you referred to earlier, I want to just go back

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{HUBBARD - BY MR. ANDERSON}

to something there. I think we already established that it is of record that the Diocese paid her \$2.4 million for that investigation and the work done, \$2.4 million. It was also reported that all of the settlements that have been made by the Diocese to that point in time with the survivors of sexual abuse by clergy, the Diocese of Albany totaled a total of \$2.3 million, less than what was paid to Marry Jo White. Does that comport with your knowledge?

A It sounds correct to me. It should be noted, however, that it wasn't just Mary Jo White. It was her firm. She did not receive that total sum.

Q Noted.

You also referred to the 2004 IMAP program with some pride, it sounded like, the Independent Mediation Assistance Program. And it is correct that some victims were compensated under that, but it is also correct to say that not one identity of one priest who was accused and who the Diocese

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 compensated for the harm done was ever made
- 3 public as a result of that program, is that
- 4 correct?
- 5 MS. DANEK: Object to the form.
- 6 A I'm not sure. What was not made public? I'm
- 7 not sure what you are talking about.
- 8 Q The identity of the priest that you paid
- 9 money to settle the cases.
- 10 A The identity -- I don't know if it was a role
- 11 of IMAP to be identifying any priest.
- 12 Q Okay. Let me just walk through this with
- 13 you.
- 14 Under IMAP, a program established by you
- 15 in the Diocese, it ran from 2004 to 2006,
- 16 correct?
- 17 A I know it ran from 2004. I thought it went
- 18 beyond 2006, but I don't have that file in
- 19 front of me.
- 20 Q It was funded with \$5 million from the
- 21 Diocese self-insurance fund paid out, and it
- 22 paid out almost \$3 million, correct?
- 23 A That sounds correct.
- 24 Q 40 survivors settled, correct?

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 A It sounds correct. What are you quoting
- 3 from, please?
- 4 Q The Diocese website.
- 5 A Okay.
- 6 Q How many priests were accused in that program
- 7 once settlements were reached?
- 8 A I don't know that number.
- 9 Q And that was never made known, was it?
- 10 A Not that I know of, but that was not the
- 11 responsibility of IMAP. It was the
- 12 responsibility of IMAP to meet with the
- 13 victims to hear their stories and to make a
- 14 judgment about what type of treatment and
- 15 financial compensation would be given them.
- 16 That was their role.
- 17 Q And how many priests, if any, were removed or
- 18 restricted because the Diocese paid
- 19 compensation to the survivors under that
- 20 program?
- 21 MS. DANEK: I object to the form.
- 22 A Would you repeat the question? I'm not sure
- 23 I understand t.
- 24 Q How many priests, if any, were removed or

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 restricted in their faculties because the
- 3 Diocese paid compensation to victims for
- 4 their abuse?
- 5 A Well, it all depends. I mean, if the people
- 6 who went for the services of IMAP, they would
- 7 only go after a priest had been credibly
- 8 accused and removed. So they may have made a
- 9 complaint that resulted in the removal of the
- 10 priest, but I don't know the number that were
- 11 removed as a result of complaints to IMAP. I
- 12 don't know what number is.
- 13 Q There weren't any, were there?
- 14 A No, I wouldn't say --
- 15 MS. DANEK: Object to the form.
- 16 A -- weren't any. I don't know that. There
- 17 may have been some. I just don't know the
- 18 answer to that. I could probably find it out
- 19 but I don't know off the top of my head
- 20 today.
- 21 Q I want to ask you some questions now and I'm
- 22 nearing the end of our inquiry.
- 23 But pertaining to religious order of
- 24 priest, a subject you referred to as the

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- 1 {HUBBARD - BY MR. ANDERSON}
- 2 institutes, and it is correct to say, Bishop,
- 3 that for a religious order of priests, a
- 4 member of Franciscan Friar, a religious
- 5 order, to be able to work in the Diocese, it
- 6 requires the permission of the Bishop,
- 7 correct?
- 8 A Correct.
- 9 Q And it is typically the request of the
- 10 religious order of priests' superior who
- 11 either makes the request and thus allows the
- 12 religious order of priests to work in the
- 13 Diocese with the permission of the ordinary,
- 14 in this case you, correct?
- 15 A Correct.
- 16 Q And that pertains to all religious, nuns,
- 17 priests, deacons and brothers, correct?
- 18 A I don't think that is correct. I think it
- 19 only refers to priests and deacons. I don't
- 20 think it refers to brothers and sisters.
- 21 Q Thank you for correcting me. I did know
- 22 that, but the brothers are a different
- 23 conversation.
- 24 So when it comes to the brothers, and in

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1 {HUBBARD - BY MR. ANDERSON}

2 this case let's use Brother James Hanney as

3 an example. He is an Irish Christian brother

4 and a teacher posted at the Bishop Gibbons --

5 Notre Dame-Bishop Gibbons school. Do you

6 remember James Hanney?

7 A No, I don't.

8 Q Do you remember giving him a permission or

9 asking him to leave the Diocese for any

10 reason?

11 A I don't have recollection of that one way or

12 another.

13 Q Now, Notre Dame-Bishop Gibbons is a Diocesan

14 high school, is it not.

15 A I think that is correct.

16 Q It is owned by the Diocese and operated by

17 the Diocese, correct?

18 A That is correct.

19 Q And is staffed often times as teachers by

20 Brothers in this case, we will represent to

21 you that James Hanney was a Irish Christian

22 Brother and was a teacher at Bishop Gibbons.

23 Does that jog your memory?

24 A No, it doesn't because at least to the best

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1 {HUBBARD - BY MR. ANDERSON}

2 of my recollection, brothers and sisters did

3 not need the endorsement of a Diocese, from

4 the Diocese to be employed in a school or in

5 a hospital.

6 Q When it comes to brothers, in general, is it

7 correct that a brother cannot operate and

8 work in the Diocese of Albany or a Diocese

9 without permission of the bishop and the

10 joint permission of his superior, correct?

11 A I don't think that is correct.

12 Q What is correct? Can a brother work without

13 the permission of a Bishop.

14 A My understanding is that a brother can. A

15 brother is not a cleric. And I think the

16 only ones that need to be referred to the

17 Bishop by a religious superior is someone who

18 is a cleric.

19 Q It is correct that you as the Bishop appoint

20 the superintendent and the head of Catholic

21 education in the Diocese, correct?

22 A That is correct.

23 Q And that is the office of religious education,

24 correct?

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1 {HUBBARD - BY MR. ANDERSON}

2 A No. There is two separate offices. The

3 Office of Catholic Schools and the Office of

4 Religious Education.

5 Q Okay.

6 And you appointed the directors and the

7 superintendents of both, correct?

8 A One is a superintendent and the other is a

9 director, yes, but I do appoint them.

10 Q And it is also correct that in 1977 when you

11 became Bishop you appointed Reverend Gerard

12 Leo Tierney to be the head of the Office of

13 Religious Education?

14 A I know he was the director of the Office of

15 Religious Education for a time. My

16 recollection is that he was appointed by my

17 predecessor, but I may be wrong on that. I

18 know he did serve as the director of the

19 Office of Religious Education.

20 Q Did you meet with and do you remember meeting

21 with a [REDACTED] concerning an abuse of her

22 by Brother Hanney?

23 A I don't remember that, but I'm not saying I

24 didn't. I may well have met with her, but I

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1 {HUBBARD - BY MR. ANDERSON}

2 don't have a recollection of that, but I'm

3 not saying that a meeting didn't take place.

4 Q Do you remember being reported that -- being

5 reported to you that Brother Hanney was in

6 the Philippines?

7 A I don't remember that. He may have been.

8 You are talking about 47 years ago. So I

9 can't say I remember every meeting I had in

10 1977.

11 Q Understood.

12 Bishop, when it comes to the parishes, it

13 is correct to say that the Bishop appoints

14 the board for every parish in the Diocese,

15 correct?

16 A No. I don't think that is safe to say.

17 Q Is it correct to say that every parish has a

18 board of five members?

19 A I think there is a distinction between the

20 board of the parish in terms of its status as

21 a corporation, and then the members of the

22 parish counsel. I know I don't appoint the

23 members of the parish counsel. I think the

24 members of the board usually are the bishop,

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1 {HUBBARD - BY MR. ANDERSON}
 2 the vicar general, pastor, and then two
 3 laypersons. And I think the laypersons are
 4 appointed by the Bishop. Well, three are
 5 ex officio, and the two lay people from the
 6 parish are supposed to be appointed by the
 7 Bishop.
 8 **Q** In any case, the parishes are separate
 9 corporations, but it is the Bishop that is
 10 the chief executive officer who both appoints
 11 himself as ex officio, and then the vicar
 12 general, and then the pastor of the parish,
 13 along with two other members, correct?
 14 **A** That is correct. When you told me about the
 15 corporation, yes.
 16 **Q** And is it also correct that the financial
 17 obligations of the Diocese, both liabilities
 18 and assets, are all under, effectively, the
 19 control of the bishop pertaining to the
 20 parish corporations and other corporations
 21 owned and operated by the Diocese, correct?
 22 **MS. DANEK:** Object to the form.
 23 **A** I wouldn't say that is correct. I mean, for
 24 example, I could not just go into a parish

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1 {HUBBARD - BY MR. ANDERSON}
 2 and find out if they've got in excess of
 3 \$150,000 in their coffers and expect that
 4 money. That would be beyond my scope of
 5 responsibility.
 6 **Q** When you submit as the bishop the quinquennial
 7 report to the Vatican every five years, you
 8 through your designees and accountants
 9 provide a complete financial picture of the
 10 Diocese to the Vatican, which includes the
 11 Diocese corporation, the foundations and all
 12 of the parishes, correct?
 13 **A** I don't deny it is correct, but I, you know,
 14 I haven't looked at a quinquennial report in
 15 eleven years. So I can't remember exactly
 16 what that is and who is in that report.
 17 **Q** And it also includes the schools owned and
 18 operate by the Diocese in the Diocese,
 19 correct?
 20 **A** If you say it is and it is documented, then
 21 it is correct.

MR. O'CONNOR: Well, no, no, no.
 He is asking your knowledge, Bishop. He
 is not asking --

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1 {HUBBARD - BY MR. ANDERSON}
 2 **Q** Yes. I'm just asking your knowledge, if you
 3 know.
 4 **MR. O'CONNOR:** If you don't know,
 5 that is fine.
 6 **Q** In 1995 there was the creation of a Diocese
 7 Foundation of the Roman Catholic Diocese of
 8 Albany, and that was something created and
 9 funded by you as the Bishop, correct?
 10 **A** I have -- I'm not even familiar with the name
 11 of that corporation. I would have to review
 12 that before I could answer.
 13 **Q** All right.
 14 In 1993 Fidelis Health was founded as a
 15 nonprofit and sponsored by a Diocese of
 16 Brooklyn. The records show that in 1997 the
 17 eight Catholic bishops in New York, including
 18 yourself, agreed to jointly sponsor Fidelis
 19 and grow it statewide, is that correct?
 20 **A** As far as I can remember, yes.
 21 **Q** On January 27, 1997, the eight New York
 22 bishops, yourself included, met with Marian
 23 Shrine in West Haverstraw, New York to vote
 24 on formation of Fidelis. At the meeting,

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1 {HUBBARD - BY MR. ANDERSON}
 2 along with the bishops, were various experts,
 3 including Monsignor Placa. Do you remember
 4 that meeting?
 5 **A** No. I think that is probably true, but I
 6 can't say I remember it. I think that might
 7 have been a natural followthrough.
 8 **Q** Did you know Monsignor Placa?
 9 **A** I did.
 10 **Q** He was a major architect in the advancement
 11 and the growth of Fidelis, was he not?
 12 **A** Yes.
 13 **Q** In 1997 to 2015 Fidelis saw a huge growth
 14 through targeted acquisitions, joint ventures
 15 and increased federal and state spending on
 16 health care. Does that sound correct?
 17 **A** Correct.
 18 **Q** And then in 2015, by this time Fidelis had
 19 become New York's most popular insurer in the
 20 state's marketplace, serving around 1.3 million
 21 members. Does that sound approximately
 22 correct?
 23 **A** I was retired at that point in time, but I
 24 assume it is correct.

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1 {HUBBARD - BY MR. ANDERSON}

2 MR. O'CONNOR: No. Bishop, you

3 don't assume anything. If you don't know,

4 you just tell him you don't know. Okay?

5 A I don't know. I know that Fidelis no longer

6 exists and was sold. That's all I know.

7 Q Were you aware that in 2018 Fidelis sold to

8 Centene and generated 3.2 billion for the

9 newly formed Mother Cabrini Health

10 Foundation?

11 A I was aware of that. I wasn't involved in

12 that decision, but I was aware of it.

13 Q And were you aware that the eight same New

14 York Catholic bishops, yourself no longer

15 one, were the only members of that Foundation,

16 corporation?

17 A Of Fidelis or Cabrini?

18 Q Cabrini.

19 A No, I was not aware of that.

20 Q So at the same time in 2006 -- let me just,

21 this is my last topic, I think.

22 In 2006, Bishop, you became aware that the

23 legislature in New York was seriously

24 considering statute of limitations reform

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1 {HUBBARD - BY MR. ANDERSON}

2 that would allow civil lawsuits against the

3 Catholic Diocese and offending priests that

4 resulted from sexual abuse called the Child

5 Victims Act. You became aware of that, did

6 you not?

7 A I can't recollect that I did, but I'm not

8 saying I didn't. It is just not ringing a

9 bell for me.

10 Q Well, you were very politically active with the

11 legislators and the governors, were you not?

12 A I was a chairperson of the New York State

13 Catholic Conference, yes.

14 Q And as a matter of fact, you were in charge

15 of public policy for the Catholic conference

16 for all the years that you were Bishop?

17 A That is correct.

18 Q And in charge of public policy, which means

19 politics, right?

20 A I guess you had to interact with the governor

21 and the legislators. So I guess if you

22 consider that politics, yes.

23 Q In 2006, Assemblywoman Markey introduced the

24 Child Victim Act for the first time, and it

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1 {HUBBARD - BY MR. ANDERSON}

2 passed the assembly and was blocked in the

3 senate. Were you a part of that?

4 A Lobbying?

5 MS. DANEK: Object to the form.

6 Object to the form.

7 Q You can answer.

8 A I assume that if the Policy Committee and the

9 Board of Bishops recommended that we oppose

10 that legislation, then I would have

11 communicated that to the legislature either

12 by letter or by personal meeting. I don't

13 recall any personal meetings, but I assume

14 that we did it by letter.

15 Q In 2007 the Child Victims Act passed the

16 assembly, and then again passed the assembly

17 in 2008 but didn't make it to the senate, and

18 then in 2009 the assembly leaders pulled the

19 Child Victims Act from the calendar, noting

20 that Bishop DiMarzio said the Child Victims

21 Act will bankrupt the church, were you a part

22 of the lobbying effort being made to avoid

23 the Child Victims Act in 2006, 7, 8 and 9?

24 MR. O'CONNOR: So Jeffrey, let me

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1 {HUBBARD - BY MR. ANDERSON}

2 just jump in. This isn't my hill to die

3 on, but I object to this whole line of

4 questions. It has nothing to do with the

5 lawsuit as opposed to the legislation

6 which enabled to be sued in this case.

7 I'm going to allow him to answer but I

8 want a ruling on that also.

9 MS. DANEK: Same objection.

10 MR. ANDERSON: Noted.

11 Q Were you a part of this lobbying effort to

12 avoid the Child Victims Act passage?

13 A I assume that I was if that was the position

14 of the Public Policy Commission and the

15 conference.

16 Q In 2010 the senate blocked the Child Victims

17 Act and bishops, the Catholic Conference of

18 Bishops in New York hired Patricia Lynch to

19 lobby Speaker Sheldon Silver. Were you

20 involved in that?

21 A Not personally. I might have known about it,

22 but I wasn't personally involved in hiring

23 her or recruiting her.

24 Q In 2012 Cardinal Dolan and the bishops met

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1 {HUBBARD - BY MR. ANDERSON}

2 with then Governor Cuomo and the legislators

3 on the annual lobbying trip, and at that time

4 Dolan was critical of the Child Victims Act.

5 Were you present at that bishops meeting with

6 the Governor?

7 **A** What was the date, please?

8 **Q** 2012?

9 **A** I was probably present, yes.

10 **Q** And then 2007 to 2015 the bishops, through

11 the Catholic Conference lobbied against the

12 Child Victims Act and reported spending

13 \$2.1 million lobbying against it. Were you

14 aware of that?

15 **A** Not off the top of my head. But when you

16 speak about lobbying, it wasn't the bishops

17 that were lobbying. It was the staff for the

18 Conference, and I can't comment on their

19 activity.

20 **Q** And you are aware that you are now being sued

21 and the Diocese of Albany in this deposition

22 for purposes of trial and all other discovery

23 purposes is being taken under the Child

24 Victims Act? Are you aware of that?

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1 {HUBBARD - BY MR. ANDERSON}

2 I was talking about the Child Victims Act.

3 We also have been talking and asking some

4 questions about the creation and ultimate

5 sale of Fidelis to Centene, and then the

6 conversion to Mother Cabrini, and that all

7 was going on about 2015. And then the

8 bishops are lobbying the legislature at the

9 same time that that sale is going on. And

10 then in 2019, ultimately, the Child Victims

11 Act becomes law, as you all are aware. And

12 in 2018, the year before the Fidelis sale to

13 Centene and the conversion to Mother Cabrini

14 Foundation of \$3.2 billion in the year before

15 the Child Victims Act is passed. My question

16 to you is were you aware that that money was

17 being moved through that sale from Fidelis to

18 Centene and into Mother Cabrini because the

19 bishops knew they couldn't stop the Child

20 Victims Act and wanted to park the money in

21 the Foundation?

22 **MR. O'CONNOR:** I object to the

23 form.

24 **MS. DANEK:** I object to the form.

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1 {HUBBARD - BY MR. ANDERSON}

2 **A** I don't know what you are asking me that I'm

3 aware of.

4 **Q** You are aware that we are allowed to ask you

5 these questions today and bring these cases

6 because the Child Victims Act passed,

7 notwithstanding the opposition from you and

8 the other Catholic bishops, correct?

9 **MR. O'CONNOR:** Object to the form.

10 **MS. DANEK:** Object to the form.

11 **A** I assume it is correct, otherwise, I wouldn't

12 be here.

13 **MR. O'CONNOR:** Jeff, isn't this

14 kind of pointless?

15 **BISHOP HUBBARD:** I would like to

16 take a break, if I might.

17 **MR. ANDERSON:** Sure.

18 **VIDEOGRAPHER:** Going off the record

19 at 2:53.

20 (Off the record.)

21 **VIDEOGRAPHER:** Back on the record

22 at 3:04. Go ahead.

23 **BY MR. ANDERSON:**

24 **Q** Bishop, I'm just about done, by the way.

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1 {HUBBARD - BY MR. ANDERSON}

2 **A** No, I was not aware.

3 **Q** My final question, really, Bishop, is actually,

4 I take it from an article that was marked

5 Exhibit 774, and I can read the quote and

6 then ask you a question just for brevity.

7 And this is from a June 29, 2002, the title

8 of the article is at the Times Union is

9 Diocese Removes Six Priests Sexual Abuse

10 Histories Cited. And in the fifth paragraph

11 down you are cited, and it says, "Hubbard

12 said he was," quote, "deeply saddened by

13 these priests who repented of their sins many

14 years ago and showed their repentance by

15 decades of holy and productive ministry, will

16 never be able to function as priests again.

17 It is a considerable loss to the Diocese and

18 to many parishioners." Unquote. Those were

19 your words quoted in the Albany Times,

20 correct?

21 **A** I have it in front of me. I have your

22 exhibit. Yes, it is the correct reading of

23 the quote.

24 **Q** So as I see those words spoken by you, you

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1 {HUBBARD - BY MR. ANDERSON}

2 are lamenting the loss of the priests and to

3 the priests by their removal. Nowhere do I

4 see in this article or in any quote by you

5 publically anywhere where you lament the loss

6 of the souls and the lives to all the

7 survivors who were abused by all the priests

8 who you allowed to be in ministry for over

9 three decades. Where have you ever made a

10 lament to those many survivors?

11 MR. O'CONNOR: I object to the form

12 of the question.

13 MS. DANEK: Object to the form.

14 A I have done it over and over and over again,

15 and you are taking one quote out of context.

16 To suggest that I haven't expressed my regret

17 at the horrible sufferings that victims have

18 endured is simply not true and is not fair.

19 Q Are you familiar with a priest by the name of

20 Stephen Rossetti who wrote a book called The

21 Slayer of the Soul?

22 A I haven't read the book, but I know Father

23 Rossetti, yes.

24 Q And in that book and in his work he cites

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1 {HUBBARD - BY MR. ANDERSON}

2 that when a priest abuses a child and betrays

3 the trust reposed in that priest, that the

4 soul of the child is effectively slayed at

5 that moment in time. Do you agree with

6 Rossetti?

7 MR. O'CONNOR: Object to the form.

8 MS. DANEK: Object to the form.

9 A I don't know if I would use that term. I

10 know from experience in interacting with

11 victims that they have suffered a great

12 tragedy and they have life-long effects, and

13 I have nothing but sorrow and regret for what

14 they have been put through.

15 Q And you do know that as the Bishop of the

16 Diocese of Albany for over 37 years, it was

17 your job to care for the souls of all those

18 under you, including the children, correct?

19 MR. O'CONNOR: Object to the form.

20 MS. DANEK: Object to the form.

21 A I know that ultimately I had responsibility

22 for the oversight of the Diocese and for all

23 of these abuses that occurred. I'm deeply

24 saddened, and I have great regret that it

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1 {HUBBARD - BY MR. HERMAN}

2 happened.

3 MR. ANDERSON: I have no further

4 questions. I'll pass it to my colleagues.

5 Thank you, Bishop.

6 BISHOP HUBBARD: Thank you for your

7 patience.

8 EXAMINATION BY MR. HERMAN:

9 Q Good afternoon, Bishop.

10 A Good afternoon.

11 Q My name is Jeff Herman from Herman Law, and

12 I'm going to just be asking some followup

13 questions. I will do my best not to repeat

14 questions you've already been asked.

15 As Bishop, you wanted to provide a safe

16 environment for the children at the diocesan

17 related entities, correct?

18 A Correct.

19 Q And this would include kids that were in

20 parishes, schools, orphanages, hospitals,

21 shelters and all other diocese-affiliated

22 entities?

23 A Correct.

24 Q And you wanted to prevent kids from being

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1 {HUBBARD - BY MR. HERMAN}

2 sexually abused by clerics at these entities?

3 A Correct.

4 Q And you wanted to prevent kids from being

5 sexually abused by lay people who were

6 involved in these diocesan-related entities?

7 A Correct.

8 Q You were responsible as the Bishop for the

9 safety of all these diocesan-related entities

10 to the extent you had an ability to impact

11 the safety, is that true?

12 MR. O'CONNOR: Object to the form.

13 MS. DANEK: Object to the form.

14 A I did have the responsibility of responding

15 to anything that would make me aware that a

16 child was unsafe.

17 Q And this would include diocesan-related

18 entities even where the potential danger was

19 coming from lay people?

20 A If it came to my attention, I would have

21 responsibility to address it.

22 Q And the same thing if the danger was coming

23 from order of brothers or order of sisters?

24 A Yes, if they came to my attention.

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- 1 {HUBBARD - BY MR. HERMAN}
- 2 Q I mean, the bottom line is, if you had the
- 3 ability, you wanted to prevent kids from
- 4 being sexually abused in the diocesan-related
- 5 entities, correct?
- 6 A I'm sorry, would you rephrase the question,
- 7 please?
- 8 Q Yes. The bottom line is you wanted to
- 9 prevent kids from being sexually abused at
- 10 diocesan entities, whether it was from lay
- 11 people or clerics?
- 12 A Yes.
- 13 Q Why?
- 14 A Because it is, first of all, a terrible
- 15 trauma for the person that is abused.
- 16 Secondly, because it is a crime and is a
- 17 violation of the sacred trust.
- 18 Q And you felt that way the moment you became
- 19 Bishop in 1977?
- 20 A I certainly would feel that way at any time,
- 21 but I have grown in my understanding and
- 22 appreciation of the tremendous harm suffered
- 23 by those who are abused as a result of
- 24 dealing with that in one way or another over

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- 1 {HUBBARD - BY MR. HERMAN}
- 2 the years.
- 3 Q Well, are you saying that your viewpoint
- 4 about whether it is okay for kids to be
- 5 sexually abused by clerics is different today
- 6 than it was when you first became Bishop in
- 7 1977?
- 8 MS. DANEK: Object to the form.
- 9 A No. It certainly was a sin and a crime at
- 10 all times, but I think I appreciate more as a
- 11 result of my experience over my years as
- 12 bishop how devastating this can be for those
- 13 who were abused.
- 14 Q But is it fair to say that when you first
- 15 became Bishop in 1977 you were aware and
- 16 wanted to prevent kids from being sexually
- 17 abused?
- 18 A Yes. Well, I knew it was wrong and I knew it
- 19 was sinful, and I had some awareness of how
- 20 traumatic it must have been for the victim.
- 21 But I can't say that the first thing I
- 22 thought about in becoming bishop was the
- 23 issue of sexual abuse because I wasn't really
- 24 aware of sexual abuse at the time.

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- 1 {HUBBARD - BY MR. HERMAN}
- 2 Q And when you became bishop, you had policies
- 3 and protocols in place to protect kids from
- 4 sexual abuse?
- 5 A I think there were general policies and
- 6 protocols, not the type of specific protocols
- 7 we have today.
- 8 Q Right. Let me break down in our discussion
- 9 today policies that were in place during the
- 10 time when you first became Bishop, policies
- 11 that you think should have been in place
- 12 then, policies that would have been in place
- 13 but for the overriding policy of avoiding
- 14 scandal which you talked about, and then
- 15 finally, the policies which you stated that
- 16 are in place today that you weren't aware of
- 17 back then based on information you have now
- 18 that should have been there. Okay?
- 19 MR. O'CONNOR: So what is your
- 20 question?
- 21 Q Let me start with policies that were in place
- 22 from the time you became bishop. Let me
- 23 start with the concept of investigating an
- 24 allegation that one of your priests was

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- 1 {HUBBARD - BY MR. HERMAN}
- 2 accused of molesting a child. Did you -- was
- 3 it a policy to investigate a priest who was
- 4 accused of molesting a child?
- 5 A There was a policy to investigate if the
- 6 priest denied the charge, but in most
- 7 instances the priest acknowledged misconduct.
- 8 So there wasn't a necessity to do an
- 9 investigation because it was acknowledged by
- 10 the clergyman.
- 11 Q And you said if the priest denied it you
- 12 would want to investigate that?
- 13 A Well, yes. He would have due process.
- 14 Q Why would you want to investigate an
- 15 allegation that a priest abused a child?
- 16 A Why would I want to investigate it?
- 17 Q Yes.
- 18 A Well, because, first of all, it was a
- 19 violation of the child's rights and their
- 20 responsibility they had toward the child,
- 21 that the church has for the child. And if he
- 22 denied it, I would want to get to the heart
- 23 of the matter of whether the allegation was
- 24 truthful or that it was something that would

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- 1 {HUBBARD - BY MR. HERMAN}
- 2 show that the allegation wasn't truthful.
- 3 Q I think you mentioned earlier that the
- 4 Diocese of Albany is very large and it is
- 5 spread out, and there are a number of priests
- 6 and people under you that assist you in the
- 7 operations, is that correct?
- 8 A That is correct.
- 9 Q And you have to rely on priests and lay
- 10 people working for the Diocese to enforce
- 11 some of these safety rules that you have in
- 12 place, you had in place?
- 13 A Yes. Yes.
- 14 Q Let's just take the one we are talking about
- 15 now, which is investigating a priest accused
- 16 of abusing children.
- 17 A Sure.
- 18 Q So you mentioned earlier that if one of your
- 19 priests learned or a person learned of
- 20 another priest being accused of molesting a
- 21 child, that they were supposed to bring that
- 22 up the ladder to your attention, correct?
- 23 A Correct.
- 24 Q How did they know they were supposed to do

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- 1 {HUBBARD - BY MR. HERMAN}
- 2 in general, you would expect them as part of
- 3 their roles to bring that to your attention?
- 4 A I would.
- 5 Q And that is a safety standard you would
- 6 expect them to follow?
- 7 A Yes.
- 8 Q And is that a -- if someone learned in the
- 9 Diocese that a priest was accused of
- 10 molesting a child and they did not bring that
- 11 to your attention, would that violate that
- 12 safety standard?
- 13 MR. O'CONNOR: Object to the form.
- 14 MS. DANEK: Object to the form.
- 15 MR. O'CONNOR: What is the safety
- 16 standard, counsel?
- 17 MR. HERMAN: You can't ask me
- 18 questions. Sorry. I get to ask the
- 19 questions.
- 20 Q Do you understand the question, Bishop?
- 21 A Would you please repeat it?
- 22 MR. HERMAN: Yes.
- 23 Please read back my question, Court
- 24 Reporter.

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- 1 {HUBBARD - BY MR. HERMAN}
- 2 that?
- 3 A Well, I don't know if there is any written
- 4 policy at that time, but commonsense would
- 5 tell you you should do it.
- 6 Q I agree with that.
- 7 So other than commonsense, you are not
- 8 aware of any specific training or written
- 9 policy, but there was expectation that anyone
- 10 learning of a priest accused of molesting a
- 11 child should be brought up to your attention?
- 12 A That would be the expectation.
- 13 Q And so that you could handle that in an
- 14 appropriate way?
- 15 A Yes.
- 16 Q And was that part of their expected duties
- 17 and responsibilities in working for the
- 18 Diocese to bring up the allegations of a
- 19 priest abusing a child to your attention?
- 20 A Was it in a written form, I don't know. But
- 21 in terms of just accountability to your
- 22 parishioners and to the Bishop and to the
- 23 church, yes, they should have done that.
- 24 Q I'm not asking if it was written. I'm asking

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- 1 {HUBBARD - BY MR. HERMAN}
- 2 (Whereupon, the last question was
- 3 read back.)
- 4 MR. O'CONNOR: Note my objection,
- 5 safety standard. It is a reptile
- 6 question. I want a ruling on that
- 7 question.
- 8 MS. DANEK: Object to the form.
- 9 MR. HERMAN: Actually, Terry, first
- 10 of all, the Bishop just identified it as a
- 11 safety standard in the previous question.
- 12 That is number one. So that --
- 13 MR. O'CONNOR: Jeff, I'm going to
- 14 let him answer it. I'm going to let him
- 15 answer it.
- 16 MR. HERMAN: No speaking
- 17 objections. So you can object and that is
- 18 it. If you want to speak to your client,
- 19 take a break and speak to him.
- 20 Q Bishop, do you understand my question?
- 21 MR. O'CONNOR: So note my objection
- 22 to the form.
- 23 A Did you say -- I would expect that any pastor,
- 24 any principal, any teacher, any religious

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1 {HUBBARD - BY MR. HERMAN}

2 education director in the parish would bring

3 that to the attention of the Diocese. If you

4 are saying that a layperson who knew about

5 that had the responsibility to bring it to

6 the Diocese, they are not employees of the

7 Diocese. They were not placed there under

8 the sanction of the church. So I don't know

9 if they would have a responsibility.

10 Q Okay. Fair enough. So let me rephrase the

11 question for you.

12 So if a priest or an official of the

13 school learned of an allegation that a priest

14 had molested a child, if they failed to bring

15 that to the Diocese's attention, would that

16 violate your safety standards that you

17 identified?

18 MR. O'CONNOR: Object to the form.

19 MS. DANEK: Object to the form.

20 A It would certainly violate my expectations.

21 Q And what would the risks be of the person not

22 bringing that to the Diocese's attention?

23 A The risk would be that the priest in this

24 case that you said as an example would

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1 {HUBBARD - BY MR. HERMAN}

2 continue to reoffend and other children would

3 be molested.

4 Q In terms of observing behaviors that are

5 suspicious, and I know we can -- there was a

6 question before about whether behaviors today

7 that are suspicious were suspicious back

8 then. I'm not talking about those. I'm

9 talking about behaviors that you would have

10 considered suspicious when you were Bishop in

11 1970's and 80's. If you were aware of

12 suspicious behaviors, would you want to

13 investigate those?

14 A Yes.

15 Q Why?

16 A Because if the behavior was to place someone

17 else at harm, I wanted to be assured that

18 that person was not placed at harm.

19 Q And same thing for your priests and officials

20 of the Diocese and their positions. If they

21 observed suspicious behavior, potentially

22 putting a child at risk, would you expect

23 them to either investigate that or bring that

24 to the Diocese's attention?

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1 {HUBBARD - BY MR. HERMAN}

2 A I would expect that, yes.

3 Q And again, if they failed to do -- I'm sorry.

4 Is that a safety protocol you expect them

5 to follow?

6 MR. O'CONNOR: Note my objection to

7 the form, safety protocol.

8 MS. DANEK: Object to the form.

9 A It was something that I would expect. Whether

10 it was written in a document, I cannot recall

11 that it was.

12 Q Why would you expect them to do that? For

13 what purpose?

14 A I think it goes to the very heart of the

15 matter that the sexual abuse of a child is

16 wrong and if anybody observes that and knows

17 that, then they should do something to ensure

18 that it doesn't continue.

19 Q And is it fair to call that a safety standard

20 that you follow to protect children?

21 MR. O'CONNOR: Object to the form.

22 MS. DANEK: Object to the form.

23 A I would be upset and would confront a person

24 who was aware of this and did not do anything

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1 {HUBBARD - BY MR. HERMAN}

2 to address it.

3 Q And if they failed to address it, would that

4 fall below your expectations for that person

5 working within the Diocese?

6 A Yes.

7 Q And as far as you know -- strike that.

8 Is it your understanding that preventing

9 kids from being sexually abused at the church

10 or within the Diocese wasn't something new

11 when you became Bishop in 1977, that that was

12 always the appropriate standard?

13 MR. O'CONNOR: Objection to form.

14 A I'm sorry. Could I hear the question again?

15 Q Yeah.

16 Prior -- I'm sorry. Strike that.

17 Preventing kids from being sexually abused

18 at the Diocese-related entities, is that

19 something that was new in 1977 or is it your

20 understanding that has always been the

21 standard that you expect at the Diocese?

22 A I would expect that. It always has been a

23 standard I would expect.

24 Q I want to ask you about the procedures in a

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1 {HUBBARD - BY MR. HERMAN}
 2 seminarian person going through the process
 3 and becoming a priest. Okay. Can you tell
 4 me about and explain to the jury, who may be
 5 listening to this or watching this deposition
 6 being videotaped, how the decision is made
 7 whether or not a person is safe to become a
 8 priest.
 9 A Well, it should be noted that this has
 10 changed a little bit over time. I can give
 11 you the standard back in the 70's or Nick
 12 give you a standard today. I don't know
 13 which you want or both.
 14 Q Let's go through the standard in the 70's.
 15 A Standard in the 70's was that a person
 16 applied to the Diocese and he was expected to
 17 have an interview with either some members of
 18 the bishop's staff or the rector of the
 19 seminary. If it was felt that he might be a
 20 good candidate for priestly ministry, he was
 21 then sent for a psychological evaluation in
 22 terms of his psychological profile. And that
 23 would be reviewed then by either the seminary
 24 faculty or the bishop's staff, and then the

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1 {HUBBARD - BY MR. HERMAN}
 2 decision would be made as to whether he
 3 should be accepted as a candidate for the
 4 seminary, and a preliminary investigation.
 5 Q And do you believe that a seminarian that had
 6 a compulsion for having sex with kids would
 7 be a good candidate to become a priest at the
 8 Diocese of Albany in the 1970's?
 9 A Absolutely not.
 10 MS. DANEK: Object to the form.
 11 MR. O'CONNOR: Object to the form.
 12 A Absolutely not.
 13 Q And why not?
 14 A Why not? Because if he has that propensity,
 15 he is not trustworthy and why would we accept
 16 him as a candidate and place him in a position
 17 where he might act out on his impulses.
 18 Q So if the seminarian displayed a compulsion
 19 to have sex with children and it was known
 20 but he was not excluded from becoming a
 21 priest, that would fall below your standards
 22 that you've outlined here today?
 23 A Yes.
 24 Q You talked a little bit earlier about, I'll

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1 {HUBBARD - BY MR. HERMAN}
 2 call it a conflict, correct me if I'm wrong,
 3 but on one hand trying to avoid scandal
 4 within the church and on the other hand
 5 protect kids. And I think you indicated that
 6 there were certain times when avoiding
 7 scandal precluded or caused you to make
 8 decisions at the church that in hindsight
 9 were not the safest decisions. Is that fair
 10 to say?
 11 MR. O'CONNOR: Object to the form.
 12 MS. DANEK: Object to the form.
 13 A No. I don't think I said that or meant to
 14 say that.
 15 Q Can you explain what you meant by when
 16 earlier you were talking about, and I know
 17 you have been quoted talking about how trying
 18 to avoid scandal has caused problems within
 19 the Catholic church?
 20 MR. O'CONNOR: Object to the form.
 21 MS. DANEK: Object to the form.
 22 A I would say that in response to that
 23 allegation, the issue of scandal may have
 24 been a factor but it shouldn't be the primary

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1 {HUBBARD - BY MR. HERMAN}
 2 factor.
 3 Q Well, when you had priests that you discussed
 4 earlier that admitted molesting kids and they
 5 were placed back into parishes, you stated
 6 that you did not warn the families at those
 7 parishes that the priest their kids were
 8 being exposed to was an admitted pedophile,
 9 correct?
 10 A I said that they were placed back in parishes
 11 after consultation with professionals who I
 12 relied upon that they were not likely to
 13 reoffend.
 14 Q Right. But you said not likely, but even
 15 your professionals would tell you that they
 16 don't know, correct?
 17 A Well, I think if they felt that they were
 18 likely to reoffend they would not recommend
 19 it. They would be replaced.
 20 Q My question is, though, did they know that
 21 they would not reoffend?
 22 MR. O'CONNOR: Object to the form.
 23 MS. DANEK: Object to the form.
 24 A I only know what they wrote me, and they

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1 {HUBBARD - BY MR. HERMAN}
 2 indicated that they felt that they could be
 3 reassigned.
 4 Q Did these professionals ever guarantee you
 5 that these admitted pedophiles would never
 6 molest kids again?
 7 A I don't think they offered a guarantee, but
 8 they offered their professional assessment
 9 that they could be replaced -- placed back in
 10 ministry.
 11 Q Do you think the parents of the kids that
 12 were being exposed to these pedophile priests
 13 had the right to know that the kids were
 14 being exposed to a pedophile priest?
 15 A Well, given our standard today, yes, I think
 16 they had the right to know. But that was not
 17 the standard that I was employing back in the
 18 70's and the 80's.
 19 Q Well, we know you weren't employing it. My
 20 question is why -- are you saying you don't
 21 think the parents had the right to know in
 22 the 70's that their kids were being exposed
 23 to a pedophile priest?
 24 A First of all, a number of the parents who

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1 {HUBBARD - BY MR. HERMAN}
 2 came to me did not want any investigation by
 3 law enforcement because they didn't want to
 4 expose their children to that. So that also
 5 influenced, you know, whether or not this
 6 should remain public.
 7 Q I'm not following you. You are saying that
 8 when you reassigned a pedophile priest, that
 9 you didn't tell these new parents because
 10 why?
 11 A I'm saying that the parents of victims that I
 12 dealt with did not want their child to have
 13 to become involved with law enforcement.
 14 Q I'm not talking about law enforcement. My
 15 question is, and let me rephrase it because I
 16 don't think you are understanding it.
 17 You stated earlier, you testified that
 18 when priests who admitted that they were
 19 pedophiles, after they went through the rehab
 20 or you sent them away and they came back,
 21 that you would place them at either the same
 22 or a new parish, correct?
 23 A Correct.
 24 Q The parents of the kids at these parishes

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1 {HUBBARD - BY MR. HERMAN}
 2 were not aware that their priest was a
 3 pedophile, correct?
 4 A Correct.
 5 Q But you knew he was a pedophile, correct?
 6 A Yes.
 7 Q Okay.
 8 Do you think the parents at these churches
 9 had the right to know what you knew, which is
 10 that their kids, their priests with their
 11 kids was a pedophile?
 12 A I would state today I feel that way, but by
 13 the standards I was using in the 70's and
 14 80's, I didn't think that was a necessity.
 15 Q Do you think in the 70's that parents would
 16 want to know that their kids were being
 17 exposed to a pedophile priest?
 18 MR. O'CONNOR: Object to the form.
 19 MS. DANEK: Object to the form.
 20 A I didn't believe that in the 80's or the
 21 70's. I believe it now.
 22 Q You didn't believe that parents would want to
 23 know if their kids were being exposed to a
 24 pedophile in the 1970's?

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1 {HUBBARD - BY MR. HERMAN}
 2 MR. O'CONNOR: So objection.
 3 MS. DANEK: Objection.
 4 MR. O'CONNOR: I'm going to stop
 5 you right there. He answered it twice
 6 now, Jeff.
 7 MR. HERMAN: No, he hasn't. I
 8 don't think he's answered my question.
 9 MR. O'CONNOR: He answered the
 10 question.
 11 MS. DANEK: I believe he has.
 12 Q I'm asking you what your position is, Bishop.
 13 I'm asking, are you saying --
 14 MR. HERMAN: Wait. I'm sorry. Do
 15 you need to -- Terry, can you talk to him?
 16 Terry.
 17 MR. O'CONNOR: I'm here.
 18 MR. HERMAN: Yeah. Do you need to
 19 talk to your client?
 20 MR. O'CONNOR: No. Why?
 21 MR. HERMAN: He is looking for you
 22 for I think direction.
 23 MR. O'CONNOR: I don't --
 24 BISHOP HUBBARD: We are not in the

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1 {HUBBARD - BY MR. HERMAN}
 2 same room.
 3 Q Okay. I know who you are looking at then.
 4 Let me ask you the question again. My
 5 question is the parents, not your position,
 6 but do you think that the parents in the
 7 1970's would want to know that their kids
 8 were being exposed to a pedophile priest?
 9 MR. O'CONNOR: Object to the form.
 10 It is also asked and answered.
 11 MS. DANEK: Objection. Asked and
 12 answered.
 13 A I think that they probably would want to
 14 know, but I think that based upon the advice
 15 received from the professional consultant, we
 16 felt it was safe to place them there, and
 17 that that is the standard we used.
 18 Q And do you think it would have been safer in
 19 the 1970's for the parents to know that their
 20 kids were being exposed to pedophile priests
 21 so that they could keep an eye out for their
 22 kids' safety?
 23 MR. O'CONNOR: Object to the form.
 24 MS. DANEK: Object to the form.
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1 {HUBBARD - BY MR. HERMAN}
 2 A By today's standards, yes. But by --
 3 Q I'm not asking about today's standards. I'm
 4 asking in the 1970's would it have been safer
 5 in the 1970's for parents to know if their
 6 kids were being exposed to a pedophile
 7 priest?
 8 MR. O'CONNOR: Object to the form.
 9 MS. DANEK: Object to the form.
 10 A I think I answered the question.
 11 Q No. You are saying by today's standards.
 12 I'm asking by -- look, you knew it was wrong
 13 for priests to molest kids in the 1970's,
 14 correct?
 15 A Correct.
 16 Q You knew it was harmful for kids to be molested
 17 in the 1970's, correct?
 18 A Correct.
 19 Q And it is safe to say that parents did not
 20 want their kids to be molested in the 1970's?
 21 A Yes.
 22 Q So would it have been safer in the 1970's for
 23 parents to know when their kids were being
 24 exposed to a predator?
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1 {HUBBARD - BY MR. HERMAN}
 2 MR. O'CONNOR: Object to the form.
 3 MS. DANEK: Object to the form.
 4 A I think if they knew that the priest had a
 5 background of the sexual abuse of a minor
 6 they would not accept them as administering
 7 in their parish.
 8 Q Right. Right. And that is the reason you
 9 didn't disclose it to the parents in the
 10 70's, correct?
 11 A That was not the reason. The reason was that
 12 I felt that given the treatment that the
 13 priest had received that he was not a high
 14 risk for re-offense.
 15 Q Why wouldn't parents in the 1970's want a
 16 priest who was a pedophile to be their
 17 priest?
 18 MS. DANEK: Object to the form.
 19 MR. O'CONNOR: Object to the form.
 20 A I think the same reason it would be today.
 21 Q Which is?
 22 A That they wouldn't want that person as a
 23 minister.
 24 Q Why wouldn't they want a pedophile to be
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1 {HUBBARD - BY MR. HERMAN}
 2 their minister?
 3 A Because they would --
 4 MS. DANEK: Object to the form.
 5 A -- be afraid he would reoffend.
 6 Q Do you think that would be a reasonable
 7 concern for a parent in the 1970's?
 8 A Would it be a reasonable concern, yes. But
 9 at the same time they didn't have the
 10 information that I had available in terms of
 11 whether he was a danger to the community.
 12 Q Turns out these guys were a danger to the
 13 community?
 14 A No. That is not really true.
 15 Q How do you know that?
 16 A Well, I know from my records up until 2014
 17 that there is only one occasion I'm aware of
 18 where a priest reoffended after being placed
 19 back in ministry.
 20 Q Are you aware of all the cases that have been
 21 filed under the Child Victims Act?
 22 A No, I'm not.
 23 Q So how can you make that statement?
 24 A I said up until 2014.
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- 1 {HUBBARD - BY MR. HERMAN}
- 2 Q You are saying you are not aware of any?
- 3 A Yes, that is what I said. I'm not aware of
- 4 any re-offense that took place with a priest
- 5 that was placed back in ministry.
- 6 Q Is it possible that priests were reoffending
- 7 and you don't know about it?
- 8 A It could be, yes. But as of 2014 I was only
- 9 aware of one priest that reoffended following
- 10 being placed in ministry after treatment.
- 11 Q In fact, I think you testified earlier that
- 12 there was a priest that was put into
- 13 rehabilitation that was put back in the 1970's
- 14 and he reoffended, is that correct?
- 15 A That is correct.
- 16 Q So as early --
- 17 A I said there was one priest.
- 18 Q Right.
- 19 So as early as the 1970's you were aware
- 20 that a priest could go to rehabilitation and
- 21 reoffend, correct?
- 22 A Yes.
- 23 Q So there was a risk that even if he went to
- 24 rehabilitation he would reoffend, correct?

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- 1 {HUBBARD - BY MR. HERMAN}
- 2 don't know what a psychologist would say
- 3 about the risk of somebody losing sobriety
- 4 and the risk of somebody reoffending in sex
- 5 abuse. I don't have the knowledge to comment
- 6 on that.
- 7 Q No, I wasn't asking about the risk. I'm
- 8 asking about the harm that would be caused by
- 9 you not -- by rehabilitation not working.
- 10 A Well, you know, an alcoholic who had attained
- 11 sobriety could be a teacher in a school and
- 12 go off the wagon and take a kid home and be
- 13 involved in an accident. So there is a risk
- 14 there, too.
- 15 Q And just so the jury is clear on this point,
- 16 you are testifying to the jury that you don't
- 17 know whether or not there is a difference of
- 18 the harm, the risk of harm caused by an
- 19 alcoholic priest drinking again versus a
- 20 pedophile priest molesting again? Is that --
- 21 MS. DANEK: Object for the form.
- 22 MR. O'CONNOR: Object to the form.
- 23 Q Is that your testimony, sir?
- 24 A If I were to give you a nonprofessional

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- 1 {HUBBARD - BY MR. HERMAN}
- 2 A Right. Same as if somebody went to Alcoholics
- 3 Anonymous and lose their sobriety.
- 4 Q That is correct.
- 5 And do you consider the danger of a priest
- 6 losing their sobriety equal to the harm
- 7 caused by a priest sexually assaulting a
- 8 child?
- 9 A No.
- 10 MS. DANEK: Object to the form.
- 11 A I don't.
- 12 Q Would you agree that it might be acceptable
- 13 to risk a priest getting drunk again but not
- 14 acceptable for a priest to molest a child
- 15 again?
- 16 MS. DANEK: Object to the form.
- 17 A I think that I'm not qualified to answer that
- 18 question. I think a therapist would have to
- 19 weigh in on that question.
- 20 Q Why?
- 21 A Why?
- 22 Q Yes.
- 23 MS. DANEK: Form.
- 24 A Because I'm not involved with treatment. I

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- 1 {HUBBARD - BY MR. HERMAN}
- 2 opinion, I would say there is a greater
- 3 danger to children if someone who had a
- 4 history of sex abuse reoffended. What I'm
- 5 not commenting on, because I'm not qualified
- 6 to comment on, is the likelihood of people
- 7 who have an addiction to alcohol, addiction
- 8 to sex abuse are equally capable of changing
- 9 their ways and lifestyle.
- 10 Q In the 1970's if your priest or officials at
- 11 the schools heard rumors about another priest
- 12 engaging in sexual behavior with a child,
- 13 would you expect that to be investigated
- 14 and/or brought it your attention?
- 15 A I would expect it to be brought to my
- 16 attention, yes.
- 17 Q And you would then investigate that to make
- 18 sure that the kids were safe?
- 19 A Either I or the local institution would do
- 20 the investigation, but I would want it
- 21 investigated.
- 22 Q And again, the reason you want to investigate
- 23 it is to make sure that the kids are safe and
- 24 not being abused?

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1 {HUBBARD - BY MR. HERMAN}

2 A Correct.

3 Q In looking back on trying to avoid scandal

4 when you were Bishop beginning in the 1970's,

5 if that was not an issue for you, do you

6 believe that the church -- that you would

7 have been more forthcoming about certain

8 behaviors, risky behavior of the priests?

9 MR. O'CONNOR: Object to the form.

10 MS. DANEK: Object to the form.

11 MR. O'CONNOR: It is a compound

12 question.

13 A I'm confused. Am I allowed to answer or not.

14 Q Yeah, you can answer the question.

15 A Could you please repeat the question?

16 Q Yes. I'm just trying to understand. I know

17 there was this concern about avoiding scandal

18 within the Catholic church, correct?

19 A I'm sure that was a concern yes.

20 Q You testified it was an issue, correct?

21 A Correct. Well, I testified that scandal

22 would be created, and yes, that that

23 certainly would be something that people

24 don't look forward to.

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1 {HUBBARD - BY MR. HERMAN}

2 Q I'm sorry, that what?

3 A People don't look forward to scandal.

4 Q Well, let me read a comment that was reported

5 that you made and ask -- this is an article

6 called Response to Father Donald B. Cozzens,

7 Howard J. Hubbard. Do you recall that?

8 A No, I don't.

9 MR. O'CONNOR: Is there an exhibit

10 number, Jeff?

11 A Maybe someone can help me with this. I just

12 pulled it out. Let me read this statement to

13 you and tell me if you recall this.

14 "There is a two-fold scandal of the breach

15 of sacred trust by an individual priest and

16 the way bishops, like myself, have mishandled

17 such misconduct because of ignorance, fear or

18 the misguided attempt to protect the church

19 from scandal. Do you recall that statement?

20 MR. O'CONNOR: Can you show it to

21 him, Jeff?

22 MR. HERMAN: I don't have it pulled

23 up on my computer.

24 MR. SANDLER: This is Jason from

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1 {HUBBARD - BY MR. HERMAN}

2 Herman Law. It is Exhibit P1330.

3 MR. O'CONNOR: Thank you, Jason.

4 MR. SANDLER: You're welcome.

5 MR. O'CONNOR: Can you just pull

6 that up, Dave? Just so we can see it.

7 Jeff, what page is that? Do you

8 know?

9 MR. HERMAN: It starts at the

10 bottom of the first page there, page 59,

11 the very last sentence, "there is a

12 two-fold scandal." And then it goes onto

13 the next page.

14 (Exhibit P1330 shown on screen as

15 requested.)

16 Q Do you see that Bishop?

17 MR. O'CONNOR: Just give him a

18 chance to read it.

19 A I have it, but I -- can you pull it up to the

20 next page.

21 (As requested.)

22 MR. O'CONNOR: Maybe blow it up a

23 little bit. Thanks, David.

24 A I can see it now.

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1 {HUBBARD - BY MR. HERMAN}

2 (Pause.)

3 A I don't recall making the statement, but this

4 certainly sounds like something I would say,

5 and it certainly reflects my feelings.

6 Q Okay.

7 MR. HERMAN: Thank you so much for

8 putting that up.

9 Q So my question is can you explain to the jury

10 how this misguided attempt to avoid scandal

11 or protect the church from scandal, how if at

12 all did it compromise the safety of kids when

13 it came to being sexually molested?

14 MR. O'CONNOR: Object to the form.

15 MS. DANEK: Object to the form.

16 MR. O'CONNOR: I'm not sure if the

17 article said that, but I'll let him answer

18 it.

19 Q My question was can you explain how, if at

20 all, that would have compromised the safety

21 of children?

22 MS. DANEK: Object to the form.

23 A Could you please just repeat the question?

24 Q So there was this misguided attempt to

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1 {HUBBARD - BY MR. HERMAN}

2 protect the church from scandal, correct?

3 A It was a misguided step of allowing scandal

4 to influence how the cases were handled, yes.

5 Q Well, you were talking about trying to

6 protect the church from scandal?

7 A And all we did was create more scandal.

8 Q Yeah. How did that work out for you?

9 A Not very well.

10 Q Right.

11 So my question is, can you explain for the

12 jury how, by trying to avoid scandal, if at

13 all, did that compromise the safety of kids?

14 MR. O'CONNOR: Object to the form.

15 MS. DANEK: Object to the form.

16 A Well, as I have stated, we made every effort

17 to ensure that if a priest engaged in

18 misconduct with a minor and was to be

19 restored to ministry, we had to be convinced

20 that he was not likely to reoffend. That was

21 a standard we used.

22 Q What were the things you were referring to

23 that you did to avoid scandal?

24 A Well, I think, as you in your questioning or

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1 {HUBBARD - BY MR. HERMAN}

2 your predecessor raised a question about

3 transparency, and if there was transparency,

4 that was -- that may have created scandal

5 among the faithful.

6 Q Okay. Right.

7 So this is where I'm giving you the

8 opportunity to explain to the jury how by

9 trying to avoid scandal, I guess, and not

10 being transparent, how did that lead to, if

11 at all, kids being put in danger?

12 MR. O'CONNOR: Object to the form.

13 MS. DANEK: Object for the form.

14 A As I've stated before, given the people we

15 consulted with at the time, we were given

16 reason to believe that these were not likely

17 candidates for reoffense. Did that make

18 people safer? No. But I think at least my

19 records from 2014 indicate there was only one

20 offense post-restoration, and that I think

21 shows that there was some validity to the

22 fact that a person could change their life

23 and change their ways and not be a danger to

24 the community, and especially to youth.

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1 {HUBBARD - BY MR. HERMAN}

2 Q Do you believe that just the -- that the

3 general knowledge that there were some

4 priests who were using their position to get

5 access to and molest children, that if that

6 information was transparent to your

7 parishioners, that that would have made kids

8 safer in the Diocese of Albany?

9 MR. O'CONNOR: Form.

10 MS. DANEK: Object to the form.

11 A I'm sorry, with the objection I lost the

12 question. Excuse me.

13 Q Do you believe that the general information

14 which you had, that there were priests who

15 were using their position to get access to

16 and molest children, that that information,

17 if you were being transparent in the 1970's,

18 and 80's, if that information were available

19 to your parishioners, that that would have

20 made it safer for the children within the

21 Diocese of Albany?

22 MR. O'CONNOR: Form.

23 MS. DANEK: Object to the form.

24 A It may have, but I'm not positive that it

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1 {HUBBARD - BY MR. HERMAN}

2 would have made it safer.

3 Q And how may have it made it safer for kids?

4 A Well, people would have known publically that

5 this person had abused in the past, so I

6 think there would be more vigilance if in

7 any way he tried to misuse his position

8 again.

9 (Mr. Costello rejoined the

10 deposition.)

11 Q And now, before I started questioning you,

12 you talked about how you have had, I think,

13 made statements that you were -- well, I

14 don't want to put words in your mouth. I

15 want to give you an opportunity as a Bishop

16 of Albany Emeritus, to state whether you

17 believe the Diocese is responsible for the

18 harm that was caused to these kids in these

19 cases?

20 MR. O'CONNOR: Object to the form.

21 MR. COSTELLO: Object to the form.

22 MS. DANEK: Object to the form.

23 MR. O'CONNOR: I think that is the

24 ultimate question, Jeff, and I think

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1 {HUBBARD - BY MR. HERMAN}
 2 that --
 3 MR. HERMAN: Terry, you can object
 4 and that is it.
 5 MR. O'CONNOR: No, no, no, no.
 6 MR. HERMAN: You can object and
 7 that is it.
 8 MR. COSTELLO: Well, I'm noting my
 9 objection also.
 10 MR. HERMAN: Thank you.
 11 MR. O'CONNOR: Jeff --
 12 Q You can answer that question.
 13 MR. O'CONNOR: Jeffrey.
 14 MR. HERMAN: Are you instructing
 15 him not to answer?
 16 MR. O'CONNOR: Come on. Calm down.
 17 I'm simply saying I'm objecting to the
 18 form of the question. I would like a
 19 ruling on that. I want to call Judge
 20 Mackey. I apologize that you got upset at
 21 that. I think you are asking the ultimate
 22 question, so that is why I want to talk to
 23 the judge.
 24 MR. HERMAN: Are you instructing
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1 {HUBBARD - BY MR. HERMAN}
 2 him not to answer for right now?
 3 MR. O'CONNOR: Yes, so we can get a
 4 ruling from the judge as we discussed and
 5 pursuant to the stipulation.
 6 MR. HERMAN: We have three days, so
 7 we can get a ruling later.
 8 MR. O'CONNOR: I'm sorry?
 9 MR. COSTELLO: The judge is on
 10 standby, isn't he?
 11 MR. O'CONNOR: I thought he was.
 12 MR. COSTELLO: Yes.
 13 MS. DANEK: That is what he
 14 indicated.
 15 MR. HERMAN: I'm not stopping now.
 16 We will move on and I'll find out later.
 17 MR. O'CONNOR: All right. Sorry to
 18 interrupt.
 19 Q I guess I'll --
 20 MR. O'CONNOR: Jeff, I'm sorry to
 21 interrupt. I didn't mean to interrupt,
 22 Jeff.
 23 MR. HERMAN: I'm sorry. What?
 24 MR. O'CONNOR: I'm sorry to
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1 {HUBBARD - BY MR. HERMAN}
 2 interrupt.
 3 MR. HERMAN: Okay.
 4 Q I just want to ask you about your policies
 5 for investigating allegations that someone in
 6 the Diocese entity sexually abused a child.
 7 Was there any kind of specific policy on how
 8 to conduct such an investigation?
 9 A No. We consulted, initially, with the
 10 District Attorney and asked for recommendations
 11 of people who would be qualified to conduct
 12 such an investigation, and we received a
 13 couple of suggestions and we relied on the
 14 fact that they were recommended by the local
 15 District Attorney, that they were competent
 16 to conduct such an investigation of sexual
 17 molestation.
 18 MR. HERMAN: I think I'm done and
 19 my time, I believe, is just about up. I
 20 just have two minutes. So let's go ahead
 21 and take a break now and just let me look
 22 through my notes. I think I'm done and I
 23 might have one or two more questions.
 24 Otherwise, we will move on.
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1 {HUBBARD - BY MR. HERMAN}
 2 MR. O'CONNOR: Let's do this just
 3 to get our clocks straight, Jeff. It is
 4 3:58. Let's get back here at 4:05, maybe.
 5 MS. LAFAVE: All right. Just so
 6 you all know, we have one more hour left.
 7 We actually have an hour and two minutes.
 8 And the next person is Mitchell Garabedian.
 9 MR. O'CONNOR: So we will come back
 10 a 4:05, all right?
 11 MS. LAFAVE: Yes.
 12 MR. HERMAN: Right, and then I'll
 13 let you know. Thank you.
 14 MR. O'CONNOR: Thank you.
 15 VIDEOGRAPHER: Going off the record
 16 at 3:59.
 17 (Off the record.)
 18 VIDEOGRAPHER: Back on at 4:06. Go
 19 ahead.
 20 BY MR. HERMAN:
 21 Q I just have one last question I want to
 22 clarify.
 23 You were asked earlier about your
 24 authority as bishop to approve or disapprove
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1 {HUBBARD - BY MR. HERMAN}

2 an individual member of a religious order

3 coming within the Diocese of Albany. What is

4 your authority as Bishop for the order itself

5 when they are coming in to staff or school or

6 an orphanage? Do you understand the

7 question?

8 A Well, if the order is coming into the

9 community, they have to have the permission

10 of the Diocese to come into the community.

11 But if they are not clerics, if they are a

12 brother or a sister, they don't have to

13 present those members of their community to

14 the bishop for his approval. If they are a

15 cleric, a priest or a deacon, then they must

16 receive permission of the Bishop to be able

17 to function in the community, in the Diocese.

18 Q I understand. But the order itself would

19 need the bishop's authority before they could

20 staff a Diocese entity?

21 A Yes. They would need the permission of the

22 bishop to come and function as a religious

23 community within the Diocese. The whole

24 community would need that permission.

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1 {HUBBARD - BY MR. HERMAN}

2 Q And if there was a diocese entity that had

3 had members of a religious order, and it

4 turns out you learned that a member of the

5 order, whether a brother or a sister is sex

6 abusing a child, what if anything would you

7 do to protect the children?

8 A Well, I would certainly notify the head of

9 the order, the provincial. And I would

10 ensure that an investigation took place, and

11 if it was a credible allegation that the

12 person be removed.

13 Q Same question as I asked you before. If one

14 of your priests or officials at the local

15 entity learned of that potential abuse, you

16 would expect them to raise that to your

17 attention to be resolved as well?

18 A Yes.

19 MR. HERMAN: Thank you, sir. I

20 have no further questions.

21 BISHOP HUBBARD: Thank you.

22 MR. O'CONNOR: Thank you, Jeff.

23 Appreciate it.

24 Mitchell.

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1 {HUBBARD - BY MR. GARABEDIAN}

2 EXAMINATION BY MR. GARABEDIAN:

3 Q Good afternoon, Bishop. I'm attorney

4 Mitchell Garabedian. Can you see me?

5 REPORTER: No, we can't see you

6 yet.

7 (Screen adjusted.)

8 Q Good afternoon, Bishop. I'm attorney

9 Mitchell Garabedian. Thank you for being

10 with us today. I'm going to ask you some

11 questions. Okay? At any time you want to

12 take a break, feel free. I know it has been

13 a long day for you.

14 A Thank you.

15 Q You're welcome.

16 Did you ever receive any reports of

17 children being abused in the 1930's?

18 A I think there was -- I think there was one

19 report that came in about an incident that

20 took place in the 30's.

21 Q And what do you know about that report?

22 A The only thing I know, I mean, the priest was

23 long dead and I know that the review board

24 recommended that there was reasonable cause

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1 {HUBBARD - BY MR. GARABEDIAN}

2 to believe that that person had offended.

3 Q And what was that priest's name?

4 A John O'Connor.

5 Q Did you meet with the victim?

6 A I did not.

7 Q When did you learn of that abuse?

8 A Oh, it was very late in my tenure. I don't

9 know the exact date, but it was not -- it was

10 close to the time I retired.

11 Q Did you ever learn of a report of abuse --

12 strike that.

13 Did you ever learn that a child had been

14 abused in the 1920's?

15 A No.

16 Q Did you ever learn or receive a report that a

17 child had been abused in the 1940's?

18 A Doesn't come to mind, but I can't say with

19 certitude that I said about the 20's, but I

20 can't recall one.

21 Q And did you ever receive a report of abuse --

22 a report that a child had been abused in the

23 1950s?

24 A I think there may have been a case or two,

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1 {HUBBARD - BY MR. GARABEDIAN}

2 but I couldn't tell you who the accused was.

3 Q And when did you learn about those cases?

4 A Well, I probably learned about them post

5 2002.

6 Q Is your answer you are not sure --

7 A If I did learn about them, it would have been

8 post 2002. I know it wasn't prior to that.

9 Q Did you ever receive a report of abuse of a

10 child being abused in the 1960's?

11 A Yes.

12 Q And it is fair to say you've received reports

13 of children who were abused in the 1970's,

14 80's and 90's, correct?

15 A Correct.

16 Q Have you received a report of a child being

17 abused from 2000 to 2010?

18 A I don't know if I received it. I'm not

19 saying I haven't. I can't say for sure, and

20 I am not privy to all the allegations that

21 come under the Child Victims Act. So there

22 could be reports there that I'm not privy to.

23 Q Well, who would have received the reports if

24 you wouldn't have, within the Diocese of

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1 {HUBBARD - BY MR. GARABEDIAN}

2 you.

3 And what would you have done with that

4 information?

5 A Well, we would turn it over to the District

6 Attorney no matter how long ago the abuse

7 occurred. And then depending on what

8 disposition the District Attorney made, then

9 we would do our own investigation. And then

10 if the person was found reasonably certain

11 that they committed the abuse, they would be

12 publically removed from ministry.

13 Q Have you received a report of a child being

14 abused from 2010 to the current day?

15 A Well, I was only there to 2014, so I can't

16 say beyond 2014.

17 Q Well, up to and including 2014?

18 A Well, I was there for the first two months.

19 I can't remember whether I did or not.

20 Q Would it be important to have received a

21 report in 2014 of a child being abused?

22 A Yes.

23 Q But you don't remember?

24 A Sir, I have dealt personally with high 30's

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1 {HUBBARD - BY MR. GARABEDIAN}

2 Albany?

3 MR. O'CONNOR: Mitchell, at what

4 point in time, Mitchell?

5 MR. GARABEDIAN: Sorry?

6 MR. O'CONNOR: At with point in

7 time. I'm sorry.

8 MR. GARABEDIAN: From 2000 to 2010.

9 MR. O'CONNOR: Thank you.

10 MR. GARABEDIAN: You're welcome.

11 A I don't recall. I may have. I would have to

12 go to a file and review that.

13 Q If you had not received the report from a

14 child being abused from 2000 to 2010, who

15 would have received the report?

16 A Well, probably at that point in time the

17 victims assistance coordinator.

18 Q And would they have passed the information on

19 to you?

20 A Yes.

21 (Pause.)

22 REPORTER: Was that yes?

23 BISHOP HUBBARD: Yes.

24 Q Oh, I'm sorry. I didn't hear you. Thank

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1 {HUBBARD - BY MR. GARABEDIAN}

2 numbers of priests, and I can't remember

3 every single complaint that was made and when

4 it was made.

5 Q Approximately how many reports have you

6 ever -- of children being abused have you

7 ever received during your tenure as Bishop?

8 MR. COSTELLO: Object to the form

9 of the question.

10 You may answer it if you can.

11 A Well, I know that there is the high 30's in

12 terms of the number of priests that I

13 personally removed. There were other reports

14 that came in in which we did not find that

15 the allegation was substantiated, and

16 therefore, the priest was not removed.

17 Q Well how many reports of children being

18 abused did you receive where their claims

19 were substantiated during your tenure as

20 Bishop?

21 A That is what I said, 38, or something like

22 that.

23 Q Now, you mentioned you sent priests to

24 treatment centers, correct?

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{HUBBARD - BY MR. GARABEDIAN}

- 1
- 2 **A** Correct.
- 3 **Q** Have you ever sent one priest to a treatment
- 4 center more than one time?
- 5 **A** I think it was -- I can think of only, again,
- 6 this is without having any records in front
- 7 of me. I think there was a priest that went
- 8 to two centers.
- 9 **Q** And who was that?
- 10 **A** To the best of my knowledge, it was Mark
- 11 Haight. But I would really want to have that
- 12 file in front of me before I said that with
- 13 certitude.
- 14 **Q** Were you in fact Bishop when he attended the
- 15 treatment center two times?
- 16 **MR. O'CONNOR:** He said he wasn't
- 17 sure, but I'll let you answer that
- 18 question.
- 19 **A** Yeah, I'm not sure. I know he was a second
- 20 time, but I'm not sure about the first. I
- 21 would have to check when he went to the first
- 22 place, if indeed I'm correct.
- 23 **Q** And why was he sent to a treatment center the
- 24 second time? Could you please tell the jury?

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{HUBBARD - BY MR. GARABEDIAN}

- 1
- 2 Diocese. So how we handled things at one
- 3 point in time evolved over the years, and we
- 4 relied as frequently as we could on
- 5 professionals in the field to help us and
- 6 guide us in how best to handle these cases,
- 7 and I did the best I could with the guidance
- 8 I had.
- 9 **Q** Do you think the sexual abuse of a child is a
- 10 crime today?
- 11 **A** Yes.
- 12 **Q** Did you think the sexual abuse of a child was
- 13 a crime in the 1970's?
- 14 **A** I don't know if I -- I suppose I did, but I
- 15 can't put myself back there. But I can't
- 16 imagine I didn't think it was a crime.
- 17 **Q** So if you thought it was a crime, why didn't
- 18 you report them to the police in the 1970's?
- 19 **A** Because in many instances -- I shouldn't say
- 20 many, but in some instances, the parents
- 21 didn't want their child to be involved with
- 22 law enforcement was one reason. And secondly,
- 23 I wasn't a mandated reporter.
- 24 **Q** Do you think clergy sexual abuse of a child

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{HUBBARD - BY MR. GARABEDIAN}

- 1
- 2 **MR. O'CONNOR:** Again, he said he
- 3 wasn't sure if it was him.
- 4 You can answer the question, if you
- 5 can.
- 6 **A** Well, you just said because of an allegation
- 7 of sexual abuse.
- 8 **Q** Before you sent him to the treatment center
- 9 the second time, did you report the matter to
- 10 the police?
- 11 **A** No.
- 12 **Q** Why not?
- 13 **A** Why not? Because that was not the guidance
- 14 that we were working with at the time.
- 15 **Q** Did you think that priest was a dangerous
- 16 person?
- 17 **A** Well, I knew he had offended at least once.
- 18 So in that sense I knew that was a danger.
- 19 On the other hand, you know, you have to
- 20 remember that this was back in the 70's and
- 21 we didn't have the knowledge or at least I
- 22 didn't personally have the knowledge or the
- 23 expertise and the experience that I had after
- 24 37 years as being the ordinary in this

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{HUBBARD - BY MR. GARABEDIAN}

- 1
- 2 ruins a child's life in many occasions?
- 3 **A** Yes.
- 4 **MR. COSTELLO:** Object to the form.
- 5 **Q** Did you think that back in the 1970's?
- 6 **A** Probably not initially. I mean, I knew it
- 7 was bad and so forth, but I didn't have at
- 8 that time the understanding and appreciation
- 9 that I have had as a result of my experience
- 10 from 1977 on.
- 11 **Q** So how bad did you think it was?
- 12 **A** Initially, I had no experience with child
- 13 sexual abuse. I knew no one who was abused,
- 14 who had been abused, and I had never spoken
- 15 to anybody that shared with me what the abuse
- 16 meant for them. I came to appreciate talking
- 17 to victims through the years how devastating
- 18 it was. But I suspect when I try to put
- 19 myself back in 1977, at least initially, I
- 20 thought it was something that was harmful to
- 21 the child and something that affected him.
- 22 But I don't know if I appreciated the
- 23 lifelong consequence that may have affected
- 24 the child without some intervention, and even

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1 {HUBBARD - BY MR. GARABEDIAN}

2 after intervention it doesn't mean the

3 consequence was totally abetted.

4 Q Have you ever sent a priest to a treatment

5 center, one priest to a treatment center on

6 more than two occasions?

7 A Not that I can recall.

8 Q Now, this one priest who was sent to the

9 treatment center two times, with regard to

10 him, when he returned from the treatment

11 center the second time, what did you do, if

12 anything?

13 A I relied on the recommendations of the

14 treatment center.

15 Q And what did they say in their treatment

16 records?

17 A They said that they thought he had made great

18 advances and that they suggested two types of

19 ministry where he could function effectively.

20 Q And did you return him to ministry?

21 A I did.

22 Q And did you watch him when he was in ministry

23 because he would have been in a treatment

24 center two times?

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1 {HUBBARD - BY MR. GARABEDIAN}

2 him abusing children, what did you -- did you

3 take any action against him?

4 A Yes. I removed him from ministry.

5 Q And where did he go?

6 A Where did he go?

7 Q Yes.

8 A I don't know. He was no longer a priest of

9 the Diocese.

10 Q So he wasn't placed in a retirement home?

11 A No.

12 Q So the diocese cut him loose. He was no

13 longer a priest, and you didn't warn the

14 police, correct?

15 MR. COSTELLO: Object to the form

16 of the question.

17 You may answer, if you can.

18 A No. I didn't warn the police that he had

19 been removed from public ministry.

20 Q So you had a pedophile on your hands who

21 abused at least five children, but you failed

22 to warn the public or the law enforcement, is

23 that right?

24 MR. COSTELLO: Objection.

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1 {HUBBARD - BY MR. GARABEDIAN}

2 A Yes. We monitored him, yes.

3 Q How?

4 A We monitored him through the fact that he had

5 to follow through with counseling and

6 spiritual direction, and if there was any

7 report of any suspicious behavior on his

8 part, we would have responded to it.

9 Q Was there another report --

10 A No.

11 Q -- of abusing children?

12 A Well, there was another report, and it was

13 after that other report, but it was a report

14 of abusing children prior to treatment.

15 Q How many children do you know he abused?

16 A I don't know the exact number, but it was

17 more than a few.

18 Q Well, more than five?

19 A I don't have the record in front of me. I

20 think it might have been more than five, yes.

21 Q More than ten?

22 A I can't say more than ten. I don't know.

23 Q Okay.

24 So after you received further reports of

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1 {HUBBARD - BY MR. GARABEDIAN}

2 MS. DANEK: Object to the form.

3 A I did not notify law enforcement, and I don't

4 recall publically removing him from ministry

5 at that time.

6 Q Did you notify anyone about his pedophilia?

7 A Well, I certainly notified the review board

8 that was operative at the time and were

9 guided by their recommendation. And then I

10 publically or I mean, I removed him permanently

11 from ministry.

12 Q Did you notify the parents of the children

13 who were abused?

14 A At the time, I don't know if I knew the

15 children that were abused.

16 Q I don't want any names, Bishop, but do you

17 have any nephews and nieces?

18 A I have many nieces and nephews.

19 Q How would you feel if they were sexually

20 abused as children?

21 MR. COSTELLO: Object to the form.

22 A I would be very, very upset.

23 Q And would you be able to say that oh, well,

24 they were abused -- hypothetically, if they

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1 {HUBBARD - BY MR. GARABEDIAN}

2 were abused in the 1970's, would you be able

3 to say oh, that was a different time and use

4 that as an excuse to not protect children?

5 MR. O'CONNOR: Object to the form.

6 MR. COSTELLO: Object to the form.

7 MS. DANEK: Object to form.

8 MR. O'CONNOR: That is argumentative,

9 too.

10 You can answer.

11 It is impolite, also.

12 A Sir, I'm not infallible. I've made mistakes.

13 I did the best that I could with the lives

14 that I had.

15 Q Do you remember meeting with a woman by the

16 name of [REDACTED] in 1983 about her being

17 sexually abused?

18 A Do I remember that specifically, no. I have

19 seen your exhibits and I read what you had to

20 say, and I'm sure if she met with me, that

21 her account is accurate, but I can't say I

22 remember that specific meeting.

23 Q Do you remember meeting her with Father

24 Pizzano?

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1 {HUBBARD - BY MR. GARABEDIAN}

2 A I do.

3 Q And how do you know him?

4 A He was a secretary to Cardinal Cook and he

5 was the Master of Ceremonies at my ordination

6 as a Bishop. He was an auxiliary bishop in

7 the archdiocese of New York. He was a bishop

8 in Metuchen in New Jersey. He was the

9 Archbishop of Newark, and then the Cardinal

10 Archbishop of Washington, D.C.

11 Q And did you ever go on any overnight trips

12 with him with a group of priests or just him?

13 A Neither.

14 Q Do you know Bishop Nicholas DiMarzio?

15 A I do.

16 Q How do you know him?

17 A He is the bishop of Brooklyn, presently.

18 Q And have you socialized with Bishop Nicholas

19 DiMarzio?

20 A Other than being at a bishops conference with

21 him, no.

22 Q Now, you were vicar general, correct, for a

23 year in the Diocese of Albany?

24 A Not a year -- well, I think from June until I

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1 {HUBBARD - BY MR. GARABEDIAN}

2 A I didn't even get the name of the priest.

3 Q Father Pizzano. I'm sorry.

4 A Spell it. It is not ringing a bell.

5 MALE ATTORNEY: Farano.

6 Q Farano. I'm sorry.

7 A Oh, Father Farano.

8 Q Yes.

9 A He may have been there. He was a chancellor

10 at the time. So it is likely that he would

11 have been present for such a meeting.

12 Q Let me refresh your memory.

13 Do you remember her telling you about her

14 being sexually abused yet you calling her a

15 slut?

16 MR. COSTELLO: Objection.

17 A I have absolutely not ever called anyone a

18 slut.

19 Q Now, you've gone to bishop's conferences,

20 correct, through the years?

21 A Correct.

22 Q Do you know Bishop Theodore -- excuse me, do

23 you know Father McConnell -- Theodore

24 McCarrick?

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1 {HUBBARD - BY MR. GARABEDIAN}

2 was appointed bishop on February 1st.

3 Q Did you have access as vicar general to the

4 sealed files or the 489 files or the secret

5 files?

6 MR. COSTELLO: Object to the form.

7 A I had access to the sealed files, but I've

8 never had reason to assess them or access

9 them.

10 Q When you were Bishop, who was number two --

11 strike that.

12 What was the title of number two person?

13 Was it a chancellor or a vicar general?

14 A Well, in point of fact, the vicar general was

15 higher in the pecking order, but they were

16 part time. And the person that you most

17 relied on was the full time chancellor.

18 Q And what were the duties of the full time

19 chancellor?

20 A Well, he had oversight of the finance of the

21 Diocese. He made appointments for the

22 Bishop, and sometimes if it was appropriate

23 he would sit in on such appointments. He was

24 responsible for being the liaison or first

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1 {HUBBARD - BY MR. GARABEDIAN}
 2 person to be called if there was an issue
 3 that occurred in any parish or school or
 4 entity of the Diocese. And he was kind of
 5 the bishop's cleanup man, to use a better
 6 term.
 7 **Q** Thank you.
 8 What were the duties of a vicar general?
 9 **A** The vicar general at that time was a part
 10 time position. He was, as I already testified
 11 to, a member of the corporate entity of the
 12 diocese, and I think he was a vice president
 13 of any diocesan corporation. And he would
 14 have to sign letters and occasionally attend
 15 meetings of diocesan corporations.
 16 **Q** What were the duties of a dean or vicar
 17 forane.
 18 **A** He was -- we used to have communities by
 19 counties, except in a big county like Albany
 20 we might have had two deans because one for
 21 the city and one for the suburbs. But he was
 22 the one who would call meetings of the clergy
 23 for discussion of issues that either was of
 24 local interest or that the diocese asked the

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1 {HUBBARD - BY MR. GARABEDIAN}
 2 priest to be consulted about.
 3 **Q** And what were the duties of an episcopal
 4 vicar?
 5 **A** I did not have any episcopal vicars. I used
 6 the deanery system. So I noted the present
 7 bishop has vicars, but I can't comment on
 8 that because that was initiated after my
 9 tenure.
 10 **Q** How did you first learn of a claim of clergy
 11 sexual abuse of a child? What was the
 12 process? Did someone call you up? Did
 13 another priest report it to you? What was
 14 the process?
 15 **A** Well, the first claim that I received as a
 16 bishop came as a result of a contact from the
 17 Archbishop of Boston because the priest who
 18 had been accused had been accepted by the
 19 Archdiocese of Boston, and he wanted to let
 20 me know that it wasn't working out, not
 21 because of any misconduct of a sexual nature
 22 but because of the tensions that had arisen
 23 between he and the people with whom he was
 24 working.

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1 {HUBBARD - BY MR. GARABEDIAN}
 2 **Q** And who was that archbishop in Boston?
 3 **A** Humberto Medeiros.
 4 **Q** Where else did you -- how else did you come
 5 to learn that children had been sexually
 6 abused by priests?
 7 **A** Well, of the 11 occasion I dealt with them
 8 before 2002, four of them came from public
 9 authorities and the rest came mostly from
 10 parents or pastors.
 11 **Q** And who were the public authorities?
 12 **A** A District Attorney, a state trooper, the
 13 sheriff's office in the county, and
 14 Commissioner of Human Services in another
 15 county.
 16 **Q** And who was that commissioner?
 17 **A** I would ask my attorney if I'm allowed to
 18 share that.
 19 MR. O'CONNOR: That is fine with
 20 me.
 21 **A** William Moon.
 22 **Q** Now, during the day today you've repeatedly
 23 used the word scandal. What do you mean by
 24 scandal? You've said the church should avoid

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1 {HUBBARD - BY MR. GARABEDIAN}
 2 scandal. What scandal are you talking about?
 3 MR. O'CONNOR: Object to the form.
 4 MS. DANEK: Object to the form.
 5 MR. O'CONNOR: You can answer the
 6 question.
 7 **A** It is a scandal that a priest abused a child.
 8 That is the scandal.
 9 **Q** Why is it a scandal?
 10 **A** Because it is a sin and it is a crime.
 11 **Q** Yet you don't report it to the police?
 12 **A** No. I didn't before 2002. As I say, I had
 13 it from three law enforcement authorities
 14 that they wanted me to do something about it.
 15 **Q** What was your definition of scandal before
 16 2002?
 17 MS. DANEK: Object to the form.
 18 **A** My definition of scandal is something that is
 19 obviously wrong and it was committed by
 20 someone in a position of authority and trust.
 21 **Q** And before 2002 what was the scandal you were
 22 referring to when you used it in the context
 23 of the Catholic Church?
 24 **A** The scandal was --

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- 1 {HUBBARD - BY MR. GARABEDIAN}
- 2 MS. DANEK: Object to the form.
- 3 A -- a priest abusing a child.
- 4 Q Say that again. I'm sorry. I didn't hear
- 5 you.
- 6 A The scandal was that a priest abused a child,
- 7 and the priest was in a position of trusted
- 8 responsibility, and to abuse his position in
- 9 that way is a scandal.
- 10 Q Do you think the sexual abuse of a child
- 11 ruins that child's life?
- 12 A It can.
- 13 Q And do you think the same is true back in the
- 14 1930's as it is today?
- 15 A I assume it was.
- 16 Q Why do you say you assume?
- 17 A Because I was born in 1938, so I don't know
- 18 what impact an abused victim experienced. I
- 19 could tell you from those that I met. But I
- 20 never met anybody that was abused in the
- 21 30's.
- 22 Q So as far as you know -- well, strike that.
- 23 Now, you've removed priests from ministry,
- 24 correct?

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- 1 {HUBBARD - BY MR. GARABEDIAN}
- 2 you think the church has a moral obligation
- 3 to warn the public about the tendency of the
- 4 priest to sexually abuse children?
- 5 A You do now.
- 6 MS. DANEK: Object to the form.
- 7 A We do now. As of 2002 we must notify the
- 8 public of any priest that has been removed
- 9 from ministry for sexual abuse.
- 10 Q How about prior to 2002? I'm speaking
- 11 morally.
- 12 A Well, if I had it to do over again, I would
- 13 have done it differently. But at the time I
- 14 thought I was doing the correct thing.
- 15 Q How would you have done it differently?
- 16 A Well, I probably would do what we do now,
- 17 that if the person was found guilty of
- 18 mistreating or sexually abusing a child, they
- 19 would be removed from ministry and we would
- 20 announce that publically.
- 21 Q Did you ever report or send a priest to a
- 22 treatment center for reasons other than
- 23 sexual abuse to children?
- 24 A Yes.

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- 1 {HUBBARD - BY MR. GARABEDIAN}
- 2 A Correct.
- 3 Q Because of being sexual pedophiles?
- 4 A Correct.
- 5 Q And where do you place them once you remove
- 6 them from ministry?
- 7 A I haven't placed them anywhere.
- 8 Q You just cut them loose?
- 9 A Well, yes. They are no longer able to
- 10 function as a minister in the church.
- 11 Q Can they give last rites?
- 12 A No. Well, let me correct that. If they
- 13 hadn't been laicized, formally laicized, in a
- 14 natural emergency they probably could, but I
- 15 never heard of that happening.
- 16 Q That could happen?
- 17 A I would have to check canonically, but I
- 18 think at least when I was studying this in
- 19 the seminary, I think in an emergency if the
- 20 person has been laicized, in an emergency
- 21 they could administer that sacrament. But I
- 22 would have to check canonically to give you
- 23 an exact answer.
- 24 Q When a priest is removed from ministry, do

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- 1 {HUBBARD - BY MR. GARABEDIAN}
- 2 Q What were those reasons?
- 3 A Problems with alcohol, problems with a
- 4 pastoral interaction, psychological issues.
- 5 Q Have you ever found a pedophile priest you
- 6 sent to a treatment center also has problems
- 7 with alcohol?
- 8 A I can't think of -- I can't pull up the name
- 9 right now, but I do know that some priests
- 10 who abused were drinking at the time.
- 11 Q Do you know if those priests or any priests
- 12 gave children alcohol when the children were
- 13 being abused?
- 14 A They have alleged that they did, yes.
- 15 Q Can you repeat your answer, please?
- 16 A It was alleged by the victims, some victims,
- 17 that they were given alcohol.
- 18 Q And once you learned that, what did you do?
- 19 A Well, I can't remember exactly if alcohol was
- 20 involved in those that I dealt with before
- 21 2002. So after 2002 the priests were removed
- 22 from ministry and obviously, we had the IMAP
- 23 program and other programs to assist victims.
- 24 So they would offer that assistance as they

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- 1 {HUBBARD - BY MR. GARABEDIAN}
- 2 would have before 2002 as well.
- 3 Q Did you ever send a priest to the treatment
- 4 center for sexual abuse of a child who also
- 5 has, as you phrased it, psychological
- 6 problems?
- 7 A A priest who had?
- 8 Q Psychological problems.
- 9 A And sexual abuse problems?
- 10 Q Yes.
- 11 A Both?
- 12 Q Yes.
- 13 A Well, I assume that some people who had
- 14 sexual abuse problems also had psychological
- 15 problems.
- 16 Q Can you give me the names of each supervising
- 17 priest who has reported the sexual abuse of
- 18 children to you?
- 19 A No, I could not.
- 20 Q Can you give me any names?
- 21 A Not off the top of my head, no.
- 22 Q Has any priest ever reported sexual abuse to
- 23 you?
- 24 A Well, put it this way. Sometimes a priest

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- 1 {HUBBARD - BY MR. GARABEDIAN}
- 2 will call the chancellor and then the
- 3 chancellor will bring it to my attention, but
- 4 the initial complaint came from the
- 5 chancellor. I mean, my receipt of the
- 6 complaint came from the chancellor, not from
- 7 the priest.
- 8 Q And who was the chancellor who called you?
- 9 A Father Farano.
- 10 Q And how many chancellors did you have under
- 11 you when you were Bishop?
- 12 A Father Farano, Father Patterson, Elizabeth
- 13 Simcoe Father. I think that is it, but there
- 14 may be another one.
- 15 Q Did Father Patterson ever call you to
- 16 report -- to tell you there has been a report
- 17 of sexual abuse of a child?
- 18 A Yes.
- 19 Q And when did he do that?
- 20 A Well, it was during the years that he was
- 21 chancellor, but I can't tell you the exact
- 22 year without having the file in front of me.
- 23 Q And how many different times did he call you?
- 24 A Again, I can't tell you the number of times.

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- 1 {HUBBARD - BY MR. GARABEDIAN}
- 2 I know that reviewing the files, I know that
- 3 there are at least one memo in there about a
- 4 meeting that he had with the victim and
- 5 relaying to me what the victim had alleged
- 6 and who the priest was.
- 7 Q And then what would you do? If a chancellor
- 8 called you, what would you do?
- 9 A Well, the first thing I would do is call the
- 10 priest and at this time we would put him on
- 11 leave of absence, and then it would be
- 12 reported to the priests -- excuse me, the
- 13 diocesan misconduct review board. And if he
- 14 denied the charge, then an investigation
- 15 would be initiated. And then depending on
- 16 the result of the investigation and
- 17 recommendation of the review board, if it was
- 18 not found to be credible, he would be
- 19 returned to ministry. And if it was found to
- 20 be credible, he would be removed permanently
- 21 from ministry.
- 22 Q What does a leave of absence involve?
- 23 A Leave of absence means that a priest usually
- 24 voluntarily seeks a period of time for

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- 1 {HUBBARD - BY MR. GARABEDIAN}
- 2 reasons of sickness or personal discernment,
- 3 and they are given a leave for a limited
- 4 period of time, usually a year. And then
- 5 after that they would have to be with the
- 6 bishop to determine whether they would return
- 7 to ministry or whether they would have their
- 8 leave extended.
- 9 Q Now, if a priest was removed and placed on a
- 10 leave of absence because of an allegation of
- 11 child abuse, would anyone supervise that
- 12 priest while he was on a leave of absence?
- 13 MR. O'CONNOR: Object to the form.
- 14 A While he was in leave of absence, right now,
- 15 the person would be told what the purpose of
- 16 leave of absence was so it would be known
- 17 that he was on a leave of absence because of
- 18 an allegation of sexual misconduct.
- 19 Q So is your answer no, that no one would be
- 20 supervising him? I'm a little confused. I'm
- 21 sorry.
- 22 A No. He wouldn't be under any supervision
- 23 because he is not functioning as a priest.
- 24 Q Okay. So he could just be out there sexually

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1 {HUBBARD - BY MR. GARABEDIAN}
 2 abusing children as far as you were
 3 concerned, correct?
 4 MR. O'CONNOR: Object to the form.
 5 MS. DANEK: Object to the form.
 6 MR. O'CONNOR: Don't answer that
 7 question. That is argumentative. It
 8 wasn't very polite either.
 9 Q Did Ms. Simcoe -- I apologize for not being
 10 polite.
 11 Did Ms. Simcoe ever report allegations of
 12 child abuse to you?
 13 A I can't remember. I can't remember if she
 14 did or didn't.
 15 It should be pointed out that she served
 16 as chancellor after 2002, and so we had a
 17 victims assistance coordinator at that time.
 18 So it would be more likely that the
 19 assistance victims coordinator during her
 20 tenure would receive the complaint than the
 21 chancellor.
 22 Q What did the victim review board consist of?
 23 A It consists of men and women, lay men and
 24 women and one, maybe at most maybe two

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1 {HUBBARD - BY MR. GARABEDIAN}
 2 priests. Usually about ten people on the
 3 review board, predominantly.
 4 Q Were they volunteers or were they paid?
 5 A Volunteers.
 6 Q And who did they report to?
 7 A Well, they would report to the bishop of the
 8 diocese.
 9 Q Who made the final decision as to whether the
 10 claims presented to the review board were
 11 credible?
 12 A Well, the final decision as to whether the
 13 allegations were credible was made by the
 14 review board, but it was then presented as a
 15 recommendation to the Bishop. And then
 16 ultimately the Bishop either accepts a report
 17 or asks them to investigate further if he is
 18 not satisfied with the report.
 19 Q So the investigation is totally in-house,
 20 correct?
 21 MR. O'CONNOR: Object to the form.
 22 A Well, no, it is not totally in-house.
 23 Q The investigation was totally within the
 24 Diocese of Albany's confines by individuals

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1 {HUBBARD - BY MR. GARABEDIAN}
 2 related to the Diocese of Albany?
 3 MR. O'CONNOR: Object to the form.
 4 MS. DANEK: Object to the form.
 5 A Well, the review board was established in
 6 1993.
 7 I'm sorry, I lost your question.
 8 Q Okay.
 9 REPORTER: Do you want me to read
 10 it back?
 11 MR. GARABEDIAN: Yes, please.
 12 BISHOP HUBBARD: If you would read
 13 it back, I would appreciate it.
 14 MR. GARABEDIAN: Read it back,
 15 please.
 16 (Whereupon, the last couple
 17 questions and answers were read back.)
 18 A The other point I guess I wanted to mention
 19 is that from 2002 on before the Diocese does
 20 any investigation, the allegation is submitted
 21 to the local District Attorney.
 22 Q And what do they do with it?
 23 A They determine whether or not they have
 24 jurisdictions, and then they have to write

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1 {HUBBARD - BY MR. GARABEDIAN}
 2 back and inform us if they have jurisdiction,
 3 and then they proceed. And if they don't
 4 have jurisdiction, usually because of the
 5 statute of limitations, then they say they
 6 have no jurisdiction and they return it to
 7 the Diocese, and that is when the Diocese
 8 would begin its investigation.
 9 Q You mentioned earlier in the deposition today
 10 that the police sometimes called you and
 11 asked you to do something about a pedophile
 12 priest or allegations of pedophilia, correct?
 13 A I said law enforcement.
 14 Q And who from law enforcement would do that?
 15 A Well, I did not always receive the complaint,
 16 but I know one was a state trooper, one was
 17 the county sheriff's office, one was from the
 18 District Attorney.
 19 Q Did you say to them these are crimes, why
 20 don't you handle it?
 21 A No, because they didn't speak to me personally.
 22 Q I'm going to ask you a few questions about
 23 religious brothers. If a religious brother
 24 was working at a diocesan school, was the

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- 1 {HUBBARD - BY MR. GARABEDIAN}
- 2 head of the diocesan school or the diocese
- 3 responsible for supervising the religious
- 4 brother?
- 5 A As far as responsibilities of school, yes.
- 6 Q And if a religious brother worked at a
- 7 parish, was the pastor responsible for
- 8 supervising the religious brother?
- 9 A Yes.
- 10 Q What criteria do you use to determine whether
- 11 a document belongs in the 489 files or the
- 12 sealed files?
- 13 A I think the criteria would be a complaint
- 14 again a priest for a variety of reasons, and
- 15 anything from not being pastoral in terms of
- 16 his interaction with the parishioners, in
- 17 terms of alcohol abuse, in terms of sexual
- 18 misconduct with an adult or with a minor.
- 19 That type of thing would be in a sealed file.
- 20 Q And who makes that determination, Bishop?
- 21 A I would assume the bishop of the diocese.
- 22 Q And did you make those determinations when
- 23 you were a Bishop for more than 20 years?
- 24 A Yes. In terms of which file they should go

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- 1 {HUBBARD - BY MR. GARABEDIAN}
- 2 in, yes, I would make the determination and
- 3 put it in the general file or in a sealed
- 4 file.
- 5 Q Did you do that on your own or were you part
- 6 of a committee that did that?
- 7 A I would do it on my own. I don't know what
- 8 other bishops did, but I did it on my own.
- 9 Q Did you place a document in the secret file
- 10 to avoid scandal?
- 11 MS. DANEK: Object to the form.
- 12 A I placed it in the file because I felt that
- 13 that material should be confidential and
- 14 should not be in a general file.
- 15 Q One minute, please.
- 16 MR. GARABEDIAN: How much time do I
- 17 have left? Does anyone know?
- 18 MR. O'CONNOR: Nine minutes.
- 19 MR. GARABEDIAN: Nine minutes.
- 20 Could we take a break for five minutes?
- 21 MR. O'CONNOR: Sure.
- 22 MR. GARABEDIAN: Thank you.
- 23 VIDEOGRAPHER: Going off the record,
- 24 4:54.

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- 1 {HUBBARD - BY MR. GARABEDIAN}
- 2 (Whereupon, a break was held off
- 3 the record.)
- 4 VIDEOGRAPHER: Back on the record,
- 5 4:59. Go ahead.
- 6 BY MR. GARABEDIAN:
- 7 Q Bishop, while you were a diocesan priest did
- 8 you ever report a priest for inappropriate
- 9 conduct?
- 10 A No --
- 11 Q To a supervisor?
- 12 A No.
- 13 Q While you were a diocesan priest did you ever
- 14 report to a supervisor another priest for
- 15 sexual abusive activity or suspicious activity?
- 16 A No.
- 17 Q Is your answer no? I'm sorry.
- 18 A I'm sorry, no.
- 19 Q Great. Thank you.
- 20 So based on your testimony today, I
- 21 believe you are stating that Father Stone
- 22 reoffended, correct?
- 23 A Yes.
- 24 Q And you are saying Father Haight reoffended

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- 1 {HUBBARD - BY MR. GARABEDIAN}
- 2 also?
- 3 A No, I didn't say that.
- 4 Q Okay. And who was --
- 5 A I didn't say he reoffended posttreatment.
- 6 Q Okay.
- 7 And do you know if Stone, Father Stone was
- 8 the priest that you sent to the treatment
- 9 center two times?
- 10 A No.
- 11 Q Do you recall that priest's last name? I
- 12 believe you weren't sure earlier.
- 13 A You are talking about a priest that went to
- 14 the center, to a treatment center two times?
- 15 Q Yes.
- 16 A I think it was Father Haight, but I'm not
- 17 aware why -- I know why he was sent to Jemez
- 18 Springs. I don't know why he was sent to the
- 19 House of Affirmation.
- 20 Q Did you ever send anyone to the Institute for
- 21 Living in Connecticut, a treatment center?
- 22 A It was not a regular place we used for
- 23 treatment. I can't -- the name is familiar
- 24 to me, but I can't remember if we ever sent

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1 {HUBBARD - BY MR. GARABEDIAN}

2 anybody there. It certainly was an exception

3 if we did.

4 Q Did you ever send anyone to Southdown in

5 Ontario, Canada for treatment?

6 A Yes. Yes.

7 Q And who did you send there?

8 A I know Father Pratt was sent there. There

9 were others. I can't remember each treatment

10 center that a priest went to. The one that I

11 remember distinctly was Father Pratt.

12 Q Did you ever send any priests to any one week

13 programs at a hospital that we haven't

14 mentioned earlier?

15 A Not that I can recall.

16 Q If you -- when a priest is released from the

17 treatment center, are they still being

18 treated with counseling, weekly counseling or

19 monthly counseling or are they just cut

20 loose?

21 A Usually when they are released from a

22 treatment center there is an aftercare program

23 that the priest is to follow, and they

24 usually have to go back after a period of six

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1 {HUBBARD - BY MR. GARABEDIAN}

2 Q And where is that file?

3 A I don't know where it is. It is in the

4 pastoral center someplace. I don't know

5 where it is exactly in the pastoral center.

6 I don't know, except that it is there.

7 Q When was the last time you spoke to Bishop

8 Scharfenberger?

9 MR. COSTELLO: Object to the form.

10 About what?

11 MR. GARABEDIAN: About today's

12 deposition.

13 A I never discussed it with him.

14 Q Have you ever discussed clergy sexual abuse

15 with Bishop Scharfenberger?

16 MR. COSTELLO: Object to the form.

17 You may answer.

18 A I may have talked to him about the issue in

19 general. I have never talked to him about a

20 specific case.

21 Q And what did you talk about?

22 A Well, I think we talked about what a

23 devastating effect this behavior has had on

24 the trust of the church. At one point it had

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1 {HUBBARD - BY MR. GARABEDIAN}

2 months or nine months or a year, and they are

3 reviewed as to how well they comply with the

4 after-treatment program.

5 Q And what is your role in reviewing those

6 records?

7 A My role in reviewing the records is that I

8 received report from the treatment facility

9 both when they were discharged initially and

10 then after they have gone back to the

11 aftercare program.

12 Q And do you speak to anyone at the treatment

13 center about those records or is there an

14 opinion?

15 A Well, sometimes I will have a question and we

16 will call the treatment center or they will

17 call me. But other times I just had the

18 written correspondence. Well, I always had

19 the written correspondence, but sometimes

20 there is dialogue with at least the head of

21 the treatment facility.

22 Q And is that written correspondence in the

23 sealed files?

24 A Well, right now we just have one file.

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1 {HUBBARD - BY MR. GARABEDIAN}

2 patrimony, and I think has lost greatly.

3 Q Did you ever talk to him about the devastating

4 affect clergy sexual abuse has had on

5 children?

6 A Yes.

7 Q When was the last time you spoke to Bishop

8 Scharfenberger about clergy sexual abuse?

9 A Not recently.

10 Q I'm sorry?

11 A Not recently.

12 Q But when was the last time?

13 A I don't know. It would have been very early

14 on in his episcopal ministry, so it was

15 probably sometime in 2014. It was not about

16 specific cases. It was about the issue, in

17 general.

18 Q Now, who was the predecessor bishop to you?

19 A Bishop Edwin Broderick.

20 Q I'm sorry?

21 A Bishop Edwin Broderick.

22 Q And did you speak to him about clergy sexual

23 abuse?

24 A Only in the case of Dozia Wilson.

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1 {HUBBARD - BY MR. GARABEDIAN}

2 Q And what did you talk about?

3 A Well, the complaint was received by him and

4 then I, as I've indicated, spoke with the

5 archbishop of Boston about his not being

6 acceptable anymore in that archdiocese, and I

7 had to talk to him to get the background as

8 to what had happened, how I was aware as a

9 member of the priest personnel board that he

10 was accused of misconduct and is now working

11 in the diocese, archdiocese of Boston. But

12 beyond that general information, I had no

13 background on what the accusation was or

14 where it came from and what the agreement was

15 with the archdiocese of Boston.

16 Q How did you first learn about the existence

17 of treatment centers of pedophilia?

18 A I believe it was when I became bishop.

19 Q And how did you learn about it when you

20 became bishop?

21 A Well, when I had cases brought to my attention,

22 I knew that one of the things that needed to

23 be done was to provide them with treatment.

24 And so I had to contact people, I don't know

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1 {HUBBARD - BY MR. GARABEDIAN}

2 who I contacted, in terms of what facilities

3 were available and what might be recommended.

4 Q You don't know who you contacted?

5 A Sir, are you talking about 1977? No, I

6 don't. I was looking for recommendations. I

7 could probably call somebody at the USCCB.

8 But again, I can't say that with any

9 specificity.

10 Q When you first --

11 A I know that --

12 Q Go ahead. I'm sorry. I apologize.

13 A I know that treatment had to be offered and I

14 had to find out what facilities were available

15 for such treatment.

16 Q Was the -- are you finished? I'm sorry.

17 A No. I'm finished.

18 Q Thank you.

19 Was it shocking for you to learn about

20 pedophilia in 1977?

21 A Yes, it was.

22 MR. COSTELLO: Object to the form.

23 A It was shocking for me.

24 Q Was it an extraordinary moment?

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1 {HUBBARD - BY MR. GARABEDIAN}

2 MR. COSTELLO: Same objection.

3 A Well, it came gradually. I mean, I had 11

4 cases in 25 years. So it wasn't like it was

5 overwhelming with 11 cases in 1977. And I

6 came to appreciate the gravity of the problem

7 as time went on.

8 Q So initially you didn't appreciate the

9 gravity of the problem?

10 MR. COSTELLO: Objection to the

11 form.

12 A No, I did not have any comprehension of the

13 gravity of the problem.

14 Q How did you view the problem back then in

15 1977, the problem of sexual abuse of a child

16 by a priest?

17 MR. O'CONNOR: Mitch, we are going

18 to put a wrapper on this. The time is

19 done.

20 MR. GARABEDIAN: Give me one

21 minute, okay?

22 MR. O'CONNOR: Well --

23 MR. GARABEDIAN: 60 seconds, okay?

24 MR. O'CONNOR: Well, if you want to

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1 {HUBBARD - BY MR. GARABEDIAN}

2 ask a question in the morning you can. I

3 just want to get the Bishop home. He has

4 been here for eight, nine hours.

5 MR. GARABEDIAN: Can I have 60

6 seconds and then I'll be finished?

7 MR. O'CONNOR: All right.

8 Q Bishop, do you know Father Robert Holtz?

9 A I know that he was a Carmelite priest that

10 served in St. Joseph's in Troy. I met him on

11 a few occasions when he was there. That is

12 the extent of my interaction with him.

13 Q Do you know if he has been identified as

14 being a sexual abuser?

15 A Not by the Diocese of Albany at the present

16 time he is not listed. Well, we only listed

17 Diocesan priests.

18 Q Did you ever have a meeting concerning Father

19 Robert Holtz sexually abusing?

20 A I think the exhibits show that I did have

21 such a meeting, but I can't recall the

22 specifics of it.

23 MR. GARABEDIAN: I have no further

24 questions. Thank you, Terry. Thank you.

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1 {HUBBARD - BY MR. GARABEDIAN}
 2 VIDEOGRAPHER: Let's go off the
 3 record if we can.
 4 MR. GARABEDIAN: Thank you, Bishop.
 5 BISHOP HUBBARD: Thank you, sir.
 6 VIDEOGRAPHER: Going off the record
 7 at 5:11 for today.
 8 (Whereupon, the testimony of BISHOP
 9 EMERITUS HOWARD J. HUBBARD was suspended
 10 for the day.)

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CERTIFICATION

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 3
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 5
 6 I, Laura A. Couch, a notary public and
 7 shorthand reporter in and for the County of
 8 Schenectady and State of New York, do hereby
 9 certify that the foregoing transcript of the
 10 testimony of BISHOP EMERITUS HOWARD J.
 11 HUBBARD, having been first duly sworn to
 12 testify to the truth, the whole truth, is a
 13 true and correct transcript of the testimony
 14 given by the said witness at the time and
 15 place specified hereinbefore.
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19 _____ 5/4/21
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 11 to be a true and accurate
 12 transcript thereof.
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 19 Sworn and subscribed to before me
 20 this ____ day of _____, 2021.
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STATE OF NEW YORK
SUPREME COURT COUNTY OF ALBANY

STIPULATION AND ORDER CONCERNING THE
DEPOSITION OF DIOCESE OF ALBANY BISHOP
EMERITUS HOWARD J. HUBBARD IN CHILD VICTIMS
ACT CASES

EXAMINATION OF BISHOP EMERITUS HOWARD J.
HUBBARD, held before Laura A. Couch, a
Shorthand Reporter and Notary Public in the
State of New York, via Zoom, on Wednesday,
April 21, 2021, commencing at 10 a.m.

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S T I P U L A T I O N S

4

5

6 It is hereby stipulated and agreed by and
7 between the attorneys for the parties hereto
8 that the filing, sealing and certification of
9 the within deposition are waived; that all
10 objections, except to the form of the
11 question, are reserved to the time of trial;
12 that the within deposition may be signed and
13 sworn to before any Notary Public; and that
14 the attorney for the examining party shall
15 furnish one copy of the within deposition to
16 the attorney for the party examined, without
17 charge.

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1

2 **A** Yes. Thank you.

3 **Q** I would like to start by asking you if you

4 understand the following to be true: Child

5 sex abusers are predators who seek out sexual

6 pleasure by overpowering and abusing young

7 children?

8 **MR. COSTELLO:** Object to the form

9 of the question.

10 You may answer if you can.

11 **A** I think that is true in most of the instances

12 that I have been involved with. I can't say

13 absolutely true in all.

14 **Q** And do you understand that child sex abusers

15 groom children by threatening them and by

16 rewarding them by filling needs the children

17 have or fears that they might have?

18 **MR. COSTELLO:** Objection.

19 **A** That is a pattern I have seen in a number of

20 the cases that I have handled.

21 **Q** And when these predators are priests, they

22 come to these children as the right hand of

23 God on earth and often as substitutes for the

24 parents these children do not have. Do you

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2 **VIDEOGRAPHER:** We are on the

3 record. This is day two of the video

4 deposition of Bishop Emeritus Hubbard. It

5 is Wednesday, April 21st, 2021, and the

6 time is 9:31, and we are back on the

7 record.

8 **REPORTER:** Bishop Hubbard, this is

9 Laura Couch again, the court reporter. I

10 just wanted to remind you that you are

11 still under oath from yesterday. Okay?

12 **BISHOP HUBBARD:** Thank you.

13 **REPORTER:** You're welcome.

14 **EXAMINATION BY MS. LAFAVE:**

15 **Q** Bishop Hubbard, my name is Cynthia LaFave,

16 and I'm going to be asking you a series of

17 questions today. I'm actually from the

18 Albany area, unusual for this group, I know.

19 I have met you on a couple occasions, but you

20 probably don't remember it. If at any time

21 you want to take a break, I want you to feel

22 free to take a break and just let me know. I

23 would just ask that you answer whatever

24 question is pending at that time. Okay?

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2 understand that?

3 **MR. COSTELLO:** Objection.

4 **A** I understand that is true in many cases.

5 **Q** And the predators keep the secrecy of their

6 power over the children hidden by threatening

7 the children with various things. Do you

8 understand that?

9 **A** I have seen that in the cases I have

10 reviewed.

11 **Q** Once a pedophile commits sexual abuse of a

12 child, they are always a child abuser, child

13 sex abuser, correct?

14 **MR. O'CONNOR:** Object to the form

15 and foundation.

16 **MR. COSTELLO:** Objection.

17 **Q** Now, if I understand your testimony --

18 **REPORTER:** I didn't get an answer.

19 Was there an answer?

20 **BISHOP HUBBARD:** No, I didn't give

21 an answer. I don't know the answer to

22 that question. I'm not a psychiatrist or

23 a psychologist.

24 **Q** Well, the question was once they have

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2 committed sexual abuse, are they always a
3 child sex abuser? Are they always -- they
4 have committed sexual abuse, so therefore,
5 they are always a child sex abuser?

6 MR. O'CONNOR: Form.

7 MR. COSTELLO: Objection.

8 A Well, if you say always a child sex abuser,
9 yes, they were once a child sex abuser.
10 Whether they will offend in the future, I
11 don't have knowledge of that specifically.

12 Q Now, when you testified yesterday you told us
13 about the secret files that were kept at the
14 Diocese. And I understand that when you
15 became Bishop you did not go and look at
16 those files. Did I understand that correctly?

17 A That is correct.

18 Q So as the Bishop did you not think that you
19 should know who had been a child sex abuser
20 in your Diocese among the priests and the
21 other clerics?

22 A First of all, when I became Bishop of the
23 Diocese, the issue of clergy sex abuse was
24 not the top priority I had. I had no

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2 knowledge of anyone else, except one, that
3 had committed this, and I didn't feel that I
4 had to purge all the files to find out how
5 many others were out there.

6 Q Well, when you became bishop in 1977 there
7 were a number of files in the secret files
8 about priests who had committed sex abuse,
9 correct?

10 A I don't know.

11 MR. COSTELLO: Objection.

12 A I didn't look at them then.

13 Q Now, you also testified yesterday that if a
14 seminarian shows signs of pedophilia they are
15 not considered trustworthy and therefore,
16 should never be allowed into the priesthood.
17 Do you remember that testimony?

18 MR. COSTELLO: Objection.

19 A I do.

20 Q And you told us that pedophile priests who
21 have committed sex abuse can be
22 rehabilitated. How is it they can continue
23 to be a priest when seminarians cannot become
24 a priest if they have shown signs of

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2 pedophilia?

3 A Well, that is a judgment that a bishop would
4 make. If somebody has already engaged in
5 such behavior before they even begin their
6 formation, I think that protection of the
7 community demands they not be accepted. If
8 somebody has served and offended and has been
9 sent for treatment and is judged acceptable
10 for ministry in the future, and that the
11 likelihood of offense is very slim, then I
12 think based upon that information that I
13 received in consultation with others, I think
14 there is a possibility of somebody serving
15 and not reoffending. As a matter of fact, I
16 know there is a number that have.

17 Q And so you are drawing the line at after they
18 become a priest, then they can stay a priest,
19 but if they haven't become a priest they
20 can't become a priest if they have shown
21 signs of pedophilia?

22 MR. O'CONNOR: Object to the form.

23 MR. COSTELLO: Objection.

24 A I, as a bishop, would not accept a candidate

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2 who has previously engaged in pedophilia. If
3 somebody has been ordained a priest and has
4 been treated and psychiatrists and
5 psychologists and social workers who
6 specialize in this have deemed that they can
7 be placed back in ministry with low
8 likelihood of, but that is kind of a moot
9 question right now because anybody who is
10 ordained as a priest and who offends by
11 abusing a minor is immediately removed from
12 ministry.

13 Q That is a moot question now, but it hasn't
14 been a moot question over the history of the
15 time that you were the bishop, correct?

16 A No. It was the history of the church over a
17 period of time as well.

18 Q Now, the Diocesan sexual misconduct board,
19 you described that to us yesterday, and you
20 told us the people that were on it. How did
21 they conduct their investigations?

22 A We had an investigator that was hired by the
23 Diocese and they would provide him with the
24 proper information concerning what the

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2 allegation was. Then he would come back and
3 make written or oral reports to the review
4 board. Sometimes they felt that he had
5 adequately developed the information they
6 would need to render a decision, and other
7 times they wanted more information and they
8 asked that that be done, and he would gather
9 it and come back and present his material to
10 the review board.
- 11 Q So what were the -- were there written
12 qualifications for the people who were on
13 this review board?
- 14 A There were not written qualifications.
15 However, they were picked by determination
16 that their background should lend them well
17 to be able to fulfill that responsibility.
- 18 Q Who picked them?
- 19 A Well, ultimately, I was the one that
20 appointed them, but there were recommendations
21 that came from a variety of sources.
- 22 Q Did you throughout your tenure as the bishop
23 consider it your sworn duty to protect the
24 reputation of the church?

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2 **MR. COSTELLO: Objection.**
- 3 A I thought that if someone had offended and
4 they had been judged as suitable for ministry
5 after treatment, that they could be restored
6 to ministry.
- 7 Q And their name would not be disclosed until
8 we got to the period of 2002, correct?
- 9 A That is correct.
- 10 Q As a priest and a bishop in your life, you've
11 had to wear a lot of hats. You've been a
12 social services worker?
- 13 A Correct.
- 14 Q And you've been a marriage and family
15 counselor?
- 16 A At times.
- 17 Q And a mental health counselor at times?
- 18 A I wouldn't assess myself as a mental health
19 counselor.
- 20 Q Well, when you worked in Hope House and
21 Providence House, certainly sometimes you
22 worked as a mental health counselor, correct?
- 23 A Well, basically, I tried to organize the
24 treatments team. I didn't feel that I had

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2 **MR. COSTELLO: Objection to the**
3 **form of the question.**
- 4 You may answer.
- 5 A I do, but it also was my sworn duty to
6 protect the wellbeing of all of our people,
7 including minors.
- 8 Q Well, my question to you was about the
9 reputation of the church?
- 10 A Yes.
- 11 **MR. COSTELLO: Form.**
- 12 A I think as bishop of the Diocese I have the
13 responsibility to protect the reputation of
14 the church. But sometimes the church has
15 done things or members of the church have
16 done things which are wrong and they have to
17 be labelled as such.
- 18 Q And did you also consider it your duty to
19 protect the reputation of the priests within
20 the Diocese?
- 21 A I saw it as my duty to ensure that priests
22 had due process.
- 23 Q You didn't think you needed to protect their
24 reputation in the community?

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2 the skills necessary to provide the therapy
3 that those addicted to drugs had. I would
4 sit in on groups and so forth, but I was
5 never the leader of the group. We drew upon
6 people, initially, Renaissance House and
7 Daytop Village down in the Catskills, and we
8 were able to employ a couple of their staff,
9 and they were the ones who really conducted
10 the program.
- 11 Q Well, over the time that you were a priest
12 and later as a bishop, you also met
13 one-on-one for people to do counseling,
14 right?
- 15 A I would do that, for example, if someone came
16 to me with a family problem or someone is
17 preparing for marriage, in that sense I did
18 counseling.
- 19 Q And Providence House, as I understand it,
20 also had a daycare program for families and
21 children?
- 22 A We had an after-school program and we had a
23 summer school program. We bussed them to
24 Lawson Lake.

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2 Q And the diocesan schools, you were ultimately

3 the administrator of those schools, right?

4 MR. COSTELLO: Objection.

5 A We had a superintendent of schools, and he

6 had the prime responsibility of overseeing

7 the schools, but if there was some policy of

8 the board that was in controversy, I would

9 have the responsibility to ultimately decide

10 that. And if somebody had been abused and

11 was not addressing it and I became aware of

12 it, I would have the responsibility to ensure

13 that was addressed.

14 Q Now, yesterday you told us that you did not

15 report predator priests in the diocese over

16 the years because you were not a mandated

17 reporter. Do you recall that testimony?

18 A I do.

19 Q And do you know that mandated reporting has

20 been in effect in New York State since 1973?

21 A I don't know that off the top of my head.

22 Q The mandated reporting in New York State, the

23 mandated reporters include social services

24 workers, marriage and family counselors,

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2 mental health counselors, daycare workers and

3 administrators of schools. Did you know

4 that?

5 MR. COSTELLO: Object for the form.

6 You may answer if you can.

7 A I would assume they would have that

8 responsibility.

9 Q And you told us that you did undertake those

10 jobs in the diocese over time?

11 MR. O'CONNOR: Object to the form.

12 A I didn't say that. I was not the

13 superintendent of schools. I was not a

14 professional counselor. I didn't work for a

15 counseling agency or I didn't work for an

16 institution that provided direct social

17 services like St. Catherine's or LaSalle or

18 one of the other institutions we have in the

19 diocese that are listed specifically as

20 social service entities in the diocese.

21 Q Bishop, in your work at the diocese, are you

22 aware of the fact that the diocese advertised

23 for child -- children who had been sexually

24 abused by priests to come to the diocese for

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2 counseling?

3 A Yes.

4 Q And sometimes you were the person who

5 counseled them, correct?

6 MR. COSTELLO: Object.

7 A Not after we established the victims

8 assistance coordinator. And the counseling

9 program to which you refer wasn't established

10 for two years after that.

11 Q What year was that?

12 A The victims assistance coordinator came in

13 2002 and the IMAP program came in 2003.

14 Q Actually, IMAP was in 2004, wasn't it,

15 Bishop?

16 A It was announced in 2003. It became

17 operative in 2004, but the first announcement

18 was the end of 2003.

19 Q And before that time the church was

20 advertising that child sex abuse victims

21 should come to the church for counseling, and

22 sometimes you did that counseling, correct?

23 A No.

24 MR. COSTELLO: Object to the form.

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2 A I never presented myself as a counselor. I

3 presented myself as a priest and a pastor and

4 as someone who had empathy toward any minor

5 who was abused.

6 Q You would talk to the people who had been

7 abused, right?

8 A I would talk to them, but I didn't see myself

9 as a therapist. In fact, one of the roles I

10 had was to refer them to a therapist, and

11 then we would pay this therapist. Nobody

12 paid me for my meeting for the victims.

13 Q You are saying we would pay, you mean the

14 Diocese?

15 A Correct.

16 Q Now, the Diocese first adopted mandated

17 reporting in 2002, correct?

18 A Yes.

19 MR. COSTELLO: Object to the form.

20 Q And that was 29 years after New York State

21 adopted mandated reporting, is that correct?

22 MR. COSTELLO: Same objection.

23 If you know.

24 A I don't know when they adopted it. If you

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 2 say it was 29 years prior to that, that may
 3 be true. I was not familiar with it,
 4 certainly, at the time.
 5 Q Do you know how many children were sexually
 6 abused because no one reported the abuse by
 7 the priest between 1973 and 2002?
 8 A I don't know the exact number, but it was
 9 certainly --
 10 MR. O'CONNOR: Bishop, I don't want
 11 you to guess. So don't guess.
 12 MS. LAFAVE: I think that there is
 13 a general knowledge of the witness that he
 14 is not supposed to guess, so I'm going to
 15 object to interjections.
 16 A Well, I would say that most abusers had more
 17 than one victim, and there is 51 priests
 18 listed on the credibly accused list on the
 19 Diocesan website, so I would certainly say we
 20 are talking more than a hundred, at least.
 21 Q Well, there is 51 priests that are listed on
 22 the Diocesan website as credibly accused, but
 23 those are the people who went to the church
 24 and went through the Diocesan sexual

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 2 misconduct committee, correct?
 3 A That is correct.
 4 Q Now, wouldn't you --
 5 A Can I clarify that?
 6 Q Go ahead. Clarify.
 7 A That meant not everyone went to the IMAP
 8 program. Not everyone who was offered therapy
 9 accepted it. So I'm not saying that everyone
 10 who came to the diocese either got therapy or
 11 went through the IMAP program. That is not
 12 true.
 13 Q I wasn't talking about the IMAP program. I
 14 was talking about the sexual misconduct
 15 board. That is the board who determines
 16 whether or not an abuser is credibly abused --
 17 credibly charged, correct?
 18 A That is the board that makes a recommendation
 19 to me that a person is credibly -- that is
 20 credibly accused.
 21 Q And you are the one who ultimately signs off
 22 on that?
 23 A Yes.
 24 Q But that is only people that went to the

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 2 church --
 3 A That is correct.
 4 Q -- and have their cases heard. Now, you know
 5 that among the attorneys on this deposition
 6 and trial testimony that we are taking here
 7 today, we have 273 cases against the Albany
 8 Diocese. Do you know that?
 9 MR. COSTELLO: Object to the form.
 10 A I didn't know the exact number that you
 11 cited. I don't question it. I'm just not
 12 familiar with it.
 13 Q Certainly, a significant number more than on
 14 the credibly accused list, correct?
 15 A Right, but --
 16 MR. COSTELLO: Let's be clear.
 17 Many of those cases involve religious
 18 orders and other institutions, not just
 19 the Diocese.
 20 MS. LAFAVE: The Diocese is listed
 21 in all of them. Mike, you can't have
 22 speaking objections. I'm going to object
 23 to that, and I'm going to have to ask that
 24 you not do that.

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 2 Q Bishop, I would like to move on.
 3 Do you receive any benefit from the Mother
 4 Cabrini Fund?
 5 A No.
 6 MR. COSTELLO: Object to the form.
 7 Q Do you receive any -- let me rephrase that.
 8 Do you receive any benefit from the Mother
 9 Cabrini Trust?
 10 A No.
 11 Q Do you receive any retirement stipend from
 12 the Diocese?
 13 A Yes. I receive the same retirement benefit
 14 that any priest in the Diocese receives.
 15 Q And do you receive income from any other
 16 source?
 17 A The only other source that I received income
 18 from is I serve on the Board of the Whalen
 19 Foundation, and they meet twice a year. I
 20 was not able to attend their meeting yesterday
 21 because I was giving this deposition here.
 22 So I have received a thousand dollar stipend
 23 from that Foundation.
 24 Q And the Diocese pays your room and board and

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2 they give you a stipend for food, and you get
3 a car and things like that, right?
4 **A** Room and board and car I receive.
5 **Q** And gas?
6 **A** No, not now that I'm retired. I pay my own
7 gas.
8 **Q** All right.
9 I have some questions about a Father
10 Bernard Casper from the Diocese of Pueblo.
11 Are you familiar with Father Bernard Casper?
12 **A** The name rings a bell, but I can't place him
13 at this moment. Maybe if you say more about
14 him.
15 **Q** All right. I'll tell you more about him.
16 I'll represent to you that Father Bernard
17 Casper was ordained a priest in the Diocese
18 of Pueblo in 1955 and remained incardinated
19 in the Diocese of Pueblo throughout his
20 career as a priest. In 2003 he was accused
21 of sexually abusing two minors in the 1970's.
22 When a priest is incardinated in a diocese,
23 what does that mean?
24 **A** It means that they are a cleric that has been

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2 ordained for the church and is to be of
3 service to that particular diocese.
4 **Q** And they remain connected with that diocese
5 throughout their entire career, correct?
6 **A** Not necessarily.
7 **Q** Well, if they are not incardinated in another
8 diocese they do, correct?
9 **A** Yes. If they are not incardinated in another
10 diocese, but they can be incardinated in
11 another diocese.
12 **Q** Do they ultimately, if they never change
13 where they are incardinated, do they
14 ultimately answer to the bishop of the
15 diocese where they were incardinated?
16 **MR. COSTELLO: Object to the form.**
17 **A** I think there is a two-fold responsibility,
18 the diocese in which they are incardinated
19 and the diocese where they are serving.
20 **Q** Can the bishop of a diocese where a priest is
21 incardinated call that priest back to the
22 home diocese?
23 **A** If he is incardinated -- if he is incardinated
24 in the home diocese, the home diocese can

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2 call that priest back to that diocese.
3 **Q** And does the bishop of a diocese where the
4 priest is incardinated retain responsibility
5 for supervising that priest?
6 **MR. O'CONNOR: Form.**
7 **MR. COSTELLO: Object to the form.**
8 You may answer.
9 **A** I would say that once the priest has received
10 permission from his bishop to go to another
11 diocese, that would be the responsibility of
12 the bishop in the other diocese to oversee
13 his ministry.
14 **Q** But you would have to communicate back to the
15 other bishop anything that had to do with the
16 person who -- the priest that had been
17 incardinated at the other diocese, correct?
18 **A** I would have to communicate back what?
19 **Q** Anything that was happening with regard to
20 that priest as far as supervising that
21 priest?
22 **A** I don't know what --
23 **MR. COSTELLO: Objection.**
24 **A** -- you mean by anything.

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2 **Q** Well, let me ask you this.
3 Can the bishop of a diocese where a priest
4 is incardinated discipline that priest?
5 **A** Can the bishop of the diocese where a priest
6 is incardinated discipline, yes.
7 **Q** And I'll represent to you that Father Casper
8 sexually abused a child while he was
9 incardinated at the Diocese of Pueblo but
10 residing in the Diocese of Albany. Do you
11 believe that the Diocese of Pueblo still had
12 some responsibility for Father Casper while
13 he was living in the Diocese of Albany
14 because Father Casper remained incardinated
15 in the Diocese of Pueblo?
16 **MR. COSTELLO: I object to the form**
17 **of the question. It calls for a**
18 **conclusion, a legal conclusion. He may**
19 **answer if he can.**
20 **Q** You can answer.
21 **A** I would say they may bear some responsibility,
22 but I would say the major responsibility
23 would be in the diocese where the abuse
24 occurred.

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2 Q So it is a shared responsibility is what you

3 are saying?

4 MR. COSTELLO: Objection.

5 A It is the best I can answer this question

6 without consulting Canon Law and a trained

7 canonist.

8 Q Bishop, how many priests have there been over

9 the period of time that you were a bishop in

10 the Albany Diocese?

11 MR. O'CONNOR: Can you read that

12 back, Laura. I'm sorry, Cynthia.

13 (Whereupon, the last question was

14 read back.)

15 A Are you talking about diocesan priests or

16 diocesan religious order of priests?

17 Q Well, let's start with diocesan priests.

18 A I can't give you an exact number. I know

19 when I was first ordained we were probably

20 close to 400 priests. That would include the

21 active and the retired. Now we have less

22 than 200 active retired priests. So I can't

23 give you an exact number except for

24 parameters.

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2 checked my files, I could tell you for sure.

3 Q Bishop, how many on the credibly accused list

4 are alive today?

5 A I really don't -- if I had the list I could

6 tell you, but I don't.

7 Q After being placed on the credibly accused

8 list, did the Diocese have a policy on

9 continuing payments for those credibly

10 accused clerics, predators, of paying for

11 their room, board, salary, health insurance

12 and attorneys?

13 MR. COSTELLO: Object to the form.

14 You may answer.

15 A There was a policy of benefits that may have

16 been accrued during the course of their

17 service, and they may have been compensated

18 if in accordance with the formula of how much

19 money had accrued to their account.

20 Q And you are talking about retirement?

21 A Yes.

22 Q And sometimes it is not retirement because

23 they didn't reach retirement age, it is just

24 payments from the Diocese?

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2 Q And does that include the religious order

3 priests or does that just include --

4 A No.

5 Q -- diocesan?

6 A That would just be diocesan.

7 Q And how about the religious order priests?

8 How many were there of them while you were

9 bishop?

10 A I don't have a figure on that.

11 Q Over time did the Diocese of Albany ever

12 communicate to any survivors that they could

13 help them if they did not hire a lawyer?

14 A Not to my knowledge.

15 Q Did you ever see that in any writings or hear

16 that spoken at all?

17 A I heard it spoken by a victim, and they gave

18 an account to the newspaper.

19 Q And you are talking about the Times Union?

20 A I think it was.

21 Q I'm sorry. I didn't hear what you said.

22 A I think it was the Times Union. Certainly,

23 it appeared in the press. Many of the

24 articles are in the Times Union. If I

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2 A Yes, but if they were fairly young they might

3 not get any benefit. If they had served a

4 certain period of time, they get that

5 percentage of the pension that was in accord

6 with the amount of service they offered.

7 Q So they would continue to receive payments

8 from the Diocese?

9 A Not everyone, but many.

10 Q What is the relationship between the Diocese

11 and Catholic Charities?

12 A Oh, between the Diocese and Catholic

13 Charities. Well, the Diocese is the

14 corporate entity for Catholic Charities, and

15 the Bishop usually serves on the board of

16 Catholic Charities.

17 Q Actually, the bishop serves on the board of

18 every parish as well, right?

19 A That is correct.

20 Q How many boards did you serve on while you

21 were bishop?

22 A Well, quite frankly, the parish board rarely

23 meets. So that did not command my attendance

24 at many meetings.

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- 2 **Q** Well, I'm not asking about your attendance.
- 3 I just want to know how many boards you
- 4 actually were listed on. We know you were
- 5 listed on every parish board, and you were
- 6 actually the chair of those boards, correct?
- 7 **A** Correct.
- 8 **Q** What other --
- 9 **A** Well, I served on the boards of a number of
- 10 social service agencies. I served on the
- 11 board for Catholic Charities. I served on
- 12 the Teresian House board. I served on the
- 13 board of St. Clare's Hospital. There may be
- 14 more, but those are the ones that immediately
- 15 come to mind.
- 16 **Q** Do you know if Catholic Charities paid and
- 17 continues to pay the room and board of
- 18 certain priests removed from the ministry?
- 19 **A** I'm not aware that they do.
- 20 **Q** If a priest in the past was criminally or
- 21 civilly charged with child sex abuse, the
- 22 diocese historically paid for their lawyers,
- 23 correct?
- 24 **MR. COSTELLO:** Object to the form.

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- 2 **Q** Did you during your entire tenure as a priest
- 3 and later as a bishop, and even as Bishop
- 4 Emeritus, did you understand that any
- 5 inappropriate touching of a child, any sex
- 6 act forced upon a child, any oral sex forced
- 7 upon a child, any rape of a child was a crime
- 8 punishable by penalties, including jail in
- 9 the State of New York?
- 10 **MR. COSTELLO:** Object to the form.
- 11 You may answer.
- 12 **A** I'm not sure if I knew that when I became
- 13 bishop, but I certainly became aware of it
- 14 very quickly.
- 15 **Q** In 1995 the United States Conference of
- 16 Catholic Bishops commissioned an internal
- 17 church study on child abuse, correct?
- 18 **A** Right.
- 19 **Q** And that study surveyed bishops in more than
- 20 145 dioceses nationwide about their use of
- 21 treatment centers to assess and care for
- 22 priests believed to have sexually abused
- 23 children, is that correct?
- 24 **A** I believe it is.

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- 2 You may answer.
- 3 **A** In some instances they may have assisted with
- 4 the legal fees. In other instances, I'm not
- 5 sure that the Diocese provided any assistance.
- 6 **Q** Well, there was actually a fund that was set
- 7 up for the criminal defense of clerics that
- 8 were charged with sexual abuse, and it was
- 9 called a priest fund, and that paid the
- 10 attorneys' fees, is that correct?
- 11 **A** Not to my knowledge.
- 12 **Q** During your tenure as --
- 13 **A** May I just -- okay. I'm sorry.
- 14 **Q** Go ahead.
- 15 **A** I'm saying not to my knowledge. Every priest
- 16 that was through that diocese got funds.
- 17 **Q** I don't understand what you are saying.
- 18 **A** I'm not sure that every priest got funds from
- 19 the diocese.
- 20 **Q** But there were priests who did for their
- 21 attorneys, right?
- 22 **MR. COSTELLO:** Object to the form.
- 23 You may answer if you can.
- 24 **A** I think there were.

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- 2 **Q** And did you as the bishop from the Diocese of
- 3 Albany participate in that study?
- 4 **A** I assume that I did.
- 5 **Q** Do you know where the paperwork that was sent
- 6 in to that study is?
- 7 **A** No, I do not.
- 8 **Q** Do you know if there is a file with regard to
- 9 that study anywhere in the diocese?
- 10 **A** I don't.
- 11 **Q** Did you ever see any paperwork about that
- 12 study?
- 13 **MR. COSTELLO:** Objection. There
- 14 are multiple questions there.
- 15 **MS. LAFAVE:** No. I just asked one
- 16 question. He has been answering every
- 17 other question. He's answered as we go
- 18 along, Mike. He is just a little quiet.
- 19 **Q** Do you want that question read back, Bishop?
- 20 **A** Yes, please.
- 21 **MS. LAFAVE:** I do, too. I forgot
- 22 what I said.
- 23 (Whereupon, the last question was
- 24 read back.)

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2 **A** Well, if we participate in a study, which I

3 don't have full recall, but I usually

4 cooperate with such studies. I would have

5 seen whatever went to John Jay people. But

6 once that happened, then I wouldn't necessarily

7 keep the data. John Jay studied it.

8 **Q** You testified yesterday that to this day you

9 believe that pedophiles can be cured by

10 treatment, correct?

11 MR. O'CONNOR: Object to the form.

12 MR. COSTELLO: Object to the form.

13 **Q** Did you answer it? I'm sorry.

14 **A** I believe that they can be treated and not

15 reoffend. I'm not just saying that about

16 every pedophile, but we have had experience

17 where pedophiles did return to ministry and

18 we have no evidence that they reoffended

19 after their return. So I think it is

20 possible. I'm not saying in every case.

21 **Q** When you attended graduate school at American

22 University --

23 **A** Catholic.

24 **Q** No. I'm talking about graduate school.

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2 You may answer.

3 **A** I'm not familiar with that statistic.

4 **Q** So Bishop, there have been times in the past

5 that you have argued that laicization is too

6 harsh a penalty for a priest who sexually

7 abused children, is that correct?

8 **A** I said that, yes.

9 **Q** And this is even though those priests were

10 committing crimes against children?

11 MR. COSTELLO: Objection.

12 You may answer the question.

13 **A** Well, I think they should be removed from

14 ministry. There is a difference between

15 being removed from ministry and not able to

16 exercise your priestly faculties and be

17 laicized. They are two different procedures.

18 **Q** When you attended the College of Bishops, I

19 think it was in 2004, you argued both for

20 rehabilitation and against laicization,

21 correct?

22 **A** No. I never addressed the issue of

23 laicization at all.

24 **Q** You argued against not allowing the priests --

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2 **A** Catholic University.

3 **Q** Okay.

4 At Catholic University you did graduate

5 work in social services, right?

6 **A** I did.

7 **Q** And during that work were you able to

8 determine what the rate of recidivism among

9 child sex abusers was considered to be by the

10 experts?

11 MR. O'CONNOR: Object to the form.

12 That is a compound question.

13 MS. LAFAVE: I'll rephrase it.

14 **A** No, I don't --

15 MS. LAFAVE: I'll rephrase it.

16 I'll rephrase it.

17 **Q** When you attended graduate school in social

18 services, were you able to determine what the

19 rate of recidivism was among child sex

20 abusers?

21 **A** No.

22 **Q** Do you know that experts consider it to be

23 75 percent?

24 MR. COSTELLO: Objection.

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2 you argued that priests should be allowed to

3 go to rehabilitation?

4 MR. COSTELLO: Object to the form.

5 You may answer.

6 **A** I alluded to the fact that a year or two

7 before we issued a document on criminal

8 justice reform, and in that document there

9 were three principals. One, that you provide

10 healing treatment for a victim. Two, that

11 you provide safety for the community. And

12 three, that you provided rehabilitation for

13 the offender. And my point was that there

14 was nothing in the document about

15 rehabilitation for offender and I thought

16 that should be included. Otherwise, we had

17 one standard for the general society and

18 another standard for ordained clerics.

19 **Q** Bishop, over your tenure as bishop, you did

20 the funeral masses of almost all of the

21 priests who were incardinated in the Albany

22 Diocese who died, correct?

23 **A** That is correct.

24 **Q** And this included the priest predators who

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2 were removed from ministry due to child
3 sexual abuse, correct?
4 **A** If they were removed from ministry, I'm not
5 sure that I said the funerals.
6 **Q** Well, do you know of some that you did?
7 **A** Not off the top of my head.
8 **Q** I'm going to represent to you that there were
9 a number of occasions where people who had
10 been removed from ministry had you do their
11 funeral masses after they died. Did you ever
12 consider the needs and harms being done to
13 the victims of the child abuse when you did
14 this?

15 MR. O'CONNOR: Object to the form
16 of that.

17 MR. COSTELLO: Object to the form
18 of the question.

- 19 **A** I certainly took that into account. I also
20 took into account the needs of the priest and
21 his family and the community that he served.
22 **Q** And that community before 2002 would not know
23 that he was a child sex abuser because the
24 church had not told, correct?

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2 **A** Also, was not removed from ministry either.
3 **Q** Well, he was removed from the ministry. He
4 wasn't laicized.
5 MR. COSTELLO: I'm going to object.
6 Is there a he, a person?
7 MS. LAFAVE: We are generally
8 talking. We are not talking about
9 laicization. We are talking about people
10 removed from the ministry.
11 MR. COSTELLO: Thank you.
12 **Q** You understood that, right, Bishop?
13 MR. O'CONNOR: Is there a priest,
14 though, that we are talking about,
15 Cynthia?
16 MS. LAFAVE: We are talking about a
17 number of them. I can get to them if I
18 can get to them. But we are talking about
19 a great deal of them, actually.
20 **Q** Did you understand that to be what I was
21 talking about, Bishop?
22 MR. O'CONNOR: Form.
23 **A** I understood you were talking about priests
24 that -- I thought you were talking about

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2 priests who have been removed from ministry
3 and that even though they had been removed
4 from ministry I celebrated that funeral.
5 Unless I refresh my memory about who that
6 would have been, I don't know.
7 **Q** Did you ever read any of the obituaries that
8 were published on the priests who had been
9 removed from ministry because of child sex
10 abuse?
11 **A** I probably did, but I sometimes do not bother
12 to read them because I know who they are and
13 what they did. So no need for me to read the
14 obituary.
15 **Q** Do you know that generally the obituaries of
16 priests who have been removed from the
17 ministry because of child abuse of children
18 did not in any manner state that they had
19 been removed from ministry before their
20 death?
21 **A** I don't know.
22 MR. COSTELLO: Objection to form.
23 **Q** Do you know that you were listed on those
24 same obituaries as the celebrant of their

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2 funeral masses?
3 **A** No. I am not familiar with the obituaries
4 you are referring to.
5 **Q** Bishop, the issue of settlements between the
6 diocese and the victims of child sex abuse
7 over time, up until what point did the
8 Diocese require that the victims sign
9 confidentiality agreements in order to receive
10 any payment from the church?
11 **A** I think we had a confidentiality agreement
12 that ceased in early 2002.
13 **Q** And before 2002 the church always required a
14 confidentiality agreement from those victims,
15 correct?
16 **A** I can't say always, but I would say in many
17 cases that was true.
18 **Q** And that was not to benefit the victims.
19 That was to benefit the church, correct?
20 MR. O'CONNOR: Form.
21 MR. COSTELLO: Form.
22 You may answer.
23 **A** I'm sure it protected both the church and the
24 victim.

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- 2 Q Well, as a person who has studied social
- 3 services in graduate studies, who do you
- 4 think receives the benefit by making a
- 5 survivor of child sex abuse keep the
- 6 information on a settlement in their favor
- 7 confidential?
- 8 MR. COSTELLO: Object to the form.
- 9 You may answer if you can.
- 10 A I think they received a settlement and that
- 11 has been negotiated, and they agreed to sign
- 12 the confidentiality agreements. So I assume
- 13 that they were all right with it or they
- 14 wouldn't have signed.
- 15 Q Well, they didn't have a choice if they were
- 16 going to receive the money, did they?
- 17 MR. COSTELLO: Objection.
- 18 Q They had to sign a confidentiality agreement
- 19 before 2002, didn't they?
- 20 A I'm not sure that in every case that was
- 21 true.
- 22 Q Well, would you say in the majority of cases
- 23 that was true?
- 24 A I would say in the majority of the cases that

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- 2 was the policy. It was the policy when
- 3 anybody receives settlement for anything. It
- 4 was not only sexual abuse, the Diocese
- 5 sometimes had made settlements. Generally,
- 6 in the area of sexual abuse the Diocese has
- 7 entered into settlements with individuals.
- 8 Q So I wanted to talk a little bit about Mary Jo
- 9 White. Okay? Mary Jo White's firm, you told
- 10 us, what paid \$2.4 million for an
- 11 investigation. She was not asked to
- 12 investigate the problem of sexual abuse of
- 13 minors, generally, in the Diocese, was she?
- 14 MR. COSTELLO: Object to the form.
- 15 A Could you repeat the question. I'm not quite
- 16 sure what you are asking.
- 17 Q I'm saying that when Mary Jo White was hired,
- 18 she was not hired to investigate the problem
- 19 of sexual abuse by priests in the Diocese,
- 20 generally. She was only hired to investigate
- 21 the allegations made against you, correct?
- 22 A Correct, because that study about the Diocese
- 23 reviewing how the sex abuse issue had been
- 24 exercised was done two years before by

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- 2 another task force.
- 3 Q But she was not asked to do any investigation
- 4 into any of the other sex abusers in the
- 5 Diocese.
- 6 A No, because it had just been done less than
- 7 two years before.
- 8 Q So there were three things that were the
- 9 general part of the Mary Jo White
- 10 investigation. There was the [REDACTED]
- 11 allegations, the [REDACTED] allegations, and the
- 12 Minkler allegations, correct?
- 13 A I'm not sure.
- 14 Q You paid \$2.4 million for this and you don't
- 15 know what the investigation entailed?
- 16 MR. COSTELLO: I object to the form
- 17 of the question.
- 18 A My primary interest was to see that the
- 19 investigation included that I had not engaged
- 20 in any sexual misconduct with minors.
- 21 Q In fact, that --
- 22 A That was my primary interest.
- 23 Q In fact, that was the totality of the
- 24 investigation, wasn't it?

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- 2 A That was the major thrust of the investigation,
- 3 but if they discovered certain matters in the
- 4 course of the investigation that would lead
- 5 them to a better conclusion, I'm sure they
- 6 pursued that.
- 7 Q Did you read the investigative report?
- 8 A I did at the time, but that was what,
- 9 17 years ago now.
- 10 Q In 2004, around the same time that all of
- 11 this was happening, you had a meeting with a
- 12 Father Minkler, correct?
- 13 A Correct.
- 14 Q And in that meeting he signed a retraction of
- 15 a letter with allegations against you that he
- 16 purportedly wrote back in 1995, correct?
- 17 MR. COSTELLO: Objection.
- 18 A Not to my knowledge.
- 19 Q Not to your knowledge?
- 20 A Not to my knowledge, no.
- 21 Q Two days after that meeting he was dead,
- 22 correct?
- 23 A Correct.
- 24 Q And he was found on the floor of his kitchen

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2 by his sister, and a couple of months later

3 the coroner ruled that it was a suicide, is

4 that correct?

5 A I believe. I don't know who found the body,

6 but I believe that it was ruled a suicide.

7 Q Now, was Mary Jo White ever asked to

8 investigate the death of Father Minkler?

9 A Not by me.

10 Q And when you say not by me, who was the one

11 who asked Mary Jo White to conduct the

12 investigation?

13 A Well, it was authorized by the Diocesan review

14 board.

15 Q And it was signed off on by you, correct?

16 A I don't remember if I signed off on it.

17 Q You would have had to, wouldn't you?

18 MR. COSTELLO: Objection.

19 You may answer.

20 A I do not have the answer to that question.

21 Q In 2004, same year, that is when the

22 independent mediation program that was solely

23 paid for by the Diocese came into effect,

24 correct?

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2 A Correct.

3 Q And during that year, while the IMAP program

4 was becoming something that was functioning,

5 Mary Jo White, that same attorney, made a

6 donation of \$225,000 to this program, didn't

7 she?

8 A I don't know the exact amount. I do remember

9 she made a donation.

10 Q Does that sound about right, 225,000?

11 A I don't know.

12 Q Bishop, you have lived in this area most all

13 of your life other than when you went to Rome

14 during some travels that you made, correct?

15 A Correct.

16 Q Are you familiar with Sacandaga Reservoir?

17 A Yes. I don't know if I have ever been there,

18 but I'm familiar with it.

19 Q Well, that was my next question. Have you

20 ever been there?

21 A I don't recall. I don't remember specifically.

22 Q Do you know a Father Daniel Maher?

23 A Yes.

24 Q Do you know a Father Liam Casey?

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2 A Yes.

3 Q Do you know a Father Patrick Duffy?

4 A Name sounds familiar. I'm not positive I

5 knew him, but first one I'm positive of.

6 Q And do you know a Father Shawn McMahon?

7 A Yes.

8 Q Did you know that the four of them owned a

9 camp together on the Sacandaga Reservoir?

10 A No.

11 Q Do you know that three of those four are on

12 the Diocese's own credibly accused list?

13 A Yes. I know that.

14 Q Did you have any rules or regulations in the

15 Diocese over the years about priests owning

16 other properties and giving information to

17 the Diocese about what they owned?

18 MR. COSTELLO: Objection.

19 A I don't believe there was a policy on that.

20 As long as they were using their own money

21 and not using church funds, that would be a

22 decision that they made as an individual

23 within our society.

24 Q When a priest was found credibly accused in

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2 the Diocese, did the committee or yourself or

3 anybody in the Diocese look at the other

4 priests who spent a lot of time with the

5 credibly accused priests to see if they were

6 involved in any child sex abuse?

7 A I think if the investigation that rendered a

8 credibly accused verdict to the one priest,

9 showed some information that raised questions

10 about someone else, the review board may have

11 determine to look into those other priests.

12 But there would have to be, I would assume,

13 some information that would lead them to

14 conclude that an investigation was necessary.

15 Q I would assume that the three of these four

16 who made the credibly accused list didn't

17 make it all at the same time. Would you

18 assume the same thing?

19 A Yes.

20 Q And were any of the others investigated at

21 the time that the first of these was on the

22 credibly accused list?

23 A I don't know.

MR. COSTELLO: Objection.
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2 If you know.

3 Q I want to talk to you about Father Gary

4 Mercure. You know who he is, correct?

5 A Right.

6 Q I think you in your early days were back in

7 1972 or weekends you were helping out at Our

8 Lady of The Assumption Church and he was the

9 pastor there?

10 A No. I was helping out Our Lady of Assumption

11 and he was an associate pastor. The pastor

12 was Father Hardiman.

13 Q Father Mercure can really be described as a

14 prolific sexual abuser, can't he?

15 MR. COSTELLO: Objection.

16 You may answer.

17 A I would have to look at the file to find out

18 what information we have in terms of how many

19 people have accused him.

20 Q Well, how many do you think have accused him?

21 A I have no idea.

22 Q More than five?

23 A I don't know.

24 Q Did you take any part in the trial where he

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2 was criminally tried over in Massachusetts

3 because the statute of limitations had not

4 run there even though it had run in New York

5 State?

6 MR. COSTELLO: Object to the form.

7 A I was not part of the trial.

8 Q In fact, you gave his criminal defense

9 attorney all the information from your files

10 to assist in his defense, correct?

11 MR. COSTELLO: Objection.

12 You may answer.

13 A I don't recall, but I may have.

14 Q You actually said because of the gravity of

15 the abuse and the depth of the anger and

16 scandal that it has caused, you were

17 petitioning that he be dismissed from the

18 clerical state. Do you remember that?

19 A I don't remember, but I don't deny it. I

20 mean, he was dismissed from the clerical

21 state. So I assume that I followed through

22 if I said that.

23 Q And what was the depth of the anger and

24 scandal that it caused?

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2 A Well, the notoriety of the case, the fact

3 that he was convicted and incarcerated, all

4 of that, and the way the victims were abused,

5 it became cause celebre.

6 Q Bishop, so what you are saying the scandal

7 was is that he went to jail, he was convicted

8 criminally?

9 A No, I didn't say that. I also said the

10 nature of abuse and what was suffered by the

11 victims also went into the notoriety of the

12 case.

13 Q And that he was prosecuted but you knew of

14 many other people who had been sexually

15 abused in the Albany Diocese, but they had

16 not -- none of that information had been

17 given to prosecutors in Albany or in any of

18 the counties that encompassed the Albany

19 Diocese over the years until 2002, correct?

20 A Correct.

21 MR. COSTELLO: Object to the form

22 of the question.

23 MS. LAFAVE: I'm sorry. I didn't

24 hear your answer, Bishop.

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2 A Correct.

3 Q You actually petitioned for him to be laicized,

4 correct?

5 A I did.

6 Q But you never ever petitioned until he was

7 criminally convicted by a jury in Massachusetts,

8 did you?

9 A No, because he had a right to due process.

10 Supposing he wasn't convicted. I couldn't

11 laicize him before there was an ultimate

12 determination that he was guilty.

13 Q So Bishop, the Diocese has said that they did

14 not pay any portion of Mercure's legal fees.

15 Do you know this?

16 A No, I don't.

17 Q Well, do you know that in fact his legal fees

18 were paid by a clergy fund supported by

19 voluntary contributions from priests and made

20 available to priests as a peer-directed fund?

21 A That could be the case. There is a fund in

22 the Diocese known as the clerical fund, yes.

23 Q Do you receive any assistance with your

24 attorney from that fund?

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2 **A** No.
3 MR. O'CONNOR: I object to that.
4 You know, Cynthia, I don't think that the
5 Bishop's financial relationship with my
6 firm is relevant to the issues in this
7 case, and I want a ruling on that. I
8 don't think that is fair in this case.
9 I'm not asking your clients the percentage
10 of your retainer, what fee you get. So I
11 don't think you can ask my client.
12 MS. LAFAVE: I think you pretty
13 much know that, Terry.
14 I will -- I don't think he answered
15 the question but your objection is on the
16 record.
17 **A** I believe I said no.
18 MR. O'CONNOR: Whatever.
19 **Q** Now, as I understand it, Mercure's legal fees
20 were paid from that fund as a loan. Did you
21 understand that is what the fund did, loaned
22 the money?
23 **A** I don't have any recollection of who received
24 money for that fund. I know that there is

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2 such a fund, but I don't oversee the fund day
3 by day, and I don't really know who receives
4 funds, and I can't comment on it because I'm
5 just unaware.
6 **Q** Did any attorney who received money from that
7 fund ever pay back any of that money?
8 MR. O'CONNOR: I'll object to the
9 form.
10 MR. COSTELLO: Objection.
11 If you know.
12 **A** I do not know.
13 **Q** You actually --
14 MR. O'CONNOR: Cynthia, within the
15 next five to ten minutes I want to take a
16 break. But you figure out when you want
17 that break to occur.
18 MS. LAFAVE: Well, let me finish
19 with Mercure.
20 MR. O'CONNOR: That is fine. That
21 is fine.
22 **Q** So Bishop Hubbard, how many times did you
23 visit Mercure in prison?
24 **A** Maybe twice, maybe three times.

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2 **Q** And where is he in prison?
3 MR. COSTELLO: Did we get an
4 answer?
5 REPORTER: We didn't hear you.
6 **A** I can't remember.
7 **Q** He was sent for treatment before he went to
8 jail, but he was sent to treatment earlier,
9 right?
10 MR. COSTELLO: We can't hear.
11 **A** I'm not sure.
12 **Q** Do you know if he was sent to California for
13 treatment?
14 **A** Not that I can recollect.
15 **Q** Do you know that the cost of the first round
16 of treatment was over \$111,000 that the
17 diocese paid?
18 **A** Maybe. I just do not know that right now.
19 **Q** The treatment when you send these predator
20 priests to treatment is always paid for by
21 the diocese, correct?
22 **A** Correct.
23 **Q** And the people who have been sexually abused
24 by these predator priests, a portion of their

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2 counseling is paid for by the diocese,
3 correct?
4 **A** As far as I know, if they are going for
5 counseling, they are to receive any
6 settlement, that comes entirely from the
7 diocese.
8 **Q** Well, nobody got \$111,000 just for counseling
9 when they were a victim of the child sex
10 abuse from the diocese, did they?
11 **A** Well, I know there have been settlements for
12 more.
13 **Q** But not just for counseling?
14 **A** No. Not just for counseling --
15 **Q** And in fact --
16 **A** Although, I can't tell you how much was spent
17 on counseling in each case.
18 **Q** And in fact, Mercure, no longer a father,
19 still receives money from the diocese,
20 doesn't he?
21 MR. COSTELLO: Objection.
22 **A** I don't know.
23 **Q** What?
24 **A** I do not know.

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- 2 **Q** You said during a homily in Queensbury at Our
- 3 Lady of the Annunciation on February 17th, 2011
- 4 "How could bishops be more concerned about
- 5 avoiding scandal and preserving the image of
- 6 the church than protecting children." Were
- 7 you talking about yourself?
- 8 MR. O'CONNOR: Object to the form.
- 9 **A I certainly would fit into that category.**
- 10 **Q** And that was about Father Mercure, correct?
- 11 **A No. It was about the whole scandal of clergy**
- 12 **sexual abuse of minors in general.**
- 13 **Q** Do you recall that homily that you gave?
- 14 **A No, but it certainly fits in with my**
- 15 **sentiments.**
- 16 **Q** There was a report back in 2000 to a Reverend
- 17 Louis Damikey. Do you know who that is?
- 18 **A Yes.**
- 19 **Q** And it was reported by the mother of one of
- 20 Mercure's victims that her son had been
- 21 abused by Mercure. Surely, you as priests
- 22 should have been told about that report,
- 23 correct?
- 24 **A I would assume so, but I would have to know**

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- 2 **more about it.**
- 3 **Q** Well, do you know if you knew about that
- 4 report?
- 5 **A I don't even know who the person is right now**
- 6 **that you are talking about.**
- 7 **Q** Let me ask you this. Was Damikey ever the
- 8 chair of the priest personnel board of the
- 9 Diocese?
- 10 **A Yes.**
- 11 **Q** And was he in 2000 the chair of the priest
- 12 personnel board?
- 13 **A I don't know the years he served. It is**
- 14 **around the time, but I can't say with**
- 15 **absolute certitude that he was the chair in**
- 16 **2000, but he was the chair.**
- 17 **Q** So you would definitely expect if he received
- 18 a report of child sex abuse by a priest, he
- 19 would have told you?
- 20 **A Ordinarily, yes, I would expect that.**

MS. LAFAVE: I guess I'm not going
to finish Mercure, if you want to take a
break. I'll have to do it when we get
back.

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- 2 MR. O'CONNOR: So it is 10:35. Why
- 3 don't we take a break until, what time,
- 4 either 10:40 or 10:45. You tell me.
- 5 MS. LAFAVE: Whatever is good for
- 6 you. I'm at your mercy.
- 7 MR. O'CONNOR: So let's say 10:40.
- 8 MS. LAFAVE: Okay. Now it is
- 9 10:36, so...
- 10 MR. COSTELLO: Why don't you make
- 11 it 10:45.
- 12 MR. O'CONNOR: All right. 10:45 it
- 13 is.
- 14 VIDEOGRAPHER: We are off the
- 15 record 10:36.
- 16 (Off the record.)
- 17 VIDEOGRAPHER: Back on the record
- 18 at 10:47. Go ahead.
- 19 BY MS. LAFAVE:
- 20 **Q** Bishop, I want to do a couple of cleanup
- 21 questions, if you will allow me to meander a
- 22 little bit.
- 23 Were any of the cases where you were
- 24 charged with any misconduct including [REDACTED]

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- 2 or [REDACTED] or Minkler or any of the pending
- 3 cases today, were any of those ever referred
- 4 to the sexual misconduct review board of the
- 5 Albany Diocese?
- 6 MR. O'CONNOR: Form.
- 7 **A I'm unaware of --**
- 8 MS. DANEK: Object to the form.
- 9 **A I'm unaware of being accused.**
- 10 **Q** You are unaware of being accused of what?
- 11 **A By these people that you mentioned.**
- 12 **Q** Bishop, over the last couple of weeks you've
- 13 sat in on the depositions of all of the
- 14 people who allege that you sexually abused
- 15 them, correct?
- 16 **A Right. But you are saying -- you mentioned**
- 17 **Minkler, [REDACTED] and a third person. I don't**
- 18 **remember being accused by these people.**
- 19 **Q** In 2004 -- I'm sorry. I didn't mean to
- 20 interrupt you.
- 21 **A What are the accusations?**
- 22 **Q** In 2004 you remember that [REDACTED] came
- 23 out with a press conference and said that [REDACTED]
- 24 [REDACTED] and that you

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 2 had sexually abused [REDACTED] or that might
 3 have actually been [REDACTED]. Do
 4 you remember that?
 5 A I do remember that, yes.
 6 Q And do you remember [REDACTED] being the
 7 gentleman who was [REDACTED]
 8 [REDACTED]
 9 [REDACTED]?
 10 A Now that you mention it, yes, I do remember
 11 that.
 12 Q And you remember Minkler. He made a number
 13 of accusations against you in the letter that
 14 he wrote in 1995. Do you remember that?
 15 A No, I don't.
 16 Q Okay. So my question is, with regard to any
 17 of the allegations, whether it be the people
 18 that you watched the testimony of in the last
 19 two weeks or [REDACTED], or [REDACTED]
 20 or Minkler, anybody, did any of that ever get
 21 referred to the sexual misconduct review
 22 board of Albany Diocese?
 23 A Yes.
 24 MR. COSTELLO: Object to the form.
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 2 Q And is that when they hired Mary Jo White?
 3 A They hired Mary Jo White in light of the
 4 specific allegations that came in 2004.
 5 Q What about the present allegations?
 6 A The present allegations are being handled
 7 through this process.
 8 Q And you actually have told the press that you
 9 trust this process, this civil process,
 10 correct?
 11 A Correct.
 12 Q So you are comfortable with the fact that
 13 they are being handled here?
 14 A Yes.
 15 Q But over time when other people have tried to
 16 bring up cases, you have either instructed or
 17 allowed your attorneys to raise the statute
 18 of limitations as a defense to keep these
 19 cases from being heard civilly, haven't you?
 20 A No.
 21 MR. O'CONNOR: Object to the form.
 22 Q I didn't hear your answer.
 23 A The answer is no.
 24 Q No, you have not?
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 2 A No.
 3 Q You have never known that your attorneys used
 4 the defense of statute of limitations to keep
 5 these cases from being heard?
 6 MR. COSTELLO: Objection.
 7 You may answer.
 8 A I'm not familiar with that.
 9 Q You actually have been interviewed about the
 10 statute of limitations in the newspaper and
 11 you have talked about it, haven't you?
 12 A I have, but not that our attorneys threatened
 13 people with that, that they couldn't go to
 14 the court because of statute of limitations.
 15 They might have shared the fact that that is
 16 a legal obstacle that might have to be faced,
 17 but I am unaware, if I understand your
 18 question is asking did we threaten people,
 19 and I have no awareness of that.
 20 Q Bishop, let me ask you this.
 21 Whether with confidentiality agreements or
 22 without confidentiality agreements, have any
 23 settlements ever been made due to your
 24 alleged abuse of a child?
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 2 A No.
 3 Q I would like to go back to --
 4 MR. COSTELLO: I didn't hear the
 5 answer.
 6 REPORTER: He said no, Mike.
 7 A The answer is no.
 8 MR. COSTELLO: His sound is not
 9 what it should be.
 10 Q Bishop, do you know who James Hanney is?
 11 A I know it from the exhibit.
 12 Q He was an Edmund Rice Christian Brother?
 13 A That is what I gathered from the exhibit.
 14 Q He worked at Bishop Gibbons High School?
 15 A If you say so.
 16 Q And in 1971 students at Bishop Gibbons found
 17 a photograph of him and two young men sitting
 18 on a picnic table completely naked. The
 19 students brought the photographs to Brother
 20 Draney, do you know who that is?
 21 A I remember there was a Brother Draney that
 22 was at Notre Dame Bishop Gibbons, yes.
 23 Q He was the principal of the school, correct?
 24 A Correct.
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- 2 **Q** And they brought the photograph to him and
- 3 nothing changed. Hanney was continued as a
- 4 teacher. Did those allegations make their
- 5 way to you?
- 6 **A** I was not the bishop in 1971.
- 7 **Q** When you became bishop did you ever hear
- 8 about those allegations?
- 9 **A** No.
- 10 **Q** Did you ever look at any file on Brother
- 11 Hanney?
- 12 **A** No.
- 13 **Q** He left the order in 2008. You were the
- 14 bishop then, correct?
- 15 **A** I was, but the fact that he left the order
- 16 would not necessarily come to my attention.
- 17 **MR. O'CONNOR:** Cynthia and Bishop,
- 18 just a little bit, every once in a while
- 19 the Bishop, when you answer a question for
- 20 whatever reason the sound is blocked out.
- 21 So I think sometimes you have to let
- 22 Cynthia finish her question and then take
- 23 a breath or two and answer it. Every once
- 24 in a while your yes or no I'm not hearing,

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- 2 **A** If you say it, I don't remember the exact
- 3 details, but I do remember there was an
- 4 allegation about financial mismanagement.
- 5 **Q** And it was money that the parishioners were
- 6 putting into the collection basket that he
- 7 was stealing, is that right?
- 8 **A** As I said before, unless I look at the file I
- 9 couldn't say with certitude that that is
- 10 where the money came from.
- 11 **Q** But he was also sexually abusing children,
- 12 for which you sent him to treatment, correct?
- 13 **A** Correct.
- 14 **Q** And did you know that he was using money that
- 15 he was stealing in order to bribe some of the
- 16 children that he was abusing?
- 17 **A** No.
- 18 **Q** He ultimately received a check from the
- 19 church when he left the church, and that was
- 20 for \$22,000. Do you remember that?
- 21 **A** No.
- 22 **Q** Did you say no?
- 23 **A** I said no.
- 24 **Q** He was removed from ministry, correct?

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- 2 and I think it probably goes for the rest
- 3 of the people here.
- 4 **Q** So he left the order in 2008 but he was never
- 5 put on the credibly accused list until 2019.
- 6 Do you know that?
- 7 **A** No. I would not have been bishop at that
- 8 time.
- 9 **Q** Do you know a Reverend John Fitzpatrick?
- 10 **A** Yes.
- 11 **Q** Reverend John Fitzpatrick had more than one
- 12 issue in his removal from his church, didn't
- 13 he?
- 14 **A** I would have to review the file.
- 15 **Q** He was sexually abusing minors, but he was
- 16 also stealing money from the church, correct?
- 17 **MR. COSTELLO:** Object to the form.
- 18 You may answer.
- 19 **A** I don't recall that fully. I'm not denying
- 20 it, but I would have to refresh my memory
- 21 with the file.
- 22 **Q** It was St. Mary's parish, and they alleged
- 23 that he stole between \$110,000 507 and 226
- 24 507. Do you remember any of that?

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- 2 **A** Yes.
- 3 **Q** And after he was removed from ministry he
- 4 died and you celebrated as his principal
- 5 celebrant, his funeral mass, correct?
- 6 **A** Not correct.
- 7 **Q** Well, in the paper it said that the Most
- 8 Reverend Howard J. Hubbard, Bishop of Albany,
- 9 was the principal celebrant for his funeral.
- 10 Is that incorrect?
- 11 **A** That is incorrect.
- 12 **Q** Who was?
- 13 **A** I have no idea.
- 14 **Q** Were you there?
- 15 **A** No.
- 16 **Q** Bishop, do you over time have a favorite
- 17 restaurant in Albany?
- 18 **A** Well, probably D'Raymond's.
- 19 **Q** And you like Jack's, too, right?
- 20 **A** I get gift certificates for Jack's and I'll
- 21 use them. It is not -- I don't go there that
- 22 often.
- 23 **Q** You used to go there. Over time you have
- 24 been there, right?

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- 2 **A** Yes, I have been there over time, but I would
- 3 not say very frequently.
- 4 **Q** And do you recall Father Young?
- 5 **A** Yes. I lived with him for eleven years.
- 6 **Q** And you recall Father Estabrook?
- 7 **A** Yes. Bishop Estabrook.
- 8 **Q** And just an aside, you said I lived with him
- 9 for eleven years. Who do you live with now?
- 10 **A** Father LaForte and Father Mijas.
- 11 **Q** And where does Bishop Scharfenberger live?
- 12 **A** He lives in the former rectory of Margaret
- 13 Mary parish.
- 14 **Q** I'm going to go back now to Father Young and
- 15 Father Estabrook. Okay? From time to time
- 16 you would have dinner with them, correct?
- 17 **A** Father Young. I might have had dinner with
- 18 Father Estabrook once or twice, but that
- 19 would be about all. Father Young, we were
- 20 together for over eleven years, so yes. We
- 21 would go out, especially to Howard Johnson on
- 22 9W quite frequently.
- 23 **Q** And what were the years that you were living
- 24 with Father Young?

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- 2 **A** From 1966 to 1976.
- 3 **Q** And during that period of time do you
- 4 remember having dinner with Father Young and
- 5 Father Estabrook and Father Estabrook bringing
- 6 a young man to dinner?
- 7 **A** I don't recall that.
- 8 **Q** Do you recall the young man being given wine
- 9 at that dinner, even though he was only
- 10 15 years old?
- 11 **MR. COSTELLO:** Objection.
- 12 **A** I don't recall the dinner.
- 13 **Q** Donald Starks is also on the credibly accused
- 14 list, correct?
- 15 **A** Correct.
- 16 **Q** And was he removed from ministry?
- 17 **A** He was removed from ministry, I believe, of
- 18 allegations that came forward after he was
- 19 deceased.
- 20 **Q** You celebrated his funeral mass, right?
- 21 **A** As far as I know I did, yes. I can't say
- 22 that with certitude.
- 23 **Q** Have any of the allegations against you ever
- 24 been sent to the Congregation for the Doctrine

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- 2 of the Faith?
- 3 **MR. COSTELLO:** Object to the form.
- 4 You may answer.
- 5 **A** I'm not aware.
- 6 **Q** Have you ever asked anyone to independently
- 7 review them to see if they should be sent to
- 8 the Congregation for the Doctrine of the
- 9 Faith?
- 10 **MR. COSTELLO:** Same objection.
- 11 **A** No.
- 12 **MS. LAFAVE:** I have no further
- 13 questions. I believe the next questioner
- 14 is ready to go.
- 15 **BISHOP HUBBARD:** Thank you.
- 16 **MS. LAFAVE:** Thank you.
- 17 **MR. O'CONNOR:** Thank you, Cynthia.
- 18 **MR. COSTELLO:** Thank you. Appreciate
- 19 the courtesy.
- 20 **MR. O'CONNOR:** Is this Jason?
- 21 **MR. AMALA:** It is.
- 22 **MR. O'CONNOR:** How are you doing?
- 23 **MR. AMALA:** Good. How are you,
- 24 Terry.

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- 2 **MR. O'CONNOR:** Good.
- 3 **EXAMINATION BY MR. AMALA:**
- 4 **Q** Bishop Hubbard, good morning. My name is
- 5 Jason Amala. I'm going to ask you,
- 6 initially, some questions about Father Dozia
- 7 Wilson? I'm going to refer to him as Father
- 8 Wilson, okay?
- 9 **A** Correct.
- 10 **Q** Bishop, yesterday you were asked about the
- 11 day-to-day supervision of priests while you
- 12 were the Bishop of the Diocese. Do you
- 13 recall that?
- 14 **A** Yes.
- 15 **Q** And in response I believe you testified that
- 16 it would have been impossible for you as the
- 17 Bishop to supervise all of your priests on a
- 18 daily basis, partly just due to the
- 19 geographic size of the Diocese, is that
- 20 correct?
- 21 **A** Correct.
- 22 **Q** And Bishop, for that same reason, I assume it
- 23 would have been impossible for you to
- 24 supervise the religious order members and

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2 employees of the Diocese on a daily basis, is
3 that fair?
4 **A** Yes.
5 **Q** You as the bishop of the Diocese of Albany
6 were ultimately responsible for making sure
7 that your priests didn't use their positions
8 with the Diocese to sexually abuse children,
9 correct?
10 **A** Correct.
11 MR. O'CONNOR: Object to the form.
12 **Q** And you were also ultimately responsible for
13 making sure the religious order members and
14 other employees of the Diocese who served the
15 Diocese didn't use their positions to sexually
16 abuse children, correct?
17 MR. COSTELLO: Object to the form.
18 **A** Correct.
19 **Q** Bishop Hubbard, did you rely on the priests
20 in your parishes to essentially be your eyes
21 and ears to make sure that children were not
22 being sexually abused?
23 **A** I would rely upon them as well as people who
24 were involved in the school, if there was a

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2 school in the parish or the people who were
3 involved in the religious education of the
4 children.
5 **Q** And Bishop Hubbard, did you expect your
6 priests to report to the Diocese any concerns
7 that they had that a priest or another adult
8 might pose a danger to the children in the
9 parishes?
10 **A** Yes.
11 **Q** And was that also true of the schools within
12 the jurisdictions of the Diocese?
13 **A** Yes.
14 **Q** Did you also rely on the employees of the
15 Diocese to report to the Diocese if they were
16 concerned that an adult might be sexually
17 abusing a child within the Diocese?
18 **A** I certainly would expect they would bring it
19 to somebody's attention, either to the pastor
20 or the principal or the religious ed director
21 or the chancery.
22 **Q** And Bishop Hubbard, if that had happened, if
23 a report like that was made to a priest or
24 principal or a teacher in the Diocese, you

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2 would have expected them to make sure that
3 that report was then channeled up and shared
4 ultimately with the Diocese, is that correct?
5 **A** Right.
6 **Q** I think you alluded to this. But that was
7 also true of any adults who were serving the
8 Diocese, that you expected them to take those
9 types of steps to report any concerns they
10 had with a child in the Diocese might be in
11 danger of being sexually abused, correct?
12 **A** Correct.
13 **Q** Bishop, can you look at Exhibit P106, please?
14 (Exhibit P106 shown on screen.)
15 **Q** Exhibit P106 is on the screen, Bishop. Do
16 you see it?
17 **A** Yes, I do.
18 **Q** Bishop Hubbard, this is a January 11th, 1990
19 letter from you to Father Hoare at the Servants
20 of the Paraclete in New Mexico, correct?
21 **A** Yes.
22 **Q** And we talked a little bit about this
23 yesterday. But the Servants of the Paraclete
24 was a facility that provided treatment for

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2 priests who had been accused of sexually
3 abusing children, correct?
4 **A** Correct.
5 **Q** And you were sending in 1990 Father Wilson to
6 the Servants of the Paraclete for treatment
7 because of his history of sexually abusing
8 children, correct?
9 MR. COSTELLO: Object to the form.
10 You may answer.
11 **A** Correct.
12 **Q** And in this letter from you, Bishop Hubbard,
13 to the Servants of the Paraclete, you were
14 endeavoring to provide them with some
15 background information regarding Father Wilson,
16 correct?
17 **A** Correct.
18 **Q** And Bishop, in the second paragraph of this
19 letter --
20 **A** First page, I assume?
21 **Q** -- you state --
22 **A** Which page?
23 **Q** First page. Thank you, Bishop. The first
24 page, second paragraph.

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2 A Thank you.

3 Q Sure.

4 In that second paragraph on the first page

5 of this letter you state that Father Wilson

6 was ordained as a priest in 1972, and he was

7 then assigned to Sacred Heart Church in Albany,

8 correct?

9 A Correct.

10 Q And Bishop Hubbard, Father Wilson stayed in

11 that position at Sacred Heart Church until

12 1976, correct?

13 A Correct.

14 Q In 1976 Father Wilson was then transferred

15 away from Sacred Heart Church in Albany,

16 correct?

17 A Correct.

18 Q I want to talk a little bit about Father

19 Wilson's transfer from Sacred Heart Church in

20 Albany in 1976. So I'll turn your attention

21 to the third paragraph in this letter on the

22 first page. In the third paragraph you

23 state, quote, "Toward the end of Dozia's

24 assignment at Sacred Heart, the District

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2 yesterday, but you were on the priest review

3 board in 1976 when Father Wilson was forced

4 to leave Albany, correct?

5 A Right.

6 Q And that was the first time, at least in your

7 memory today, that you became aware of an

8 allegation that a priest had sexually abused

9 a child, is that correct?

10 A That is right.

11 Q Can you tell the jury how that information

12 about Father Wilson was shared with you when

13 you were on the priest personnel board?

14 A I can't with great certitude, and I don't know

15 who shared it with me. I was not the one

16 that was involved with the acceptance of the

17 complaint. So when this came to my attention,

18 I had to be in touch with my predecessor to

19 find out what exactly the complaint was and

20 how was this resolved in terms of dealing

21 with the priest.

22 Q And Bishop Hubbard, if I understand correctly,

23 when you were bishop you went back to your

24 predecessor and asked for additional

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2 Attorney came to see the administrator of the

3 Diocese at that time and gave substantial

4 evidence indicating that Dozia had been

5 involved in a homosexual incident with an

6 adolescent boy. Dozia acknowledged his

7 guilt." Do you see that?

8 A Yes.

9 Q And Bishop Hubbard, you then told the

10 Servants of the Paraclete, quote, "The

11 District Attorney asked the Diocese to

12 cooperate in assigning him elsewhere, and

13 indicated that he would not be permitted back

14 into the Albany area for any length of time."

15 Do you see that?

16 A Yes.

17 Q And then, finally, you state, quote, "Dozia

18 was assigned outside the Albany area, but to

19 the best of my knowledge, he did not receive

20 treatment or counseling at that time with

21 respect to this incident." Did I read that

22 correctly?

23 A Yes.

24 Q Bishop, you touched on this briefly

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2 information. I understand that. But what I

3 want to focus on right now is what you

4 learned when you were on the priest personnel

5 board before you became bishop?

6 A You are asking me to go back over 40 years.

7 The only thing that I know is that I was made

8 aware that Father Wilson was being

9 transferred. I don't know if I knew the

10 reasons for it at that time. I certainly

11 became aware when I became bishop because of

12 the communication I had with Cardinal Medeiros.

13 Q But Bishop Hubbard, you understood that

14 Bishop Hubbard -- I'm sorry. Strike that.

15 Bishop Hubbard, you understood that Father

16 Wilson was being sent out of the Diocese of

17 Albany because of an allegation of wrongdoing

18 by him, correct?

19 MR. O'CONNOR: Object to the form.

20 That is not what he said.

21 A I'm not sure one way or another whether I

22 knew the reason for his transfer. I

23 subsequently became aware of the reason. I

24 can't say with certitude one way or another

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2 if I knew the reason why he was sent to the
3 Archdiocese of Boston while I was on the
4 priest personnel board.
5 **Q** Did the priest personnel board have any role
6 in helping Father Wilson find an assignment
7 outside of Albany?
8 **A** Not to my knowledge.
9 **Q** Bishop Hubbard, I guess my question is how
10 was this presented to you as the board or why
11 was it presented to you if you don't recall
12 the information that was shared and if you
13 didn't have any role in helping him find a
14 new assignment? I guess I'm trying to
15 understand why you have this memory of being
16 aware that he was sent away from Albany?
17 **A** Well, one of the reasons that was likely that
18 I would be aware of it is --

19 **MR. O'CONNOR:** No, not likely. He
20 wants to know your recollection, Bishop.

21 **Q** If you know?
22 **A** When Father Wilson left the position at the
23 parish of Sacred Heart, then that position
24 would have had to have been filled, and they

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2 would have to notify me that he was no longer
3 at Sacred Heart and that we need to have a
4 priest go to Sacred Heart.
5 **Q** And you understood he was actually literally
6 being sent out of the Diocese of Albany,
7 correct?
8 **A** He had gone to the Archdiocese of Boston,
9 right.
10 **Q** At that point in your career, Bishop, had you
11 ever had an experience where another priest
12 was sent out of the Diocese of Albany?
13 **MR. COSTELLO:** Object to the form.
14 You may answer.
15 **A** I have known -- I certainly knew a priest
16 that went to other dioceses. I can't
17 remember how many, and I don't remember any
18 going while I was on the priest personnel
19 board.
20 **Q** So that was the first time you can recall
21 having a priest being sent out of the Diocese
22 of Albany, is that correct?
23 **A** Yes.
24 **Q** And then you said it was shortly after you

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2 became bishop that you became aware of the
3 fact that Father Wilson had been sent out of
4 Albany because of allegations of child sexual
5 abuse, is that correct?
6 **MR. O'CONNOR:** Object to the form.
7 That is not what he said.
8 **A** Yes. It was when I became bishop then I
9 became aware through communication from
10 Cardinal Medeiros as to why he was
11 transferred.
12 **Q** And what did Cardinal Medeiros tell you about
13 why Father Wilson was transferred?
14 **A** Again, nothing to do with misconduct in the
15 area of sexuality. It had to do with
16 tensions that arose between Father Wilson and
17 other people on the staff of the parish or
18 school with which he was associated, and they
19 concluded that they were unable to work with
20 him because of his passive style.
21 **Q** So Bishop Hubbard, I think you shifted in
22 time on me there. I was asking about when
23 you became bishop, when you learned that
24 Father Wilson had been sent to Boston because

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2 of allegations of child sexual abuse. I
3 believe what you just were testifying about
4 is when he eventually was recalled from Boston
5 to Albany, is that correct?
6 **A** When I first became aware of why he was
7 transferred to Boston was when I received the
8 communication from Cardinal Medeiros to have
9 him recalled. So the nature of the request
10 was to let me know that he accepted him
11 through Bishop Broderick, my predecessor, and
12 then he was explaining the reason why he
13 wanted him to be recalled from Boston.
14 **Q** And Bishop Hubbard, shortly after you became
15 the Bishop of the Diocese of Albany, your
16 predecessor, Bishop Broderick, had also
17 informed you that Father Wilson had been sent
18 to Boston because of allegations of child
19 sexual abuse, correct?
20 **MR. O'CONNOR:** I object to that.
21 You are putting words in his mouth.
22 Object to the form.
23 **A** I did speak with Bishop Broderick to get his
24 side of the story when I got this letter from

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2 the archbishop or from the cardinal.

3 Q Okay. All right. Let's continue back with

4 this. I think the document will help us with

5 the timeline, Bishop Hubbard. If you look at

6 the next paragraph in this exhibit, it

7 references frustrations and disagreements on

8 the part of Father Wilson and his superiors

9 in Boston. Did you know that Father Wilson

10 was going to be sent for inpatient treatment

11 at St. Luke's while he was in Boston?

12 A No. I did not know that.

13 Q Are you aware that the church officials in

14 Boston had met with Father Wilson and told

15 him that he was going to need to be sent for

16 inpatient treatment at St. Luke's?

17 A No. I was not aware of that.

18 Q If you look at the final paragraph on the

19 first page of this letter by you.

20 A Letter, okay.

21 Q You say that Father Wilson was recalled from

22 Boston and was offered an assignment in the

23 Diocese of Rochester, correct?

24 A Correct.

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2 Wilson didn't pose a danger for children in

3 the Diocese of Rochester when he served

4 there?

5 A Specifically, no. As I told you before, I

6 was unaware that he was referred to St. Luke's.

7 Q He was later sent -- when was he first sent

8 to St. Luke's?

9 A I don't know. You are the one that said he

10 was sent to St. Luke's.

11 Q Okay. That is what I was trying to clarify,

12 Bishop Hubbard. You were not aware that the

13 Archdiocese of Boston had told Father Wilson

14 that he would need to go to St. Luke's for

15 inpatient treatment, correct?

16 A That is correct.

17 Q So my question was when you sent Father

18 Wilson to Rochester to serve, did you take

19 any steps to make sure he didn't pose a

20 danger for the children in the Diocese of

21 Rochester?

22 A Other than share with the Bishop that there

23 was a previous incident of sexual misconduct

24 with a minor, no.

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2 Q And he served there for a number of months

3 and then you had to recall him from Rochester

4 as well, is that correct?

5 A That is correct.

6 Q Who assigned Father Wilson to the Diocese of

7 Rochester?

8 A I was the one that asked the Bishop of

9 Rochester would they be willing to accept him

10 for service in a diocese.

11 Q And at this point you had recalled Father

12 Wilson from Boston, and at that point you

13 knew that the reason he had been sent to

14 Boston in the first place is over an allegation

15 of child sexual abuse, correct?

16 MR. O'CONNOR: Form.

17 A Yes. When I asked Rochester to consider him

18 for placement, I knew then, yes.

19 Q And did you inform anyone with the Diocese of

20 Rochester that Father Wilson had a history of

21 sexually abusing children?

22 A I informed them of the one incident of which

23 I was aware, yes.

24 Q Did you take any steps to ensure that Father

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2 Q Bishop Hubbard, turn to the second page of

3 this January 11th, 1990 letter from you to

4 the Servants of the Paraclete. In the first

5 paragraph you state, "In January 1981 Dozia

6 was transferred to St. Mary's parish in

7 Hudson where he is currently assigned. He

8 also has the responsibility as chaplain to

9 the Columbia-Greene Community College and at

10 the Columbia County Jail." Did I read that

11 correctly?

12 A Yes.

13 Q You then state, quote, "During this

14 assignment there, it has been observed that

15 Dozia has made a habit of inviting several

16 male college students into the rectory for

17 fellowship. It is also my understanding that

18 this frequently involves the drinking of

19 alcohol." Did I that read that correctly?

20 A Yes.

21 Q When did you learn that Father Wilson was

22 inviting male college students into the

23 rectory for fellowship and that it involved

24 frequently drinking alcohol?

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2 **A** Probably the end of the previous year.

3 **Q** Did you remove Father Wilson from St. Mary's

4 parish at that time?

5 **A** I sent him to MS Springs, yes. MS Springs,

6 the Servants of the Paraclete.

7 **Q** In the next paragraph you state that "In July

8 of 1989 a parent approached the Diocese to

9 report an incident that had taken place

10 between her son's friend, an adolescent boy,

11 and Dozia. She alleged that Dozia had

12 touched the boy in an inappropriate manner."

13 Did I read that correctly?

14 **A** Yes.

15 **Q** The child that Father Wilson was alleged to

16 have abused was a child from St. Mary's

17 parish, correct?

18 **A** I'm not sure. I think he was from Columbia

19 County. I don't know if he was from

20 St. Mary's parish.

21 **Q** Bishop Hubbard, did you do anything at that

22 point to investigate this mother's complaint

23 that Father Wilson had sexually abused her

24 son's friend?

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2 abused children, correct?

3 **A** Yes.

4 **Q** In this letter to the Servants of the

5 Paraclete you indicate that you had forwarded

6 them an evaluation report by St. Luke's. And

7 I'll represent to you we have not received a

8 copy of that report. In your experience as

9 Bishop, where would that report be kept?

10 **A** It would be kept in a sealed file.

11 **Q** Did you ever order that psychological

12 evaluations like the St. Luke's report on

13 Father Wilson be destroyed?

14 **A** No.

15 **Q** Did Father Wilson return to the Diocese of

16 Albany after his time at the Servants of the

17 Paraclete?

18 **A** Yes.

19 **Q** And did you allow him to continue serving as

20 a priest in the diocese?

21 **A** I can't recall. I know that he was removed

22 in 1991, but I can't recall whether he had

23 received an assignment or based upon the

24 report from St. Luke's, he might have not

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2 **A** I just want to look at the letter for a

3 minute.

4 (Pause.)

5 **A** I remember someone from the diocese spoke to

6 the woman, and my recollection is that it did

7 not seem to rise to the level of being sexual

8 misconduct.

9 **Q** And who conducted that or who did that,

10 Bishop Hubbard?

11 **A** Well, it was someone who met with the woman

12 as a follow through, and then based upon

13 report I received, I didn't feel that it rose

14 to the level of sexual misconduct.

15 **Q** But Bishop Hubbard, that complaint led you to

16 send Father Wilson to St. Luke's for sexual

17 obedience treatment, correct?

18 **A** It did, but I was also informed by the

19 previous incident and also by the fact that

20 he was having young people in his room and

21 engaged in sharing of alcohol.

22 **Q** So at this point as Bishop of Albany you are

23 aware of at least two instances where Father

24 Wilson has been alleged to have sexually

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2 received an assignment and been removed from

3 ministry. I would have to look at a file to

4 say that with certitude.

5 **Q** Yesterday Mr. Anderson showed you another

6 letter involving Father Wilson and Servants

7 of the Paraclete where it provided you a

8 monthly report on Father Wilson. Do you

9 remember that?

10 **A** Yes.

11 **Q** And Mr. Anderson asked you about a sentence

12 that asked you to destroy the report after

13 receiving it. Do you remember that?

14 **A** Yes.

15 **Q** He asked if you followed that directive, and

16 your response is must not have because we

17 have a copy of the report, right?

18 **A** Correct.

19 **Q** Did you receive future monthly reports on

20 Father Wilson from the Servants of the

21 Paraclete?

22 **A** If that was the procedure, I assume I did.

23 **Q** Did you destroy those monthly reports when

24 you received them?

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- 2 **A** No.
- 3 **Q** So all of those reports should still exist?
- 4 **A** As far as I know.
- 5 **Q** And in your experience as bishop where would
- 6 you expect those reports to be kept?
- 7 **A** In the sealed file.
- 8 **Q** Father Wilson authorized you to review those
- 9 monthly reports as a condition to him being
- 10 able to continue to minister, correct?
- 11 **A** Yes.
- 12 **Q** And for that same reason the condition of his
- 13 continuing to minister, he also gave you
- 14 permission to speak with his counselors and
- 15 therapists, correct?
- 16 **A** Yes.
- 17 **Q** Bishop Hubbard, you understood when you
- 18 recalled Father Wilson from Boston that he
- 19 had been sent out of Albany at the request of
- 20 law enforcement, correct?
- 21 **A** Correct.
- 22 **Q** And did you do anything to confer with local
- 23 law enforcement before you brought Father
- 24 Wilson back to the Albany area?

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- 2 immediate surrounding counties.
- 3 **Q** And did Mr. Greenberg tell you why he did not
- 4 want Father Wilson in that area?
- 5 **A** Because of the incident of abuse that he
- 6 brought to the attention of the Diocese.
- 7 **Q** Did you tell -- well, let me ask you this.
- 8 Did you tell Mr. Greenberg why you were
- 9 recalling Father Wilson to the Albany area?
- 10 **A** I can't recall.
- 11 **Q** Did you tell him whether or not there had
- 12 been concerns about Father Wilson's service
- 13 in Boston?
- 14 **A** I can't recall.
- 15 **Q** When Father Wilson came back to Albany, you
- 16 tried to give him a position with the
- 17 Diocese, correct?
- 18 **A** When he came back to Albany from Boston?
- 19 **Q** Correct.
- 20 **A** I don't remember that.
- 21 **Q** Did you, Bishop Hubbard, try to basically
- 22 find a new assignment for Father Wilson out
- 23 of the Albany area?
- 24 **A** Initially, when he came back from Boston, but

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- 2 **A** Yes. Spoke with the District Attorney.
- 3 **Q** And who was that?
- 4 **A** Sol Greenberg.
- 5 **Q** And did anyone else -- did you meet with
- 6 Mr. Greenberg?
- 7 **A** I can't recall. I know I had contact with
- 8 him. Whether it was personal or by phone,
- 9 I'm not sure.
- 10 **Q** What did you tell Mr. Greenberg about your
- 11 desire to recall Father Wilson to the Albany
- 12 area?
- 13 **A** I believe that I told him that he had been to
- 14 Boston and Rochester and that he wanted to
- 15 return to the Diocese, and I knew that when
- 16 the District Attorney spoke with my
- 17 predecessor, he had spoken about him not
- 18 being in the Albany area, and I wanted to
- 19 clarify did that mean he was not to be in
- 20 Albany County or its environs or did that
- 21 mean he couldn't be anywhere in the Diocese.
- 22 And he clarified it meant that he didn't want
- 23 him to be placed in what I would call the
- 24 Capital District, which is Albany and its

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- 2 not when he came back from Rochester.
- 3 **Q** And why was it that you were trying to send
- 4 him outside of Albany when he first came back
- 5 from Boston?
- 6 **A** Because I understood that that was a
- 7 condition that the District Attorney had
- 8 placed upon Bishop Broderick when he brought
- 9 to his attention misconduct.
- 10 **Q** Why did Father Wilson not work out in the
- 11 Diocese of Rochester? What happened that
- 12 caused you to recall him?
- 13 **A** The same situation as in Boston. It was in
- 14 concert with him and other members of the
- 15 staff at his assignment.
- 16 **Q** So at that point you knew as Bishop that he
- 17 was sent to Boston because of an allegation
- 18 of child sexual abuse. He has to be removed
- 19 from Boston because of the conflicts with the
- 20 people there. He is then sent to Rochester,
- 21 and you have to recall him from there because
- 22 he has had conflicts with the people in
- 23 Rochester, is that correct?

MR. O'CONNOR: Form.

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- 2 You can answer.
- 3 **A** Staff. Other staff.
- 4 **Q** And so at that point you made the decision to
- 5 keep him in Albany, is that correct?
- 6 **A** Correct.
- 7 **Q** Bishop Hubbard, can you look at Exhibit P111,
- 8 please.
- 9 (Exhibit P111 shown on screen.)
- 10 **Q** Bishop Hubbard, this is a December 20th, 1978
- 11 letter from Monsignor Markham to Father
- 12 Wilson regarding Father Wilson's request to
- 13 become a chaplain of the U.S. Navy, correct?
- 14 **A** Yes.
- 15 **Q** And in this December 1978 letter Father
- 16 Markham tells Father Wilson that he was
- 17 rejecting Father Wilson's request to be a
- 18 chaplain in the U.S. Navy, correct?
- 19 **A** Correct.
- 20 **Q** And Father Markham says that one basis for
- 21 him to reject Father Wilson's request was
- 22 because of a letter that he received from
- 23 you, correct?
- 24 **A** Correct.

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- 2 **Q** What did you tell the U.S. Navy about Father
- 3 Wilson?
- 4 **A** Well, unless I had that correspondence, I
- 5 can't tell you exactly what I said. But as
- 6 was the case in Boston and Rochester, we
- 7 certainly told him the difficulties that he
- 8 already had so that they would be aware if
- 9 they were going to accept him.
- 10 **Q** And the difficulty would include the fact
- 11 that he had been ousted from the Albany area
- 12 because of an allegation of child sexual
- 13 abuse, correct?
- 14 **A** Correct.
- 15 **Q** Bishop Hubbard, let's take a look at Exhibit
- 16 P101, please.
- 17 (Exhibit P101 shown on screen.)
- 18 MR. O'CONNOR: P101?
- 19 MR. AMALA: Yes, sir.
- 20 **Q** Bishop Hubbard, this is a March 21st, 1979
- 21 letter to you from three religious order nuns
- 22 who served with Father Wilson at St. Joseph's
- 23 parish in Massachusetts, correct?
- 24 **A** Yes.

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- 2 **Q** They sent this letter to you, Bishop Hubbard,
- 3 when Father Wilson was serving with them in
- 4 the Archdiocese of Boston, correct?
- 5 **A** Correct.
- 6 **Q** Bishop Hubbard, I want to be sensitive to
- 7 documents and reading too much from them, but
- 8 this one, I'll just tell you, I'm going to
- 9 work with you a little bit on. I think we
- 10 have all tried to stay a little away from too
- 11 much document reading, but I do want to ask
- 12 you some questions about this letter.
- 13 In the first paragraph the three nuns
- 14 state that, quote, "For close to three years
- 15 Father Dozia Wilson has been administer of
- 16 St. Joseph's parish, Roxbury, Massachusetts
- 17 for at least the past two years. There have
- 18 been severe problems." Do you see that?
- 19 **A** I'm not seeing it. What paragraph?
- 20 **Q** The first paragraph, sir.
- 21 **A** Yes. I see that.
- 22 **Q** The first line. Okay.
- 23 And continuing, the three nuns then state,
- 24 quote, "For misuse, abuse and mismanagement

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- 2 of funds to a questionable personal lifestyle,
- 3 Father Wilson has brought pain and disharmony
- 4 to this community." Do you see that?
- 5 **A** Yes.
- 6 **Q** The three nuns then describe multiple efforts
- 7 by them to get the Archdiocese of Boston to
- 8 investigate Father Wilson. Do you agree?
- 9 **A** Yes.
- 10 **Q** In their letter the three nuns write, quote,
- 11 "When in December of 1978 there was no
- 12 visible change in the actions/words of Father
- 13 Wilson. We met with Cardinal Medeiros, who
- 14 verbally agreed that Father Wilson must leave
- 15 the parish, but begged our patience as he
- 16 tried to handle the delicate matter with
- 17 prudence. When pressed for a time limit, the
- 18 Cardinal asked us to give him three weeks,
- 19 which ended January 1st, 1979." Do you see
- 20 that?
- 21 **A** Yes.
- 22 **Q** And this letter from the nuns to you is a few
- 23 month after that deadline that Cardinal
- 24 Medeiros had given to the three nuns,

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 2 correct?
 3 A Correct.
 4 Q In the next paragraph, Bishop, the three nuns
 5 note that no change had taken place and that,
 6 quote, "It is the destruction of this
 7 beautiful institution and on the threat of
 8 parish participation that remains, that urges
 9 us to write to you." Do you see that?
 10 A Yes.
 11 Q And in the next paragraph the three nuns tell
 12 you, quote, "We feel that Father Wilson must
 13 be removed from his position of authority in
 14 this parish. Turmoil increases daily in the
 15 parish and it seems that a transfer that
 16 could have been accomplished quietly and with
 17 dignity earlier becomes increasingly
 18 difficult now. Personal issues, harmful to
 19 the public reputation of Father Wilson and
 20 the church have surfaced openly." Period,
 21 closed quote. Did I read that correctly?
 22 A Correct.
 23 Q And the nuns ultimately ask you, the Bishop
 24 of Albany, to recall Father Wilson from the

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 2 situation to do so." Period, close quote.
 3 Did I read that correctly?
 4 A Right.
 5 Q So Bishop Hubbard, these nuns are actually
 6 anticipating that you will probably hear a
 7 different story from the Archdiocese of
 8 Boston and are watching to make sure that you
 9 come to them so they can share the facts with
 10 you that have led them to be so concerned.
 11 Correct?
 12 A I can't put myself in their mind. I don't
 13 know what their -- I know what the letter
 14 says, but I also know what Cardinal Medeiros
 15 told me, and I made the decision to recall
 16 him.
 17 Q Bishop Hubbard, in your experience with the
 18 Diocese of Albany for decades, can you recall
 19 any other instance where a religious order
 20 wrote to you and begged you to recall a
 21 previous priest to your Diocese?
 22 MR. COSTELLO: Object to the form.
 23 A I can't recall of any religious community
 24 asking the priest to be recalled. However, I

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 2 Archdiocese of Boston, correct?
 3 A Correct.
 4 Q Would you agree with me, Bishop Hubbard, that
 5 these three nuns are basically begging you to
 6 recall Father Wilson to the Diocese of Albany
 7 because of his destructive behavior in
 8 Boston?
 9 MR. COSTELLO: Object to the form.
 10 You may answer.
 11 A I would say yes, they are. But that was not
 12 the communication that I received from
 13 Cardinal Medeiros.
 14 Q Well, and to that end, Bishop Hubbard, these
 15 three nuns in the next paragraph, they state,
 16 quote, "Bishop Hubbard, we have all the
 17 necessary factual information to back up the
 18 report we have given you. If in your
 19 response to our request you can hear of
 20 another side of the story, we hope you will
 21 make that known to us so that we may have an
 22 open hearing before an impartial judge. It
 23 is our deep concern for the church that we
 24 ask those who have the power to change this

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 2 have over the course of my years as a Bishop
 3 received letters of complaints from religious
 4 priests and lay people who were demanding
 5 this, that or another thing, and that is not
 6 uncommon when people feel aggrieved that they
 7 will propose solutions that they think is
 8 appropriate.
 9 Q Bishop, do you agree with me, this is rather
 10 extraordinary for the nuns to reach out to
 11 you to recall a priest who is serving in a
 12 different diocese or archdiocese, correct?
 13 MR. COSTELLO: Objection.
 14 A No, I don't think it is extraordinary. They
 15 are running up the line of command and they
 16 went to Cardinal Medeiros and they were not
 17 satisfied. And so the next place to go is to
 18 myself. That happens all the time in the
 19 dynamics of the church. So to say that is
 20 unusual would not be correct.
 21 Q Did you do anything to investigate their
 22 allegations?
 23 A No, I did not.
 24 Q Did you contact any of the three of them to

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2 ask them more about what facts they had that

3 caused them to be so concerned about Father

4 Wilson?

5 A I cannot remember something that happened

6 44 years ago. So I do not remember one way

7 or another.

8 Q Do you recall taking any steps to investigate

9 their allegation that Father Wilson was

10 leading, quote, "a questionable, personal

11 lifestyle," closed quote?

12 A I don't recall that one way or another.

13 Q Bishop Hubbard, when you saw that were you,

14 given his history of sexually abusing a child

15 that led him to be ousted from Albany, were

16 you concerned at all about the questionable

17 personal lifestyle could be that he is

18 engaging in inappropriate sexual conduct with

19 children in Boston?

20 MR. COSTELLO: Object to the form.

21 A I'm sure that crossed my mind, but they didn't

22 make that allegation either.

23 Q And sir, you didn't call any of them to ask

24 if that was their concern, correct?

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2 MR. O'CONNOR: Object to that.

3 A No, I didn't. But if that was their concern,

4 it would seem to me they should have expressed

5 it.

6 Q Bishop Hubbard, did you take any steps to

7 investigate their allegation that Father

8 Wilson, quote, "has brought pain and

9 disharmony to this community," quote, closed

10 quote?

11 MR. O'CONNOR: Object to the form.

12 A No. I already knew that from Cardinal

13 Medeiros.

14 Q You knew that he was bringing pain and

15 disharmony to the community in Boston?

16 A Yes. That is why they asked that he be

17 removed.

18 Q Did you ask Cardinal Medeiros why these three

19 nuns indicated that Cardinal Medeiros was

20 trying to handle the matter with, quote,

21 "delicate matter with prudence?"

22 A Could you please repeat the question.

23 Q Let me ask you a different one. I'll strike

24 the question and ask it a different way.

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2 Did you ask anyone in Boston whether or

3 not there were concerns that Father Wilson

4 sexually was abusing children in Boston?

5 A Not that I recall.

6 Q And I take it, then, you did not do anything

7 to investigate the statement of these three

8 nuns that, quote, "personal issues harmful to

9 the public reputation of Father Wilson and

10 the church have surfaced openly?"

11 MR. O'CONNOR: Object to the form.

12 I think this has been asked and answered.

13 A I'm not going to guess because I don't

14 remember.

15 MR. O'CONNOR: Jason, I'm going to

16 take a break soon, but I don't want to

17 affect your mojo, so you tell me. We have

18 been going about an hour now.

19 MR. AMALA: Terry, that implies

20 that I have mojo, which I greatly

21 appreciate. But putting that aside, I'm

22 happy to take a break.

23 MR. O'CONNOR: If you want to

24 finish your lines of questions, I'm not

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2 telling you to do that. I'm purposely

3 giving you the discretion here.

4 MR. AMALA: No, we are good. This

5 is a good spot. How long do you want?

6 MR. O'CONNOR: I'm sorry.

7 MR. AMALA: How long would you

8 like.

9 MR. O'CONNOR: Why don't you go,

10 last time we broke at -- we started back

11 at 11:47. So it is 11:46 now. Want to

12 come back at 11:55.

13 MR. AMALA: Sounds good. So ten

14 minutes?

15 MR. O'CONNOR: Yeah. Thank you,

16 sir.

17 VIDEOGRAPHER: Going off the record

18 11:46.

19 (Off the record.)

20 VIDEOGRAPHER: We are back on the

21 record 11:57.

22 Go ahead.

23 BY MR. AMALA:

24 Q Bishop Hubbard, I just have a couple more

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2 questions on Exhibit 101, which is the -- we
3 started with the letter from the nuns to you
4 dated March 21st, 1979. If you turn to the
5 last page of Exhibit 101.

6 (Page shown on screen.)

7 **Q** Bishop Hubbard, this is a March 27th, 1979
8 letter from you in response to those three
9 nuns who wrote you on March 21st, correct?

10 **A** Yes.

11 MR. O'CONNOR: Is that the same
12 exhibit, Jason?

13 MR. AMALA: It is.

14 MR. O'CONNOR: Thanks. That is
15 P101. Thanks.

16 MR. AMALA: Yes, sir.

17 **Q** And Bishop Hubbard, in your letter back to
18 the nuns you thanked them for their letter
19 about Father Wilson, correct?

20 **A** Right.

21 **Q** And you told the three nuns, quote, "I have
22 taken steps which I believe will help remedy
23 some of the problems which your letter
24 outlines for me." Correct?

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2 recalled Father Wilson from Boston, correct?

3 **A** I don't know the date when I recalled Father
4 Wilson from Boston.

5 **Q** This was after you recalled him from Boston,
6 correct?

7 **A** Yes. Because that letter I sent to the nuns
8 was March 27, so it must have been after
9 that.

10 **Q** Bishop Hubbard, if you look at the second
11 paragraph of this letter, you tell the Bishop
12 of Tulsa, quote, I do believe that Father
13 Wilson could be an asset to the Diocese of
14 Tulsa. He has been undergoing counseling,
15 and I believe that with proper support and
16 encouragement Father Wilson could function
17 adequately in the pastoral ministry." Period,
18 close quote. Did I read that correctly?

19 **A** Yes.

20 **Q** The counseling you were referring to was
21 sexual deviancy treatment, correct?

22 **A** Yes.

23 **Q** And where was that sexual deviancy treatment
24 taking place at that time?

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2 **A** Correct.

3 **Q** Bishop Hubbard, what steps did you take to
4 help remedy the problems the three nuns
5 outlined in their letter?

6 **A** Well, one of the things is they wanted him
7 removed because of the destruction that was
8 taking place in the parish, and that was the
9 step I was taking, to have him removed in
10 accordance with my conversation with Cardinal
11 Medeiros.

12 **Q** And you recalled him about any investigation
13 of the concerns raised by those three nuns,
14 correct?

15 **A** To the best of my knowledge.

16 **Q** Bishop Hubbard, I would like to look now at
17 Exhibit P107, please.

18 (Exhibit P107 shown on screen.)

19 **Q** Bishop Hubbard, this is a May 24th, 1979
20 letter from you to the bishop of Tulsa,
21 Oklahoma. Correct?

22 **A** Yes.

23 **Q** And Bishop Hubbard, you are sending this to
24 the bishop of Tulsa shortly after you

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2 **A** I'm not exactly sure. I think it was the
3 House of Affirmation.

4 **Q** And he was receiving that sexual deviancy
5 treatment because of concerns he had an
6 inappropriate sexual relationship with a
7 child, correct?

8 **A** I'm not sure if the referral was made by
9 myself or my -- or by the cardinal.

10 **Q** But Bishop Hubbard, regardless of who made
11 the referral, you understood when you were
12 writing the Bishop of Tulsa that Father
13 Wilson was receiving sexual deviancy
14 treatment because of an allegation that he
15 had sexually abused a child, correct?

16 **A** I don't recall.

17 **Q** You told the Bishop of Tulsa that you thought
18 Father Wilson could function adequately as a
19 priest if he received, quote, "Proper support
20 and encouragement." Period, closed quote.
21 Did you see that?

22 **A** Yes.

23 **Q** And you were monitoring Father Wilson's
24 counseling at that time, correct?

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2 **A** I'm not sure that I was monitoring his

3 counseling.

4 **Q** What proper support and encouragement did you

5 feel Father Wilson needed in order to

6 function adequately as a priest?

7 **A** Well, I figured that in addition to the issue

8 that he had with the sexual abuse of minors,

9 having interpersonal difficulties with the

10 staff that he had been relating to in Boston

11 and in Rochester and that he really needed

12 someone to be supportive in helping him

13 handle those tensions more constructively.

14 **Q** At that time you knew that he also needed

15 additional supervision to make sure that he

16 didn't pose a danger to the children that he

17 had access to because of the services as a

18 priest, correct?

19 **A** I knew that he had a history of this, yes.

20 **Q** And you knew that in order to help keep him

21 from reoffending he would need additional

22 supervision, correct?

23 **A** I believed he would need ongoing support and

24 therapy, yes.

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2 from Rochester, correct?

3 **A** Correct.

4 **Q** And that was also after the U.S. Navy had

5 rejected him, correct?

6 **A** Correct.

7 **Q** And the Diocese at Tulsa had rejected him as

8 well, correct?

9 **A** I assume they did. I can't say that for

10 sure.

11 **MR. O'CONNOR:** Don't assume anything,

12 **Bishop.**

13 **A** I mean, I have nothing in front of me in

14 terms of response from the bishop of Tulsa.

15 **Q** Bishop Hubbard, you assigned Father Wilson to

16 be the vicarious cooperator at St. Mary's

17 parish, correct?

18 **A** Correct.

19 **Q** Why did you believe St. Mary's was an

20 appropriate assignment for Father Wilson?

21 **MR. COSTELLO:** Object to the form.

22 **You may answer.**

23 **A** There are a variety of reasons. One of the

24 reasons could have been that there was need

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2 **Q** And not to belabor the point, Bishop, but

3 that is what I'm trying to understand, is the

4 ongoing support that he would need would

5 include additional supervision by people who

6 understood his history of sexually abusing

7 children, correct?

8 **MR. O'CONNOR:** Object to the form.

9 **MS. DANER:** Object to the form.

10 **Q** Go ahead.

11 **MR. O'CONNOR:** You can answer.

12 **A** I believed that he would continue to need

13 support, yes.

14 **Q** Bishop Hubbard, the last exhibit I would like

15 to ask you about is Exhibit P105. If you

16 could take a look at that, please.

17 **(Exhibit P105 shown on screen.)**

18 **Q** Bishop Hubbard, this a January 19, 1981

19 letter from you to Father Wilson assigning

20 him to St. Mary's parish in Hudson, New York,

21 correct?

22 **A** Correct.

23 **Q** And you gave Father Wilson this assignment

24 after you had to recall him from Boston and

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2 for an associate pastor there. And I know

3 that Hudson has a fairly large black

4 community, and I thought he would relate well

5 to the black community.

6 **Q** You knew that that community also included a

7 lot of children, correct?

8 **A** Whether they had a lot of children or few

9 children, protection of children should be a

10 priority.

11 **Q** Did Father Wilson have any supervisors at

12 St. Mary's?

13 **A** The pastor would have been his supervisor.

14 **Q** And you knew that Father Wilson would have an

15 opportunity to spend time with the children

16 of St. Mary's, correct?

17 **A** I assumed that he would have some relationship

18 with the school, yes.

19 **Q** I mean, one of the responsibilities of Father

20 Wilson at St. Mary's would have been to care

21 for and strengthen a bond with the children

22 of St. Mary's, correct?

23 **MR. COSTELLO:** Object to the form.

24 **MR. O'CONNOR:** Object.

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2 **A** Well, I don't know what -- the job

3 description for an associate pastor can vary

4 from parish to parish, and he, as you would

5 note from the letter, would also have

6 responsibility with the Columbia-Greene

7 College program, and I think I saw somewhere

8 here in the material presented today that he

9 was also interacting with the Columbia County

10 Jail. So I'm not sure how much time he would

11 be spending in school.

12 **Q** Bishop Hubbard, did you do anything to warn

13 the people at St. Mary's, at the Community

14 College or at the jail about Father Wilson's

15 history of sexually abusing children?

16 **A** No.

17 **Q** Did you warn any of those entities, including

18 St. Mary's parish, that Father Wilson had

19 been forced out of the Albany area in 1976

20 because of allegations of child sex abuse?

21 **A** No.

22 **Q** Did you warn anyone at St. Mary's, at the

23 Community College or at the Columbia County

24 Jail that Father Wilson had been in sexual

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2 deviancy treatment because of allegations of

3 child sexual abuse?

4 **A** I can't recall if I discussed it with the

5 pastor. I did not discuss it with the other

6 entities.

7 **Q** Did you inform anyone at St. Mary's that

8 Father Wilson was not allowed to go back to

9 the Boston area?

10 **A** Well, maybe the pastor. I'm not sure.

11 **Q** When you assigned Father Wilson to the

12 St. Mary's parish, did you warn anyone at

13 St. Mary's that you believed Father Wilson

14 needed proper support and encouragement in

15 order to function adequately as a priest?

16 **A** I can't recall.

17 **Q** Did you take any steps whatsoever, Bishop

18 Hubbard, that Father Wilson could not use his

19 position as a priest at St. Mary's in order

20 to groom children in order to sexually abuse

21 them?

22 **A** I do not recall.

23 **Q** Did you take any steps, Bishop Hubbard, to

24 make sure that Father Wilson could not use

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2 his positions at the Community College or at

3 the Columbia County Jail to groom and to

4 sexually abuse children?

5 **A** I have no recollection of doing that.

6 **Q** Bishop Hubbard, did you ever take steps to

7 have Father Wilson laicized?

8 **A** I did not.

9 **Q** Why did you not?

10 **A** As I testified earlier today, there was only

11 one, maybe two priests that have received

12 laicization. I feel that public removal from

13 ministry when that is announced to the

14 community is a sufficient punishment.

15 **Q** Bishop Hubbard, do you recall James Donlon

16 contacting you in 2003 and suggesting to you

17 that Father Wilson be laicized because

18 Mr. Donlon felt that Father Wilson still

19 posed a danger to young people?

20 **MR. COSTELLO:** Object to the form.

21 **You may answer.**

22 **A** I don't recall that letter. I'm not saying I

23 didn't receive it, but I have no recollection

24 of it presently.

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2 **Q** Bishop Hubbard, I'm going to shift gears now

3 and ask you some questions about Father

4 Pratt. And I think you heard Mr. O'Connor

5 and I speak before we restarted here. We are

6 going to wrap up here before the lunch break

7 in about 20 minutes. So can we talk about

8 Father Pratt for just a bit?

9 **A** Sure.

10 **Q** Bishop Hubbard, did you consider Father Pratt

11 to be a close friend of yours?

12 **A** Well, he served as my secretary and vice

13 chancellor for nearly a decade. So I did not

14 know him prior to that, but I lived with him

15 and I liked him, and occasionally we would go

16 to ball games together.

17 **Q** And Bishop Hubbard, just so we have a clear

18 record here, by Father Pratt I'm referring to

19 Father Edward C. Pratt. Are we talking about

20 the same Father Pratt?

21 **A** I assume it is. I only know one Father

22 Pratt.

23 **Q** All right.

24 **Why did you choose Father Pratt to be your**

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- 2 personal secretary?
- 3 **A** Recommended by the chancellor.
- 4 **Q** And Father Pratt also served as your vice
- 5 chancellor, is that correct?
- 6 **A** Yes. The position was vice chancellor and
- 7 secretary to the Bishop.
- 8 **Q** Bishop Hubbard, I'm going to ask you a few
- 9 personal questions about Father Pratt, and I
- 10 just want to apologize in advance. If any of
- 11 these questions offend you or anyone else, I
- 12 assure you, they are not intended to be
- 13 offensive. Did you have a sexual relationship
- 14 with Father Pratt?
- 15 **A** No.
- 16 **Q** Did you ever have sexual relations with
- 17 Father Pratt?
- 18 **A** No.
- 19 **Q** Did you have an intimate relationship with
- 20 Father Pratt?
- 21 **A** No.
- 22 **Q** What were Father Pratt's job responsibilities
- 23 as your chancellor?
- 24 **A** Vice chancellor.

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- 2 **MR. O'CONNOR:** Are you talking
- 3 about the sealed files, Jason?
- 4 **MR. AMALA:** Sure, Terry. They are
- 5 known by so many different names. I think
- 6 we are talking the same thing.
- 7 **MR. O'CONNOR:** I just want to make
- 8 sure. Yesterday they seemed to refer to
- 9 them as the sealed files. It is all new
- 10 to me. I just want to make sure I'm on
- 11 the same page.
- 12 **Q** Bishop Hubbard, let me reask the question.
- 13 Yes, sir, let me reask the question.
- 14 Bishop Hubbard, do you recall Father Pratt
- 15 ever accessing the secret archives of the
- 16 secret files?
- 17 **A** No.
- 18 **Q** I believe yesterday you were asked about a
- 19 1985 meeting by the Catholic bishops in the
- 20 United States regarding the issue of child
- 21 sexual abuse, is that correct?
- 22 **A** Correct.
- 23 **Q** And did you attend that meeting?
- 24 **A** I did.

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- 2 **Q** Thank you, sir.
- 3 What were his job responsibilities as your
- 4 vice chancellor?
- 5 **A** Well, he was my secretary. He would be also
- 6 responsible for doing initial drafts of
- 7 responding to correspondence that I received.
- 8 He would be my master of ceremonies for
- 9 confirmations and ordinations. He would
- 10 often answer phone calls on my behalf, and he
- 11 would work closely with the chancellor in
- 12 responsibilities that the chancellor might
- 13 present to him.
- 14 **Q** Did Father Pratt in his role as vice
- 15 chancellor have access to the Diocese of
- 16 Albany's secret archives?
- 17 **A** Not in his role as vice chancellor, no.
- 18 **Q** Did he have access to the secret archives in
- 19 a different role?
- 20 **A** Secret archives, no.
- 21 **Q** So Bishop Hubbard -- strike that.
- 22 Bishop Hubbard, do you recall Father Pratt
- 23 ever going into the secret archives or
- 24 accessing them?

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- 2 **Q** Did anyone else attend that meeting with you
- 3 from the Diocese of Albany?
- 4 **A** No.
- 5 **Q** When you came home after that meeting, Bishop
- 6 Hubbard, did you take any steps to determine
- 7 whether priests within the Diocese had
- 8 sexually abused children?
- 9 **A** Did I take steps to see if priests within the
- 10 Diocese -- no. I didn't do any specific
- 11 thing because if I had a complaint about a
- 12 priest I would take steps, but not if engaged
- 13 in some type of pseudo files or something
- 14 like that to find out if anyone had abused,
- 15 no I did not.
- 16 **Q** So you didn't ask anyone -- well, strike
- 17 that.
- 18 You yourself didn't go to the secret
- 19 archives to look to see if there were records
- 20 in there about child sexual abuse that you
- 21 weren't aware of, correct?
- 22 **A** Correct.
- 23 **MR. COSTELLO:** Object to the form.
- 24 You may answer.

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2 Q Did you ask anyone else to do that for you?

3 A No.

4 Q Why not Bishop Hubbard?

5 A Well, because first of all, we had a

6 presentation at that 1985 meeting. And then

7 there was a committee appointed by the

8 president of the conference to develop some

9 principles and protocols for dealing with the

10 issue of clergy sexual abuse. And I was

11 waiting to see what specific recommendations

12 they would make to the bishops in the country

13 for addressing this more constructively than

14 we had in the past, and I was awaiting the

15 report of that committee.

16 Q Bishop Hubbard, are you aware that other

17 bishops around the country returned home from

18 that meeting and had their secret archives

19 reviewed to see if they could identify

20 priests who had been accused of sexually

21 abusing children?

22 A I'm not aware of that, no.

23 Q Did you ever have such an endeavor or

24 undertaking on your behalf?

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2 Q So Bishop Hubbard, you attended in 1985 a

3 meeting with other U.S. bishops where you

4 received a presentation on the issue of child

5 sexual abuse in the church, but you didn't

6 come home concerned at all that you might

7 have a significant problem in your diocese

8 that you weren't aware of?

9 MR. COSTELLO: Object to the form

10 of the question.

11 You may answer.

12 A I didn't say I was not concerned at all. I

13 said I was awaiting the report of the

14 committee appointed by the president of the

15 conference to come up with recommendations as

16 to what to do about the issues that were

17 presented at our 1985 meeting.

18 Q Did you ever receive a copy of that report?

19 A Yes.

20 Q At that point did you do anything to ascertain

21 whether or not the secret archives of the

22 Diocese contained evidence of allegations of

23 child sexual abuse that you weren't aware of?

24 A That was not part of the report.

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2 A No.

3 Q I want to talk a little bit about --

4 A Let me just clarify that. If there was an

5 allegation made against a priest ministry, I

6 would go to the sealed file to see if there

7 was any history contained in that file that

8 would be relevant to the current accusation

9 of abuse.

10 Q But Bishop Hubbard, you would only do that if

11 you received a new allegation of abuse, is

12 that correct?

13 A That is correct.

14 Q Were you concerned at all, Bishop, that you

15 might have priests in your Diocese that had

16 been accused of sexual abuse that you weren't

17 aware of?

18 A No. I was concerned about -- I was concerned --

19 I didn't have the sense at that point in time

20 that there had been a major crisis, and I

21 came to the great awareness as the end of the

22 20th century came to a fulfillment. But I

23 didn't have the sense that there was a crisis

24 that had to be addressed in that way.

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2 Q Bishop Hubbard that wasn't my question. My

3 question is once you received that report,

4 did you at that point do anything to review

5 the Diocese secret archives to determine

6 whether or not there were allegations of

7 child sexual abuse in your documents that you

8 weren't aware of?

9 A My previous response, I said I was waiting

10 for the report to see what they were

11 recommending. I don't recall that they

12 recommended anybody going through the sealed

13 archives.

14 Q Bishop Hubbard, did you at any point ever --

15 well, strike that.

16 Bishop Hubbard, I want to talk about

17 St. Catherine's Center for Children before we

18 take our lunch break.

19 In addition to his role as your vice

20 chancellor and your personal secretary, you

21 also assigned Father Pratt to serve as a

22 priest at St. Catherine's Center for

23 Children, correct?

MR. COSTELLO: Objection.

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- 2 **A** Correct.
- 3 **Q** What was St. Catherine's Center for Children?
- 4 **A** It was a facility that cared for children who
- 5 needed placement because of the family
- 6 difficulties, being left orphaned or find
- 7 themselves in a neglected home and they were
- 8 usually referred to the facility by Social
- 9 Service agencies.
- 10 **Q** And Bishop Hubbard, would you agree that
- 11 those children generally are considered to be
- 12 at risk children?
- 13 **A** Yes. I would say they are at risk children.
- 14 **Q** Bishop Hubbard, you actually served on the
- 15 board of St. Catherine's, correct?
- 16 **A** I did at some period. I don't know the
- 17 period, but yes, there was a time when I
- 18 served on the board.
- 19 **Q** You served on the board at least in the early
- 20 1980's, correct?
- 21 **A** I can't tell you the time, but I do remember
- 22 serving on the board.
- 23 **Q** When you served on the board of St.
- 24 Catherine's, what were your responsibilities

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- 2 as a board member?
- 3 **A** As a board member would be to look at
- 4 policies and protocols that they had, and
- 5 also to look at the financial status of the
- 6 institution, and to see how they were
- 7 overseeing the children entrusted to their
- 8 care.
- 9 **Q** And Bishop Hubbard, was one of the concerns
- 10 you had as a board member making sure that
- 11 these at risk children at St. Catherine's
- 12 were not sexually abused while they were
- 13 there, is that true?
- 14 **MR. COSTELLO:** Objection.
- 15 **A** Well, that would be a given. Whether that
- 16 was discussed at a board meeting, I cannot
- 17 recall.
- 18 **Q** Why did you assign Father Pratt to serve at
- 19 St. Catherine's?
- 20 **A** Well, he didn't have other pastoral
- 21 responsibilities and yet he would say daily
- 22 mass. So it was very convenient for him to
- 23 be assigned to St. Catherine's because he
- 24 always did say the other mass, and it would

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- 2 be better if he would be able to say it from
- 3 a place that were looking for priests that
- 4 will be available for daily mass.
- 5 **Q** Bishop Hubbard, Father Pratt, when he served
- 6 at St. Catherine's, was living with you at
- 7 the chancery, is that correct?
- 8 **A** Correct.
- 9 **Q** How far was St. Catherine's from the
- 10 chancery?
- 11 **A** I mean, a mile.
- 12 **Q** When you assigned Father Pratt to serve at
- 13 St. Catherine's, did you take any steps to
- 14 make sure that he did not use his position
- 15 there to sexually abuse the children at
- 16 St. Catherine's?
- 17 **A** No specific steps.
- 18 **Q** How about general steps?
- 19 **A** No. The general steps were always in place.
- 20 **Q** What were those?
- 21 **A** Well, that you could not abuse a minor.
- 22 **Q** Bishop Hubbard, I guess what I'm getting at
- 23 is if anyone at St. Catherine's believed that
- 24 Father Pratt might be sexually abusing the

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- 2 children at St. Catherine's, you would have
- 3 expected them to report that to the Diocese,
- 4 correct?
- 5 **A** Correct.
- 6 **Q** The children who were placed at St. Catherine's,
- 7 they actually lived there, correct?
- 8 **A** Correct. Well, most of them did. Over a
- 9 period of time, and I think this was in that
- 10 period, there was a child victims or a child
- 11 format in New York State that says you can no
- 12 longer house children who were placed in
- 13 large institutional settings. So they moved
- 14 from the institutional setting to the group
- 15 home. I think that transition did take place
- 16 during the 80's.
- 17 **Q** And Bishop Hubbard, did the children who were
- 18 placed at St. Catherine's or in its care, did
- 19 they each have a caseworker?
- 20 **A** I assume they do, they did, but I don't know
- 21 that with certitude.
- 22 **Q** Did any governmental entities place children
- 23 at St. Catherine's?
- 24 **A** Did any?

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- 2 Q Governmental entities place children at
- 3 St. Catherine's?
- 4 A I think certainly a number were referred by
- 5 the Departments of Social Service in the
- 6 general area of the Capital District.
- 7 Q If a governmental entity placed a child at
- 8 St. Catherine's, did that entity remain
- 9 responsible for checking in on that child?
- 10 A I do not know.
- 11 Q Bishop Hubbard, I just have a few more
- 12 minutes.
- 13 If you could look at Exhibit 126, please?
- 14 (Exhibit 126 shown on screen.)
- 15 Q Bishop Hubbard, this is a January 26, 1999
- 16 letter from Father Burke to you regarding an
- 17 allegation of sexual abuse against Father
- 18 Pratt, correct?
- 19 A I haven't read it, but if you say it is, then
- 20 I have no reason not to believe it.
- 21 Q Bishop Hubbard, this is the last document I'm
- 22 asking you about. Go ahead and read this if
- 23 you would, please.
- 24 (Pause.)

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- 2 A I read it. Thank you.
- 3 Q So Bishop Hubbard, this is a letter from
- 4 Father Burke to you about an allegation that
- 5 Father Pratt had sexually abused a child,
- 6 correct?
- 7 A Correct.
- 8 Q About a third of the way down the page it
- 9 states, "According to their son [REDACTED]
- 10 now 30-years old, he was molested by Father
- 11 Pratt while an overnight guest at the
- 12 chancery residence at 364 State Street.
- 13 Dates were not too specific, but it must have
- 14 been around 1983/84. [REDACTED] was 14 or
- 15 15 years of age at the time, a high school
- 16 student at [REDACTED]." Did I read that
- 17 correctly?
- 18 A Yes.
- 19 Q And Father Burke says, quote, "[REDACTED] alleges
- 20 that while he was asleep on the couch (he
- 21 slept in his underwear) Father Pratt came in
- 22 and put his hands under the blanket and into
- 23 his undershorts. [REDACTED] awakened and did not
- 24 know what to do, so he pretended to be asleep

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- 2 and rolled over." Did I read that correctly?
- 3 A Correct.
- 4 Q Bishop Hubbard, in 1983 and 1984 you lived
- 5 with Father Pratt at the chancery, correct?
- 6 A Correct.
- 7 Q Where did Father Pratt sleep at the chancery?
- 8 A The room that was on the second floor. It
- 9 was on the Sand Creek side of the building in
- 10 front of the house.
- 11 Q And where did you sleep at the chancery?
- 12 A On the second floor on the parking side of
- 13 the house.
- 14 Q So you slept on the same floor as Father
- 15 Pratt?
- 16 A Correct.
- 17 Q Did other priests sleep at the chancery at
- 18 that time?
- 19 A Yes. There was at least two, maybe three
- 20 others.
- 21 Q Did you all sleep on the same floor?
- 22 A No. There was two others on the same floor,
- 23 but there was one or two on the third floor.
- 24 Q When you lived at the chancery with Father

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- 2 Pratt, were priests allowed to have young
- 3 boys stay the night at the chancery?
- 4 A Well, sometimes there was a situation where
- 5 someone needed a place for a couple of days
- 6 or a couple of weeks, someone that the priest
- 7 was working with, and they would have a room
- 8 maybe on the third floor for that period of
- 9 time.
- 10 Q Other than a boy who didn't have a home at
- 11 the time, were children allowed to stay the
- 12 night at the chancery in 1983 and 1984?
- 13 A Well, I do know that there was times when
- 14 Father Pratt did have a teenager there as his
- 15 guest. I was aware of that.
- 16 Q Did you do anything to investigate why Father
- 17 Pratt had young boys staying with him at the
- 18 chancery?
- 19 A Well, he would always give a reason. It
- 20 didn't happen very frequently, but sometimes
- 21 it was a fellow that went to a ball game with
- 22 him and may have been out of town and they
- 23 didn't have time to get back to the
- 24 youngster's house so he stayed overnight and

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2 then went home in the morning.
3 **Q** Other than a boy who didn't have a home and
4 boys who had Father Pratt and didn't have
5 time to get home, any other reason why Father
6 Pratt should have young boys staying with him
7 at the chancery?
8 **A** Not that I can think of.
9 **Q** Was Father Pratt allowed to sleep alone with
10 these young boys when he would have them at
11 the chancery?
12 **A** Not that I recall.
13 **Q** He was not allowed to sleep alone with them?
14 **A** No.
15 **Q** Maybe I'm not understanding. Strike that.
16 How did you make sure he wasn't sleeping
17 with the boys he brought to the chancery?
18 **A** It was my best recollection that anybody that
19 was staying overnight stayed in one of the
20 guest rooms on the third floor.
21 **Q** So if Father Pratt was having young boys stay
22 in his room with him, that would have been
23 against your policies at the time, correct?
24 **MR. COSTELLO:** Object to the form.

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2 **A** No.
3 **Q** If Father Farano had made such a report to
4 you, would you have taken steps to
5 investigate the child's complaint?
6 **A** Yes.
7 **MR. AMALA:** This is a good spot,
8 Terry, for a lunch break.
9 Thank you, Bishop Hubbard.
10 **VIDEOGRAPHER:** Going off the record
11 12:36.
12 (Whereupon, a break was held.)
13 **VIDEOGRAPHER:** Back on the record,
14 1:08. Go ahead.
15 **EXAMINATION BY MR. BONINA**
16 **Q** Good afternoon, sir. Good afternoon,
17 everyone. My name is John Bonina of the law
18 firm of Bonina and Bonina, and I'm going to
19 be asking you certain questions today
20 concerning your tenure as bishop and
21 concerning your oversight of a particular
22 priest by the name of Mark Haight.
23 Can you hear me okay, sir?
24 **A** I can.

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2 **A** Correct.
3 **Q** Did Father Farano live with you at the
4 chancery in the mid-1980's?
5 **A** Yes.
6 **MR. O'CONNOR:** Jason, how do you
7 spell that, Jason?
8 **BISHOP HUBBARD:** F-a-r-a-n-o.
9 **MR. O'CONNOR:** Father Farano.
10 Thank you.
11 **Q** And why did he live in the chancery with you?
12 **A** Father Farano?
13 **Q** Correct.
14 **A** He was a chancellor.
15 **Q** If a child from St. Catherine's ever reported
16 to Father Farano that the child was being
17 sexually abused by Father Pratt, would you
18 have expected Father Farano to report that
19 information to you?
20 **A** I would.
21 **Q** Did Father Farano ever report to you that a
22 child in St. Catherine's had told Father
23 Farano that he was being sexually abused by
24 Father Pratt at St. Catherine's?

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2 **Q** And you certainly testified about Father
3 Haight yesterday, correct?
4 **A** Correct.
5 **Q** If I recall correctly, you said there were
6 certainly more than five credible allegations
7 of child sexual abuse against Father Haight
8 but you could not recall specifically whether
9 there were more than ten. Do you recall that
10 testimony yesterday?
11 **A** I think that is correct.
12 **Q** Did you review any documents either after the
13 deposition or this morning or overnight to
14 clarify for you the number of people who
15 credibly accused Father Haight of sexual
16 abuse?
17 **A** No, I did not.
18 **Q** Are you familiar with any of the allegations
19 that are made in these various cases against
20 the Diocese?
21 **A** The cases that have been filed, yes.
22 **Q** So were you aware, sir, that there is an
23 allegation that as early as 1973 when he was
24 serving as a deacon at St. Clare's in Colonie

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2 that he actually abused a minor.
3 **A** No. I'm not aware of that.
4 **Q** Are you aware, and I'm referring to now
5 Exhibit 471, pages 195 and 196 of Father
6 Haight's personnel file that has been
7 exchanged by Mr. Costello, are you aware that
8 on November 24 of 1995 a Father Patterson met
9 with a victim down in [REDACTED] ?
10 (Exhibit 471 shown on screen.)
11 **A** Yes. I'm aware of that from your exhibit.
12 **Q** And are you aware that, if we scroll down a
13 bit, we will get some details, but are you
14 aware that that person was 33-years old at
15 the time of the interview, so he would have
16 been ten years old in 1972, correct?
17 **A** If those figures are accurate. If this date
18 was accurate and his age was accurate, yes.
19 **MR. BONINA:** And if we could scroll
20 down a little further. I'm sorry, that is
21 it.
22 (Portion of Exhibit 471 requested
23 on screen.)
24 **Q** In that paragraph that is highlighted, if I
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2 could read to you, two years later, so at
3 that point this survivor would have been
4 12-years old, correct?
5 **A** Correct.
6 **Q** And it was then that he realized Mark was
7 attracted to him because of the inappropriate
8 touching that took place. He alleges Mark
9 would rub his chest and proceed to move down
10 his torso to his legs. Do you see that?
11 **A** What page?
12 **Q** Same page that is up there on the screen,
13 page 195, which is Exhibit 471, sir.
14 **A** Which paragraph, please?
15 **REPORTER:** Bishop, it is also on
16 the screen.
17 **Q** The one that is highlighted, sir.
18 **A** Yes. I see it.
19 **Q** And you understand from having reviewed --
20 did you review this document that I had
21 exchanged before testifying here?
22 **A** Yes.
23 **Q** So you are aware that the remainder of this
24 document details a seven-year sexual
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1
2 relationship beginning in 1974 when this
3 survivor was just 12 years old, correct?
4 **A** Yes. I'm aware that is what is contained in
5 the exhibit, yes.
6 **Q** And are you also aware of allegations against
7 Father Haight made by a [REDACTED] who
8 was sexually abused by Father Haight in 1974
9 when Father Haight was at St. Mary's Seminary
10 in Baltimore?
11 **A** Yes. I think we received a letter in the
12 early 20th century about a report made to the
13 archdiocese in Baltimore.
14 **MR. BONINA:** We can take that down,
15 please.
16 (Exhibit removed.)
17 **MR. BONINA:** Thank you.
18 **Q** I want to ask you about those three, sir,
19 that we have addressed so far. You had
20 testified earlier that if the seminarian
21 commits pedophilia, they should simply not be
22 allowed in the priesthood. Did I hear you
23 correctly?
24 **A** That was my opinion, yes.
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2 **Q** So would you agree, sir, that, understanding
3 that Father Haight was ordained in 1976, had
4 the Diocese been aware of any of these
5 allegations, Mark Haight should never even
6 have been allowed to become a priest?
7 **A** That is my opinion, yes.
8 **Q** According to Father Haight's first --
9 according to Father Haight's assignment
10 sheet, his first assignment was at St. Francis
11 de Sales. Does that seem right to you?
12 **A** I don't --
13 **Q** I'll ask you to take my word for it.
14 **A** Okay. I'll take your word. I know he was at
15 St. Francis de Sales at one point. I don't
16 know exactly when.
17 **Q** Sure.
18 And I want you to assume he was at
19 St. Francis de Sales from 1976 to 1977 for
20 one year, according to his assignment sheet.
21 Okay?
22 **A** Okay.
23 **Q** At Exhibit 467, page 177 of Haight's priest
24 file which has been exchanged, I want you to
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1
2 look at that last paragraph there.
3 (Exhibit 467 shown on screen.)
4 Q This is an affidavit from a gentleman by the
5 name of ██████████, and it says, amongst
6 other things with respect to Father Haight,
7 "Father Haight took me on trips in his
8 airplane. Father Haight molested me in his
9 car, in the church sacristy, in his airplane
10 and various other places." Do you see that?
11 A I do.
12 Q Now, that was at his very first assignment as
13 soon as he was ordained, correct?
14 A I assume that is correct, yes.
15 Q Now, did you, when ██████████ came forward with
16 these allegations, were they found credible
17 by the Diocese?

18 MR. COSTELLO: Object to the form.

19 You may answer.

20 A I would have to check the list. He came
21 forward in 2003, is that correct?

22 Q There is an affidavit dated 2003. I can't
23 say when he first communicated with the
24 Diocese.

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2 concerning Father Haight, correct?
3 A Well, I don't know how that came about. So I
4 cannot comment on that.
5 Q Let me ask you this. Referring again to that
6 last photograph in this affidavit, the church
7 sacristy, for those who are not Roman
8 Catholic like myself and like you, obviously,
9 what is the church sacristy?
10 A Again, it refers to the room usually behind
11 the altar or now it is more monitored and is
12 sometimes at the back of the church. But it
13 is where, generally, the mass vestments are
14 kept, where the priests dress for mass, where
15 the altar boys meet with the priests in their
16 cassock and cincture before the service.
17 Q If a priest was abusing an adolescent male in
18 the church sacristy and was alone with an
19 adolescent male in the church sacristy, is
20 that something which should have raised
21 suspicions concerning a possibility of sexual
22 abuse at the parish?

23 MR. COSTELLO: Object to the form.

24 A To me it would.

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2 A Well, would you repeat the question, please?
3 Q I'm going to actually change the question,
4 sir.
5 Would there be any reason for there to be
6 an affidavit like this in Mark Haight's
7 personnel file, unless it was in the context
8 of trying to settle a case with respect to
9 sexual abuse on the part of Mark Haight?
10 MR. COSTELLO: Object to the form.
11 You may answer.
12 A I would assume that this would be in the
13 stable file.
14 Q Excuse me? The stable file?
15 A Yes.
16 Q Is that the same as or different from the
17 secret file or the sealed file?
18 A The sealed file, I meant to say. Excuse me.
19 Q That is an important distinction.
20 Now, was everything from Father Haight's
21 sealed file at some point merged with his
22 regular personnel file?
23 A I understand it is.
24 Q Such that we should have every document

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2 Q Now, when exactly did you become Bishop?
3 A 1977, March 27th.
4 Q So that would have been during the time that
5 Father Haight was still assigned to St.
6 Francis de Sales. Did anybody from St.
7 Francis de Sales advise you that Father Haight
8 was alone with a boy in the church sacristy
9 and sexually abusing a boy in the church
10 sacristy?
11 A Not to my recollection.
12 Q Would that have been a failure on their part?
13 A I would think if they saw that, yes.
14 Q Now, the next assignment that Haight had was
15 at a church in Troy, correct, St. Patrick's
16 in Troy?
17 A Yes.
18 MR. BONINA: We can take that down,
19 please.
20 (Exhibit removed.)
21 Q Without putting the document up, I want you
22 to assume that in December of 19 -- excuse
23 me, on January 9 of 1997 you had a meeting
24 with Jeffrey Burke, and it was in the context

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2 of beginning to remove Father Haight as
3 priest.
4 **A** What was the date?
5 **Q** January 9, 1997. And Father Burke documented
6 two words, Troy case. Do you know what that
7 refers to?
8 **A** No.
9 **Q** In the context -- knowing that those notes
10 were made in the context of a process to
11 remove Father Haight as a priest, can we
12 assume that there had been information that
13 Father Haight had sexually abused a minor
14 when he was assigned to the parish in Troy?
15 **MR. O'CONNOR:** Object to the form.
16 **A** I do not know.
17 **Q** After he was assigned to Troy, did he take --
18 he was only assigned there -- I want you to
19 assume. Withdrawn.
20 I want you to assume he was assigned to
21 St. Patrick's in Troy for only a year and
22 then took a leave of absence. Did you ever
23 find out why he took a leave of absence?
24 **A** I would have known at the time. Otherwise,

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2 it wouldn't have been granted.
3 **Q** Would it have been good practice to document
4 why he needed a leave of absence?
5 **MR. COSTELLO:** Objection to form.
6 **A** Not necessarily.
7 **Q** Could it have been for a personal or family
8 crisis?
9 **A** Could have been. I don't recall the reason.
10 **Q** Could it have been because he was caught in
11 the Troy case sexually abusing a minor?
12 **MR. O'CONNOR:** Object to the form.
13 **MR. COSTELLO:** Object to the form.
14 **A** Not to my recollection.
15 **Q** Is there any documentation anywhere --
16 withdrawn.
17 I want to ask you to assume that there is
18 no documentation anywhere in the nearly 300
19 pages of records that have been exchanged
20 concerning the details of what it meant by
21 Troy case.
22 **A** I'm not familiar with that.
23 **Q** Why is that?
24 **A** I'm not familiar with that.

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2 **Q** Why is that?
3 **MR. COSTELLO:** You have multiple
4 questions.
5 **A** I'm not familiar with the document.
6 **Q** Excuse me?
7 (Bishop Hubbard and Mr. Bonina
8 speaking at the same time.)
9 **MR. O'CONNOR:** Time out. Time out.
10 Let's get back on track.
11 **MR. COSTELLO:** How many questions
12 was that?
13 **MR. BONINA:** That was one question.
14 I asked him to assume something and then I
15 said what was that.
16 **MR. O'CONNOR:** I'm sorry.
17 **A** Can you ask it again?
18 **MR. O'CONNOR:** Let me just step in
19 here. It is my bad, John. I'm not sure
20 exactly what you are asking.
21 **MR. BONINA:** And I withdrew the
22 question.
23 **Q** I want you to assume there are no details
24 documenting with respect to the Troy case

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2 anywhere in Father Haight's nearly 300 pages
3 of records. First of all, do you have any
4 reason to disagree with that assumption?
5 **MR. COSTELLO:** Object to the form.
6 You may answer.
7 **A** I have no reason to agree or disagree. I'm
8 not familiar with the Troy document.
9 **Q** Okay.
10 If there was a Troy document, is there a
11 reason why it is not in his priest file?
12 **MR. O'CONNOR:** Form.
13 **A** It would be either -- it should be in the
14 sealed file.
15 **Q** And that should have been merged into his
16 regular folder that was exchanged, correct?
17 **A** That is my understanding.
18 **Q** After he took the leave of absence, you
19 assigned him to a school, correct?
20 **A** I don't know. I don't have the personnel
21 file in front of me, sir.
22 **Q** Well, what I'm going to do is I'm going to
23 ask you to assume that his next assignment
24 was Saratoga Central Catholic High School.

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2 MR. BONINA: And if we could refer
3 to Exhibit 459, please, page 92 of his
4 chart.
5 (Exhibit 459 shown on screen.)
6 Q After one year Father Haight was notified,
7 and I quote, "I hereby notify you of your
8 termination as a teacher and chaplain at
9 Saratoga Central Catholic High School,
10 Saratoga Springs, New York. The termination
11 is effective immediately." Did you ever
12 inquire as to why he was fired from Saratoga
13 Central High School.
14 A I really cannot recall.
15 Q Did you ever document why he was fired from
16 Saratoga Central High School effective
17 immediately?
18 A No, I have not.
19 Q After that he was assigned --
20 MR. BONINA: We can take that down.
21 (Exhibit 459 removed from screen.)
22 Q He was assigned to St. Gabriel's in
23 Rotterdam, correct?
24 A I don't --

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2 Q I want you to assume, to speed it along, sir,
3 because I'm on limited time, that his next
4 assignment was to St. Gabriel's in Rotterdam,
5 and he lasted all of four months there, and
6 then his appointment was terminated again.
7 Is there any documentation anywhere in his
8 file as to why that appointment was
9 terminated?
10 A I'm not aware.
11 Q I want you to then assume that he took a
12 six-year leave of absence and petitioned for
13 reinstatement, and that Father Haight has
14 already testified that in order to be
15 reinstated as a priest he had to ask for your
16 permission. Does that sound about right to
17 you?
18 A Yes.
19 Q Now, you sent him to House of Affirmation at
20 that time, correct?
21 A Correct.
22 Q Do you have any explanation as to why there
23 is not a single document from the House of
24 Affirmation in Father Haight's priest file?

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2 MR. O'CONNOR: Object to the form.
3 MR. COSTELLO: Object to the form.
4 A I do not.
5 Q Should there have been --
6 MR. O'CONNOR: John, I just want to
7 jump in.
8 Your questions are all assuming
9 that these things aren't in the file. To
10 be fair to the Bishop, he has never -- he
11 hasn't seen the file.
12 MR. BONINA: To be fair to the
13 bishop, I exchanged it two weeks ago, and
14 to be fair, I graduated from college and I
15 have some reading comprehension and I have
16 read through it about 30 times. So that
17 is why I'm asking you to assume. If it is
18 a hypothetical and I'm proven wrong, then
19 I'm proven wrong.
20 MR. O'CONNOR: So you are a college
21 graduate?
22 MR. BONINA: And a law school
23 graduate. How do you like that?
24 MR. O'CONNOR: John, he was

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2 provided with literally 20,000 pages of
3 stuff. He hasn't studied all this.
4 MR. BONINA: I don't want to get
5 into an extensive discussion back and
6 forth.
7 MR. O'CONNOR: Fair enough.
8 MR. BONINA: I'm on limited time
9 here.
10 MR. O'CONNOR: Fair enough. Go.
11 MR. COSTELLO: These are all
12 assumptions though and --
13 Q To be reinstated --
14 MR. BONINA: Mike, can I continue,
15 please?
16 MR. COSTELLO: Sure.
17 Q To be --
18 MR. COSTELLO: Yes. Go ahead.
19 Q To be reinstated did you have to have
20 assurances that he would not reoffend?
21 A I would assume that there was a report given
22 to me from the House of Affirmation, and I
23 would have relied on that document.
24 Q Do you know where that document is today?

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- 1
- 2 **A** No, I don't.
- 3 **Q** After the House of Affirmation, you put him
- 4 back in ministry of churches, correct?
- 5 **A** I did.
- 6 **Q** Did you notify -- I want you to assume his
- 7 next assignment was at St. Jude in
- 8 Wynantskill. I hope I'm pronouncing that
- 9 correctly. Did you notify anybody at
- 10 St. Jude in Wynantskill that Mark Haight had
- 11 a history of child sexual abuse?
- 12 **A** No. And I don't know if that is true that it
- 13 was sexual abuse prior to his assignment to
- 14 St. Joseph's in Scotia.
- 15 **Q** Well, there are, I want you to assume, and
- 16 again, because I'm on limited time here, I
- 17 want you to assume that there are reports
- 18 from the Paracletes in 1990 when he was sent
- 19 away a second time for treatment that refer
- 20 to sexual acting out that required treatment
- 21 at House of Affirmation. Do you have any
- 22 reason to disagree with that statement that
- 23 is documented in reports in his file from the
- 24 Paracletes?

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- 1
- 2 **Q** But you also have no documents from the House
- 3 of Affirmation to refresh your recollection,
- 4 correct?
- 5 **A** That is correct.
- 6 **MR. COSTELLO:** Object to the form.
- 7 **Q** Now, had you similarly with yesterday, and
- 8 I'm going to try and really, I'm leaving a
- 9 lot out because of the shortness of time that
- 10 I have been allotted. But yesterday you
- 11 mentioned that with respect to being notified
- 12 of Father Haight's return to sexual abuse
- 13 that it was by a mother from St. Joseph's in
- 14 Scotia, correct?
- 15 **A** I know it came from St. Joseph's in Scotia
- 16 while he was there. I don't know who the
- 17 reporter was.
- 18 **Q** Do you recall whether Father Haight had
- 19 befriended a family whose -- a boy, whose
- 20 grandmother -- withdrawn.
- 21 Do you recall the name [REDACTED]?
- 22 **A** No.
- 23 **Q** Do you recall the name [REDACTED]?
- 24 **A** No.

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- 1
- 2 **A** I cannot agree or disagree with that.
- 3 **Q** Would it be helpful for all of us to know why
- 4 exactly he was sent to the House of
- 5 Affirmation from 1985 to 1986?
- 6 **MR. COSTELLO:** Object to the form.
- 7 You can answer.
- 8 **A** I suppose it would be helpful to address this
- 9 issue, yes.
- 10 **Q** And is that something that should have been
- 11 documented in his priest file?
- 12 **A** I would say it would be in the stable file.
- 13 **Q** And that would have been merged with his
- 14 priest file, correct?
- 15 **A** That is my understanding.
- 16 **Q** Now, are you aware -- if you had warned the
- 17 pastors or other priests at St. Jude in
- 18 Wynantskill, they could have been on an
- 19 increased alert or an increased risk of
- 20 suspicion concerning Father Haight, correct?
- 21 **MR. O'CONNOR:** Object to the form.
- 22 **A** Well, it assumes that I was aware of his
- 23 sexual abuse. I'm not sure that was the
- 24 case.

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- 1
- 2 **Q** Before you sent him off to House of
- 3 Affirmation -- excuse me.
- 4 Before you sent him off to the Paracletes
- 5 in March of 1990, did you inquire at all about
- 6 the details of the sexual abuse allegations
- 7 that had been made against him?
- 8 **MR. O'CONNOR:** Object to the form.
- 9 **A** Are you asking at St. Joseph's?
- 10 **Q** Yes.
- 11 **A** Well, we acted on that by sending him to
- 12 House of -- sending him to Servants of the
- 13 Paraclete.
- 14 **Q** Did you advise the people at St. Joseph's
- 15 that he had previously been at House of
- 16 Affirmation for treatment?
- 17 **A** I'm not sure what the treatment was for.
- 18 **Q** Because it is not documented by you, correct?
- 19 **A** Correct.
- 20 **MR. COSTELLO:** Object to the form.
- 21 **A** I don't know why it is not documented. That
- 22 should be in the stable file.
- 23 **Q** If a priest, in terms of that index of
- 24 suspicion that you were talking about

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2 previously, if a priest was -- withdrawn.
3 If a priest with Father Haight's history
4 was alone with an adolescent boy, a ten-year
5 old boy in the rectory, is that something
6 that should have raised someone's index of
7 suspicion concerning the possibility of sex
8 abuse?

9 MR. COSTELLO: Object to form.

10 A It is a hypothetical. I would have to know
11 the circumstances as to why the boy was
12 there. But yes, it certainly might have
13 been, but I don't know the circumstances.

14 Q And is that something that should have been
15 reported up to you by people at St. Joseph's?

16 A I don't know if the boy was there having a
17 Coke after mass and left. Did that require
18 reporting, I don't know.

19 Q What if he was alone with him in his bedroom
20 in the rectory, is that something that should
21 have raised a suspicion of the possibility of
22 child sexual abuse?

23 MR. COSTELLO: I object to the
24 form.

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2 wanted to go to confession. There were doors
3 there and that may have been appropriate to
4 hear his confession. But ordinarily, I would
5 say it was suspicious.

6 Q Aren't there confessionals for confession?

7 A There are. There are, but I have heard
8 confessions in the rectory.

9 Q I've had my sacraments, sir. Don't kids --
10 kids don't even go to their first confession
11 until like seventh grade, right?

12 MR. COSTELLO: Object to form.

13 A That is not true. You go to first confession
14 before you make your first communion, which
15 is usually at seven years of age.

16 Q Now, if we could look at Exhibit 458, and on
17 page 85 thereof. So I don't know which page
18 that is on this exhibit.

19 (Exhibit 458 shown on screen.)

20 MR. BONINA: Perfect. Thank you.

21 A I want you to assume that this is a
22 December -- minutes or notes taken by Father
23 Jeffrey Burke on December 13 of 1996 at a
24 meeting you had concerning Father Haight,

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2 A I would say yes, that would be certainly
3 suspicious.

4 Q And is that something that should have been
5 reported to you by people within the parish?

6 A I would say the people who observed it or
7 were aware of it should have let someone
8 know, yes.

9 Q Would there ever be a reason for a priest to
10 be alone with a ten-year old boy in his
11 bedroom at the parish and the door closed?

12 MR. COSTELLO: Object as to form.

13 A There may have been a reason, but I can't
14 think of one off the top of my head.

15 Q Let me ask -- let me slightly change the
16 question.

17 Could there ever be a good reason for a
18 priest to be alone with a ten-year old boy in
19 his bedroom?

20 MR. COSTELLO: Same objection.

21 A I would have to know why he was there. For
22 example, I'm just giving an example why you
23 might do that. I'm not saying it happened,
24 but it could happen. The boy might have

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1
2 correct? Are you still with me?

3 MR. O'CONNOR: What was the
4 question though, John?

5 Q You know, look in the upper right it refers
6 to December 13, 1996, correct?

7 A The one I have is 1st of -- January 9, '97.

8 Q If you could please turn two pages or look at
9 the screen.

10 MR. COSTELLO: The screen blocks it
11 out, John, on the right side.

12 MR. BONINA: No, it doesn't.

13 Q Sir, do you have that in front of you now?

14 A I do now.

15 Q So if you look at towards the bottom of that
16 page there is something that I highlighted
17 for you, State Police Investigation. What
18 does that refer to?

19 A Where is that? I'm not finding it.

20 Q If you could look at the screen, sir, that
21 might be helpful. State Police Investigation,
22 do you see that?

23 A Yes.

24 Q What does that refer to?

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2 **A** I have no idea.

3 **Q** Would it have been helpful in terms of your

4 supervision of Father Haight to learn more

5 about a State Police Investigation concerning

6 allegations against him?

7 **A** I didn't say that I didn't investigate it. I

8 said I don't know what that means in and of

9 itself.

10 **Q** What I'm asking you is would it have been

11 helpful to have that information documented

12 further or further detailed in his priest

13 file?

14 **A** Again, I would put that in the other file.

15 But yes, I can't respond just on basis of

16 that notation.

17 **Q** And we could scroll down in this page, it

18 says vulnerabilities. Do you see that?

19 **A** Yes.

20 **Q** And then it says issue of notification?

21 **A** Correct.

22 **Q** Would you agree that the diocese had a

23 vulnerability with respect to Father Mark

24 Haight in terms of the, quote, "issue of

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1 notification?"

2 **MR. COSTELLO:** Object to the form.

3 **A** Unless I knew what vulnerability was being

4 referred to, I can't comment.

5 **Q** What was the context of this meeting, sir?

6 **A** I don't remember. That was in 1996, and it

7 was --

8 **Q** Isn't it true that --

9 **A** -- 25 years ago.

10 **Q** -- you had assigned him to Glens Falls

11 Hospital and Glens Falls Hospital became

12 irate when they were advised of his past

13 history of sexual abuse?

14 **MR. O'CONNOR:** Object to the form.

15 **MR. COSTELLO:** Object to the form.

16 **Q** Do you recall that?

17 **A** I recall that they received a complaint, not

18 from somebody at the hospital, but somebody

19 who had been abused sometime before and they

20 were not happy that we had not informed them

21 that there had been a previous sexual abuse

22 incident.

23 **MR. BONINA:** And if we could scroll

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1 back to the first page of this exhibit.

2 Actually, the second page -- nope, the

3 first page. I apologize.

4 (Exhibit 458 scrolled as requested.)

5 **MR. BONINA:** If we could scroll

6 down. Thank you. Let's leave that there.

7 My apology.

8 **Q** On this -- this is the January 9, 1997

9 document that you were referring to, correct?

10 **A** I do have that here, yes.

11 **MR. BONINA:** If we could stay at

12 the bottom, please. Thank you.

13 **Q** Where it says what are, quote, "our

14 liabilities," it refers to other cases that

15 involved priests serving in diocese, moral

16 levels and foundation credibility of the

17 church, correct?

18 **A** Yes.

19 **Q** That is what, in his meeting, Father Burke

20 documented, correct?

21 **A** Well, I don't know on what basis you say this

22 was a meeting between myself and Father

23 Burke. Is there some indication of that

24

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1 here?

2 **Q** Were you present at multiple meetings with

3 Father Burke concerning Haight in December of

4 1969 and January of 1997?

5 **A** I can't remember specifically that I was

6 present or not.

7 **MR. BONINA:** If we could scroll

8 back to the third page of this exhibit,

9 the December 13 part at the top.

10 (Exhibit 458 scrolled as requested.)

11 **Q** Who was HJH?

12 **A** That would be me.

13 **Q** And GB would be Father Burke, correct?

14 **A** Correct.

15 **Q** So would that indicate that you were present

16 with Father Burke at a meeting where Mark

17 Haight was discussed?

18 **A** Could you tell me where this is again?

19 **Q** The top right of the document, sir. If you

20 just look at the screen, it is highlighted

21 for you.

22 **MS. LAFAVE:** John, are you going to

23 wrap up pretty quick?

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- 1
- 2 MR. BONINA: Yeah. I cut a lot
- 3 out. Yeah. Thank you, Cynthia.
- 4 Q Do you see where it is highlighted
- 5 December 13?
- 6 A That is right.
- 7 Q Do you see that?
- 8 A I do.
- 9 Q And that indicates that you were present at a
- 10 meeting with Father Burke and others to
- 11 discuss Mark Haight, correct?
- 12 MR. O'CONNOR: Object to the form.
- 13 A I don't know. There could have been a memo
- 14 rather than a meeting.
- 15 Q And if we can go back to the first page,
- 16 would you in terms of what is documented
- 17 there of our liabilities that is highlighted
- 18 right there on the screen, did anybody bring
- 19 up his victims?
- 20 MR. O'CONNOR: Object to the form.
- 21 A Again, I'm not familiar with this document so
- 22 I don't know. Maybe they were brought up, but
- 23 they are not listed there, that is for sure.
- 24 Q That is for sure.

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- 1
- 2 And if we can go to the next page, right
- 3 there where the arrow is, where the cursor is
- 4 right now, I want to read this to you.
- 5 "Facts of the timeline are hard to defend."
- 6 Do you see that?
- 7 A No, I don't.
- 8 Q It is highlighted.
- 9 A Oh, I see it. Okay. I see it now.
- 10 Q Would you agree that with respect to Mark
- 11 Haight, the facts of the timeline with
- 12 respect to allegations of sexual abuse are
- 13 hard to defend?
- 14 MR. O'CONNOR: Object to the form.
- 15 A Unless I had a better context, I cannot agree
- 16 or disagree.
- 17 MR. BONINA: Cynthia, how far over
- 18 am I?
- 19 MS. LAFAVE: About 13 minutes.
- 20 MR. BONINA: Let me try to be fair
- 21 to everybody else. I do have a lot more
- 22 to ask. Maybe I can jump in later or
- 23 tomorrow.
- 24 MS. LAFAVE: You are done?

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- 2 MR. BONINA: Unfortunately, yes.
- 3 MS. LAFAVE: Okay. Gerald is up.
- 4 MR. WILLIAMS: Yes, I am up.
- 5 If I refer to myself as Jerry, even
- 6 though my name is Gerald with a G, Jerry
- 7 is with a J.
- 8 EXAMINATION BY MR. WILLIAMS:
- 9 Q Good afternoon, Bishop Hubbard.
- 10 A Good afternoon.
- 11 Q I am, in fact, Jerry Williams. We met in the
- 12 last few days in connection with a deposition
- 13 taken by one of the clients represented by me
- 14 and our co-counsel, Seeger Weiss, [REDACTED]
- 15 But in the few minutes I have with you today,
- 16 I'm not going to ask you about those
- 17 allegations. I'm going to ask you some
- 18 questions about some priests whose situations
- 19 may be relevant to other claims that we have
- 20 brought on behalf of our clients against the
- 21 Diocese of Albany and not you personally.
- 22 Okay?
- 23 A Yes.
- 24 Q By way of background on that, I want to

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- 2 slightly rehash something that you've talked
- 3 about several times in your deposition so
- 4 far, and that is the Diocese of Albany's list
- 5 of credibly accused priests or diocesan
- 6 priests credibly accused of sexual abuse of
- 7 minors. Are you familiar with what I am
- 8 talking about?
- 9 A Yes.
- 10 Q And I believe that you have confirmed that
- 11 the way a priest's name gets on that list is
- 12 if a diocesan review board finds that the
- 13 accusations against him are in fact credible,
- 14 is that accurate?
- 15 A That would be accurate for those that were
- 16 accused and found to be guilty after 1993.
- 17 There are people on that list that were found
- 18 to be guilty before 1993.
- 19 Q I understand.
- 20 And the 1993 date is important because
- 21 that is when I think you implemented the
- 22 diocesan review board in the Diocese of
- 23 Albany, is that correct?
- 24 A That is correct.

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- 2 Q All right.
- 3 So that leads to one of the other
- 4 background questions I have.
- 5 Before 1993 was there a list of credibly
- 6 accused priests in the Diocese of Albany?
- 7 A Not that I'm aware of.
- 8 Q We use the term credibly accused. Can you
- 9 tell me whether you have any understanding as
- 10 to whether currently or since 1993 the
- 11 diocesan review board has a working
- 12 definition or relies on any specific criteria
- 13 to determine when an accusation is deemed
- 14 credible?
- 15 A I'm not sure if they have a written
- 16 definition of that. They may. I'm not
- 17 familiar with it.
- 18 Q Fair enough.
- 19 And finally -- well, almost finally as to
- 20 the list, I know that at least since 2018 the
- 21 diocese issues it publicly, is that correct?
- 22 A It is on the website, I think.
- 23 Q And it is updated from time to time, correct?
- 24 A I assume that is the case.

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- 2 M-a-h-e-r. How do you pronounce that last
- 3 name, Bishop?
- 4 A M-a-h-e-r?
- 5 Q Yes.
- 6 A Ma-her.
- 7 Q Father Maher, and I think you testified that
- 8 you know Father Maher, is that accurate?
- 9 A I know him as a priest in the Diocese, yes.
- 10 Q And only in that capacity. You never
- 11 socialized with him?
- 12 A No.
- 13 Q Do you know where he is today, where he lives
- 14 today?
- 15 A He is deceased.
- 16 Q Yes, and that was fairly recent, right?
- 17 A Yes.
- 18 Q But before he died recently, do you know
- 19 where he was living?
- 20 A He was living in an apartment complex out in
- 21 Latham. I have never been there. I'm not
- 22 familiar with the place.
- 23 Q Do you know that Father Maher appears on the
- 24 current list of credibly accused clerics in

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- 2 Q Can you tell me if you know whether anywhere
- 3 there is a compilation of the statistics that
- 4 would show which percentage of diocesan
- 5 review board investigations result in a
- 6 finding of credibility of an accusation as
- 7 opposed to those that exonerate the accused
- 8 priest?
- 9 MR. COSTELLO: Object to the form.
- 10 You may answer.
- 11 A I'm not aware of any, but they may have their
- 12 own notations, but I have not seen them.
- 13 Q That is fair enough.
- 14 If there were such a compilation or there
- 15 were such notations where would they be kept?
- 16 A I believe that they keep their own minutes of
- 17 meetings.
- 18 Q By they/their, you mean the diocesan review
- 19 board?
- 20 A Diocesan review board, yes.
- 21 Q Let me now ask you briefly about the priests
- 22 that I have some interest in for today. One
- 23 I think you mentioned earlier this morning is
- 24 a priest name Daniel, and his last name is

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- 2 the Diocese of Albany?
- 3 A Yes.
- 4 Q Are you aware of that?
- 5 A Yes.
- 6 Q And are you aware that that is because an
- 7 alleged survivor who came forward in 2018 and
- 8 then later in 2020, a lawsuit by another
- 9 alleged survivor? Are you aware of those
- 10 forming the basis of his being put on the
- 11 list in 2020?
- 12 A No. I'm not aware that that was the reason.
- 13 Q Are you aware that back in 2005 Father Maher
- 14 was named in a lawsuit against the Diocese by
- 15 someone who claimed that Father Maher had
- 16 molested him?
- 17 A Yes.
- 18 Q That, of course, was during your active
- 19 bishop work when you were the ordinary of the
- 20 Diocese, correct?
- 21 A Correct.
- 22 Q At that time do you recall talking to Father
- 23 Maher about the allegations against him?
- 24 A Yes.

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 2 **Q** And what do you recall about those
 3 conversations?
 4 **A** I would have to ask the attorney if I'm able
 5 to respond to that question.
 6 MR. O'CONNOR: Do you want to chat
 7 for a second?
 8 MR. WILLIAMS: You are talking to
 9 the Bishop, right, Terry?
 10 MR. O'CONNOR: Yes.
 11 MR. COSTELLO: Let's take a break.
 12 MR. O'CONNOR: We will take a
 13 ten-minute break. You don't mind, Jerry.
 14 MR. WILLIAMS: No, no. Again, so
 15 long as Cynthia doesn't take my time away.
 16 MS. LAFAVE: All right. Did you
 17 say ten minutes?
 18 MR. O'CONNOR: No, no, no. Two
 19 minutes. Two minutes.
 20 MS. LAFAVE: Okay.
 21 Let's go off the record.
 22 VIDEOGRAPHER: Going off at 1:49.
 23 (Off the record.)
 24 VIDEOGRAPHER: Back on at 1:54. It

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 2 is recording.
 3 MR. O'CONNOR: I just want to
 4 reserve my right at the time if this thing
 5 is ever read to a jury or at trial with
 6 regard to any and all objections based
 7 upon privilege. I think we all agreed to
 8 that. With that I'll let the Bishop
 9 answer the question to the best of his
 10 ability.
 11 MR. WILLIAMS: Understood.
 12 **Q** And I think my question, Bishop, and the
 13 court reporter can read it back if you need
 14 to.
 15 But my question was what do you recall
 16 about your conversations back in the 2005
 17 time period with Father Maher about the
 18 accusations against him of childhood sexual
 19 abuse?
 20 **A** What I recall is that when that case was
 21 being processed, he was referred for an
 22 evaluation by a psychologist, and he was of
 23 the understanding that that was a privileged
 24 conversation between he and his psychologist,

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 2 and he was very upset that his confidentiality
 3 rights were violated. And we decided after
 4 reviewing the whole matter that because of
 5 the misunderstanding in communication, the
 6 information we received from the psychologist
 7 should not be taken into account in assessing
 8 the case.
 9 **Q** Now, do you recall the name of the
 10 psychologist?
 11 I couldn't hear that Bishop?
 12 REPORTER: He didn't respond.
 13 **A** I didn't respond.
 14 **Q** Oh, I'm sorry.
 15 **A** I'm trying to think of the name but I can't.
 16 I can't think of the name.
 17 **Q** It is available somewhere.
 18 **A** Yes.
 19 **Q** Thank you.
 20 Now, was there a written report from the
 21 psychologist?
 22 **A** I think there was.
 23 **Q** And did you --
 24 **A** There was certainly an oral report.

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 2 **Q** So assuming for a second that it was a
 3 written report, but even if it was an oral
 4 report, would the substance of that report be
 5 put in the sealed file for Father Maher?
 6 **A** I would think probably because it was a
 7 matter before the U board it would be in
 8 their file.
 9 **Q** And it goes to my next question. Was the
 10 reports -- these accusations back in 2005
 11 were submitted to the diocesan review board,
 12 is that correct?
 13 **A** That is correct.
 14 **Q** And it would include the information from the
 15 psychologist, is that correct, or not?
 16 **A** I don't know for sure. It may, but I'm not
 17 sure.
 18 **Q** But I take it from your previous testimony
 19 that there was an understanding that the
 20 psychologist's report, whatever it was, would
 21 not be considered in the review board's
 22 determination as to whether the accusations
 23 against Father Maher were credible? Is that
 24 accurate?

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- 2 **A** That is accurate.
- 3 **Q** And in fact, at that time the diocesan review
- 4 board exonerated Father Maher, for lack of a
- 5 better word, is that accurate?
- 6 **MR. COSTELLO:** Object to the form.
- 7 You may answer the question.
- 8 **Q** It found that the accusations were not
- 9 credible. Let me put it that way. Is that
- 10 accurate?
- 11 **A** I think they had enough information to find
- 12 probable cause.
- 13 **Q** So let's say it was inconclusive, is that a
- 14 fair assessment?
- 15 **A** Fair.
- 16 **Q** But as a result of that Father Maher was
- 17 allowed to continue in active ministry,
- 18 correct?
- 19 **A** Correct.
- 20 **Q** And in fact, he remained in active ministry
- 21 until sometime in 2020 when he was removed
- 22 from public ministry, correct?
- 23 **A** Right. But he retired long before that.
- 24 **Q** You are right, and I didn't mean to be unfair

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- 2 Did you ever discuss those accusations with
- 3 him?
- 4 **A** No. That would not have been my
- 5 responsibility. It would have been that of
- 6 my successor.
- 7 **Q** And I'm almost done here, but it leads me to
- 8 another priest, because it is our understanding
- 9 that Father Maher was an assistant pastor at
- 10 St. Francis de Sales in Albany, which later
- 11 became Christ Our Light parish. Does that
- 12 sound accurate to you? At one time he was
- 13 there?
- 14 **A** That is certainly true about the name of the
- 15 parish, and I don't know -- I don't have his
- 16 assignment sheet, but he probably was there
- 17 if you say that.
- 18 **Q** Okay. That is fair.
- 19 And it is also our understanding that
- 20 during some part of time that he was there
- 21 the pastor was another priest who died in
- 22 1989, Father Donald Starks. Did you know
- 23 Father Starks?
- 24 **A** I did.

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- 2 about that. He retired in 2008, correct?
- 3 **A** Correct.
- 4 **Q** And that, all of that was during your
- 5 Bishopric from 2005 to 2008, right?
- 6 **A** That was correct.
- 7 **Q** Did Father Maher ever tell you why he retired
- 8 and if the retirement had anything to do with
- 9 these accusations?
- 10 **A** I don't think so. Father Maher had cancer of
- 11 the mouth and he could not communicate very
- 12 well in his later years. So just by the
- 13 physical disability he had, he was not able
- 14 to continue his priestly ministry.
- 15 **Q** All right. But he was authorized to do so
- 16 until 2020? That is accurate, isn't it?
- 17 **A** I don't know when he was removed, but up
- 18 until the time he was removed he was still
- 19 authorized, but physically with the mouth and
- 20 surgery he wasn't really able to communicate.
- 21 **Q** All right. That is fair.
- 22 Now, I think I told you or represented to
- 23 you that there were later accusations after
- 24 you retired as Bishop against Father Maher.

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- 2 **Q** And in what capacity? Just as a priest or
- 3 did you also socialize with him?
- 4 **A** I didn't socialize with him. I think at one
- 5 point when I didn't have a regular assignment
- 6 back in the 60's, I might have helped out
- 7 there on weekends, but it was not a person
- 8 with whom I socialized.
- 9 **Q** Now, Father Starks was the subject of some
- 10 lawsuits that were filed in 2004 and 2005.
- 11 Do you generally recall that?
- 12 **A** I'm not sure that I do. Could you refresh my
- 13 memory?
- 14 **Q** Well, I could. I could tell you that is what
- 15 has been publicly reported in several places,
- 16 but I don't think it is necessary that we
- 17 nail down those dates exactly. But what I
- 18 really want to segue to, again, because I'm
- 19 short on time, is that in 2015, which is, you
- 20 know, 25 years after he died, Father Starks
- 21 was placed on the list of credibly accused
- 22 clerics. Now, my question to you is do you
- 23 have any knowledge as to how he got placed on
- 24 that list in 2015?

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2 A No, I don't. That was after my time.

3 Q I know it was after you retired and were on

4 emeritus, but let me ask you this, did the

5 diocesan review board review certain sealed

6 files to determine whether priests would be

7 placed on the credibly accused list?

8 A I don't think the sealed files were available

9 to the review board.

10 Q At any time --

11 A Now, they might have -- they may have made a

12 decision, but that would have been after my

13 time.

14 Q I understand what you are saying.

15 Did you do any investigation yourself of

16 the accusations against Starks?

17 A I'm not sure when the accusations came in.

18 Q Well, assuming they came in during your

19 bishopric, at any time while you were bishop

20 did you investigate any complaints that

21 referenced abuse by Starks, even though he

22 was dead at the time?

23 A I don't know, but we didn't have in my tenure

24 a list. So someone may have been reasonably

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1 accused, but if they are deceased, there was

2 probably no reason to make that public at the

3 time.

4

5 Q All right. I understand your answer.

6 These last three are really one question,

7 and you can answer them I hope in about 30

8 seconds. Do you have any knowledge regarding

9 the accusations of abuse against either of

10 these two priests, Father Joseph Donald

11 Keefer or Keffer, I'm sorry, Michael J.

12 Hogan?

13 A Keffer, I'm not familiar with that name.

14 There was a Michael Hogan, but I'm not aware

15 of any accusations against Michael Hogan.

16 Keffer I'm not familiar with.

17 MR. WILLIAMS: All right. That is

18 fine.

19 That's all I have, Cynthia. I

20 apologize for however long I went over.

21 MS. LAFAVE: Thank you very much.

22 We have Bill up now.

23 MR. GORDON: And first question is

24 we are at about an hour and is the Bishop

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2 going to want to take a break in like

3 three or four minutes? And should we take

4 that break now or can I go a solid 20 or

5 maybe a little over with him?

6 MR. O'CONNOR: Bishop, do you feel

7 okay to do another solid 20 before we

8 break again? It is your call.

9 BISHOP HUBBARD: I would be happy

10 to do that.

11 MR. O'CONNOR: Let's do it then.

12 MR. GORDON: Okay. Thank you.

13 EXAMINATION BY MR. GORDON:

14 Q Bishop --

15 MR. O'CONNOR: William, thanks for

16 asking.

17 MR. WILLIAMS: You're welcome.

18 Q Bishop, I know it has been a long two days.

19 We have more to do. I'm William Gordon with

20 the law offices of Mitchell Garabedian. We

21 represent a number of people who claim they

22 were abused by a number of different priests,

23 13 different priests, and in at least one

24 case a religious brother in the Diocese of

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1 Albany.

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3 So the first thing I want to ask you is I

4 want to ask your practices in the Diocese of

5 Albany.

6 You've made frequent reference to two

7 types of files pertaining to priests. One is

8 the stable file and the other is the sealed

9 file, is that correct?

10 A No. I referred to the sealed file and the

11 chancery file. The chancery is what I would

12 call a regular file, and the sealed file is

13 kept separate.

14 Q Now, there was a personnel board in the

15 Diocese of Albany when you were Bishop,

16 correct?

17 A Correct.

18 Q And did they have their own files on priests

19 separate and apart --

20 A Yes.

21 Q So they had a set of files on the priests?

22 A Yes.

23 Q The chancery had a set of files on the

24 priests, and then there were sealed files,

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2 correct?
3 **A** Right.
4 **Q** When you became Bishop is that when you first
5 got access to the sealed files?
6 **A** No. If a complaint was made to me, I would
7 generally look at the sealed file to see if
8 there was anything in that file indicating
9 past behavior that would be relevant to this
10 complaint. So I only used -- I only went to
11 the sealed file when there was an allegation
12 of some misconduct on the part of a priest.
13 **Q** So you would access prior to becoming bishop
14 when you were vicar general?
15 **A** No. Just when I was Bishop.
16 **Q** Okay. All right.
17 So when you were Bishop you could
18 physically go to the sealed files, correct?
19 **A** I don't think so because they are locked and
20 I didn't have the keys. So I would have to
21 get it from the chancellor.
22 **Q** So the chancellor had the key to the sealed
23 files?
24 **A** I think so, yes.

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2 correct?
3 **A** It began when I was still bishop. I don't
4 know if the task was finished by the time I
5 retired, but it had begun at that time.
6 **Q** So you indicated there were files the
7 personnel board had, files the chancellor
8 had, and then there were the sealed files.
9 What went into the merged file?
10 **A** I would think it was just the -- as far as my
11 recollection, it was the chancery file and
12 the stable file.
13 **Q** And the sealed file?
14 **A** Sealed file, yes. Excuse me.
15 **Q** So there still would be a separate now intact
16 personnel board file?
17 **A** As far as I know there would be. I can't say
18 that with certitude because things may have
19 changed since 2014, but there used to be a
20 separate personnel file, yes, priest personnel
21 file.
22 **Q** Thank you.
23 Now, let me ask you, when you were a
24 bishop, we have seen some documents,

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2 **Q** When you say a key, was it to a file cabinet
3 or a room?
4 **A** A room.
5 **Q** So there was a room where the sealed files
6 were kept?
7 **A** Correct.
8 **Q** And were you aware whether it was one file
9 cabinet or more than one file cabinet?
10 **A** I was in the room once during my tenure.
11 Most of the time I would ask the chancellor,
12 since he had the key, to get the file and
13 bring it to me.
14 **Q** Other than the chancellor, did anyone else
15 have access to the sealed files for the
16 Diocese of Albany?
17 **A** Not during my tenure that I'm aware of.
18 **Q** You indicated that around 2002 when the
19 charter came out, files were merged, is that
20 correct?
21 **A** No. It was later than that. It was around
22 2013.
23 **Q** All right. 2013 the files were merged. And
24 that was while you were still bishop,

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2 occasionally either survivors or others would
3 come to complain to you or report to you
4 about priests who engaged in allegedly
5 improper conduct with children, is that
6 correct?
7 **A** Yes. I didn't necessarily meet with each
8 person directly. Sometimes they would go to
9 someone else and then they would bring it to
10 me.
11 **Q** Sometimes, though, they would ask to meet
12 with you and you would meet with them, is
13 that correct?
14 **A** That is correct.
15 **Q** And sometimes when you would have those
16 meetings would you bring in, when he was
17 chancellor, Father Farano?
18 **A** It could have been on some occasions, yes.
19 **Q** And at some point, at some of these meetings
20 did you bring in a Father Kenneth Doyle?
21 **A** I don't recall that, but he was the press
22 person for the Diocese. So he may have sat
23 in on a meeting or two, but I don't recollect
24 being there.

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 2 Q And in a case where somebody is complaining
 3 about a priest acting sexually inappropriate,
 4 why would you want the person at the Diocese
 5 in charge of press at that kind of meeting?
 6 A Well, I'm surprised because I don't remember
 7 him being at that type of meeting. And then
 8 I said is it possible. It is possible, but I
 9 don't remember him being there.
 10 Q I will represent to you that [REDACTED], then
 11 [REDACTED] represented that at the meeting
 12 she had with you Father Farano was there and
 13 Father Kenneth Doyle was there, and you don't
 14 have any memory why you would have had him at
 15 that meeting?
 16 A No. The only possibility was if that person
 17 had already met with the press, then it might
 18 have been appropriate for him to be there.
 19 MR. O'CONNOR: Hey, William.
 20 MR. GORDON: Yes.
 21 MR. O'CONNOR: I'm sorry, I didn't
 22 catch [REDACTED] last name.
 23 MR. GORDON: [REDACTED] Her
 24 maiden name was [REDACTED]

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 2 MR. O'CONNOR: Thank you.
 3 Q [REDACTED] has a claim against -- that she says
 4 she was abused by Father Robert Holtz. You
 5 indicated you knew who Father Holtz was?
 6 A Yes.
 7 Q And were you aware he was a Carmelite?
 8 A Yes.
 9 Q Did you understand that he sometimes would
 10 stay at St. Joseph's in Troy?
 11 A That is where he was assigned, I think.
 12 Q And have you heard about any other complaints
 13 other than [REDACTED] complaining about Father
 14 Holtz?
 15 A Not to my recollection.
 16 Q Do you recall a Father Frank Genevive?
 17 A Yes.
 18 Q And he wasn't placed on a list of known
 19 perpetrators for the Diocese of Albany, was
 20 he?
 21 A He is not a diocesan priest.
 22 Q Did he serve in Albany?
 23 A He served in Albany, but the list that is
 24 posted on the website is just a list of

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 2 diocesan priests. It doesn't include the
 3 religious order priests.
 4 Q Did you ever come to understand that Father
 5 Genevive had been accused of molesting minors
 6 in the Diocese of Albany, from the Diocese of
 7 Albany?
 8 A Complaints were received during my tenure,
 9 yes.
 10 Q And did you ever come to conclude that there
 11 was validity to those complaints?
 12 A Well, he was a priest at a Franciscan order,
 13 so the assessment in the investigation, and
 14 that would be done by the Franciscan community,
 15 not the Diocese.
 16 MR. GORDON: Can we pull up
 17 Exhibit 1324, please.
 18 (Exhibit 1324 shown on screen.)
 19 Q This is an Albany Times Union article. Do
 20 you see the date July 23, 2008?
 21 A Right.
 22 Q Do you see that, Bishop?
 23 A Yes, I do.
 24 Q You see it is -- the heading of the story is

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 2 Priest Admits Abuse of Three?
 3 A Yes.
 4 Q And you see in the second paragraph it says,
 5 "The Reverend Frank Genevive, a former
 6 associate pastor of Troy's St. Anthony of
 7 Padua Church and teacher at LaSalle Institute
 8 entered a surprise plea of guilty to five
 9 counts of statutory rape."
 10 A Yes.
 11 Q If you scroll down a little further, do you
 12 see it says, "The crimes occurred in
 13 Genevive's car, a car, and in a Boston
 14 rectory during overnight trips from Troy to
 15 Boston." And then it identifies somebody
 16 from Albany, [REDACTED], 14 spent the night
 17 in Genevive's north end rectory where he was
 18 sexually assaulted." So you never -- so were
 19 you aware that he pled guilty to sexually
 20 assaulting a minor who was from the Diocese
 21 of Albany?
 22 A Well, I certainly -- yes, I was aware that he
 23 was found guilty.
 24 Q And you knew that Father Genevive had served

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- 2 in at least two locations in the Diocese of
- 3 Albany, weren't you, LaSalle and at the
- 4 parish?
- 5 **A** Yes.
- 6 **Q** And yet you didn't think it was necessary to
- 7 inform people this was a substantiated sexual
- 8 abuser on the list for the Diocese of Albany?
- 9 **A** That list was prepared by my successor. I
- 10 didn't have a list.
- 11 **Q** So you never published a list?
- 12 **A** I never published a list, no.
- 13 **Q** I'm going to ask you about a few other
- 14 priests, if I may.
- 15 **A** Okay.
- 16 **Q** Did you know a Father James Hartley?
- 17 **A** I don't know if I knew him personally. I
- 18 knew that he was stationed in the Diocese. I
- 19 don't know if I had a personal interaction
- 20 with him at all.
- 21 **Q** Did you ever learn that there had been
- 22 accusations that he had abused minors while
- 23 he was serving at the Diocese?
- 24 **A** I know that he has been accused of abusing

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- 2 minors. I don't know how I received that
- 3 information.
- 4 **Q** Did you receive it before the Child Victims
- 5 Act was adopted, before 2019?
- 6 **A** I would have to review my files. I can't
- 7 remember. I don't remember receiving any
- 8 report of misconduct on his behalf, but I
- 9 stand to be corrected.
- 10 **Q** How about Father Donald Kelly, did you know
- 11 him?
- 12 **A** Yes, I did.
- 13 **Q** Did you ever learn that there had been
- 14 reports that Father Kelly had sexually abused
- 15 minors?
- 16 **A** Not that I recall.
- 17 **Q** Father Shawn McCann, had you heard that he
- 18 had sexually been accused of sexually abusing
- 19 minors?
- 20 **A** Yes.
- 21 **Q** And did you learn of that when you were a
- 22 bishop before your retirement?
- 23 **A** I'm not sure.
- 24 **Q** Did you, during the time you were bishop, did

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- 2 you ever come to the understanding that those
- 3 allegations were substantiated?
- 4 **A** Against Father McMahon?
- 5 **Q** Father McMahon, yes.
- 6 **A** Well, he is on the list, so I'm sure they
- 7 were substantiated. I'm just not sure when
- 8 that determination was made.
- 9 **Q** If he was removed in 2003, that would mean
- 10 that you determined that it was substantiated
- 11 then or your review board, is that correct?
- 12 **A** Well, yes, but the review board would have
- 13 made that recommendation. It was ultimately
- 14 my responsibility to remove him, I assume.
- 15 So if that is the information you have, then
- 16 that is correct.
- 17 **Q** And by the way, Father Donald Kelly, did you
- 18 ever understand that he served for a period
- 19 as a principal of St. Mary's Institute?
- 20 **A** I knew he was at St. Mary's in Amsterdam.
- 21 Sometimes one of the associates is designated
- 22 as a principal. I don't know if I was aware
- 23 of it at the time, but I'm not surprised that
- 24 he had that position.

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- 2 **Q** How about Father Hartley, were you aware that
- 3 he had also served as principal at St. Mary's
- 4 Institute?
- 5 **A** Yes.
- 6 **MR. O'CONNOR:** I'm sorry. I didn't
- 7 hear that, William. Can you just finish
- 8 that?
- 9 **MR. GORDON:** Father James Hartley.
- 10 **MR. O'CONNOR:** He was principal
- 11 where?
- 12 **MR. GORDON:** At St. Mary's
- 13 Institute.
- 14 **MR. O'CONNOR:** William, you are
- 15 getting a little bit -- you are fading a
- 16 little bit at times on the volume. Sorry
- 17 about that.
- 18 **MR. GORDON:** Okay. I hear you.
- 19 **Q** How about Father Carl Urban, did you know
- 20 him?
- 21 **A** Yes.
- 22 **Q** Did you ever learn that there had been
- 23 accusations that he had acted sexually
- 24 inappropriate with minors?

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- 2 **A** I'm aware of one allegation that was made
- 3 while I was bishop.
- 4 **Q** And you didn't make a finding that that was
- 5 substantiated, is that correct?
- 6 **A** That is correct.
- 7 **Q** How about Father Jeremiah Nunan, did you know
- 8 him?
- 9 **A** Yes, I did.
- 10 **Q** And you found him to -- you found the claims
- 11 against him to be substantiated?
- 12 **A** I know they were substantiated. I'm not sure
- 13 if that was during my tenure or my successor's.
- 14 **Q** You spoke yesterday about Father Carl Stone.
- 15 You know him, right?
- 16 **A** Right.
- 17 **Q** And he served at the Diocese, is that
- 18 correct?
- 19 **A** He did.
- 20 **Q** And do you know if he served at St. Vincent
- 21 DePaul at some point, in Albany?
- 22 **A** No. I don't think he ever served there, as
- 23 far as I know.
- 24 **Q** And did you know he was a Montfort?

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- 2 **A** I didn't hear the question.
- 3 **Q** Was he a religious priest?
- 4 **A** He was a Montfort Father.
- 5 **Q** Montfort, okay.
- 6 You said that he is a Montfort Father,
- 7 Carl Stone, and that he is also a religious
- 8 priest. He is listed on the Diocese listing
- 9 of priests, but yet, Father Genevive wasn't.
- 10 **A** I said he was a Montfort Father.
- 11 **Q** Did he stop being a Montfort Father?
- 12 **A** Yes. He became incardinated into the Diocese
- 13 sometime, I think, in the late 70's.
- 14 **Q** Oh, okay.
- 15 So he stopped, even though he appears in
- 16 the directory, he is listed as a Montfort
- 17 Father, he stopped being a Montfort Father?
- 18 **A** Yes. He was working in the Diocese. He was
- 19 working in the Diocese of Albany for a number
- 20 of years. I can't remember how many. He
- 21 came here as a Montfort Father with the
- 22 permission of his superior. And then he
- 23 decided he wanted to stay in Albany, and he
- 24 requested to be incardinated, and he was.

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- 2 **Q** Did you know --
- 3 **A** So that meant that after that he was no
- 4 longer a Montfort Father, he was a priest of
- 5 the Diocese of Albany until he was removed
- 6 in, I think, 1981.
- 7 **Q** And you removed him?
- 8 **A** Yes.
- 9 **Q** Father Paul Knapp, did you know him?
- 10 **A** The name doesn't ring a bell.
- 11 **Q** How about Father Gabriel Fiumano,
- 12 F-i-u-m-a-n-o?
- 13 **A** It doesn't ring a bell. Doesn't mean I don't
- 14 know him.
- 15 **Q** Brother Gabriel. He wasn't a priest.
- 16 **MR. O'CONNOR:** Can you spell that
- 17 last name again? I'm sorry.
- 18 **MR. GORDAN:** F-i-u-m-a-n-o.
- 19 **MR. O'CONNOR:** Thank you.
- 20 **A** To the best of my knowledge, I don't recall
- 21 knowing him.
- 22 **Q** And there is another brother that we have a
- 23 client who has a claim against, a Brother
- 24 Emanuel of the Redemptorists, who served at

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- 2 St. Clement's Church in Saratoga Springs.
- 3 Did you know that brother, Emanuel?
- 4 **A** Not that I can recall, no.
- 5 **MR. GORDON:** That's all I have
- 6 today. Thank you.
- 7 **MR. O'CONNOR:** Thank you, William.
- 8 So David, how are we doing on time?
- 9 **VIDEOGRAPHER:** You want it off the
- 10 record. I'll give you the accounting.
- 11 **MS. LAFAVE:** I can tell you what we
- 12 have. Let me see.
- 13 **MR. O'CONNOR:** David has the exact
- 14 time.
- 15 **MS. LAFAVE:** Yeah, but --
- 16 **VIDEOGRAPHER:** I have 3:54.
- 17 **MS. LAFAVE:** I have that we have
- 18 two hours and eight minutes left.
- 19 **VIDEOGRAPHER:** Sounds about right.
- 20 **REPORTER:** David, go off the
- 21 record.
- 22 **VIDEOGRAPHER:** All right.
- 23 Let's go off the record at 2:24.
- 24 (Off the record.)

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2 VIDEOGRAPHER: We are back on at
3 2:36. Go ahead.
4 MR. MERSON: Thank you.
5 EXAMINATION BY MR. MERSON:
6 Q Good afternoon, Bishop Hubbard. My name is
7 Jordan Merson and my firm represents a number
8 of child sex abuse survivors who have claims
9 against the Albany Diocese.
10 I'm going to start with the basics. I
11 have about 20 minutes of time. I have
12 questions for more than 20 minutes of time,
13 but I'm going to do the best I can to move
14 through it efficiently here with you.
15 So I want to start off with, you agree
16 that the Albany Diocese had a duty to protect
17 children in its parishes, schools and
18 orphanages from child sexual abuse, correct?
19 MR. O'CONNOR: Form.
20 A Correct.
21 MS. DANEK: Object to the form.
22 Q And before 2003, because it seems like 2003
23 has kind of been the cutoff for a lot of
24 these questions here. So from before you

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2 were bishop up until 2003, what was done by
3 the Albany Diocese to prevent children in its
4 parishes, schools and orphanages from being
5 sexually abused?
6 MR. O'CONNOR: What was that
7 timeframe?
8 MS. DANEK: Object.
9 MR. MERSON: From before 2003.
10 A Well, two things immediately come to mind,
11 maybe three.
12 One, we established a misconduct review
13 board. We have an outside group that has
14 every allegation received by the Diocese
15 brought to them and make recommendations to
16 the bishop.
17 REPORTER: Hold on. Somebody needs
18 to mute their speaker.
19 (Speaker muted.)
20 REPORTER: Sorry, Bishop. Go
21 ahead.
22 A The misconduct review board, that was
23 established in 1993. And also they established
24 in 2003 a manual about sexual abuse and how

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2 to deal with it. And so that was issued in
3 1993. And then in 1992 I gave a presentation
4 to the priests of the Diocese and spoke about
5 what a terrible evil this was and how
6 disturbing it was to hear the reports from
7 victims about priests abusing. And I
8 encouraged any priest that has an issue in
9 that regard to get the help that they need,
10 and I reminded them of their responsibility
11 to report any abuse to the Diocese.
12 Q During this presentation in 1992 did you
13 prepare or did anyone prepare any
14 documentation regarding the things that were
15 said or the substance of the materials that
16 you were presenting on?
17 A Not in 2002. The 2003 manual was available,
18 but 2002 was a clergy conference. We don't
19 keep minutes on clergy conferences.
20 Q Okay. I thought you testified that in 1992
21 you did a presentation to the priests. Was
22 that in 2002?
23 A No. 1992.
24 Q Okay. That is my question. So back in 1992,

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2 to your knowledge was any documentation
3 prepared about what was discussed during that
4 presentation?
5 A I'm not sure I understand the question.
6 Q Well, I mean, nowadays we have Power Point
7 presentations, etcetera. Back in 1992 there
8 wasn't. So what I want to know is were any
9 documents prepared? Were there any
10 materials? Were there any handouts?
11 A Not at the clergy conference. The 1993
12 manual is available, and that was based on --
13 in booklet.
14 Q I'm going to ask you about the manual. Other
15 than the manual, are there any documents
16 concerning that 1992 presentation to the
17 priests that you did about child sex abuse?
18 A No.
19 Q And how many different members of the clergy
20 were at that presentation?
21 A That was almost 20 years ago, 30 years ago.
22 20 years ago. I don't know. I would say
23 probably between 200 and 250.
24 Q Where was that presentation held?

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- 2 **A** I can't even remember. Usually we have it in
- 3 one of the parishes in their meeting center.
- 4 It varies from -- we don't have them on a
- 5 regular basis and we usually just hire
- 6 someplace in the Capital District community.
- 7 Not hire, but use some facility in the
- 8 Capital District community to have our clergy
- 9 days.
- 10 **Q** Do you remember anything -- were you leading
- 11 that conference, that presentation?
- 12 **A** I gave a presentation, about a half hour,
- 13 45 minutes, and then I think there were
- 14 questions and answers. But there were other
- 15 items on the agenda which I cannot remember
- 16 right now.
- 17 **Q** Well, I won't get into the other items now.
- 18 I just don't have time. But do you remember
- 19 what you said about child sex abuse?
- 20 **A** I said what a horrible thing it was for a
- 21 child to have to endure that abuse, that it
- 22 was something that was repulsive, and if
- 23 anybody had inclinations in that direction
- 24 that they should get the help that they need.

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- 2 And that anyone who is aware of clergy
- 3 misconduct toward minors should report that
- 4 to the chancery or to my office.
- 5 **Q** Did anyone come forward after that
- 6 presentation and speak to you about it,
- 7 specifically what you said about child sexual
- 8 abuse?
- 9 **A** Well, there were a number of questions right
- 10 then and there following my presentation. I
- 11 don't remember anybody specifically coming
- 12 forward to meet with me individually.
- 13 **Q** Are you familiar with an entity known as the
- 14 St. Colman's Home?
- 15 **A** Yes.
- 16 **Q** Was that a -- well, it is an orphanage,
- 17 correct?
- 18 **A** It was. I don't think it is today. I think
- 19 it is more for the developmentally disabled.
- 20 But it was an orphanage at one point in time.
- 21 **Q** Regardless, it was under the Diocese -- it
- 22 was owned and run by the Diocese of Albany,
- 23 correct?

MR. COSTELLO: Object to the form

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- 2 of the question.
- 3 You may answer if you can.
- 4 **A** No. It was run by the Sisters of the
- 5 Presentation who had ministry in the Diocese,
- 6 but it wasn't owned and operated by the
- 7 Diocese.
- 8 **Q** Well, did the Diocese -- well, let me ask you
- 9 this.
- 10 The employees at the St. Colman's Home,
- 11 were they employees of Sisters of the
- 12 Presentation or the Diocese of Albany or
- 13 something else or both?
- 14 **A** I assume it was the first, that they were
- 15 employees of the Sisters of the Presentation
- 16 or of St. Colman's Home.
- 17 **Q** Were there various employees or clergy of the
- 18 Diocese of Albany who would go into
- 19 St. Colman's Home for various reasons?
- 20 MR. COSTELLO: Object to the form.
- 21 You may answer.
- 22 **A** There was a chaplain assigned to the home at
- 23 certain points in history. And at certain
- 24 points the chaplain resided there at

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- 2 St. Colman's but in a separate house. They
- 3 would say mass for the Sisters and have some
- 4 limited interaction with the children.
- 5 **Q** And that chaplain was an Albany Diocese
- 6 clergy member?
- 7 **A** As far as I can recollect, they are all
- 8 diocesan priests, yes.
- 9 **Q** In the event that the chaplain or any Albany
- 10 diocese employee became aware that one or
- 11 more of the sisters were bring 13 or 15-year
- 12 old children alone into the bathroom, would
- 13 that have been something that would have been
- 14 reported back to the Albany Diocese?
- 15 MR. COSTELLO: Object to the form.
- 16 You may answer.
- 17 **A** I would expect if there was a suspicion of
- 18 something untoward was going on, it should
- 19 have been reported to the superior of the
- 20 community and reported to the Diocese.
- 21 **Q** Well, would you agree, then, that one or more
- 22 sisters bringing a 13 to 15-year old child
- 23 alone into the bathroom is suspicious for
- 24 child sexual abuse?

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2 MR. COSTELLO: Object to the form.

3 A On the surface it would sound suspicious.

4 However, there may have been something that I

5 didn't know about that would have made it

6 appropriate, but I don't know what that would

7 be.

8 Q Well, if it was recurring repeatedly, do you

9 agree that it would be suspicious for child

10 sex abuse?

11 A I would, unless the reason for it was made

12 known and seemed reasonable.

13 Q In the event that the Diocese of Albany

14 became aware that one or more of the sisters

15 at St. Colman's Home was bringing a child, a

16 13 or 15-year old child alone into the

17 bathroom repeatedly, what would the Albany

18 Diocese have a duty to do, if anything?

19 A They would have the duty to speak to the

20 superior of the home to find out what they

21 were going to do about the issue, how they

22 were going to investigate it. And if they

23 were not going to do it then the Diocese

24 would have that responsibility.

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2 misconduct.

3 Q Sexual abuse misconduct?

4 A Could be.

5 Q Do you agree that if the Albany Diocese

6 became aware that Father Jupin was bringing

7 11, 12 and 13-year old children into his

8 apartment, that the Diocese had a duty to

9 stop that conduct immediately?

10 MR. COSTELLO: Object to the form.

11 A We would have some responsibility to inquire

12 about what the nature of that contact was.

13 And I think that we always had to be

14 concerned primarily about the victims. And

15 if minor children were being placed at risk

16 because of something like that, then that

17 should be our priority concern.

18 Q Okay. So it would be a duty to investigate

19 by the Albany Diocese, but not to prohibit

20 the conduct from continuing?

21 MR. COSTELLO: Object to the form.

22 A Well, there might have been a reason. There

23 might have been some other adults there.

24 There might have been a young group that was

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2 Q Do you know a priest by the name of Allen

3 Jupin, J-u-p-i-n?

4 A Yes.

5 Q And what is your impression of Father Jupin?

6 MR. COSTELLO: Object to the form.

7 You may answer.

8 A Well, I know that he has had allegations of

9 sexual abuse of minors brought against him,

10 and now he has been placed on the priest list

11 of offenders. So I certainly do not approve

12 in any way of his behavior.

13 Q Were priests such as Father Jupin allowed to

14 bring 11, 12 and 13-year old children into

15 the priest's apartment? Was that permissible

16 by the Albany Diocese?

17 MR. COSTELLO: Objection as to

18 form.

19 A I don't know if there was anything in terms

20 of a policy that was written about it, but

21 certainly especially as years went on,

22 commonsense would say you wouldn't do that.

23 Q Why not?

24 A Because of the danger that there could be

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2 meeting there with other adults present. You

3 would have to understand the circumstances

4 before you would absolutely prohibit

5 something.

6 Q So I was correct. So there will be -- so if

7 the Albany Diocese became aware that Father

8 Jupin, who was the only adult, was

9 unsupervised, bringing an 11, 12 or 13-year

10 old child alone into his apartment, the duty

11 of the Albany Diocese, according to you would

12 be to inquire and not to prohibit that

13 conduct, correct?

14 A No, I didn't say --

15 MR. COSTELLO: Object to form.

16 A -- not to prohibit that conduct. I said to

17 determine why that was happening, and if it

18 wasn't reasonable then to prohibit it.

19 Q Okay. So there would be a duty to investigate

20 by the Albany Diocese?

21 A Yes, there is.

22 MR. COSTELLO: Objection as to

23 form.

24 Q In the event that there were these complaints

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2 that were brought to the attention of the
3 Diocese, would you expect there to be
4 documentation about that in Jupin's files?
5 **A** I don't necessarily know whether it would be
6 put into the file. It would have been what
7 the result of the inquiry was.
8 **Q** So if a priest -- if there is an allegation
9 of abuse against a priest and it is
10 determined to not be credible, is it your
11 testimony that nothing about that incident
12 goes into the clergyman's file?
13 **MR. COSTELLO:** Object to the form.
14 **A** No, that is not my testimony. I'm saying it
15 depends what was based upon the inquiry that
16 was determined whether or not something
17 needed to go in a file.
18 **Q** But based on your last answer, second to last
19 answer now, I believe what your testimony
20 indicated is there are times when a priest of
21 the Albany Diocese may be accused of child
22 sex abuse, and depending on the results of
23 the investigation there may be nothing in
24 that priest's file concerning those

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2 allegations? True?
3 **A** No. That is not what I testified to. You
4 asked me about a specific priest, and I was
5 answering questions about Father Jupin. Now
6 you are translating that question into what
7 our policy is relative to define us.
8 **Q** Well, let's go back to --
9 **A** There was nothing determined in that second
10 question that Father Jupin was abusing
11 anybody, in the way you formatted that
12 question.
13 **Q** Well, I strenuously disagree with you, but I
14 don't have time to quibble about it.
15 **A** Could we read it back.
16 **Q** Well, I just want to ask you. I want to get
17 back to Jupin.
18 So is it your testimony that if there were
19 allegations made against Father Jupin, that
20 there should be something about those
21 allegations in his files maintained by the
22 Albany Diocese?

MR. COSTELLO: Object to the form.
You can answer.

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2 **A** I'm saying it depends upon what the result of
3 the interaction between the diocesan official
4 and the priest was. And if it was a
5 substantive nature, it should be in his file.
6 If it was not, then probably not.
7 **Q** And do you know a Father Severson?
8 **A** Yes.
9 **Q** What is his --
10 **A** He is deceased. I knew him.
11 **Q** And what is your impression of Father
12 Severson?
13 **MR. COSTELLO:** Object to the form
14 of the question.
15 **A** Well, Father Severson was what I would call a
16 second career vocation. He was a Mayor of
17 the Town or Village of Hoosick Falls. He
18 served as associate pastor of the Diocese and
19 as a chaplain, and a correctional facility in
20 the Diocese. He enjoyed a good reputation.
21 I didn't know him that well. But until, I
22 understand, there were allegations made
23 against him more recently, I think he had a
24 good reputation in the Diocese and in the

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2 Hoosick Falls community.
3 **Q** Do you know if Father Severson had a vacation
4 home?
5 **A** I don't know that.
6 **Q** Were priests allowed by the Albany Diocese to
7 bring children to their summer home
8 unsupervised?
9 **A** I don't know if we had a policy because I
10 don't think there was too many priests that
11 had summer homes.
12 **Q** Well, did the Albany Diocese have a duty to
13 prohibit priests such as Father Severson from
14 bring a child, a 10 to 13-year old child
15 alone to his summer home?
16 **A** Well, I think --
17 **MR. COSTELLO:** Object to the form.
18 **A** -- if we learned that we would have -- I
19 think if we learned that, we would have
20 questioned why this was being done. But to
21 my knowledge, we never had any complaint or
22 allegation about that, at least when I was
23 serving as bishop.

MR. MERSON: Okay, I'm going to

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2 move to strike the portions that are not
3 responsive.
4 **Q** But if you would have learned about it, if
5 you would have learned about it you would
6 have questioned Severson, but that would have
7 been after the fact, correct?
8 **A** That is correct. I couldn't do it before I
9 learned about it.
10 **Q** If a child told an employee of the Albany
11 Diocese that he or she was being sexually
12 abused, what was the duty of the Albany
13 Diocese?
14 MR. COSTELLO: Object to the form.
15 **A** The duty would have been to report it to the
16 Diocese.
17 **Q** And then what?
18 **A** And then the Diocese would bring it to the
19 misconduct review board, and then the priest
20 would be confronted, and based upon his
21 admission or not, then there would be an
22 investigation.
23 **Q** Do you agree that if the Albany Diocese
24 employee who became aware that the child was

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2 being abused, did not bring it to the Albany
3 Diocese, did not bring it up the chain of
4 command that it was foreseeable that this
5 child would continue to be abused?
6 MR. COSTELLO: Object to the form.
7 **A** I'm not sure.
8 **Q** I can tell you are a little -- let me just
9 try and rephrase.
10 So you have a child that is being sexually
11 abused. The child brings it to the attention
12 of an Albany Diocese employee. The Albany
13 Diocese employee does not bring it up the
14 chain of command. Is it foreseeable that
15 that sexual abuse will continue?
16 MR. COSTELLO: Object to the form.
17 **A** I would think it is foreseeable, yes.
18 **Q** And in the event that a -- do you know a
19 Father James Corr, C-o-r-r?
20 **A** Not ringing a bell. Do you know where he was
21 stationed?
22 **Q** I can find it, but I don't want to get the
23 wrath of Cynthia here. So I'll just move
24 onto my next question.

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2 Which is, in the event, and I'm just
3 asking it generally. In the event that a
4 priest would bring a child as his date to a
5 diocesan function, what would be the Albany
6 Diocese duty under that circumstance?
7 MR. COSTELLO: Object to the form.
8 You may answer.
9 **A** Well, first of all, I'm not aware of that
10 happening. But if he was bringing somebody
11 as his date, unless it was some -- it would
12 be inappropriate and he should be confronted.
13 **Q** You agree that the Diocese's duty under that
14 circumstance would be to conduct a full
15 investigation, correct?
16 **A** Well, I think --
17 MR. COSTELLO: Objection.
18 **A** I don't know if I would use the term full
19 investigation. I think we had to find out
20 what the reason for the child being there was
21 and how the child was presented and then deal
22 with it after you get those facts.
23 **Q** And in terms of what the reason was that the
24 child was present, would you just -- how

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2 would you go about that? Would you just ask
3 a priest?
4 **A** Well, first I would ask the priest, right,
5 and if I was not satisfied with his
6 explanation, then we do further investigation.
7 **Q** And there was earlier testimony about Father
8 -- your responses to complaints about Father
9 David Bentley, Father James Rosch, Father Ed
10 Leroux -- Leroy where there were allegations
11 made of child sex abuse against them and your
12 response to that. If these clergy were
13 allowed to continue in the Albany Diocese
14 without repercussions, what message do you
15 think that sent to others in the Albany
16 Diocese?
17 MR. O'CONNOR: Object to form.
18 MR. COSTELLO: Object to form.
19 **A** Well, right now, given the Dallas charter and
20 our commitment, it would send the message
21 that we are not following our commitment.
22 **Q** What about before the Dallas charter, would
23 it then send the same message?
24 MR. COSTELLO: Object to the form.

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2 **A** Well, as I said the other day, according to

3 my records, at least when I finished my

4 tenure as the ordinary in the Diocese, I

5 don't think any of those people you mentioned

6 committed any reoffense after assignment,

7 after treatment.

8 **Q** Well, let me ask you this. You know you are

9 in your second day of questioning, about 300

10 people have come forward, 300 victims of

11 child sexual abuse. What are your feelings?

12 Are you at all bothered by the fact that all

13 of these children are claiming that they were

14 sexually abused and most of it or a lot of it

15 was under your watch? Does that bother you?

16 **A** I'm brokenhearted.

17 **MR. COSTELLO:** Objection to the

18 form.

19 **A** I'm totally brokenhearted. It is the worst

20 experience I ever had in my life as a priest

21 and as another human being and I, looking

22 back, wish I had done things differently at

23 an earlier stage of my life as a bishop, and

24 I am mortified to have to talk about these

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1 things, and I am glad they are finally being

2 addressed in an appropriate fashion.

3

4 **Q** Do you feel responsible?

5 **MR. COSTELLO:** Objection.

6 **A** Yes.

7 **Q** Is the Diocese of Albany responsible?

8 **MR. O'CONNOR:** Object to the form

9 of that question.

10 **MR. COSTELLO:** Object to the form.

11 **A** I will leave that to attorneys.

12 **MS. LAFAVE:** Jordan.

13 **MR. MERSEN:** Yeah.

14 **MS. LAFAVE:** We are over time. We

15 are over time.

16 **MR. MERSEN:** All right. I don't

17 know if the stipulations cover this, but

18 in our specific cases we haven't received

19 a lot of responses to discovery. So

20 obviously, I'm just going to reserve my

21 right. I don't want to run afoul of the

22 stipulation, but I also need to protect my

23 clients to question the bishop on another

24 date. But I'll work with the lawyers to

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1 deal with that.

2 **MR. O'CONNOR:** Pursuant to the

3 stip, Jordan, we are going to produce him

4 at the end of discovery also for at least

5 a day deposition.

6 **MR. MERSON:** Thank you.

7 **BISHOP HUBBARD:** Thank you.

8 **MS. LAFAVE:** Jeff Herman is up.

9 **MR. HERMAN:** Thank you.

10 **EXAMINATION BY MR. HERMAN:**

11 **Q** Good afternoon, Bishop. Nice to see you

12 again. Can you hear me okay?

13 **A** Yes, I can.

14 **Q** Okay, great.

15 Let me start with Father Romano. Did you

16 know or do you know Father Romano?

17 **A** He is deceased, but I knew him, yes.

18 **Q** How would you describe your relationship with

19 him?

20 **A** Well, we were counselors together at Camp

21 Tekakwitha. So as a teenager and young adult

22 I knew him as a colleague, and he was very

23 interested in athletics, and we got along

24

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1 very well. But then after ordination our

2 paths didn't cross that often. We were not

3 able to socialize with one another.

4 **Q** There is a report that was written in 1981

5 that described your relationship with Father

6 Joseph Romano as being close friends. Is

7 that a fair characterization?

8 **MR. O'CONNOR:** Can I jump in there.

9 Jeff, what report is that, just out of

10 curiosity.

11 **MR. HERMAN:** It is a Times Union

12 article, November 28, 1981.

13 **MR. O'CONNOR:** Is that an exhibit,

14 Jeff, or is that --

15 **MR. HERMAN:** I don't think it -- it

16 might be an exhibit. Yeah. I'm sorry,

17 yeah, it is. It is Plaintiff's 131.

18 **MR. O'CONNOR:** Thank you.

19 **MR. HERMAN:** You don't need to pull

20 it up.

21 **Q** But I just want to know, is that a fair

22 characterization?

23 **A** I would say no.

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 2 **Q** Have you heard allegations that Father Romano
 3 was accused of sexually molesting children?
 4 **A** Yes. We received that.
 5 **Q** Do you recall when, approximately, that you
 6 heard of the first allegation?
 7 **A** No. I don't remember the time. I know we
 8 received allegations against him.
 9 **Q** Can we please pull up Plaintiff's 128, and
 10 Bishop, this is an investigation that was
 11 conducted regarding Father Romano by Tom
 12 Martin Investigations. And it describes, and
 13 I won't mention the names, but there is names
 14 mentioned here, but I'll use initials, but if
 15 we can please go down to the next page, it
 16 describes -- it says [REDACTED] attended St. Ann's
 17 School for [REDACTED] grades. [REDACTED]
 18 stated when he was in [REDACTED] or [REDACTED] grade
 19 he was sexually abused by Father Joseph
 20 Romano. He stated that he and his friend [REDACTED]
 21 were in the rectory at St. Ann's and walked
 22 into the room and Father Romano pulled him
 23 close and fondled his private parts and did
 24 the same to his friend."

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 2 in around 1973, and so you were not the
 3 bishop at that time. I'm not sure, because
 4 the interview was done in 2003, if they are
 5 referring to you or somebody else. Do you
 6 recall this meeting?
 7 **A** No.
 8 **Q** Did you hear about this meeting?
 9 **A** No.
 10 **Q** Did you ever hear about this report being
 11 made in the 1970's?
 12 **A** Not to my recollection, no.
 13 **Q** Based on your policy, would you agree that if
 14 such a report was made to Monsignor Jones,
 15 that this allegation report should have gone
 16 up the ladder to the bishop's office?
 17 **MR. COSTELLO:** Objection.
 18 **A** It should have gone to somebody in the
 19 diocese, either the superintendent of schools
 20 or the bishop's office.
 21 **Q** And under your policies and procedures, as
 22 you understood them at the time, what if
 23 anything should have happened with regard to
 24 Father Romano in this allegation?

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1
 2 Move down to the next paragraph, and this
 3 is dated January 24th, 2003, on this date we
 4 interviewed [REDACTED] mother. She goes
 5 on to say that she overheard her son talking
 6 to his friend about what had happened and
 7 that she confronted the boys, who told her
 8 the whole story. And then she says she went
 9 to the principal, Sister Mary Ann Kenna, who
 10 set up the meeting with Monsignor Jones,
 11 Father Romano, Sister Joann McCarthy and the
 12 boys. And [REDACTED] stated Monsignor Jones
 13 talked to her alone and said, "You don't
 14 really believe these boys, do you?" And [REDACTED]
 15 said she did believe them. She said nothing
 16 came from the meeting.

17 And if we could just go down a little
 18 further. Thank you.

19 (Exhibit 128 shown as requested.)

20 **Q** There are some interviews done with the
 21 sisters, and Sister Kenna believes Sister Ann
 22 Smollen, Bishop, Monsignor Jones, Father
 23 Romano and [REDACTED] were at the meeting.

24 My first question is, this would have been

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 2 **A** It should have been an investigation into the
 3 truth of the allegation.
 4 **Q** And if such investigation did not take place,
 5 would that violate the policies and
 6 procedures as you understand them at the
 7 time?
 8 **A** I don't know if I can testify to the policies
 9 and procedures of the Diocese. I might know
 10 them in general, but I wouldn't know them in
 11 specificity. Back in 1973 it was not my
 12 responsibility to promulgate such.
 13 **Q** What was your position with the Diocese in
 14 1973 and '74?
 15 **A** I think I was still in charge of Providence
 16 House and Hope House, and I also chaired the
 17 ecumenical commission, and I think I was
 18 either a member of or chairman of the priest
 19 personnel board.
 20 **Q** And your role on the priest personnel board,
 21 should such an allegation come to your
 22 attention back in this time period?
 23 **A** It could have, but it more likely would go to
 24 the attention of the chancellor and the

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2 bishop.

3 **Q** Even though you were involved on the priest
4 personnel board, it was your testimony that
5 you were not familiar with how an allegation
6 of a priest molesting a child would have been
7 handled at that time?

8 **A** I certainly would be concerned, but I'm
9 not -- I don't have a recollection of ever
10 being at that meeting.

11 **Q** Okay. I'm not saying you are at the meeting.
12 I'm just asking about your familiarity with
13 the protocols in place at the time when two
14 boys accuse a priest of molesting them?

15 **A** I think the protocol, they should have been
16 brought to somebody in the Diocese.

17 **Q** If we can pull up Plaintiff's Exhibit, 130
18 please?

19 (Exhibit 130 shown on screen.)

20 **Q** And this is a letter written to His Eminence
21 Joseph Cardinal Ratzinger by yourself
22 regarding Joseph Romano. Do you recall this
23 letter, in general?

24 **A** I would have to read it, but if I signed it,

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1
2 can't say. Now, would it violate the victims
3 who would have been accosted if that was
4 true? Yes. It would have been a terrible
5 violation of their dignity and sacredness as
6 human beings.

7 **Q** Your lawyer objected about using the words
8 safety protocol and that he doesn't
9 understand what that means. Do you
10 understand what a safety protocol is?

11 **A** No, I don't in and of itself. I have a
12 general idea what it means, but this is the
13 first time I ever heard that term used.

14 **Q** How about a safety rule? Does that make more
15 sense to you?

16 **A** I don't care what you call it. I'm just not
17 familiar with those terms. But if you are
18 saying should there be policies in place to
19 protect the safety of individuals, whether
20 child, adolescent or adults, yes, there
21 should be standards.

22 **Q** So I'll call them the safety standards. Is
23 that a fair characterization of what you are
24 just describing?

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2 then yes, I sent it.

3 **Q** If you could turn to the next page, please,
4 at the very top.

5 You go through various allegations made
6 against Father Romano, and then you turn to
7 this particular allegation that we just
8 discussed. And in the second paragraph you
9 say that the mother brought the matter to the
10 attention of her pastor and other parish
11 staff members. These individuals corroborated
12 [REDACTED] account. That being the case, if
13 nothing was done to respond to the allegation,
14 would that violate the safety protocols in
15 place at the Diocese during the relevant time
16 period?

17 **MR. O'CONNOR:** Object for the form,
18 safety protocols.

19 **MR. COSTELLO:** Object to the form.

20 **MR. O'CONNOR:** I'm not sure what
21 that means.

22 **A** As I indicated, I was not the bishop at that
23 time, and I am not familiar with what the
24 protocols were, except in general, and I

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2 **MR. O'CONNOR:** Object to the form.

3 **A** Understandable in terms of our conversation,
4 I don't know if I could agree to it unless I
5 knew what the definition in full was of
6 safety standard.

7 **Q** Okay. I'm going to refer to policies that
8 are designed to protect the safety of the
9 kids. We will call those safety standards.

10 When you became Bishop in 1977, was it a
11 safety standard if a priest was accused of
12 molesting two boys that that should be
13 investigated and action taken if deemed
14 credible?

15 **MR. O'CONNOR:** Object to the form,
16 safety standards.

17 **A** I would think that an investigation should be
18 undertaken if that were reported, yes.

19 **Q** Okay.

20 And when you became bishop, were you made
21 aware of, through historically pending issues
22 in the Diocese, where there might be open
23 issues of priests being accused of molesting
24 children?

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- 1
- 2 A No.
- 3 Q Did you ask about that?
- 4 A No.
- 5 Q Do you believe that is something that should
6 be brought to your attention if it existed?
- 7 A In 100 percent hindsight, yes. But at the
8 time, I was not aware that it was a major
9 issue in the Diocese.
- 10 Q No, no, I know. But I'm talking specifically.
11 We have this allegation, these allegations
12 made against Father Romano in 1973 and '74.
13 And according to the documentation, they were
14 reported to monsignor and nothing was done
15 about it. My question to you is, is this
16 something that you felt that you now seeing
17 this, that it was something that should have
18 been brought to your attention when you
19 became bishop so that you could take action
20 to protect the children?
- 21 MR. O'CONNOR: Object to the form.
- 22 MR. COSTELLO: Object to the form.
- 23 A Well, I would be very disappointed it wasn't
24 brought to the attention of the bishop in

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- 1
- 2 1973. And if something had been done, I
3 would hope that someone would come forward
4 again and bring that to my attention.
- 5 Q Right. But what actually, as I pointed out
6 in the investigation, according to Sister
7 Kenna, she said the bishop was at the
8 meeting.
- 9 A I also think I saw your exhibit and it says
10 somebody else was at the meeting and that
11 person said they weren't there, and I'm
12 saying I don't recall such a meeting.
- 13 Q No, I'm not saying you were at the meeting.
14 You were not bishop at the time. Who was the
15 bishop in 1973?
- 16 A Bishop Edwin Broderick.
- 17 Q I want to draw your attention now to a Father
18 David Bentley. Do you know who he is?
- 19 A Yes, I do.
- 20 Q Are you aware of any allegations made against
21 Father Bentley?
- 22 A Yes.
- 23 Q If we could pull up document number --
24 Plaintiff's 160, and I know I'm going to be

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- 1
- 2 running out of time.
3 (Exhibit 160 shown on screen.)
- 4 Q I'm going to move through this, and please
5 direct your attention, we could go to page
6 ten at the top. It is Bates numbers 26629 at
7 the bottom.
8 (Pages requested shown on screen.)
9 MR. O'CONNOR: That is the Bates
10 stamp, Jeff?
11 MR. HERMAN: Yeah, 26629.
- 12 Q If you can go down to the bottom of this
13 page, please. This is, the very last
14 paragraph, yes.
15 This is Bentley's, I'll represent to you,
16 a report being done with a center where he
17 was receiving treatment. He says that in
18 March 25th, 1980 I admitted to the bishop
19 that this happened, referring to in 1975 I
20 was involved with one boy age 15 two times,
21 and I think another age 15 two times. It was
22 later this boy in 1980 told his mother and
23 her priest, who called Bishop Hubbard. That
24 was March 25th, 1980. I admitted to Bishop

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- 1
- 2 that this happened. It was devastating for
3 me. I was filled with guilt, remorse, more
4 self-hate. After this I agreed to enter
5 counseling, and from April 3rd, 1980 to
6 September 1980 had weekly sessions with a
7 psychologist in Albany. Do you recall this?
- 8 A I don't recall it, but I also don't deny that
9 this happened either.
- 10 Q So you don't remember 1980 which had been,
11 you know, three years after becoming bishop
12 and hearing about a priest molesting kids and
13 you meeting with him and him admitting it to
14 you?
- 15 MR. O'CONNOR: Object to the form.
- 16 A I remember his admitting it to me, and I
17 remember that I asked that he get counseling,
18 but that is all I remember about it.
- 19 Q Okay. Okay.
20 And do you recall, was this the counselor
21 that you recommended or the Diocese
22 recommended for him?
- 23 A I don't recall.
- 24 Q It goes on to say that, I'm going to the next

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1
2 page, someone recommended a psychologist at
3 Columbia in NYC. Does that ring a bell to
4 you?

5 MR. O'CONNOR: A psychiatrist.

6 Q A psychiatrist, rather, from Columbia in NYC.
7 Does that ring a bell?

8 A Who made the recommendation?

9 Q It doesn't really say. I can't tell. It
10 says at that time we agreed that we had gone
11 as far as we could and recommended a
12 psychologist. Well, I guess this may be his
13 previous psychologist. I'm sorry. Let me
14 just move on.

15 He says I had ten sessions with him, which
16 consisted of each week talking out loud into
17 a cassette recorder of my sexual encounters in
18 a very explicit way. Example, I took his
19 penis and masturbated him again and again. I
20 would have to do this for two to three hours
21 per week and then met with him every second
22 week and go over them. It goes on and on.
23 But I want to draw your attention to the
24 second full paragraph there. It says, the

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1 present acting out was with a 12-year old -
2 [REDACTED] He reminded me of someone when he was
3 12-years old. And it goes on to say that it
4 was reported and he called and wrote a report
5 for the Bishop. He called me to his office
6 on May 3. I admitted my guilt and resigned
7 the parish. The bishop was supportive and
8 caring. Do you recall this?

9 A Not specifically, no. I don't deny that that
10 was the case. I just don't recall it.

11 Q With regard to Father Bentley, this is an
12 example of a priest who admitted to you he
13 was a pedophile who molested a child or
14 children, you got him counseling, and
15 apparently let him continue working as a
16 priest where he molested again, and then he
17 admitted to you again.

18 You earlier testified the only time you
19 knew, could think of where someone, a priest
20 had gotten counseling and reoffended was that
21 one time. This isn't the priest you were
22 referring to, is it?

23 A No, it is not.

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2 MR. O'CONNOR: Object to the form.

3 Q So do you want to retract your earlier
4 statement to correct that?

5 MR. COSTELLO: Objection.

6 Q I'll give you that opportunity.

7 A My earlier statement said that to my
8 knowledge no priest had reoffended of the six
9 that I removed in 2002. No priest had
10 reoffended after they had been at a
11 residential treatment program.

12 Q So you were leaving out priests that were
13 predators molesting children that you sent to
14 other psychologists, but not to the treatment
15 facilities that reoffended?

16 MR. COSTELLO: Object to the form.

17 MR. HERMAN: What is the objection
18 to that form?

19 MR. COSTELLO: I objected to the
20 form of the question. The witness may
21 answer it. You are making certain
22 assumptions. But go ahead.

23 MR. HERMAN: Well, I'm wondering
24 why this wasn't included.

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2 Q What am I missing here, Bishop, can you
3 explain?

4 A What was the original question?

5 Q Sure.

6 You previously testified that, as I
7 understood, the only priest -- there was one
8 priest that you were aware of that reoffended
9 after getting treatment. This is -- this is
10 an example, according to this, of a priest
11 who admitted to you that he was -- that he
12 molested children, you sent him to counseling,
13 and then he reoffended. Why wasn't he
14 identified in your previous statement?

15 A He should have been. I told you, I don't
16 have an accurate recollection of this earlier
17 encounter.

18 Q Okay. I certainly want to give you an
19 opportunity --

20 A In light of this, I would have to amend my
21 statement.

22 Q Okay.

23 And is it possible there are other priests
24 that reoffended that you don't recall at this

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1
2 time?
3 **A** Is it possible, yes. I have tried to be as
4 accurate as I could. We are talking about a
5 44-year period of time. So sometimes your
6 memory at the age of 83 fails you.
7 **Q** Now that I refreshed your memory about Father
8 Bentley, do you recall Father Bentley
9 disclosing that he had issues that he
10 discussed with his spiritual director in
11 seminary?
12 **A** No. I recall that he had Father Benedict
13 Groeschel who he saw for a period of time on
14 a regular basis. I don't recall anything.
15 Unless he meant Father Groeschel at the
16 seminary.

17 **MR. HERMAN:** Let me, if we can
18 please pull back up document 160 and go to
19 page, the second to last page, page 16.

20 (Exhibit 160 shown on screen as
21 requested.)

22 **Q** This is hard to read, but this is all that we
23 have, Bishop.
24 **A** What page are we on?

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2 **MR. COSTELLO:** Objection.
3 **Q** -- as to when it might have been known by the
4 Diocese?
5 **MR. COSTELLO:** Objection to the
6 form of the question.
7 **A** Well, this -- where did this document come
8 from?
9 **Q** This document is from his file, and I believe
10 it is related to being treated at a facility.
11 **A** Right. But that was long after his
12 ordination. I guess what is the presumption
13 that this was known by the Diocese prior to
14 this?
15 **Q** Right. If it was known by a spiritual
16 director in seminary before he was ordained,
17 would you agree that he would be unfit to
18 become a priest?
19 **MR. O'CONNOR:** Object to the form.
20 **MR. COSTELLO:** Objection to the
21 form.
22 **MR. O'CONNOR:** Hey, Jeff, what page
23 is this? Is this 15 or 16?
24 **MR. HERMAN:** 16.

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2 **Q** On page 16 of this document. If you look it
3 says give history of any
4 psychiatric/psychological treatments. It
5 appears to say Reverend Benedict Groeschel,
6 spiritual director and seminary, 1971 to '75
7 and significant other until present. Does
8 that refresh your memory as to whether or not
9 Bentley was treating with -- had disclosed
10 these things to a spiritual director?
11 **A** Well, it does, but it also calls to mind that
12 he continued to see him for some time after
13 he was ordained a priest.
14 **Q** Right. He says, if we can move down to the
15 paragraph beginning in the past two weeks,
16 especially with the significant others, there
17 is a name and other, I have learned of
18 support systems that must be in place. I see
19 the basis for dealing with the compulsive
20 behavior in what Father Benedict said many
21 years ago. Does that suggest to you or what
22 if anything does that suggest to you about
23 Father Bentley's struggle with compulsive
24 behavior --

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2 **MR. O'CONNOR:** I'm sorry?
3 **MR. HERMAN:** 16, 1-6.
4 **MR. O'CONNOR:** Thank you.
5 **MR. HERMAN:** 26635 is the Bates
6 number.
7 **MR. O'CONNOR:** Thanks.
8 **A** I guess to respond to your question, you said
9 it was known by the Diocese, but the earliest
10 this could have been known by the Diocese is
11 after he had been some time in treatment at
12 the treatment center. But that doesn't mean
13 the Diocese knew about that in 1976.
14 **Q** Right. Let me ask the question again so it
15 is clear, because I'm actually asking a
16 different question.
17 My question is if it was known during his
18 time in seminary that Father Benedict had
19 these compulsions, would you agree in that
20 case that he should never have been ordained
21 as a priest?
22 **MR. COSTELLO:** Object to the form.
23 **A** You are talking about Father Bentley, not
24 Father Benedict?

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2 Q Father Bentley, yes?

3 A Yes. I think if we had known that, as I've

4 testified before, I don't think such a person

5 should be ordained into the priesthood.

6 Q Okay.

7 I don't know how much time I have left. I

8 was going to try to finish early, but I just

9 have a few more questions.

10 I just want to go back to St. Colman's

11 very briefly. Do you know Father Roos,

12 R-o-o-s?

13 A I knew of him. He was a priest in the South

14 End when I was working there and he was also

15 the chancellor for the Diocese, both under

16 Bishop Broderick and myself.

17 Q Right. Okay. And in 1965 were you aware

18 that Father Roos was assigned to St. Colman's

19 Home?

20 A I probably was not aware at the time. I was

21 just newly ordained myself.

22 Q Assuming that he was assigned to St. Colman's

23 Home, he would be there as a representative

24 of the Diocese and the Bishop?

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2 defined it.

3 MR. O'CONNOR: No, he really

4 hasn't, actually.

5 MR. HERMAN: Safety policies is the

6 word we were using.

7 MR. O'CONNOR: I object to the

8 form.

9 Q Bishop, if you can answer the question.

10 A The question is that --

11 Q Yeah. If Father Roos failed to make those

12 reports to the Diocese, would that violate

13 the safety or the policies and procedures as

14 you understand them to protect children?

15 MR. O'CONNOR: Object to the form.

16 A They certainly would fail the standards of

17 today. I'm not sure what the standards were

18 in 1965.

19 Q Well, in 1965 was it acceptable for children

20 to be sexually molested at St. Colman's?

21 A No.

22 MR. COSTELLO: Object to the form

23 of the question.

24 REPORTER: He answered no before

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2 MR. COSTELLO: Objection to the

3 form of the question.

4 A He was there as a chaplain. He was appointed

5 by the bishop.

6 Q Okay.

7 And I'm going to represent to you that my

8 client testified that she reported to Father

9 Roos that she was sexually abused by two nuns

10 and a maintenance worker at St. Colman's.

11 What, if anything, should Father Roos have

12 done with that information?

MR. COSTELLO: Object to the form
of the question.

15 A If the information is accurate, he should

16 have reported it to the superior of the

17 presentations and to the Diocese.

18 Q And if he failed to make such a report, would

19 that fall below the safety standards as you

20 understood?

MR. O'CONNOR: Object to the safety
standards. I'm not sure what that means,
Jeff.

MR. HERMAN: No, he's already

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1

2 the objection.

3 MR. HERMAN: Okay. Thank you.

4 Q And by the way, I've used your word as you

5 used the words safety expectations yesterday.

6 So we will go with that.

7 Let me ask you, do you recall speaking to

8 a woman who was writing a book about her

9 experiences at St. Colman's?

10 A Not off the top of my head. It doesn't mean

11 that it didn't take place. Do you have her

12 name?

13 Q Do you recall ever advising a woman not to

14 publish the book about St. Colman's?

15 A No. I don't recall that at all.

16 Q Have you ever heard the story about [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 A I think I remember that story.

20 Q What do you remember about that story?

21 A I remember the name and I remember that there

22 was some investigation into it, but I think

23 it was done by the public authorities.

24 Q Do you recall whether or not as bishop, when

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2 you were bishop, whether the Diocese looked
3 into it at all?
4 **A** Well, if it was covered by the public
5 authorities, I don't think we would have.
6 **Q** My question is do you recall whether or not
7 in the Diocese you ever looked into it at
8 all?
9 **A** I don't recall, no. But am I correct that it
10 was addressed by the public authority?
11 **Q** There was some investigation taking place.
12 Do you recall during the time as bishop
13 hearing about kids alleging that they were
14 sexually molested at St. Colman's?
15 **A** No.
16 **Q** You never heard that?
17 **A** I've heard it subsequently.
18 **Q** But never when you were a Bishop?
19 **A** No. Only in terms of allegations that have
20 come in more recently, but I never had anybody
21 speak to me separate from an allegation about
22 people being abused at St. Colman's?
23 **MR. HERMAN:** That's all I have.
24 Thank you.

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2 **MS. LADWIG:** Is this better?
3 **REPORTER:** Much.
4 **MR. O'CONNOR:** Yes.
5 **MS. LADWIG:** Okay. Great.
6 **Q** Good afternoon. Thank you for being here.
7 I'm sure this has not been the most pleasant
8 experience. So we appreciate your being
9 here.
10 **A** Thank you.
11 **Q** I only have a few questions.
12 So you have been bishop for 37 years and a
13 priest for 55 years?
14 **A** 1963, yes.
15 **Q** And do you know if the Diocese of Albany
16 keeps a record of each priest that has served
17 under the Diocese?
18 **A** I know they have in recent years. How far
19 back it goes into the formation of the
20 Diocese in 1849, I'm not sure if we have
21 records that far back.
22 **Q** Do you know if there are records as far back
23 as the 1960's?
24 **A** I would think so.

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2 **BISHOP HUBBARD:** Thank you.
3 **MS. LAFAVE:** Terry, did you want to
4 take a break before the next one?
5 **MR. O'CONNOR:** What time do we
6 have?
7 **MS. LAFAVE:** You mean how much time
8 is left?
9 **REPORTER:** Let's go off the record
10 first.
11 David, go off the record.
12 **VIDEOGRAPHER:** Going off at 3:33.
13 (Off the record.)
14 **VIDEOGRAPHER:** Back on the record
15 3:43. Go ahead.
16 **EXAMINATION BY MS. LADWIG:**
17 **Q** Good afternoon, Bishop. My name is Attorney
18 Ramona Ladwig. Can you hear me?
19 **A** Yes, I can.
20 **MR. O'CONNOR:** Ramona. Ramona.
21 **MS. LADWIG:** Yes.
22 **MR. O'CONNOR:** You are a little
23 soft spoken, okay. So if you get a little
24 closer it would be appreciated.

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2 **Q** And does the Diocese keep a record of where
3 each priest has served?
4 **A** Usually that is kept by the diocese, yes.
5 **Q** Do you know where that information is stored?
6 **A** Stored at our pastoral center. I don't know
7 the exact room, but the information is at our
8 pastoral center, 40 North Main Avenue,
9 Albany.
10 **Q** Is this information accessible by the Diocese
11 of Albany?
12 **A** I think they probably would need to know the
13 reason that the file was wanted. I would
14 have to rely on our attorney as to what is
15 made available and what is not made
16 available.
17 **Q** Is the file accessible by the Diocese of
18 Albany?
19 **MR. COSTELLO:** Object to the form.
20 You may answer.
21 **A** Is it accessible?
22 **Q** Yes.
23 **A** I'm not sure how to answer that question. I
24 don't know if anybody can come in off the

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2 street and ask for somebody's file and get
3 it.
4 **Q** Well, I'm not asking --
5 **A** If there is a legitimate reason, I assume it
6 is accessible.
7 **Q** So it is accessible by the Diocese of Albany,
8 is that correct?
9 **A** If there is reasonable expectation that a
10 person should be entitled to it, I think it
11 would be, but I can't say it is just
12 accessible to anybody that walks in off the
13 street and says give me Father John Doe's
14 file.
15 **Q** I understand that.
16 But if the Diocese of Albany wanted to
17 access the file, would they be able to?
18 **A** Well, yes. It is under our control.
19 **Q** So the next series of questions that I will
20 be asking you will pertain to the 1960's
21 period, specifically. Just so you know that
22 up front.
23 During the 1960's did you ever hear of any
24 conversations regarding child sex abuse

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2 anyone speaking to you regarding child sex
3 abuse claims in the clergy?
4 **A** No.
5 **Q** Did you ever hear of any child sex abuse
6 claims in St. Augustine's Church in Troy, New
7 York?
8 **A** Not in the 1960's.
9 **Q** Okay.
10 After the 1960's did you ever at any time
11 hear of any claims of child sex abuse at
12 St. Augustine's Church in Troy, New York?
13 **A** Well, I understand there is such claims now.
14 I don't remember when they were first
15 alleged.
16 **Q** And what claims do you understand now?
17 **A** Misconduct with minors, sexual misconduct.
18 **Q** Can you tell me some more about those claims
19 that you understand now?
20 **A** Well, if you can give me a specific case I'll
21 tell you if I know about it, but I can't off
22 the top of my head.
23 **MR. O'CONNOR:** This is based upon
24 the lawsuits that have been filed, Ramona.

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2 claims in the clergy?
3 **A** No.
4 **Q** Did you ever review any documents regarding
5 child sex abuse claims in the clergy?
6 **A** Only when someone made an allegation about
7 resident abuse, and I would then ask to see
8 the files to see if there was anything in the
9 files that would show that there had been
10 previous inappropriate behavior.
11 **Q** But in the 1960's itself, during that period,
12 part of that period I think you were ordained
13 as priest, did you in the 1960's review any
14 documents pertaining to child sex abuse?
15 **A** No. I was not in any position in the
16 chancery office, and only those at the
17 chancery would have access to such files or
18 the right to such files.
19 **Q** So your answer is no? Your answer is no, in
20 the 1960's you did not review any --
21 **A** No. The answer is no. I'm sorry, no.
22 **Q** Thank you.
23 Did anyone speak to you regarding -- this
24 is specific to the 1960's. Do you recall

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2 What is now is now.
3 **MS. LADWIG:** Oh, thank you.
4 **Q** During the 1960's when you were a priest, did
5 you know of a person by the name of Father
6 Smith?
7 **A** I knew a Father Paul Smith, and I think there
8 is a Father Al Smith who was an Augustinian.
9 Those are the ones that come to mind.
10 **Q** So Father Al Smith, what did you know about
11 him?
12 **A** He was a priest that was with the Augustinians
13 and served in the parishes at the Augustinian's
14 staff in our diocese.
15 **Q** Did you have any relationship with him?
16 **MR. COSTELLO:** Object as to form.
17 **A** Just to, you know, greet him fraternally as a
18 brother priest when I would run into him. At
19 a meeting or at an event was the only
20 interaction I had with him.
21 **Q** And how long did you know him for?
22 **A** I can't say for sure. It goes back quite a
23 ways because it seems to me he was serving in
24 the diocese for a long time, but I can't tell

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2 you when I first met him.
3 Q Okay. Thank you.
4 Is it fair to say that as a bishop you
5 would only investigate claims that you were
6 required to do?
7 MR. COSTELLO: Object to the form.
8 You may answer.
9 Q Let me rephrase that.
10 Is it fair to say that you would only
11 investigate claims that you were required to
12 investigate?
13 MR. COSTELLO: Same objection.
14 A Well, I don't think I would -- I would only
15 investigate claims that were brought forward,
16 and someone who is alleged to have committed
17 sexual abuse was somehow or another associated
18 formally with the church, and then I would
19 have the responsibility to investigate those
20 claims.
21 Q Is it fair to say that you would only
22 investigate claims that were presented to you
23 in a written document that you were required --
24 let me rephrase that. Withdrawn.

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2 Is it fair to say that you would only
3 investigate claims that you were required to
4 do in a written document?
5 A No. Sometimes people would --
6 MR. COSTELLO: Object to form.
7 A Sometimes people would make a phone call or
8 they might set up a meeting. And so it was
9 not always by written correspondence.
10 Q Thank you.
11 I just want to clarify something. Before
12 you said that you believe that child
13 molesters could be cured, is that correct?
14 A I didn't say I believed that child molesters
15 could be cured, but we've had experience
16 where people were sent for treatment and
17 didn't reoffend.
18 Q So your answer as to whether they would be
19 cured would be no, you don't believe that
20 child molesters could be cured?
21 MR. COSTELLO: Object to the form.
22 MS. LAFAVE: Ramona, we are out of
23 time.
24 MS. LADWIG: I just have a few more

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2 questions.
3 Q In the 1960's is it fair to say that there
4 were no guidelines, standards or training for
5 priests who were alone with children?
6 A I don't think it is fair to say that. I
7 can't comment any further, but to state there
8 was none I don't think it is a fair assessment.
9 Q Were there any written policies or procedures
10 in place?
11 A I don't know. I was not involved in that
12 aspect of ministry at that time. So I don't
13 know what policies and procedures may have
14 been there and I was not aware of.
15 MS. LAFAVE: Ramona, we are at the
16 end of the day and I have to get everybody
17 else in, so we are going to have to cut it
18 short.
19 MS. LADWIG: Okay. That is fine.
20 Thank you.
21 Thank you, Bishop.
22 MS. LAFAVE: Michael Dowd.
23 EXAMINATION BY MS. KOSMAKOS:
24 Q Bishop Hubbard.

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2 A Yes.
3 Q As you can see, I'm not Michael Dowd. My
4 name is Georgia Kosmakos with Sweeney, Reich
5 & Bolz and co-counsel to Michael G. Dowd.
6 I just have a few questions for you today.
7 So I'll go ahead and get started.
8 Which Catholic orders operate or operated
9 within the Diocese of Albany?
10 MR. COSTELLO: Objection. At what
11 point in time?
12 MS. KOSMAKOS: At any point in time
13 that the bishop recalls.
14 MR. COSTELLO: You may answer.
15 A I may answer, but you know, without some
16 material before me I'm not going to be able
17 to mention all the orders. There is the
18 Christian Brothers, the Sisters of Mercy,
19 Sisters of Presentation, The Presentation
20 Sisters, the Redemptorist, the Franciscans,
21 the Carmelites, the Irish Christian Brothers,
22 the Holy Cross brothers, priests. Those are
23 the ones that immediately come to mind. There
24 are certainly more than that.

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2 Q Sure.

3 Do the Franciscan Friars, the Atonement

4 Graymoor operate within the Albany Diocese?

5 A I don't think they do presently, but they may

6 have been in the Diocese at some point in time.

7 Q You testified yesterday that in order for a

8 Catholic order to operate in the diocese, it

9 must enter into an agreement with the bishop

10 of the diocese, correct?

11 A You must have the permission of the bishop of

12 the diocese to have a ministry in the

13 diocese. And it has to be approved by him

14 before they can begin to function.

15 Q Is there a written agreement formulated?

16 A Well, usually there is a request in writing

17 from the provincial to come to the diocese

18 and establish such and such a ministry, and

19 then usually the bishop would respond either

20 positively or negatively.

21 Q And would you keep a record of those

22 correspondence?

23 A We usually do, yes. How far back those records

24 go, I'm not sure.

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2 Q Did you know a Franciscan order priest by the

3 name of Father Colman Gallagher?

4 A The name doesn't ring a bell, but I'm not

5 saying we didn't. I'm just not familiar with

6 that name.

7 Q Father Gallagher had a Scottish accent and

8 passed away in 1983. Does that ring a bell?

9 A No, it doesn't. Do you know where he was

10 stationed.

11 Q He was stationed within the Franciscan Friars

12 Atonement and Graymoor.

13 A I'm not familiar with him off the top of my

14 head.

15 MS. KOSMAKOS: Well, thank you very

16 much, Bishop. That's all I have.

17 BISHOP HUBBARD: Thank you.

18 MS. KOSMAKOS: Thank you.

19 MS. LAFAVE: Thank you, Georgia.

20 Mike Lawson or Steve Coffey. I

21 don't know which one of you is doing the

22 questions.

23 EXAMINATION BY MR. LAWSON:

24 Q Good afternoon, Bishop. This is Mike Lawson

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2 with O'Connell and Aronowitz.

3 MR. LAWSON: Laura, can you hear me

4 okay?

5 REPORTER: I can hear you fine.

6 Thank you.

7 Q Bishop, I just have a couple of questions. I

8 know it is late in the day, so I'm going to

9 try to be as brief as possible for Cynthia to

10 try to get to everyone else here. Is that

11 okay?

12 A Fine with me.

13 Q So also for brevity, I'm going to be

14 referencing two documents, P701 and P702. So

15 if somebody could put that next to your or in

16 front of you, eventually I'm going to ask

17 questions about those documents.

18 A Thank you.

19 Q So most of the questions I'm going --

20 MR. O'CONNOR: I'm sorry, Mike,

21 which ones were they? I wasn't paying

22 attention.

23 MR. LAWSON: P701 and P702.

24 MR. O'CONNOR: Thank you.

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2 Q So Bishop, these questions I'm going to be

3 asking you about is Father John Bertolucci.

4 Do you know a John Bertolucci?

5 A Yes, I do.

6 Q Is it correct that Father John Bertolucci was

7 one of the six priests you removed in 2002?

8 A Yes.

9 Q Were you aware -- sorry. Strike that.

10 When did you become aware of the

11 allegations against Father Bertolucci?

12 A I think it was, to the best of my

13 recollection, in the late '90's. And I think

14 the original complaint came from somebody at

15 the National Charismatic Movement, and he was

16 involved with that movement for a period of

17 time. And they brought it my attention that

18 they had suspicions that he was engaged in

19 the misconduct with minors.

20 Q And what did you do with Father Bertolucci

21 when you found out about these allegations?

22 A I called him in and confronted him with it.

23 And when he admitted to it, we followed our

24 usual procedures of him receiving treatment.

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 2 Q And that treatment was at New Mexico at the
 3 Servants of the Paraclete?
 4 A I can't say off the top of my head. I'm not
 5 sure of that.
 6 Q Did you ever ask how many children Father
 7 Bertolucci abused?
 8 A No. I don't think I asked him that question.
 9 Q Are you aware of how many allegations were
 10 made against Father John Bertolucci?
 11 A I know that there was many, many allegations
 12 that have come in, especially after 2002.
 13 Q So now I'm going to refer you to Exhibit 702,
 14 specifically, page two, paragraph six.
 15 (Exhibit 702 shown on screen.)
 16 Q It is the first line is Bertolucci said he
 17 confessed.
 18 MR. COSTELLO: Can we identify for
 19 the record what this document is?
 20 MR. LAWSON: This document, for the
 21 record, is an article from the Times Union,
 22 July 21st, 2002 written by Andrew Tilghman.
 23 It is on the bishopaccountability.org
 24 website.

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 2 as this one?
 3 A I didn't have a rule for that, but if someone
 4 came to me, it would not be under the seal of
 5 confession unless they asked for sacramental
 6 confession from me as a priest.
 7 Q Right.
 8 I referred yesterday you testified that
 9 reports would come to you from law enforcement
 10 agencies or the parents or the victims. Did
 11 you testify to that yesterday?
 12 A Yes.
 13 Q So did you ever receive sexual abuse
 14 admissions or allegations of children from
 15 priests within the Albany Diocese?
 16 A Did I receive priests admitting to me that
 17 when confronted that they had abused somebody
 18 as a minor?
 19 Q Not necessarily the priest himself or some
 20 sort of report by priests within the Albany
 21 Diocese about the abuse.
 22 A What do you mean about the abuse? About the
 23 abuse in general or about their abuse or
 24 about the abuse of another priest?

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 2 A I have it now.
 3 Q Just for brevity, I'm also going to read it
 4 here. "Bertolucci said he confessed his
 5 sexual abuse to other priests in the 1970's,
 6 but it remained confidential in accordance
 7 with church rules concerning confession."
 8 Does it say that?
 9 A That is what it says.
 10 Q What were these church rules concerning
 11 confession?
 12 MR. O'CONNOR: Object to the form.
 13 A There is church rules guiding all confession,
 14 that you have -- I was saying that regarding
 15 the sacrament of confession, there is a so
 16 called seal of confession in that when one
 17 confesses to a priest, the priest cannot
 18 divulge the nature of that confession to
 19 anyone.
 20 Q Even to the diocese?
 21 A Even to the diocese.
 22 Q So you did not have a policy where the
 23 priests could come to you or the diocese
 24 about serious admissions or allegations such

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 2 Q Let me rephrase. Sorry.
 3 So any priest within the Albany Diocese,
 4 did you ever receive a report from anyone
 5 within the Albany Diocese about some sort of
 6 sexual allegation, sexual abuse of a minor of
 7 a different priest within the Albany Diocese?
 8 A Yes.
 9 Q How many would you say?
 10 A Are you talking about coming to me directly?
 11 Q Correct.
 12 A I would say coming to me directly would be
 13 only around ten.
 14 Q I'm going to shift your attention a little
 15 bit here.
 16 Do you remember assigning Father
 17 Bertolucci to the Holy Spirit Monastery in
 18 Stubenville, Ohio?
 19 A I didn't assign him there. I gave him
 20 permission to go there. The assignment would
 21 have to come from the local bishop.
 22 Q Do you remember when this assignment was or
 23 when you granted him permission?
 24 A Not without having his assignment sheet before

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 2 me.
 3 Q Let's just assume for brevity here it was
 4 from 1977 to 1988. Do you remember why he
 5 asked you permission to do this assignment or
 6 go to Ohio?
 7 A Yes. He was very much involved in the
 8 Charismatic Renewal, and that particular
 9 opportunity provided him the chance on a
 10 daily basis to be a leader in the Charismatic
 11 Movement.
 12 Q And for timeline purposes here, were you
 13 aware of the allegations before or after this
 14 assignment?
 15 A I was aware of it after the assignment,
 16 toward the end of the 20th Century, and the
 17 first allegation came from someone within the
 18 Charismatic Renewal Movement.
 19 Q I'm going to refer you back to Exhibit P702,
 20 this time page two, paragraph nine.
 21 (Exhibit P702 shown on screen.)
 22 Q I'm just going to read it for brevity here.
 23 If you found it, just let me know once you
 24 found it, Bishop.

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 2 20th century.
 3 Q Again, for brevity here, just after, so the
 4 timeline he was assigned to the Stubenville,
 5 Ohio, and then in 1988 he went to Mexico.
 6 And then he does come back to Schenectady at
 7 St. Helen's in 1988, 1989, after it. So I'm
 8 just going to, for brevity there, that is the
 9 timeline there. So he did come back to --
 10 A Well, I knew he came back to the Diocese. My
 11 recollection is that it was much later than
 12 that, but I yield to the information you may
 13 have in front of you.
 14 Q So it is fair to say that he did come back to
 15 the Albany Diocese after his treatment in
 16 New Mexico?
 17 A Yes.
 18 Q Now, you referenced the program that Father
 19 Bertolucci was on previously. Is it true
 20 that Father Bertolucci, you know, was a
 21 Catholic theologian and he had a national
 22 television program?
 23 A I don't know. Concerning he appeared
 24 nationally with the Charismatic Community,

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 2 A I found it, I think.
 3 Q His abuse came to the attention of church
 4 officials in 1988, and he was sent to a
 5 residential treatment center for pedophiles
 6 in New Mexico. Is that what that says?
 7 A That is what it says.
 8 Q And that treatment facility is the Servants
 9 of the Paraclete?
 10 A I assume that -- yes, it was in New Mexico,
 11 yes, Servants of the Paraclete.
 12 MR. LAWSON: Thank you. You can
 13 take the exhibit down.
 14 Q After the 1988 treatment, what did you do
 15 with Father Bertolucci?
 16 A I would have received the report from the
 17 treatment center, and then I don't have the
 18 priests' assignments in front of me right
 19 now, but it doesn't seem to me that he
 20 returned to the Diocese after his treatment,
 21 but I can't say that definitively without
 22 having his assignments in front of me. But
 23 my recollection is he didn't come back to
 24 serve in the Diocese until the end of the

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 2 whether he had a regular program, I'm not
 3 sure.
 4 Q Did Father Bertolucci travel frequently for
 5 this to give speeches to other parishes,
 6 other diocese?
 7 A Yes. He traveled all around the country and
 8 even internationally, as far as I recall.
 9 Q When Father Bertolucci returned from
 10 treatment, was he allowed to continue that
 11 travel for these speeches?
 12 A Well, I think if I knew about it and he asked
 13 permission, he would have been allowed to
 14 travel.
 15 Q Did you ever inform or warn these parishes or
 16 diocese of the sexual abuse of minors history
 17 that Father Bertolucci had?
 18 A No.
 19 Q When Father Bertolucci traveled, were minors
 20 allowed to travel with him?
 21 A Not that I'm aware of.
 22 Q If they were, did he have to request that
 23 from you for them for travel with him?
 24 A Well, it should, but I never recall such a

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 2 request.
 3 Q I'm going to next switch your attention to
 4 Exhibit P701. This is a letter, and it is
 5 from you to a victim who complained of a
 6 sexual allegation, sexual abuse of Father
 7 Bertolucci. Is that your signature at the
 8 bottom, Bishop?
 9 A Yes.
 10 Q Do you recall this letter?
 11 A Let me read it and I'll tell you if I recall
 12 it.
 13 Q For the record, this letter is dated April 13,
 14 2004.
 15 A Yes. The purpose is to put the person who
 16 brought Bertolucci's behavior to my
 17 attention, and I referred her to our victims
 18 coordinator, Theresa Rodrigues.
 19 Q Right. I'm going to read a line off this.
 20 It is going to be the first paragraph there.
 21 It is the third sentence.
 22 I understand that you have already been
 23 informed by Ms. Theresa Rodrigues that Father
 24 Bertolucci did not deny the allegations in

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 2 Charismatic Community. He admitted it.
 3 Q Now, are you aware of where Father Bertolucci
 4 went after he was removed from ministry in
 5 2002?
 6 A You said he went to St. Helen's. I don't
 7 have the assignment sheet in front of me. So
 8 if you have that and you can read it to me,
 9 I'll confirm whether that meets my
 10 recollection.
 11 Q I apologize.
 12 St. Helen's was after his initial
 13 treatment, and then he came back to St. Helen's.
 14 And again, just for brevity, St. Helen's,
 15 St. Mary's, St. Ambrose. So that was when he
 16 came back to the diocese. I'm saying after
 17 you removed him from the Diocese in 2002, do
 18 you know or recall where he went?
 19 MR. COSTELLO: Object to the form.
 20 Are you referring to after removal from
 21 ministry or removal from the diocese?
 22 MR. LAWSON: Removal from the
 23 ministry.
 24 MR. COSTELLO: You may answer it.

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 2 your complaint. Is that what that states?
 3 A Yes.
 4 Q So you are stating to this victim that Father
 5 Bertolucci did not deny the allegations of
 6 sexual abuse?
 7 A Correct. Not to me, but Ms. Rodrigues
 8 informed?
 9 Q Correct. But you were informed by Ms. Therese
 10 Rodrigues that Father Bertolucci did not deny
 11 the allegations?
 12 A Correct.
 13 Q But previously, you had stated that when you
 14 had approached Father Bertolucci, he also
 15 admitted to you that he did not deny the
 16 allegations, is that correct?
 17 A I'm sorry, I don't think I understand the
 18 question.
 19 Q Previously, you had testified that after the
 20 initial allegations came in in 1988 with
 21 Father Bertolucci, when you approached him he
 22 admitted the allegations to you. Is that
 23 correct?
 24 A Yes. I got the first allegation from the

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 2 A I really don't know. The best of my
 3 recollection is he went to live with family
 4 down in Greene County, but I'm not positive
 5 of that, but that is to the best of my
 6 recollection.
 7 Q Did you ever warn any parish or law
 8 enforcement of the location after he moved,
 9 after his removal from ministry?
 10 MR. COSTELLO: Object to the form.
 11 You may answer.
 12 A Well, at the time of removal from ministry,
 13 that was all public. It was in all the
 14 electronic media and the newspapers. And at
 15 the time during the weekend following the
 16 removal, someone from the diocese went to the
 17 various parishes where he had served and made
 18 a presentation about his removal.
 19 Q You said somebody made a presentation about
 20 his removal?
 21 A To the parishioners.
 22 Q To the parishioners. But that was the only
 23 time that the parish was made aware of the
 24 allegations of sexual abuse?

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2 **A** Yes. The only time that the Diocese formally

3 sent somebody there.

4 **Q** And that was what year again?

5 **A** 2002, June of 2002.

6 **Q** So I direct your attention back to P701,

7 paragraph two, and then the lines are two

8 through four.

9 (Exhibit P701 shown on screen.)

10 **Q** This is your letter, so I'm going to say you

11 state, for some victims, it is helpful to

12 meet with me and talk with me about the

13 abuse -- about how the abuse has affected

14 them. However, you are under no obligation

15 to meet with me. If you feel that such a

16 meeting would be helpful to you, please

17 contact Ms. Theresa Rodrigues. Is that what

18 that states?

19 **A** Yes.

20 **Q** Yesterday you mentioned that you reached out

21 to two victims of Father Fitzgerald, and that

22 those victims were traumatized from this

23 contact, and that you later realized that

24 this was a bad idea because you weren't

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2 couldn't tell you who exactly.

3 **Q** And were you using any professional guidance

4 for these meetings with these victims?

5 **A** No. It was a truly pastoral visit.

6 Certainly, I have had experience at that

7 time, after 2002, of over 30 years -- well,

8 25 years anyway, of interacting with victims.

9 So I thought I had enough experience to have

10 a pastoral visit.

11 **Q** And how many letters such as the one that

12 P701 did you send out to victims in the

13 victims assistance program?

14 **A** I think very few.

15 **Q** Very few?

16 **A** Very few would contact the victims

17 assistance coordinator and leave open the

18 door that such an outreach might be helpful.

19 So I don't think there was too many of those

20 letters.

21 MR. LAWSON: That is all I have

22 Bishop. Thank you very much.

23 BISHOP HUBBARD: Thank you.

24 MS. LAFAVE: Craig Vernon is up.

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2 skilled or trained to make these contacts.

3 Is that that something that you testified to

4 that?

5 **A** No. I testified to the fact that to

6 cold-call a victim who had no idea that you

7 were aware of the abuse and just say I

8 understand you were abused by, in this

9 instance, Father Fitzpatrick, I found that to

10 be unhelpful and sometimes traumatizing for

11 the victim. This woman had reached out after

12 Father Bertolucci had been removed from

13 ministry, and that the victim assistance

14 coordinator spoke with her and informed her

15 that Father Bertolucci didn't deny the

16 allegation. And so I just made a pastoral

17 offer to her, that she was already someone

18 who had come forward, which is far different

19 from me going forward and contacting the

20 person, a cold-case, so to speak.

21 **Q** Understand.

22 Did you ever meet with any victims from

23 the victims assistance program?

24 **A** To the best of my recollection I did, but I

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2 EXAMINATION BY MR. VERNON:

3 **Q** Hi, Bishop. My name is Craig Vernon and I'm

4 just going to ask you a few questions about

5 some priests that harmed some of my clients.

6 **A** Okay.

7 **Q** I would first like to start with Father John

8 Connolly. In 2003 Father Connolly was

9 removed from active ministry, is that correct?

10 **A** Correct.

11 **Q** And who made the decision to remove him?

12 **A** Ultimately, it was my decision, but it was on

13 the basis of consultation with our sexual

14 misconduct panel.

15 **Q** And why did you remove him?

16 **A** Well, there was complaints and we investigated

17 the complaint. The complaints, I think there

18 were two if I recall correctly, and based

19 upon the investigation and the review of the

20 investigation by the misconduct panel, it was

21 judged it was reasonable cause to believe

22 that this occurred, and that was the

23 foundation for our removal.

24 **Q** And were those complaints dealing with

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2 students at Cardinal McCloskey High School or
3 was it at Cardinal McCloskey High School and
4 another high school?
5 **A** I don't recall where the complaints came
6 from.
7 **Q** Do you recall that they were both involving
8 students at high schools, either one or two
9 high schools where he was a principal?
10 **A** I cannot recall where they came from.
11 **Q** That is fine.
12 Do you agree that at least one of these
13 sexual assaults that he was accused of
14 included Connolly sodomizing at least one of
15 those students?
16 **A** I don't recall. He may have, but I don't
17 recall.
18 **Q** When in time did you find out about Connolly
19 sexually assaulting boys?
20 **A** Well, as far as I can best recollect, it
21 would have been probably in 2002 or 2003,
22 depending. I don't know. I would have to
23 look at the file to see when it came forward.
24 **Q** The abuse was back in the 70's, so I want to

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2 tolerance. So once a person was credibly
3 accused after 2002, it was automatic public
4 removal from ministry.
5 **Q** And you knew Father Connolly fairly well,
6 correct?
7 **A** We were classmates.
8 **Q** You were seminary classmates back in 1964, am
9 I correct? Is that correct?
10 **A** No. We were classmates from 1956 through '60,
11 and then I went to Rome and he remained at
12 Dunwoodie, St. Joseph's seminary at Dunwoodie,
13 and I finished my seminary formation in Rome.
14 **Q** And did you remain friends throughout the
15 years, you and Father Connolly?
16 **A** Not close personal friends, no.
17 **Q** Are you still friends with Father Connolly?
18 **MR. COSTELLO:** Object to the form.
19 **You may answer.**
20 **A** Well, I consider him someone who I know well,
21 but I don't think I have seen him in two or
22 three years.
23 **Q** And when did your close personal friendship
24 with Father Connolly end or start to dissipate

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2 try to figure out how did you find out about
3 the abuse in 2002?
4 **A** Well, following 2002 there were many people
5 who came forward as a result of the Dallas
6 meeting, the scandal that took place in the
7 Archdiocese of Boston, and most of the
8 complaints that we received about sexual
9 abuse of minors by priests came after 2002,
10 not before.
11 **Q** And do you recall one way or the other
12 whether the complaints that led to his
13 removal came after 2002 or before 2002 or is
14 that something you have to consult the file
15 on?
16 **A** I would have to consult the file, but to the
17 best of my recollection it would have been
18 prior to 2002. The events that precipitated
19 his removal would have been before 2002.
20 **Q** Prior to removing Father Connolly from active
21 ministry, do you know whether he was ever
22 sent to treatment like so many other priests
23 were sent?
24 **A** No, because prior -- after 2002 it was zero

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2 or lessen?
3 **A** Well, I don't think we ever had a close
4 personal friendship. We were classmates.
5 That doesn't mean you are close personal
6 friends.
7 **Q** For example, back before you became bishop in
8 the mid-1970's, early to mid-1970's, did you
9 do things socially with Father Connolly?
10 **A** I may have gone out to lunch with him or
11 something like that, but very rarely.
12 **Q** Now, were you roommates?
13 **A** No. We didn't -- I only had one roommate in
14 the seminary, John Keegan. He is now
15 deceased.
16 **Q** So I think I interrupted, Bishop. My
17 apologies.
18 You said you would go out to lunch with
19 him occasionally. Anything else you would do
20 socially with Father Connolly back in the
21 70's?
22 **A** No. At one point in time he was pastor in
23 Waterford and my nephews lived nearby, and I
24 think he hired one or another of them to do

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2 some chores at the parish. But that didn't
3 have anything to do with me personally.
4 Q Were you aware that Father Connolly was a
5 principal at Cardinal McCloskey High School
6 from about 1972 to 1976?
7 A Yes.
8 Q And were you also aware that there was a time
9 during his tenure there that his assistant
10 principals were Father Romano and Father
11 Bentley?
12 A Well, I was aware at the time. I don't
13 recall that, but if you say that is the case,
14 then I know that they were both involved in
15 school work. I don't remember them being
16 assistant principals, but they may have been.
17 Q Going back to the exhibit that Mr. Herman
18 went over with you. It was P160, and I don't
19 need to put that up. That is where Father
20 Bentley spoke to you in approximately 1980
21 about his sexual abuse of boys. Do you
22 recall that?

23 MR. O'CONNOR: Can you show him the
24 exhibit, counselor?

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2 talked about a little while ago with one of
3 the other attorneys, but these were all
4 after -- they were both after 1980. And I
5 don't know if Bentley and Romano were there
6 at the time when I had these conversations
7 that I first learned about allegations.
8 Q In fairness, Bishop, Bentley and Romano were
9 there at Cardinal McCloskey between '72 and
10 '76, so...
11 A Yeah. The first time that Bertolucci came
12 was '80, and Romano was another one today,
13 and that was in the mid-80's sometime.
14 Q In any event you never spoke to Connolly
15 about either Romano or Bentley?
16 A There would have been no reason for me to do
17 that because I was not bishop until '77.
18 Q Well, but you were bishop in 1980 when Benley
19 confessed to you about him sexually abusing
20 boys, and you and Connolly were friends and
21 acquaintances. I just wondered if you were
22 worried about Bentley and Romano in 1980
23 after you became bishop?

24 MR. O'CONNOR: Object to the form.

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2 MR. VERNON: I'm just asking if he
3 recalls that conversation with Mr. Herman.
4 Do you recall that conversation.
5 A My memory is failing me because I can't
6 remember -- I remember talking to Mr. Herman
7 yesterday. I don't remember the specifics of
8 our interaction.
9 Q I guess let me ask you this. Do you remember
10 an exhibit where Father Bentley spoke to you
11 in 1980 about his sexual abuse of boys?

12 MR. O'CONNOR: Object to the form.

13 A We just reviewed that a few moments ago with
14 another attorney.

15 Q Yes. Yes. Okay.

16 So my question to you is did you ever have
17 occasion to speak with Father Connolly about
18 his two assistant principals, Romano and
19 Bentley, sexually abusing boys while Connolly
20 was the principal at Cardinal McCloskey High
21 School? Did that conversation ever come up?

22 A I don't recall it coming up, but I don't know
23 if they -- you are saying that Bentley came
24 to me in 1980, and I forget the date that we

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2 MR. COSTELLO: Object to the form
3 of the question.
4 A The answer to the question is no, I did not
5 speak to Father Connolly about Father Bentley
6 and Romano.
7 Q I'm going to ask you a few questions about
8 Father Romano. Did you ever hear of Father
9 Romano taking boys to his parents' summer home?
10 A No.
11 Q Did you ever live with Father Romano?
12 A No.
13 Q Did you ever hear of Father Romano taking
14 boys to the Saratoga Racetrack?
15 A I heard of Father Romano going to Saratoga
16 Racetrack. I never heard that he was
17 accompanied by boys.
18 Q You don't ever remember hearing him taking
19 boys there and giving the boys money to bet
20 on the horses or anything like that?
21 A I only heard that Father Romano was a
22 frequent visitor to Saratoga Racetrack, but I
23 never heard anything about being accompanied
24 by boys.

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- 2 **Q** During the time Father Romano was assigned to
3 LaSalle School, and based on the assignment
4 history it shows it was 1981. Where did
5 Father Romano live during that time when he
6 was assigned to LaSalle School?
- 7 **A** I really can't tell you without looking at
8 his assignment sheet.
- 9 MS. LAFAVE: Craig, we are out of
10 time if you can wrap up.
- 11 MR. VERNON: Okay.
- 12 **Q** Do you know a person named William Keyes who
13 was employed at LaSalle School as one of the
14 school's prefects in 1980?
- 15 MR. O'CONNOR: How do you spell
16 that, counselor?
- 17 MR. VERNON: K-e-y-e-s.
- 18 MR. O'CONNOR: I'm sorry, was that
19 K-e-y-e-s.
- 20 MR. VERNON: I believe so.
- 21 MR. O'CONNOR: Thank you.
- 22 **Q** Bishop, I think he was a supervisor of the
23 school's prefects. Does that sound familiar
24 to you.

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- 2 **A** No, it doesn't. I'm not saying that I never
3 met him or never knew him, but the name means
4 nothing to me now.
- 5 **Q** Were you aware of a layperson who had worked
6 at LaSalle School being convicted of
7 promoting a sexual performance by a child
8 less than 16 years of age and sentenced to
9 prison back in 1985. Do you remember
10 anything about that?
- 11 MR. COSTELLO: Object to the form.
12 You can answer.
- 13 **A** I don't recall it. If he was sentenced and
14 convicted, I probably knew about it through
15 the paper or maybe by somebody from LaSalle,
16 but I don't recall any specifics.
- 17 **Q** And one last question. Back to Father Romano.
18 Was there any policy in place prohibiting
19 Father Romano from taking kids out of LaSalle
20 and taking them to the rectory where he
21 lived?
- 22 **A** Well, I think that is something that LaSalle
23 would have to share with you. I'm not
24 familiar with what their policies were.

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- 2 **Q** Was there any policy in your diocese
3 prohibiting one of your priests from taking
4 kids out of LaSalle or some other location
5 and taking them to the rectory to sleep over?
- 6 MR. O'CONNOR: I object to the
7 form.
- 8 **A** Certainly, commonsense would say they
9 wouldn't do that. Whether it was an official
10 policy at that time, I think our manual came
11 out in 1993. So prior to that I don't know
12 if there was an official policy.
- 13 MR. VERNON: Okay. No other
14 questions. Thank you.
- 15 MS. LAFAVE: Let's go off the
16 record.
- 17 VIDEOGRAPHER: Off the record at
18 4:29.
- 19 (Whereupon, a discussion was held
20 off the record.)
- 21 VIDEOGRAPHER: Back on 4:30.
- 22 EXAMINATION BY MR. FOOTE:
- 23 **Q** Bishop, my name is Nathaniel Foote. Nate for
24 short. I, like everyone else, represents a

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- 2 number of folks who have been abused by
3 clerics affiliated with the Diocese. I only
4 have a few minutes afforded to me, so I'm
5 going to be quick. I'm going to ask you
6 about a couple different clerics on the
7 credibly accused list.
- 8 I'm going to start by asking you about a
9 Christian Brother named Clement Murphy. Do
10 you recall that name?
- 11 MR. O'CONNOR: I'm sorry, Nate.
12 What was that name?
- 13 MR. FOOTE: Clement Murphy.
- 14 MR. O'CONNOR: Thank you.
- 15 **A** He was a Christian Brother?
- 16 **Q** Yes.
- 17 **A** I don't recall the name off the top of my
18 head. Maybe if you had more about it I
19 would.
- 20 **Q** Are you aware or let me ask you this. Do you
21 recall receiving a letter about Brother
22 Murphy in 2011 addressed to you from a woman
23 who alleged she was abused by Brother Murphy
24 in the 1970's, early 1980's?

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- 2 **A** I may have received such a letter. I don't
- 3 have any instant recall of that.
- 4 **Q** Do you recall that the Christian Brothers
- 5 helped staff Notre Dame-Bishop Gibbons in
- 6 Schenectady?
- 7 **A** You are talking now about the Irish Christian
- 8 Brothers. There is a difference between
- 9 those two communities. It was the Irish
- 10 Christian Brothers that staffed Bishop
- 11 Gibbons.
- 12 **Q** Okay.
- 13 So you recall that the Christian Brothers
- 14 staffed that high school?
- 15 **A** The Irish Christian Brothers.
- 16 **Q** Correct, the Irish Christian Brothers.
- 17 **A** There is a difference between the two.
- 18 **Q** I understand.
- 19 But you don't specifically recall Brother
- 20 Clement Murphy?
- 21 **A** I couldn't pick him out of a lineup, if that
- 22 is what you mean. I'm not saying that I
- 23 didn't know anything about him. A letter was
- 24 received by me, but I just didn't know him

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- 2 personally.
- 3 **Q** Why don't we do this. Let's bring up
- 4 Plaintiff's 852.
- 5 (Exhibit P852 was shown on screen.)
- 6 **Q** So Bishop, in front of you is a letter marked
- 7 P852. Take a second to familiarize yourself.
- 8 (Pause.)
- 9 **Q** This is a May 13th, 2011 letter directed to
- 10 you, correct?
- 11 **A** Yes.
- 12 **Q** The quick review of this letter will reveal
- 13 to you that the woman who wrote this letter
- 14 is alleging that she was sexually abused by
- 15 Brother Murphy. Do you recall, having seen
- 16 it now for a few seconds, do you recall
- 17 receiving this letter?
- 18 **A** Well, if this is my letter in response, then
- 19 I obviously received what I was responding
- 20 to.
- 21 **Q** This is actually, I believe, her letter to
- 22 you.
- 23 **A** Oh, it was her letter to me. It sounds
- 24 familiar, but if you saw the number of

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- 2 letters I receive each day. I can't say I
- 3 recall it in this detail.
- 4 **Q** So do you recall, regardless of this letter,
- 5 do you recall receiving allegations of sexual
- 6 abuse against Brother Murphy at any point
- 7 during your tenure as bishop?
- 8 **A** I certainly received this, so that is during
- 9 my tenure.
- 10 **Q** Quickly, if you could, look at the last
- 11 paragraph on the second page. If you read
- 12 the first sentence it states, One day I went
- 13 to confession and told a priest what was
- 14 happening to me. Have you ever heard before
- 15 that a woman told her priest about Brother
- 16 Murphy's abuse?
- 17 **A** Well, in this letter I'm hearing it.
- 18 **Q** Prior to receiving this letter, had you ever
- 19 heard that from anyone within the Diocese?
- 20 **A** I don't recall ever hearing someone
- 21 confessing it to a priest in confession
- 22 previously, no.
- 23 **Q** If a priest -- and by the way, this would
- 24 have been a priest at St. Paul the Apostle.

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- 2 If a priest at St. Paul the Apostle is told
- 3 by a child they were being sexually abused by
- 4 a cleric in the Diocese, that should have
- 5 been reported to you, correct?
- 6 MR. O'CONNOR: Object to the form.
- 7 **A** The only thing I can say is a priest in
- 8 confession is bound by the seal. So I don't
- 9 know if this was something she was
- 10 confessing, and if it was and he was bound by
- 11 the seal, I can understand why he didn't
- 12 follow through.
- 13 **Q** So if a priest was told during confession
- 14 that a child was being sexually abused, what
- 15 duty, if any, did they have to react to that
- 16 information within the Diocese of Albany?
- 17 **A** I can't tell you exactly what they would
- 18 have. I can tell you in the past what I
- 19 would do. If it was within the context of
- 20 the sacramental confession she was making,
- 21 the priest could not reveal that to anyone
- 22 else. If pastorally I were the confessor, I
- 23 would say to you, I can't bring this to
- 24 anyone else, but if you would like me to do

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2 that, would you please meet me outside the
3 confessional and I will address the matter.
4 Q As you keep reading this paragraph, if you
5 look at, I think the fourth sentence, it
6 says, The priest left the confessional as I
7 walked to the alter to begin my penance. He
8 said he wanted to see this liar. Fair to say
9 that calling a child who told you about
10 sexual abuse a liar would be an inappropriate
11 response?

12 MR. O'CONNOR: Object to the form.

13 A That would be reprehensible.

14 (Pause.)

15 Q I want --

16 A Did you hear my response?

17 Q I heard your answer. Thank you.

18 I want to shift gears to a different
19 cleric. Do you recall Father James McDermott?
20 I believe you testified about him yesterday.

21 A Yes.

22 Q I think you testified that Father McDermott
23 resigned. Do you recall that?

24 A Yes.

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2 A I know I was informed, but I don't know
3 whether it was in person or by correspondence
4 or from the delegate in the chancery office.

5 Q Do you know why Father McDermott resigned
6 rather than face some sort of discipline or
7 other dispensation?

8 A My best recollection is that the report that
9 was received from the treatment center was
10 not encouraging for reassignment. But again,
11 I don't have the file in front of me.

12 Q So you recall, then, that Father McDermott
13 went to a treatment center?

14 A Again, I don't have the file in front of me,
15 but I assume he went to a treatment center.
16 I would have to check the file.

17 Q Do you know how long prior to his resignation
18 the diocese received the accusation?

19 A I'm not trying to be noncommunicative, but I
20 don't have any recollection today of his
21 file. I'm not trying to stonewall you, I
22 just don't have a recollection.

23 Q As Mr. Merson said earlier, we haven't
24 received many files in discovery, so as you

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2 Q I believe he resigned in 1997, is that
3 correct?

4 A I don't remember the year.

5 Q Well, regardless, he resigned due to
6 allegations of child sexual abuse made
7 against him, correct?

8 A Correct.

9 Q He was on leave prior to resigning, do you
10 recall that?

11 A He may have been. I would have to look at
12 his assignment sheet.

13 Q So do you remember if he was on leave where
14 he was or what the circumstances of his leave
15 were?

16 A I do not.

17 Q Do you recall what the allegation was against
18 Father McDermott that led to his resignation?

19 A Without looking in the file, I don't.

20 Q Do you know what period of time the abuse is
21 alleged to have occurred?

22 A I would have to look at the file.

23 Q Were you told personally about the
24 allegations against Father McDermott?

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2 know you may be deposed later when we receive
3 these documents.

4 When was it first made public that Father
5 McDermott had had to resign due to allegations
6 of child sexual abuse, if you recall?

7 A I don't know if it was made public, except
8 when the list was placed in the Diocesan
9 website.

10 Q And I believe that was in 2015, correct?

11 A Something like that.

12 Q So between 1997 and 2015, to your recollection,
13 it was never made public that Father McDermott
14 had been accused of child sexual abuse?

15 A To my recollection, that is correct.

16 Q Do you recall receiving additional reports of
17 abuse against Father McDermott in that period
18 from '97 until 2015?

19 A I do not recall receiving any allegations
20 after his resignation.

21 Q If our client was to testify that he reported
22 to the Diocese in 2010 that he was abused by
23 Father McDermott, do you have any reason to
24 doubt that testimony?

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2 MR. O'CONNOR: Object to the form.
3 MR. COSTELLO: Object to the form.
4 A No. If that happened then my memory has
5 failed. I don't remember that but it could
6 have happened.
7 Q If our client was to testify that the Diocese
8 told him in 2010 there were no allegations
9 against Father McDermott, that would have
10 been untrue, correct?
11 MR. COSTELLO: Object to the form.
12 A I'm not saying that the Diocese communicated
13 that to him, but if he received such a
14 communication, then that would be untrue.
15 MR. FOOTE: I have been told I am
16 out of time. Thank you, Bishop.
17 BISHOP HUBBARD: Thank you.
18 MS. LAFAVE: Elizabeth Cate is up.
19 EXAMINATION BY MS. CATE:
20 Q Good afternoon, Bishop.
21 A Good afternoon, Elizabeth.
22 Q I'm going to be asking you a few questions
23 about several priests within the Diocese.
24 Do you know Father James McNerney?

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2 A Yes, I knew him when he served in the
3 Diocese.
4 MR. O'CONNOR: Hey, Elizabeth, you
5 are a little garbled for me and probably
6 for the stenographer, too. If you could
7 get a little closer maybe.
8 MS. CATE: Is this better?
9 MR. O'CONNOR: A little better.
10 Can you hear her well enough,
11 Laura?
12 REPORTER: Now I can hear her.
13 Q Are you aware of allegations of sexual abuse
14 of a child by Father McNerney?
15 A Yes.
16 Q When did you first become aware of those
17 allegations?
18 A I can't recall exactly. I have to have the
19 file in front of me.
20 Q And how many children are you aware of that
21 Father McNerney abused?
22 A I can't remember. It was like one or two.
23 Q And I'll represent to you that Father McNerney
24 was suspended in 2004. Do you recall this?

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2 A I know that he was removed from ministry,
3 yes. I don't recall the exact date.
4 Q After he was removed from ministry was he
5 ever reassigned to another parish?
6 A Not in our Diocese. And if protocol was
7 followed, he couldn't function in any other
8 diocese without bishop contacting me and
9 knowing that he had been currently removed
10 from ministry.
11 Q And do you recall another bishop contacting
12 you after 2004 about Father McNerney?
13 A No. Well, let me amend that. I don't recall
14 that. Somebody may have, but I don't recall
15 any bishop contacting me about him.
16 Q If a bishop would have contacted you about
17 Father McNerney after he was suspended, would
18 that be documented in McNerney's file?
19 A Ordinarily, it would be.
20 Q And you have no reason to believe that the
21 procedure wasn't followed in this case,
22 right?

23 MR. O'CONNOR: I can't hear you,
24 Elizabeth. Sorry.

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2 MR. COSTELLO: Can't hear you.
3 Q You have no reason to believe that procedure
4 wasn't followed in this case, is that
5 correct?
6 A To my best recollection, that is correct.
7 Q Are you familiar with a Father Michael
8 Martin?
9 A It doesn't ring a bell. Could you give me a
10 little more information.
11 Q He was a priest at St. Ambrose Roman Catholic
12 Church, and he was removed from St. Ambrose
13 in 1992 and convicted of molesting a child in
14 2001. Does that ring a bell?
15 A No. Are you sure St. Ambrose in Latham.
16 Q St. Ambrose Roman Catholic Church.
17 A But where?
18 Q Yes, in Latham.
19 A In Latham. I'm not aware of that name at
20 all.
21 Q Michael J. Martin?
22 A He was a priest?
23 Q Excuse me. Excuse me. Michael J. Miller.
24 A Oh, Michael Miller. Oh, yes. Yes, I'm aware

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- 1
2 of him, yes.
- 3 Q And he was removed from St. Ambrose in 1992.
4 Do you know why he was removed?
- 5 A I'm aware that he was removed from ministry
6 because of misconduct with a minor, but my
7 best recollection is it was in 2001, not the
8 dates you just gave.
- 9 Q Well, I'll represent to you that he was
10 removed from St. Ambrose in 1992. Do you
11 remember this?
- 12 A No, I don't. I remember he was removed from
13 ministry, but my best recollection was that
14 it was in 2001.
- 15 Q Well, in '92 he was removed from St. Ambrose
16 and placed at St. Madeleine Sophie in
17 Guilderland. Do you know why he was put at a
18 different church?
- 19 A Wait a second. You just said he was removed
20 in 1991. If he was removed, he couldn't have
21 been placed in another parish.
- 22 Q Excuse me. I meant that he was taken from
23 St. Ambrose and reassigned to St. Madeleine
24 Sophia in Guilderland, New York. Do you know

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2 Q He was placed on the list of the credibly
3 accused priests in 2015. Do you know why it
4 took 14 years for him to be placed on that
5 list?
- 6 A Because Bishop Scharfenberger, the new
7 bishop, decided to place all those who have
8 been permanently removed on the list. That
9 was his decision.
- 10 Q And that was after your tenure as bishop, is
11 that correct?
- 12 A Correct.
- 13 Q Bishop, you testified that there were two
14 types of files, the chancery files and the
15 secret files relating to priests within the
16 Diocese, is that correct?
- 17 A No, I didn't. I said there was two files.
- 18 Q And those files had been kept separate, but
19 in 2013 the decision was made to merge the
20 files so that there was only one set of files
21 relating to each priest, is that right?
- 22 A Correct.
- 23 Q Who made this decision?
- 24 A I made the decision to merge the files.

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2 why that transfer was made?
- 3 A No, I don't.
- 4 Q And in 1994 he was placed on special
5 assignment. Do you know what a special
6 assignment refers to?
- 7 A Could mean a lot of things. I would have to
8 check the file.
- 9 Q Would a reason for him being put on special
10 assignment be documented in his file?
- 11 A Ordinarily, it would. I can't say that for
12 sure unless I looked at the file.
- 13 Q So in 2001 he was arrested for abusing a
14 child, and after his arrest and conviction
15 was he laicized.
- 16 A He was permanently removed from ministry. He
17 was not laicized.
- 18 Q And why wasn't he laicized after he was
19 convicted for abusing a child?
- 20 A I have only laicized one of the priests that
21 has been removed from ministry.
- 22 Q Do you remember when he was permanently
23 removed from ministry?
- 24 A In 2001.

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2 Q And why did you decide to do this?
- 3 A Well, for one thing, I was about to retire
4 and I thought that the arrangement we had was
5 rather clumsy, and I thought that this would
6 be a good way to prepare for the new bishop.
- 7 Q And who was tasked with the actual work of
8 merging the files together?
- 9 A Well, the chancellor would oversee it, but
10 the physicality to it would be probably
11 delegated to secretaries.
- 12 Q Secretaries who worked for the Diocese of
13 Albany?
- 14 A Worked at the pastoral center, yes, for the
15 Diocese of Albany.
- 16 Q Do you remember any of these people's names?
- 17 A Well, one would be Ginny Daley. And that is
18 the only one that I can say for sure was
19 involved in the transfer. There may have
20 been others, but she would know that at least
21 for the time she was there.
- 22 Q You testified yesterday that you did not
23 destroy documents relating to sexual abuse of
24 children. Do you recall that?

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2 A Yes.

3 Q Do you know of anyone else who might have

4 destroyed documents relating to sexual abuse

5 of children?

6 A No.

7 Q Who else had authority to manage the

8 personnel files of the priests during your

9 tenure as Bishop?

10 A Well, the personnel files, the ordinary file

11 was handled by the bishop's secretary. And

12 the other file was under the direction of the

13 chancellor.

14 Q So other than the chancellor, did anybody

15 else have access to the other file that you

16 just referred to?

17 A Well, sometime the chancellor or the two

18 cases that I accessed that file might ask the

19 secretary to retrieve it, but those files

20 were sealed, so they did not have access to

21 the content. They would just know the name

22 they were to look for and bring it to the

23 chancellor and myself.

24 Q And by other file, you were referring to the

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2 MR. O'CONNOR: Cynthia, are we done

3 here?

4 MS. LAFAVE: We have another

5 minute, Terry.

6 MR. O'CONNOR: Your clock is slow.

7 Q The people who ran those facilities, they

8 were priests at least in some cases?

9 A In some cases, but I don't think the staff at

10 any of them were primarily priests.

11 Q Were the staff at those facilities licensed

12 mental health professionals?

13 A My best understanding is they were, yes.

14 MS. CATE: No further questions.

15 MS. LAFAVE: We are off the record.

16 VIDEOGRAPHER: Going off the record

17 at 4:54.

18 (Whereupon, the testimony of BISHOP

19 EMERITUS HOWARD J. HUBBARD was concluded.)

20

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2 secret files, is that correct?

3 A Well, we called them the sealed files.

4 Q Okay.

5 You testified about treatment centers that

6 priests who are accused of sexual abuse of

7 children were sent to. At least some of

8 those facilities that you mentioned were

9 affiliated with the Catholic Church, is that

10 right?

11 MR. COSTELLO: Object to form.

12 You may answer.

13 A I would say most of them were somehow or

14 another affiliated with the Catholic Church.

15 I can't say all of them.

16 Q And as to the facilities that were affiliated

17 with the church, is it safe to say that the

18 staff at those, who ran those treatment

19 centers shared the goal of protecting the

20 church's reputation that you have been

21 testifying about?

22 MR. COSTELLO: Object to the form.

23 A I can't say that at all. I don't know what

24 their philosophy was on that.

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1

2 STATE OF NEW YORK)

3) ss:

4 COUNTY OF)

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6

7

8 I have read the foregoing

9 transcript of my testimony

10 and I hereby acknowledge it

11 to be a true and accurate

12 transcript thereof.

13

14 _____

15 BISHOP EMERITUS HOWARD J. HUBBARD

16

17

18

19 Sworn and subscribed to before me

20 this ____ day of _____, 2021.

21

22 _____

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CERTIFICATION

I, Laura A. Couch, a notary public and shorthand reporter in and for the County of Schenectady and State of New York, do hereby certify that the foregoing transcript of the testimony of BISHOP EMERITUS HOWARD J. HUBBARD, having been first duly sworn to testify to the truth, the whole truth, is a true and correct transcript of the testimony given by the said witness at the time and place specified hereinbefore.

_____ 5/10/21
LAURA A. COUCH DATE

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___ No Changes Needed _____
Signature of deponent/witness

Sworn to before me this ___ day of 20__

Notary Public State of New York

My Commission Expires: _____
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1 STATE OF NEW YORK
2 SUPREME COURT COUNTY OF ALBANY

3 STIPULATION AND ORDER CONCERNING THE
4 DEPOSITION OF DIOCESE OF ALBANY BISHOP
5 EMERITUS HOWARD J. HUBBARD IN CHILD VICTIMS
6 ACT CASES

7
8 EXAMINATION OF BISHOP EMERITUS HOWARD J.
9 HUBBARD, held via Zoom on Thursday, April 22, 2021,
10 commencing at 9:29 a.m.

11
12
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S T I P U L A T I O N S

It is hereby stipulated and agreed by and between the attorneys for the respective parties hereto that the signing and filing of the Notary's Oath be waived; that the examination be conducted before David Mayo, a Court Reporter and Notary Public in and for the State of New York; that the filing of the transcript of testimony in the Office of the Clerk of the Court be waived; that the examining party will furnish the examined party a copy of the transcript of testimony free of charge; that all objections to questions except as to the form thereof be reserved until the time of trial; that the transcript may be signed before any Notary Public or other officer authorized to administer oaths.

	<u>NAME</u>	<u>EXAMINATION BY</u>	<u>PAGES</u>
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2	HOWARD J. HUBBARD	MR. WILLIAMS	628-651
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1 (The proceedings were convened at
2 9:29 a.m. as follows:)

3 MR. SHERECK: We're on the record. The
4 time is approximately 9:29 a.m. Today is
5 Thursday, April the 22nd, 2021. This is a
6 continued deposition of Bishop Emeritus
7 Hubbard. And the new court reporter today is
8 Dave Mayo. Would you please swear or affirm
9 the witness?

10 THE COURT REPORTER: Bishop Hubbard, would
11 you raise your right hand, please? You do
12 solemnly swear the testimony you're about to
13 give in this matter will be the truth, the
14 whole truth, and nothing but the truth, so help
15 you God?

16 THE WITNESS: I do.

17 MR. SHERECK: Go ahead.

18 EXAMINATION BY MR. WILLIAMS:

19 Q. Good morning, Mr. Hubbard. Again, I'm Jerry
20 Williams. My firm and our co-counsel, Saghir, Weiss,
21 and some others represent several plaintiffs in cases
22 against the Diocese of Albany. But in one of those
23 cases we represent a plaintiff who in addition to the

1 diocese has also sued you personally. And that
2 plaintiff is [REDACTED], whom you met at his
3 deposition recently. Do you recall that?

4 A. I do.

5 Q. And, first of all, as you know, [REDACTED] has
6 alleged that you personally abused him sexually on a
7 number of occasions. Can I assume accurately that you
8 deny those allegations?

9 A. Very accurately.

10 Q. So it's your testimony that you did not
11 sexually assault [REDACTED] at any time; is that correct?

12 A. Correct.

13 Q. Or touch him inappropriately at any time.
14 That's your testimony; correct?

15 A. Correct.

16 Q. All right. So I will avoid asking you more
17 direct questions about those types of allegations, but I
18 want to ask you about some other matters that I think
19 are relevant to sorting out those allegations and their
20 circumstances and then also ask you some questions about
21 other allegations that are in the [REDACTED] complaint. Okay?

22 A. Go ahead.

23 Q. Okay. And all the usual rules apply. So let

1 me know if I ask a question that you don't understand or
2 for some reason don't hear and I'll correct the
3 situation.

4 Now, as you may recall, [REDACTED] alleges
5 that his abuse occurred sometime in the 1974 to 1976
6 range. And I think you will agree that was before the
7 time that you were installed as bishop of the diocese;
8 is that correct?

9 A. That's correct.

10 Q. But during some period in that era you were a
11 priest of the diocese, of course, but you held the
12 position of vicar general; is that correct?

13 A. For a short period of time, in mid 1976 until I
14 was appointed bishop in 1977.

15 Q. Understood. And I know you testified about
16 this and, frankly, I just forget. Before you were vicar
17 in mid 1976, what position did you hold with the diocese
18 before becoming vicar?

19 A. Well, I held several. I was the chair of the
20 priest personnel board. I was the chair of the
21 ecumenical mission. And I was also director of pastoral
22 planning.

23 Q. And in those positions -- let me phrase it this

1 way. In addition to those positions can I assume
2 accurately that you were not assigned to a particular
3 parish?

4 A. That is correct. Well, it's correct that I
5 didn't have an official appointment. However, I was a
6 weekend associate at a particular parish.

7 Q. Okay. Which parish?

8 A. Our Lady of Assumption in Latham, New York.

9 Q. And did you say you were a weekend associate or
10 weekend cleric at that parish? Is that what I heard you
11 say?

12 A. Yes. I would be there on Saturdays, Saturday
13 night and Sunday morning. And I would usually be there
14 for holy week.

15 Q. And when you were there on weekends would you
16 officiate one or more masses?

17 A. Yes.

18 Q. Now, how about when you became vicar, were you
19 associated with a parish?

20 A. Our Lady of Assumption in Latham.

21 Q. Same way?

22 A. Same way.

23 Q. So let's say from 1974 until the time you were

1 made bishop of the Diocese of Albany. Where were you
2 located physically? Where was your office; where was
3 your home?

4 A. Well, I was also director of Providence House,
5 which was a storefront social service center on South
6 Pearl Street in Albany. And I resided at the rectory of
7 St. John the Baptist on Green Street in Albany.

8 Q. Now, in addition to the Latham parish -- and,
9 by the way, just really for my benefit but also for the
10 record, where is Latham in relation to Albany?

11 A. It is about maybe 12 miles north of Albany on
12 Route 9. Well, the parish isn't on Route 9, but it's
13 off Route 9.

14 Q. All right. Now, in addition to your presence
15 at Providence House and at the rectory of the St. John
16 the Baptist and your association with the Latham parish,
17 did you have occasion during this period, '74 to '76, to
18 visit other parishes?

19 A. Well, I would visit other parishes frequently
20 in my capacity as head of the priest personnel board to
21 meet with the pastor and his associate there, but not
22 frequently for liturgical services.

23 Q. Understood. Let me break that down a little

1 bit. First of all, how frequently would you visit other
2 parishes to consult with the pastors and clerics that
3 were at the parishes?

4 A. It wasn't regular. I would say five to ten
5 times a year.

6 Q. You said infrequently you also participated in
7 liturgical services when you would visit a parish in
8 this, I'll call it, the pre-bishopric years; correct?

9 A. No, I didn't say infrequently that I would
10 perform liturgical services. That might occur, but it
11 was -- yeah, I guess you could say it was infrequently.

12 Q. All right. Well, okay. That's what I wanted
13 to get a little more specific about with you about. How
14 often would you say mass in a parish other than the
15 Latham parish that you've described?

16 A. To the best of my recollection, maybe three or
17 four times a year.

18 Q. Okay. Now, during this period of time did you
19 have the occasion to visit a parish on Delaware Avenue
20 in Albany called St. James?

21 A. I can't recall having masses there at that
22 time. I did have funerals and confirmations after I was
23 ordained as bishop, but I can't recall any occasion when

1 I celebrated mass at St. James.

2 Q. All right. And that parish later became
3 St. Francis; is that accurate?

4 A. That is accurate, yes.

5 Q. But during this period, in the mid seventies,
6 it was, in fact, St. James parish?

7 A. It was, yes.

8 Q. Now, did you come to know a priest assigned to
9 that parish named Father Frank SID-EE-OT-EE,
10 (phonetically), S-i-d-i-o-t-i?

11 A. I knew Father SID-OWE-TEE (phonetically).

12 Q. Yes.

13 A. His name was not Frank. It was Tony.

14 Q. Yes. I think you're right about that. But he
15 was assigned to St. James during this period, is that
16 your recollection?

17 A. He was a pastor, yes.

18 Q. And is that the capacity in which you knew him,
19 or did you know him beyond that capacity?

20 A. I knew him in that capacity. The parishes in
21 that section of the city were part of the urban apossa,
22 which I coordinated, and we would have three or four
23 meetings a year and he would be at those meetings. And

1 then I would see him at clergy conferences. I knew him
2 to say hello, but we weren't close friends.

3 Q. Understood. Did you ever attend with him day
4 trips that he organized for the children of his parish?

5 A. Not that I can recall.

6 Q. Okay. Now, you're probably used to lawyers
7 after all these days, but when you say "not that I
8 recall," are you telling me that you don't think you
9 ever did or you can't remember either way? That's how
10 lawyers respond to "not that I can recall."

11 MR. COSTELLO: Object to the form of the
12 question. You may answer.

13 A. Would you phrase it again for me, please?

14 Q. Of course. When you say that you don't recall
15 going on trips with children with Frank Sidoti, Father
16 Sidoti, are you telling us that you remember that you
17 did not or you don't remember either way?

18 A. I don't remember either way. I have no
19 recollection of being there.

20 Q. All right. Fair enough. And as you know,
21 there was testimony from [REDACTED] that he went on a trip
22 organized by Father Sidoti [REDACTED]

23 [REDACTED]. Did you ever -- well, did you ever

1 travel to [REDACTED] with children [REDACTED]

2 [REDACTED] in your recollection?

3 A. (Shakes head.)

4 Q. You have to answer in words. I couldn't hear
5 it, Bishop.

6 A. I'm sorry. No.

7 Q. All right. At any time; is that your
8 testimony?

9 A. At any time [REDACTED].

10 Q. Okay. Did you travel on trips with children to
11 [REDACTED] for any purpose?

12 A. No.

13 MR. O'CONNOR: You know, can I jump in,
14 Jerry? For whatever reason, on my machine it's
15 cutting off. I'm not sure why. So maybe,
16 Bishop, get a little bit closer. I heard a
17 kind of no but I didn't hear a full no. How
18 does that sound, Dave? Can you hear it okay?

19 THE COURT REPORTER: Yes, I can, Terry.

20 Thank you.

21 BY MR. WILLIAMS:

22 Q. All right, Bishop. Now, again, and I ask you
23 with all usual disclaimers you heard before. No offense

1 is meant by this, but I believe you testified the other
2 day that you did not have a drinking problem. That's
3 correct; right?

4 A. Correct.

5 Q. But have you been a social drinker in your
6 time?

7 A. No, I have not. By way of explanation, the
8 priests of the Diocese of Albany upon ordination had to
9 take a pledge not to drink alcohol for ten years. And I
10 kept that pledge. However, when Bishop Broderick became
11 the bishop of the diocese he removed that commitment
12 that we were expected to make. So between his coming in
13 in 1969 and my own discernment in 1973, I had taken up
14 the practice of maybe sharing a toast with wedding
15 couples if I had performed the service. That's the only
16 time in my life I ever had any alcohol at all except in
17 mass. And then I ceased doing that around 1973.

18 Q. When you say you ceased doing that, you mean
19 you ceased having these wedding toasts with married
20 couples?

21 A. Right.

22 Q. All right. I understand that. So I assume,
23 then, that if I asked you if you ever drank alcohol in a

1 sacristy, socially, with other priests, your answer
2 would be no, you never did that?

3 A. Absolutely not.

4 Q. Okay. Do you know -- and I'll confine this
5 question to the St. James parish for now. Do you know
6 one way or the other whether the priest of that parish
7 kept alcohol in the sacristy for other than sacramental
8 reasons, that they kept alcohol that was drunk? Go
9 ahead. I'm sorry.

10 A. I've never seen such.

11 Q. Did you ever see such anywhere in the Diocese
12 of Albany?

13 A. No.

14 Q. Now, by the way, and I should have asked you
15 this before, after you became bishop did you ever return
16 to the rectory of St. John the Baptist to visit that or
17 not?

18 A. Well, I had lived there for over ten years and
19 I was good friends with Father Peter Young, so on
20 occasion I would stop by to see him.

21 Q. All right.

22 A. That would be the only occasion. I never went
23 there except for liturgical service, like a

1 confirmation.

2 Q. With respect to [REDACTED], do you recall ever
3 meeting him before you met him at the deposition the
4 other day?

5 A. No.

6 Q. Before the complaint that was filed in this
7 case in which his allegations against you were included,
8 had you ever heard of any complaint from him regarding
9 sexual abuse?

10 A. To me in my capacity as bishop?

11 Q. Well, let's start there. Yes, in your capacity
12 as bishop.

13 A. No.

14 Q. How about in any other capacity within the
15 Diocese of Albany?

16 A. No.

17 Q. Now, as you probably also know, in the same
18 complaint [REDACTED] alleges that he was abused by a
19 priest named Cabell Marbury. Did you know Father Cabell
20 Marbury?

21 A. Yes, I did.

22 Q. And how did you know Father Marbury?

23 A. Well, St. James was a neighboring parish to

1 St. John the Baptist, so frequently we had meetings and
2 I would be present there. That was pretty much the
3 extent of our interaction, except I should say that when
4 I was made bishop he had some background in making
5 liturgical vestments and he made the miter that I wore
6 for my episcopal ordination.

7 Q. So did you regard him as a friend, I guess I
8 should ask you?

9 A. I never socialized with him.

10 Q. How did it come to be that he made your miter?

11 A. Well, we knew that he had background in making
12 liturgical vestments. And I don't know that we asked
13 him or he volunteered, but I know that he was the one
14 that prepared my miter for my ordination.

15 Q. Okay. Thank you. And in your answer you
16 reminded me of something that I should have asked
17 before. I think you said St. James neighbored St. John
18 the Baptist; is that true?

19 A. It appeared to the west.

20 Q. And immediately to the west? I mean, was it
21 the next parish?

22 A. No. The Cathedral would have been the next
23 parish, but the churches at that point in time were very

1 close to one another.

2 Q. The parishes?

3 A. Yes.

4 Q. I understand. So again, if you recall the
5 distance between the rectory at St. John the Baptist and
6 St. James Church, what would your estimate be?

7 A. Mile and a half, two miles.

8 Q. Fair enough. Thank you. Now, with respect to
9 Father Marbury, as bishop do you recall receiving any
10 information or allegations regarding sexual abuse by
11 him?

12 A. I know he's on the list for priests credibly
13 accused, but to my best recollection that must have come
14 up after I retired.

15 Q. I understand that answer and we'll talk in a
16 little more detail about that in a few minutes, but
17 other than your knowledge that he's on the list of
18 credibly accused priests in the diocese did you ever
19 have any other information relating to allegations of
20 sexual abuse against Father Marbury?

21 A. Not that I can recall.

22 Q. Did you ever have the occasion to remove him
23 from a parish or to transfer him to a parish for reasons

1 other than ordinary tenure?

2 A. No.

3 Q. All right. Now, do you know one way or the
4 other whether there is a sealed or if there ever was a
5 sealed file regarding Father Marbury?

6 A. I do not know.

7 Q. Did you ever grant to Father Marbury a leave of
8 absence?

9 A. Not that I can recall.

10 Q. Fair enough. All right. Now, you mentioned
11 that Father Marbury is currently on the list of credibly
12 accused clerics. And I'll represent to you that he got
13 on that list in 2020. Now, this next question, I mean,
14 it harkens back to what we talked about yesterday. As a
15 priest, you get on that list because the diocesan review
16 board determines that accusations against you are
17 credible; is that accurate?

18 A. Yes. Ultimately, it's the bishop of the
19 diocese that puts the person on the list, but it's on
20 the basis of the recommendation that comes from the
21 review board.

22 Q. Right. And that's what I wanted to ask you a
23 little bit more about. I mean, the diocesan review

1 board in making its determination, it doesn't just take
2 a complaint at face value, does it? It does some
3 investigation, doesn't it?

4 A. Well, it does if the priest denies the
5 allegation. There's no need to do an investigation if
6 the priest acknowledges that the allegation is true.

7 Q. All right. And I should have asked you this
8 before. Father Marbury, do you know if he's alive
9 today?

10 A. I think he's deceased.

11 Q. All right. So in the case of a deceased
12 priest, if the diocesan review board gets a complaint
13 about a deceased priest, what investigation does the
14 diocesan review board do?

15 A. Well, the review board itself doesn't do the
16 investigation. They hire an investigator. And that
17 investigator usually is skilled in tracking down
18 information and contacting people who might have
19 firsthand knowledge of events described or about the
20 person being accused. And then he presents his findings
21 to the review board. Sometimes they ask him to go back
22 and dig further based upon what he has brought to them.
23 They might suggest other avenues of seeking information.

1 And then ultimately, when his investigation is
2 completed, then they make their recommendation among
3 themselves and then present it to the bishop.

4 Q. And is an investigation always hired in every
5 case?

6 MR. COSTELLO: Object to form.

7 A. In some cases it can readily be resolved. In
8 other cases it's very difficult to come to a conclusion.

9 Q. Yes. I understand that. And you told me
10 previously, of course, if the priest admits the
11 wrongdoing then there's no need to investigate whether
12 or not the accusations are credible. But I guess since
13 Father Marbury is deceased, I'm asking about his case.
14 Do you know whether an investigator would be retained by
15 the diocesan review board if there were accusations
16 against him in 2020?

17 A. I do not know that, but I know that in the
18 past -- I'm not involved with the review board anymore,
19 but in the past we on occasion had responsibility to
20 investigate a deceased priest. So that would not be out
21 of the question.

22 Q. I understand your answer. And in the case of a
23 deceased priest against whom an accusation was made,

1 would the diocesan review board or its investigator be
2 provided by the diocese with any sealed files regarding
3 that priest?

4 A. I don't know if they would be provided with the
5 sealed files. I think, in my own case, I can only speak
6 for myself, if there was a deceased priest I would
7 always review the sealed file to see if there was
8 anything going back historically that might indicate
9 that there had previously been problems in that
10 direction.

11 Q. And during your bishopric if you had occasion
12 to do that you would determine what portions, if any, of
13 the sealed file would go to the review board or its
14 investigator?

15 A. Yes, pretty much, but I would give them
16 anything that had some bearing on the allegations that
17 were being made.

18 Q. And I take it from your testimony with me
19 yesterday there were -- for example, there were
20 materials, whether it was in a sealed file or not, that
21 you regarded as privileged, like the psychological
22 report on Father Mahar, you would not supply that to the
23 diocesan review board; is that accurate?

1 A. I'm not sure if I would present the document
2 itself, but I do know that I have and would, if I had a
3 responsibility in the future, inform the members of the
4 review board that he had been to a treatment facility
5 and the reason for his treatment was so-and-so and the
6 recommendation of the treatment facility was
7 such-and-such.

8 So I might not have handed the file to
9 them, but I would get the file, synthesize it, and
10 present it to the review board. The main thing I was
11 concerned about was to get to the truth. If somebody
12 had been victimized, then I wanted to make sure that
13 they were cared for.

14 Q. I understand your answer. I guess my question,
15 since we brought him up and it goes along the lines of
16 this process, with respect to Father Mahar did you
17 inform the diocesan review board about the information
18 in the psychological evaluation he had?

19 A. I informed them at the time.

20 Q. I'm sorry. I just didn't hear that.

21 A. I informed them at the time it was being
22 investigated.

23 Q. Now, with respect to the investigators or

1 investigator hired by the diocesan review board, is it
2 always the same investigator? And I'll break that down.
3 First, currently is it always the same investigator that
4 is hired?

5 A. I can't speak about currently because I haven't
6 been involved for the past seven years. We had at least
7 three investigators, mostly former FBI agents who had
8 retired.

9 Q. And do you recall any of their names? During
10 your bishopric. I'm sorry.

11 A. It's at the tip of my tongue but I can't pull
12 them out.

13 Q. Okay. I know it goes back awhile.

14 A. One was Joe. One had a family member who was a
15 clergy. I just know they were former FBI agents. I
16 can't come up with the name right now.

17 Q. And we're talking primarily now about Father
18 Marbury and I realized that his placement on the list
19 and review by the board happened after you were in
20 emeritus status. But let me ask you. Do you know
21 whether the report of the diocesan review board's
22 investigator goes to the chancery or the bishop of the
23 diocese in addition to the review board?

1 A. Well, I don't know that for sure. I know that
2 I received the report from the investigators as well as
3 the members of the priest personnel board.

4 Q. Does a priest -- let's confine this to the time
5 that you were bishop because I realize that you may not
6 know all the procedures today, although I may ask you
7 about that. When you were bishop if a deceased priest's
8 name was mentioned in a lawsuit, a complaint starting a
9 lawsuit, would that land him on the credibly accused
10 list without further investigation?

11 MR. O'CONNOR: Jerry, can you rephrase
12 that? I'm not sure. I didn't understand the
13 question.

14 MR. WILLIAMS: I do think the bishop did.
15 But you're right. It was a long question and
16 I'll try to break it down a little.

17 MR. O'CONNOR: Better yet. Dave can read
18 it back and maybe I'll understand it when he
19 reads it back.

20 Q. Is that okay with you, Bishop?

21 A. That's fine.

22 MR. WILLIAMS: All right. Go ahead, Dave.

23 (The previous question was read back by

1 the court reporter.)

2 A. The answer is no.

3 MR. WILLIAMS: Terry, is that
4 satisfactory?

5 MR. O'CONNOR: Yes.

6 Q. Thank you, Bishop. You wouldn't be the first
7 witness that didn't understand one of my questions, so
8 feel free to correct me if that happens. Now, do you
9 know whether or not the practice today would land a
10 deceased cleric's name on the credibly accused list
11 simply because he was mentioned in a lawsuit's
12 complaint?

13 A. I don't know. I think it would not be fair due
14 process, but I don't know.

15 Q. And I guess I should ask you this. Do you know
16 who would know the answer to that question?

17 A. Well, if you're talking about the bishop making
18 a decision, he would know.

19 Q. All right. So I think what you're telling me
20 is the current bishop would know; correct?

21 A. Correct.

22 Q. And what about, I mean, is there a chairperson
23 of the diocesan review board?

1 A. There was when I served or interacted with
2 them.

3 Q. And do you know if there is a chairperson
4 currently on the diocesan review board?

5 A. I think there is, but I'm not sure who it is.
6 I know the one that was the chairperson when I was
7 serving as bishop is no longer the chairperson, but I'm
8 not sure who her replacement is.

9 Q. Understood. Who was it when you were last
10 bishop?

11 A. Meg Griffin. She was a nurse and a layperson.

12 Q. There has been some testimony or some terms
13 used. There's the diocesan review board and I think I
14 heard some testimony about a sexual misconduct board.
15 Do you recall that?

16 A. They're the same.

17 Q. They're the same. Okay. I thought as much,
18 but I wanted to --

19 A. It has been called two different things over a
20 period of history. I use them interchangeably. I think
21 they're now called the sexual misconduct board, but I
22 would have to check with the directory to see how they
23 present themselves.

1 Q. I understand. But it's not two separate
2 bodies, it's the same body?

3 A. It's the same body, yes.

4 Q. And with respect to Father Marbury, any
5 investigation conducted by that board, obviously, we
6 would have to find out from the current board or the
7 board that put him on the list in 2020; is that correct?

8 A. That's correct.

9 Q. I should have asked you this. Father Tony
10 Sidoti, was there ever a sealed file on him, to your
11 knowledge?

12 A. Not to my knowledge.

13 Q. And did you ever receive any information that
14 he was accused by any minors or their parents of sexual
15 abuse?

16 A. I did not.

17 Q. Fair enough.

18 MR. WILLIAMS: Now I'm going to make
19 Cynthia very happy and say I'm done early and I
20 have no further questions for you at this
21 point, Bishop Hubbard. Thank you.

22 THE WITNESS: Thank you.

23 MS. LaFAVE: Terry, can we take a

1 two-minute break and you and I have a
2 conversation, please?

3 MR. O'CONNOR: Sure.

4 MR. SHERECK: Going off the record at
5 10:03.

6 MS. LaFAVE: I'll call your cell, Terry.

7 MR. O'CONNOR: You got it.

8 (A recess was taken in the proceedings.)

9 (The proceedings were reconvened as
10 follows:)

11 MR. SHERECK: All right. We're back on
12 the record at 10:08. Go ahead.

13 EXAMINATION BY MR. SANDLER:

14 Q. Good morning, Bishop.

15 A. Good morning.

16 Q. My name is Jason Sandler. I am from Herman Law
17 and I represent ██████ in the matter ██████ versus the
18 Diocese of Albany and St. Edward the Confessor Roman
19 Catholic Church. ██████ is a pseudonym, but do you know
20 who I'm referring to when I say ██████?

21 A. I've never met him, but I've been informed who
22 he is.

23 Q. Sure. And he was deposed on Friday, April 16,

1 and you were present during that deposition; is that
2 right?

3 A. Correct.

4 Q. And you're familiar with the allegations
5 against you; is that right?

6 A. Yes. Correct.

7 Q. Bishop, if I'm speaking too fast or if my
8 questions are confusing, please let me know and I will
9 rephrase the question for you. All right?

10 A. Yes.

11 Q. I believe you were appointed as bishop on
12 February 1, 1977?

13 A. Correct.

14 Q. And you were ordained March 27, 1977?

15 A. Yes.

16 Q. Immediately prior to your appointment to bishop
17 in February of '77 your role was vicar general; is that
18 right?

19 A. Correct.

20 Q. And your predecessor was Bishop Broderick?

21 A. Yes.

22 Q. And when did Bishop Broderick resign as bishop
23 of the diocese?

1 A. I think he resigned the previous spring, of
2 1976, when he was appointed as the head of Catholic
3 Relief Services. And then he was also, however, named
4 the administrator of the diocese until such a time as a
5 new bishop was appointed. But I think that was one of
6 the reasons he appointed me as vicar general.

7 And then in the fall he determined he
8 could not adequately handle both responsibilities and
9 give justice to both, and so he asked the apostle
10 nuncio, the head of the board of consulters and the
11 Diocese of Albany elect an administrator. And that I
12 think was November of 1976. And I had the misfortune of
13 being elected the administrator.

14 Q. So you were the administrator of the diocese in
15 November of '76. At the same time were you serving as
16 vicar general or --

17 A. I was, but once I became the administrator,
18 there were two other vicar generals I think at the time.
19 And so I would have been in the role as vicar general,
20 and the other vicar generals would pick up whatever
21 needed to be done in their responsibility.

22 Q. While you were serving as the administrator of
23 the diocese in 1976 did you or someone on your behalf

1 maintain a calendar or schedule which detailed events
2 you attended, speaking engagements, et cetera?

3 A. No. I kept my own calendar. And the secretary
4 used to keep a calendar for Bishop Broderick. But as
5 far as I know, we do not have calendars for the period I
6 was administrator. Once I became bishop we had the
7 calendars that the secretary historically has kept.

8 Q. I'm sorry. Just to clarify. Is it your
9 testimony that a secretary was maintaining your calendar
10 beginning in March of 1977 when you became bishop?

11 A. Yes.

12 Q. And how was the calendar maintained? I'm
13 assuming it was in a book of some sort?

14 A. It was a large binder, about that wide
15 (indicating), and it would have a slot for each day for
16 appointments to be scheduled in.

17 Q. And what type of appointments would be
18 contained in your calendar?

19 A. Well, there would be appointments to meet with
20 priests, religious laypeople who had business to do with
21 the diocese. There are a number of boards and
22 committees that meet on a regular basis and those
23 meetings would be on the calendar. There would be

1 liturgical events that I was expected to attend as the
2 administrator of the diocese. They would be on the
3 calendar. And anything else that required the bishop's
4 presence, or the administrator's presence in that
5 instance, would be on the calendar.

6 Q. If you attended a festival or an event at a
7 parish on a weekend, would that be something that would
8 generally be included on your calendar?

9 A. Yes.

10 Q. When my colleague was asking you some questions
11 earlier you testified that when you were vicar general
12 you were also a weekend associate at our Lady of
13 Assumption?

14 A. Yes.

15 Q. And you conducted mass there on Saturdays,
16 Saturdays during the day, Saturday night, and Sunday
17 morning sometimes?

18 A. Correct.

19 Q. To the best of your recollection, what times
20 did you conduct mass on Saturdays at Our Lady of
21 Assumption?

22 A. Usually it was at 4 o'clock. And then I would
23 also hear confessions starting at 7:00 or 7:30.

1 Q. And after you were appointed as the
2 administrator of the diocese in November of 1976 did you
3 cease your position as a weekend associate at Our Lady
4 of Assumption?

5 A. To the best of my recollection, no.

6 Q. So you maintained that position until you
7 became bishop in March?

8 A. Correct.

9 Q. To the best of your knowledge, your calendars
10 that we were just discussing that were maintained by
11 your secretary after you became bishop, do they still
12 exist?

13 A. I think they're available, yes.

14 Q. Who maintains them currently, to the best of
15 your knowledge?

16 A. They're retained at the chancery. I don't know
17 who specifically has oversight.

18 Q. When you were vicar general you maintained your
19 own calendar; is that right?

20 A. I did.

21 Q. And, to the best of your knowledge, does your
22 calendar when you were vicar general still exist?

23 A. No.

1 Q. No, it doesn't exist?

2 A. It does not exist.

3 Q. Do you recall when the calendar was destroyed
4 or otherwise disposed of?

5 A. I used to keep my own calendar. I thought the
6 position of vicar general was going to be very
7 temporary, which it proved to be, and I continued to do
8 that until I was named bishop and then I felt there
9 needed to be a formal calendar.

10 Q. Prior to becoming bishop of the diocese did you
11 maintain a diary or a journal?

12 A. No.

13 Q. After becoming bishop in March of '77 did you
14 maintain a diary or journal?

15 A. No.

16 Q. After you were ordained in March of '77 was it
17 your practice to visit various parishes to visit your
18 parishioners for special events on the weekends?

19 A. Yes.

20 Q. Did you undergo any sort of tour of the diocese
21 after your ordination as bishop?

22 A. I don't think I would call it a tour of the
23 diocese. I did want to get out to all the regions of

1 the diocese as much as possible. It wasn't a formal
2 tour, but if I had a free Saturday or Sunday in my
3 calendar I would try to go to one or another region of
4 the diocese just so the people would know who the new
5 bishop is and have some limited access of interface with
6 him.

7 Q. In the summer of 1977, shortly after you were
8 ordained as bishop, do you recall attending a summer
9 carnival or festival at St. Edward the Confessor in
10 Saratoga County?

11 A. No.

12 Q. No, you don't recall?

13 A. I don't recall.

14 Q. But it wouldn't be uncommon for you shortly
15 after becoming bishop to attend a summer festival or a
16 carnival at a parish; is that right?

17 A. It would be more likely that I would go for
18 liturgy. I'm not saying I never went to a parish event.

19 Q. Are you familiar with a cleric by the name of
20 Father Donald J. Mooney?

21 A. I know who he is. I may have met him once or
22 twice. That's about the best I can say.

23 Q. And who is Father Mooney, to the best of your

1 recollection?

2 A. He was a Franciscan priest. I think he was on
3 the faculty at Siena College. And I think he also did
4 weekend assignments at St. Edward the Confessor.

5 Q. According to his obituary on the Franciscan
6 Friars Holy Name Province website, Father Mooney from
7 1966 onward organized the CCD program at St. Edward. Do
8 you have any reason to dispute this?

9 A. No.

10 Q. [REDACTED] has alleged that he was sexually abused by
11 you in the rectory of St. Edward the Confessor in the
12 summer of 1977 during a summer carnival or fair. I
13 imagine that you deny these allegations?

14 A. Yes.

15 Q. [REDACTED] testified that you approached him while he
16 was in the storage room on the premises of St. Edward
17 the Confessor while he was retrieving cups at the
18 request of Father Mooney. Do you deny that?

19 A. I do.

20 Q. And do you deny spending any time with [REDACTED] in
21 the rectory at St. Edward?

22 A. I do.

23 Q. [REDACTED] alleged that you fondled his genitals

1 beneath his clothes while in the rectory of St. Edward.
2 Does the act of fondling genitals of a child constitute
3 sexual misconduct?

4 A. Yes.

5 Q. If an adult fondles a child's genitals, is that
6 a crime?

7 MR. COSTELLO: Object to the form.

8 A. I assume it is, but I'm not a lawyer, expert on
9 criminal justice.

10 Q. If an adult were to rub their clothed genitals
11 on the buttocks of a child, does that constitute sexual
12 misconduct?

13 A. I assume it does.

14 Q. Bishop, we talked a lot during the deposition
15 over the past few days about the existence of personnel
16 files, a sealed file that was maintained and there was
17 another file. I believe it was called a personnel file;
18 is that right?

19 A. No. That's another file.

20 Q. Okay. So refresh my memory. There was a
21 sealed file and then there was the personnel board file;
22 is that right?

23 A. Then there was a chancery file.

1 Q. Chancery file. Okay. And in 2013 the two
2 files that were combined were the chancery file and the
3 sealed file; is that right?

4 A. To the best of my recollection, yes.

5 Q. Did you have a sealed file for yourself or did
6 someone maintain one prior to you becoming bishop for
7 you?

8 A. A sealed file about me?

9 Q. Yes.

10 A. As far as I know, there was none.

11 Q. No one told you that there was a sealed file
12 for you?

13 A. No.

14 Q. Did you ever look for a sealed file for you?

15 A. No.

16 Q. Is there a personnel review board file for you?

17 A. I don't know.

18 Q. Have you ever looked for a personnel review
19 board file for you?

20 A. No.

21 Q. Through your tenure as bishop from 1977 to
22 2014, I believe, did you ever review your own files that
23 were maintained by the diocese?

1 A. No.

2 Q. On Tuesday Mr. Anderson was asking you some
3 questions about vows of celibacy. And I believe you
4 testified that while in seminary the vow of celibacy was
5 something that was often discussed between seminarians
6 and their spiritual directors; is that right?

7 A. Yes.

8 Q. While you were in seminary at Mater Christi did
9 you ever discuss the vow of celibacy with your spiritual
10 director?

11 A. I assume I did because that was one of the
12 issues that would ordinarily be covered. And I can't
13 remember the specifics of the discussion, but I know
14 that was one of the roles of the spiritual director, to
15 talk about the vow of celibacy.

16 Q. And would you have spoken with your spiritual
17 director at Dunwoodie about the vow of celibacy?

18 A. Yes.

19 Q. And the same for your director in Rome?

20 A. Yes.

21 Q. Can you remind me what the name of the seminary
22 you attended in Rome was?

23 A. I'm sorry. I didn't hear the question.

1 Q. Can you remind me of the name of the seminary
2 you attended in Rome?

3 A. Well, I attended the seminary at the North
4 American College. But that college, in that European
5 sense, was a residence. My formal studies were done at
6 the Gregorian University.

7 Q. Thank you. As we sit here today do you recall
8 your discussions with your spiritual director at
9 Dunwoodie about the vow of celibacy?

10 A. I can't say that I remember it in much detail,
11 no.

12 Q. And the same is true, I imagine, about your
13 discussions with your spiritual director in Rome?

14 A. Yes. We're talking 50 years now.

15 Q. I understand.

16 A. I can't recall. And I think I testified the
17 other day, not only did you talk with your spiritual
18 director but on retreats and on days of recollection the
19 issue of celibacy was also presented at that time, as
20 well, in a larger context.

21 Q. During these discussions with your spiritual
22 director, your retreats and reflections, did you ever
23 bring up or discuss any inclinations that you had

1 towards sexual activities with children?

2 A. I never had such feelings or propensities, so I
3 never discussed it with anybody. I didn't even realize
4 it was a problem at that point in time.

5 Q. Prior to you becoming a priest in 1963 had you
6 undergone a psychological evaluation?

7 A. Yes.

8 Q. In what context? By whom?

9 A. Well, I was a guinea pig. When I was first or
10 second year at St. Joseph's in Dunwoodie they had
11 decided they were going to do a psychological profile on
12 each seminarian that was admitted to the institution
13 there. However, they wanted to have -- I don't
14 recall -- a control group that they could compare one
15 class against another. So my class was the control
16 group. And so the results of that file were never
17 turned over to the rector or to the diocese. But
18 starting after our psychologicals, all those then became
19 records for the seminary and for the diocese.

20 Q. So have you had the opportunity to review your
21 own psychological profile from Dunwoodie?

22 A. No. As I say, it was a control group, so we
23 weren't shared the results, either.

1 Q. Do you know if those results still exist?

2 A. If it does, it would be at St. Joseph's in
3 Dunwoodie.

4 Q. Other than that experience as a guinea pig, as
5 you called it, at St. Joseph's did you have additional
6 or later opportunity to undergo a psychological
7 evaluation?

8 A. Not that I recall. I underwent a polygraph
9 test, but I don't know if I had a psychological test
10 subsequent to the one in Dunwoodie.

11 Q. What about prior to your enrollment in the
12 seminary as a young teen or young adult; did you ever
13 undergo a psychological evaluation?

14 A. No, I did not. The psychological evaluation,
15 at least for our diocese, came in in the early sixties
16 and I entered the seminary in 1956. So everyone since
17 the early sixties has had to undergo a psychological
18 profile as part of the accepted format. But that was
19 not part of the protocol when I entered the seminary.

20 Q. What is the purpose of having seminarians
21 undergo a psychological assessment or evaluation?

22 MR. COSTELLO: Object to form.

23 A. I think to see if there's any major

1 psychological issues that either would prohibit a
2 candidate from proceeding to a formation program or an
3 issue that would not be prohibitive but might need work
4 in the course of formation.

5 Q. After you were ordained in 1963 as a priest of
6 the Diocese of Albany were you ever assigned or did you
7 ever seek out a spiritual director?

8 A. Yes.

9 Q. When?

10 A. I think the year I was ordained.

11 Q. For what purpose?

12 A. 1964.

13 Q. For what purpose?

14 A. It would have been Monsignor John Jones.

15 Q. And for what purpose did you seek out Monsignor
16 Jones?

17 A. It was recommended to all of us who were
18 ordained that we should have a spiritual director.

19 Q. And how long was Monsignor Jones your spiritual
20 director?

21 A. I would say pretty much up to his death in the
22 nineties.

23 Q. Generally speaking, who can serve as a

1 spiritual director? Do they require some additional
2 training just to have this role?

3 A. Some have taken courses about providing
4 spiritual direction and they make it known that they
5 have that background. But to have someone as a
6 spiritual director is up to the option of the individual
7 priest. And he can go to anyone else, and it doesn't
8 have to be a priest. It could be any religious or
9 layperson who has background in formation and giving
10 spiritual direction.

11 Q. Prior to 2004 did you become aware of any
12 allegations of sexual abuse or sexual misconduct against
13 you?

14 A. No.

15 Q. Prior to 2004 did any parent or parishioner
16 confront you about sexual abuse or sexual misconduct
17 involving a minor?

18 A. Absolutely not.

19 Q. I believe you testified at some point over the
20 last two days, it has been a bit of a marathon, that you
21 lived in the rectory of the Cathedral of the Immaculate
22 Conception from 1963 to 1965; is that right?

23 A. '64 to '65. I was ordained in '63, but I was

1 in Rome. I didn't return to the United States until
2 '64. And I was at the Cathedral from '64 to '65.

3 Q. And in 1965 did you go to American University
4 for a period of time?

5 A. Catholic University of American. Yes, I did.

6 Q. My mistake. While you were living in the
7 rectory of the Cathedral of the Immaculate Conception
8 did you ever bring minors to your private living
9 quarters?

10 A. No.

11 Q. Did you ever share a bed with a minor?

12 A. No.

13 Q. Did you ever take overnight trips with a minor
14 during that period of time?

15 A. Not to my recollection. I did take some people
16 from the South End to ballgames, and so forth, but to my
17 best recollection they came home and they went to their
18 own home the same day.

19 Q. After you came home from Washington, D.C. --
20 excuse me. Back to the diocese from Washington, D.C.,
21 from approximately 1966 to 1967 you resided at
22 St. John's on Ferry Street; is that right?

23 A. Correct.

1 Q. And thereafter you became bishop. And did you
2 relocate back to the Cathedral?

3 A. No. At that time the chancery was at 465 State
4 Street and that's where the bishop's office was. So I
5 resided at the chancery from '77 to the early nineties,
6 I think '91 or '92. And then we -- well, we still
7 resided at the chancery even though we moved our offices
8 to the pastoral center.

9 Q. From 1966 to 1977 did you ever bring a minor to
10 your private living quarters at St. John's?

11 A. No.

12 Q. Did you ever share a bed with a minor?

13 A. No.

14 Q. During that period of time did you ever take
15 any overnight trips with minors other than to baseball
16 games that you referenced a few minutes ago?

17 A. Absolutely no.

18 MR. O'CONNOR: Jason?

19 MR. SANDLER: Yes.

20 MR. O'CONNOR: The first hour is almost
21 here. I'll let you decide when you want to
22 break. I won't interrupt your flow here, but
23 within the next five minutes or so?

1 MR. SANDLER: Yes. I'm almost done, I
2 think. My time is coming toward its end,
3 anyway, so I'll finish up and we can take a
4 break.

5 MR. O'CONNOR: Sure.

6 MR. SANDLER: Thank you.

7 Q. Bishop, you were asked yesterday about a Father
8 Romano. Do you recall discussing Father Romano
9 yesterday?

10 A. Yes.

11 Q. I believe you mentioned that you and he were
12 counselors at a camp; is that right?

13 A. Yes, we were.

14 Q. And what camp was that?

15 A. Camp Tekakwitha in Lake Luzerne.

16 Q. I'm sorry. Forgive me. I'm not familiar as
17 familiar with the Albany area as --

18 A. Right. Camp Tekakwitha on Lake Luzerne.

19 MR. O'CONNOR: Bishop, back up a little
20 bit. That's probably a little better.

21 THE WITNESS: I thought he was having a
22 problem hearing me.

23 Q. No, no. I'm not having problems hearing you.

1 I'm having problems figuring out the name of the camp,
2 but I got it. Thank you, Bishop. When were you and
3 Father Romano counselors at the camp?

4 A. Well, I was there from '56 to '60. I'm not
5 sure that he was there my first year. So certainly from
6 '57 to '60 he was. He might have been there the first
7 year. I can't say that with certitude.

8 Q. And '56 to '60 you were a seminarian; is that
9 right?

10 A. Yes.

11 Q. Was that fairly normal for people, seminarians
12 such as yourself and Father Romano, to serve as
13 counselors at these types of camps?

14 A. It was a diocesan camp and it was mandatory.

15 Q. Okay. So all seminarians -- let me ask you
16 this.

17 A. We had two camps, and you had to serve either
18 at Tekakwitha or Camp Scully. And Camp Scully was
19 located outside of Albany, in Rensselaer County.

20 Q. While you were at the camp or a counselor at
21 camp with Father Romano did you and he share living
22 quarters?

23 A. No. If you were a regular counselor, each

1 counselor shared a cabin with eight to ten other
2 campers.

3 Q. Of the same sex?

4 A. The same sex. It was a male program. There
5 was a female program, Marian Lodge, but that was staffed
6 by another group of people, not seminarians.

7 Q. How many years did you say -- you were a
8 counselor at this camp from '56 to '60; is that right,
9 so about four years?

10 A. Let me check that. '57 to '60. '56 is the
11 year I entered the seminary, but it was the end of the
12 first year that I became a counselor. '56 to '60.

13 Q. And is it your testimony for at least two of
14 those years you and Father Romano were there together at
15 the same time?

16 A. Along with 20 or 25 other counselors, yes.

17 Q. Did you ever see Father Romano while at this
18 camp engage in any inappropriate touching or other
19 misconduct with the campers?

20 A. No.

21 Q. To the best of your knowledge, while Father
22 Romano was at this camp with you in the late fifties did
23 anyone allege any inappropriate conduct by Father

1 Romano?

2 A. Not that I'm aware of.

3 Q. Does the diocese own this camp or is it just a
4 program -- or does the diocese just operate the program
5 at this camp, or something else?

6 MR. COSTELLO: Objection to form.

7 A. At the time the diocese owned the camp, but it
8 subsequently has been sold. And I think it's a music
9 camp now.

10 Q. To the best of your knowledge, does the diocese
11 still maintain records from this camp?

12 A. I'm not aware.

13 Q. Bishop, we talked about psychological
14 evaluations and the evaluations that you had at St.
15 Joseph's. Other than that evaluation and your meetings
16 with your spiritual director, Monsignor Jones, in the
17 nineties did you ever for any reason have to undergo any
18 psychological or mental health treatment?

19 A. No.

20 MR. SANDLER: Bear with me just a second,
21 Bishop. I'm just going to review my notes.

22 (Mr. Sandler reviews his notes.)

23 MR. SANDLER: All right. I don't have any

1 more questions. Thank you for your time,
2 Bishop. And I believe that we're going to take
3 a quick break; is that right, Terry?

4 MR. O'CONNOR: Yes. Thank you, Jason. So
5 what time is it, David?

6 MR. SHERECK: It's 10:41. We're going off
7 the record.

8 (A recess was taken in the proceedings.)

9 (The proceedings were reconvened as
10 follows:)

11 MR. SHERECK: We're back on the record,
12 10:53. Go ahead.

13 EXAMINATION BY MR. SMALLINE:

14 Q. Bishop, my name is Martin Smalline. As you
15 know, I represent the plaintiff [REDACTED] who has
16 direct allegations against you as well as Father Melfe
17 and Father DelVecchiho. I also represent several
18 plaintiffs. They have allegations against Father Miller
19 and once again against Father Melfe.

20 I'm going to be asking you some questions.
21 I have a series of exhibits. I may not be using all the
22 ones I submitted because some of them were covered, but
23 I'll try to keep it moving along and give you notice of

1 what we're going to be looking at.

2 The first exhibit that I'm going to
3 address is Exhibit P-365. And I don't know if the
4 reporter wants to put that on the screen. There we go.
5 And I'm going to call your attention to the
6 second-to-last page. So that would be -- if you could
7 go to the end and then just move back. Yes. Okay.

8 And this is an article that was published
9 in the Albany Times Union on October 6th of 2019. And I
10 believe you were interviewed as well as the plaintiff,
11 [REDACTED], regarding the circumstances of her
12 allegations. Bishop, do you recall speaking to a
13 reporter regarding this article?

14 A. I do.

15 Q. And I'm going to call your attention to the
16 column furthest to the right. And it's under the
17 heading "It Was Not Me." And I'm going to read a
18 portion of a column, where it says, "'I'm not accusing
19 her of lying,' he said. 'Maybe she was misremembering
20 or there was a misidentification. I do not know the
21 woman. I assume she may have been victimized. It was
22 not me.'" And that's taken as a quote from you. Do
23 you recall making that statement to a reporter?

1 A. I don't recall it, but it sounds like something
2 I would say. So yes, I assume it's my statement.

3 Q. Okay. So would it be fair to say that you
4 believe that [REDACTED] was, in fact, abused but you
5 feel it's a case of misidentification?

6 MR. O'CONNOR: Object to the form, but you
7 can answer.

8 A. I don't know the woman. I have no reason to
9 believe that she is prevaricating about being abused.
10 Why she thinks it is I who abused her I absolutely don't
11 understand because I am absolutely sure that I never
12 abused her.

13 Q. Okay. Now, do you remember being at her
14 testimony on April 9?

15 A. Yes.

16 Q. And do you remember your attorney, Terence
17 O'Connor, asking her questions about a priest or an
18 individual named Howard Manny or Howard Manning? Do you
19 recall that?

20 A. I do.

21 Q. And do you know who Howard Manning is or Howard
22 Manny?

23 A. He's deceased, but he was a pastor of

1 St. Luke's parish in Schenectady.

2 Q. As you sit here today would you have any reason
3 to believe that he may be the person that had abused
4 ?

5 A. No, I have no reason to believe that. The
6 context, I understand, is that her testimony was that
7 Father Melfe referred to the guest who was coming as
8 Howard. And the only point was there's other Howards in
9 the City of Schenectady and there were two other Howards
10 in the diocese at the time. So it just raised the
11 issue, did she see the person who was called Howard and
12 it could have been -- there were three other people that
13 were called Howard.

14 Q. Now, you heard her testify that she actually
15 had seen you and seen your face. Do you recall that?

16 A. I recall her testifying to that, yes. And she
17 knew me from the diocesan newspaper, The Evangelist.

18 Q. In fact, she testified that she saw your
19 picture on the cover when you were the bishop to be;
20 isn't that the case?

21 A. If you say so. I know that she said it was
22 from The Evangelist. I don't know what edition or when.

23 Q. Can you describe to me what you recall your

1 height in 1977, when I believe you were approximately 39
2 or 40 years old?

3 A. Yes. I was at that time 5' 11 and 1/2".

4 Q. And can you tell us your hair color at that
5 time?

6 A. Well, Mr. Grondahl said it was pewter gray. Or
7 not pewter gray, just pewter hair. I think it was a
8 little lighter at that point in time. I would say it
9 was dark red.

10 Q. And your approximate weight at that time, if
11 you remember?

12 A. I would say it was between 160 and 170.

13 Q. And can you tell me how old Howard Manning was
14 at that time?

15 A. Well, he was probably at least 20 years older
16 than myself.

17 Q. Okay. And can you describe his appearance?
18 Did he weigh more than you?

19 A. Yes.

20 Q. And you seem to say that quite readily. Was he
21 a heavy man?

22 A. I wouldn't call him a fat man, but he was well
23 built.

1 Q. Did he have a full head of hair at that time?

2 A. Yes. As I recall, he had a full head of white
3 hair.

4 Q. Do you have any reason to think that [REDACTED]
5 [REDACTED] who testified that she had [REDACTED] Father Melfe
6 or, rather, [REDACTED] [REDACTED]
7 [REDACTED] that she had misidentified him, as well?

8 A. I certainly would not think so.

9 MR. O'CONNOR: Note my objection to the
10 form.

11 Q. And with regard to Father DelVecchiho, who she
12 said she [REDACTED] [REDACTED] do you
13 have any reason to believe that she misidentified Father
14 DelVecchiho?

15 A. I have no reason.

16 Q. Now, I do want to cover a couple things that
17 were addressed by Mr. Anderson two days ago. And this
18 has to do with the concept of mental reservation. And
19 you testified that you knew what that term referred to
20 or that you had heard of that before; is that correct?

21 A. That's correct.

22 Q. Now, I want to make sure that both you and I
23 have the same understanding of what that concept is, so

1 I'm going to tell you what I think that that concept is
2 and then you tell me whether you agree with that or, if
3 you don't, correct me. And my concept of that is that
4 an individual can tell an untruth or omit telling the
5 full truth if it's to serve a greater good. Would that
6 be your assessment of that term, as well, or would yours
7 differ?

8 A. Well, I would have it along those lines. If
9 someone would not disclose information because they
10 thought it was for the greater good, something like
11 that.

12 Q. Okay. And you testified two days ago when
13 Mr. Anderson was questioning you that at a point in time
14 accusations, credible accusations, were raised against
15 Father Stone and at that time you had him removed from
16 his ministry to go for treatment; is that correct?

17 A. That is my recollection, yes.

18 Q. And you also testified that when you had him
19 return to the same parish after treatment you withheld
20 the information to the parish that he had been gone for
21 reasons of pedophilia; is that correct, as well?

22 MR. COSTELLO: Object to the form. You
23 may answer.

1 A. Could you repeat the question? I'm sorry.

2 Q. Sure. I believe you testified that when Stone
3 was sent back to his parish you didn't tell the
4 parishioners the reason for his absence was treatment
5 for pedophilia; isn't that correct?

6 MR. COSTELLO: Objection.

7 A. That's correct.

8 Q. Would you consider that to be an exercise of
9 mental reservation?

10 A. Not necessarily. I would say when you're using
11 mental reservation it's usually in some formal setting
12 like this and you are not telling the whole truth
13 because you feel that's for the greater good. I don't
14 think I would -- I think it was a conscious decision on
15 my part not to inform the congregation. I don't think
16 it was mental reservation.

17 Q. And I believe you testified that was because
18 the congregation wouldn't have accepted him back if they
19 had known that he was accused of child sexual abuse;
20 isn't that correct?

21 A. That would be part of the calculation. Also,
22 his privacy rights.

23 Q. Do you feel that the privacy rights should be

1 upheld of a pedophile when he's going back to address a
2 community that includes children?

3 MR. COSTELLO: Object to the form.

4 A. I did at the time because those with whom I
5 consulted felt it was safe to put him back in ministry.

6 Q. I'm going to move on to Exhibit 368. Before I
7 address the exhibit, Bishop, did you ever become aware
8 of a situation of a youth back in the 1980s who had

9 [REDACTED]
10 [REDACTED] ? His name was [REDACTED].

11 A. I have no recollection of that.

12 Q. Have you been made aware of that at any time
13 during the course of this litigation?

14 A. Only in terms of the exhibit that you
15 presented.

16 Q. Did you review this exhibit?

17 A. I did.

18 Q. Well, I'm going to represent to you that a
19 nonparty witness named [REDACTED] testified in a
20 case against Father Miller and she indicated that she
21 had spoken to you directly on the phone and advised you
22 that [REDACTED] told her, as his aunt, that he had
23 been abused by Father Miller. Do you recall reviewing

1 that portion of the transcript?

2 A. I do.

3 Q. She also indicates that -- well, let's read --
4 I'm going to take you to page 13. And there's a mark
5 that I put in there for ease. And if you could move the
6 page up I'm going to read this into the record. I'm
7 sorry. Down, rather. That's fine.

8 In response to the question about the
9 phone call [REDACTED] stated, "And so I called the
10 bishop's office and I asked if I could speak with Bishop
11 Hubbard and whoever answered told me yes, I could, and a
12 man came to the phone and he identified himself as
13 Bishop Hubbard. I had never met Bishop Hubbard. I had
14 never seen Bishop Hubbard. But I'm making the
15 assumption that the man who identified himself as Bishop
16 Hubbard was Bishop Hubbard. And I asked him if he --
17 well, I basically told him what had happened to my
18 nephew and what [REDACTED] had said and I asked him if he
19 knew of this situation and what and he said yes. He was
20 aware of it. Something, you know, that's not word for
21 word. And I asked him how it was going to be handled
22 because at that time I really was not thinking of
23 prison, that kind of thing. I wasn't thinking in terms

1 of that. I was thinking of the church handling
2 everything. And he told me yes, he was aware of it and
3 aware of the situation. And this is the part I
4 absolutely will never forget. He said Father Gerry is
5 being sent to New Mexico where they have more respect
6 for priests. And that basically ended the
7 conversation."

8 Now, Bishop, I understand you reviewed
9 this ahead of time. My question for you, first, is
10 whether you have any recollection at all of having a
11 conversation with a [REDACTED] ?

12 A. No, I have no recollection of that.

13 Q. Now, this took place, according to her, shortly
14 after [REDACTED] in the 1980s. And my
15 question to you is: In the 1980s you had really never
16 made public your familiarity with the Order of the
17 Paraclete in New Mexico, had you?

18 MR. COSTELLO: Object to the form.

19 A. I never made public -- I'm sorry. I didn't get
20 the end of that.

21 Q. The fact that certain priests were referred to
22 the treatment center of the Paraclete in New Mexico.

23 A. I don't think I had a public statement about

1 it. If somebody were to ask me, do we have treatment
2 facilities where priests can go for assistance, I
3 wouldn't deny that. But I don't think I proactively
4 talked about this.

5 Q. Well, it seems unlikely that [REDACTED]
6 would have known of priests being sent to New Mexico if
7 you hadn't actually spoke to her; isn't that correct?

8 MR. O'CONNOR: Object to the form.

9 A. I have no idea, but I have no recollection of
10 meeting with this woman. Furthermore, I would not have
11 any authority over Father Miller to go to New Mexico,
12 either to the Jamez Springs facility or to the state for
13 whatever reason. He was not a priest to the Diocese of
14 Albany.

15 Q. Well, if he had contact with the LaSalette
16 provincial you could make recommendations to the
17 provincial that he could transfer or send the person for
18 treatment, could you not?

19 MR. O'CONNOR: Objection to form.

20 A. I could, but I have no recollection of ever
21 having such a conversation with the provincial.

22 MR. SMALLINE: If you could take that
23 exhibit down, please. Just give me a second so

1 we can find where we're going to move on to.
2 I'm going to move on to Exhibit 272.

3 MS. SILVER: Sorry. I just need a second
4 to find that. It's not in your folder right
5 now.

6 MR. SMALLINE: Sure.

7 MS. LaFAVE: Can we go off the record for
8 a second? I just want to tell the attorneys
9 from Albany some news that we just got.

10 MR. SHERECK: Going off the record at
11 11:11.

12 (There was a discussion off the record.)

13 MR. SHERECK: Going back on at 11:12.

14 MR. SMALLINE: And if you could scroll
15 down. Thank you.

16 Q. Bishop Hubbard, were you aware that in the case
17 of [REDACTED] and [REDACTED] versus Roman
18 Catholic Diocese and Father Gerald Miller that there was
19 an affirmative defense interposed by you, and it was the
20 seventh affirmative defense in the answer, which
21 indicated that you owed no legal duty to the plaintiffs.
22 Were you aware of that?

23 A. Could you please point me to where that's to be

1 read?

2 Q. Well, in paragraph 1 it refers to an
3 affirmative defense in your answer. And it says "owes
4 no legal duty to the plaintiffs." That was actually the
5 affirmative defense. But let me make it easier.

6 I demanded a bill of particulars because I
7 didn't think that that was sufficiently pled. And in
8 response to that demand for bill of particulars your
9 response was, and I read this quote from it in the
10 record, "The Defendant Bishop Hubbard never undertook a
11 duty to supervise or control the many and various
12 entities and individuals involved in the events at
13 issue, including but not limited to the LaSallettes."
14 Do you recall verifying a bill of particulars that
15 stated that?

16 MR. O'CONNOR: Object to the form.

17 A. I was aware that they filed a bill of
18 particulars, yes.

19 Q. Now, I call your attention to page 27. It's
20 marked as page 27 but it's just a few pages down. Keep
21 going. There we go. You can go to the top of that,
22 first off. And this appears to be a memorandum from you
23 to the file regarding Gerald Miller on May 1st of 1987.

1 And in that correspondence you indicate that [REDACTED]
2 [REDACTED] had called you regarding concerns with Father
3 Miller; is that correct?

4 A. Yes. That's correct.

5 Q. And as a result of that correspondence you
6 actually had Father Pratt arrange with Father Miller for
7 a meeting the following morning and there were other
8 participants from the Roman Catholic Diocese, but there
9 were no other participants from the LaSallettes other
10 than Father Miller; is that correct?

11 A. That's what the memo says.

12 Q. And you determined that as a result of the
13 allegations of child sexual abuse against Father Miller
14 that you were going to give him certain directions. Can
15 you tell us by reviewing this memo what your directions
16 were with regard to a youth event that was coming up?
17 You had certain restrictions for him. Can you tell me
18 what those were?

19 MR. O'CONNOR: Object to the form.

20 A. Tell me what paragraph and which page you're
21 referring to.

22 Q. Sure. So this would be the last page, which is
23 marked as 29.

1 A. Okay.

2 Q. And it would be one, two, three -- the fourth
3 paragraph. And to make it easier I'll read that into
4 the record and then ask you a few questions.

5 In your memo to the file it indicates, "I
6 inquired of Father Miller of any other activities with
7 the youth scheduled for his facility in the immediate
8 future. There is a teen seminar scheduled to begin this
9 evening through Sunday. Five or six other adults will
10 be present and supervising this activity. It was
11 determined that the seminar could be conducted with the
12 proviso that other adults be responsible for supervision
13 and Father Miller's sole role would be to present the
14 teaching program and celebrate the liturgy?"

15 Do you recall, does that refresh your
16 recollection as to the directions you gave with respect
17 to Father Miller's activity at the youth event?

18 MR. O'CONNOR: Object to the form.

19 A. I think that's probably what we did.

20 Q. And when you say "what we did," that would be
21 you and the other representatives of the Roman Catholic
22 Diocese, along with Father Miller, at the meeting?

23 A. That is correct.

1 Q. And there were no other people from the
2 LaSallettes attending at that time; correct?

3 A. There were none, but if you go back to the
4 first page of the memo, page 27, fourth or fifth
5 paragraph down, it reads upon receipt of this
6 information I contacted Father John O'Neill, the
7 provincial at the LaSalette Fathers, and I informed him
8 of the data that had come to my attention. It was
9 agreed that I should meet with Father Miller. That was
10 at the provincial's request.

11 Q. But those directions were your recommendations?

12 A. They were my recommendations, but they were not
13 done without consultation with the LaSalette superior.

14 Q. Right, but there is also a letter from the
15 provincial superior that follows that that says that, in
16 fact, they agree with all of your directions; isn't that
17 correct?

18 MR. O'CONNOR: Object to the form.

19 A. Because we were in dialogue with one another
20 and I was following through on what I consider to be his
21 direction from me to handle this matter of immediate
22 importance affecting victims immediately.

23 Q. Right, but based upon what you just told me

1 wouldn't it be safe to say that your bill of
2 particulars, where it says, "The Defendant Bishop
3 Hubbard never undertook a duty to supervise or control
4 the many and various entities and individuals involved
5 in the events at issue, including but not limited to the
6 LaSallettes," that's false; isn't that correct? I mean,
7 you did direct him?

8 MR. O'CONNOR: Object to the form.

9 A. No. He directed me.

10 Q. He directed you to direct him, wouldn't that be
11 a more fair assessment?

12 MR. O'CONNOR: Object to the form.

13 A. We discussed the nature of the allegations that
14 had been made and responsibilities we had to make sure
15 there were no victims. And he knew that I was going to
16 meet with him, a representative from my staff, Father
17 Farano, and that after hearing what he had to say we
18 would take the appropriate steps to protect children.

19 Q. So the provincial superior essentially directed
20 you or recommended or directed you to meet with Father
21 Miller, at which time you made certain directions to him
22 regarding the youth event; isn't that correct?

23 MR. O'CONNOR: I object to the form.

1 A. That's right, because I was on the scene. We
2 were in a crisis situation and I was the one who was
3 best able to handle it in the midst of that crisis.

4 Q. Let's move on.

5 MR. SMALLINE: You can take that one down.

6 Thank you.

7 Q. I call your attention to Exhibit 352. And this
8 appears to be a letter to Bishop Scully from
9 ██████████. This is dated December 5th of 1958. And
10 I call your attention to the bottom of the page. I'll
11 read that into the record for ease.

12 The writer indicates to Bishop Scully,
13 "Francis Melfe is not a priest, or will he ever be one.
14 He's a disgrace to the priesthood and to all the
15 Catholics more so in the Albany Diocese because he's
16 under your command. You let him continue or to do as he
17 is in every day and which he is not worthy of."

18 And scroll down to the next page, please.
19 "It has affected us so that being under a doctor's care
20 because of the mental condition more than one can bear
21 because of a stupid and no good such as he is."

22 My question to you, Bishop, do you have a
23 general understanding of what ██████████ allegations

1 were to the bishop back in the late 1950s?

2 MR. COSTELLO: Objection.

3 A. I do now, having read this letter.

4 Q. And what's your understanding of the
5 allegations?

6 A. My understanding is that the man is alleging
7 that Father Melfe [REDACTED]

8 [REDACTED] And I think
9 it may be indicated here that [REDACTED]

10 [REDACTED] I'm not sure if this is in this letter or
11 another.

12 Q. Right. Yes. You are correct, from my review.
13 He apparently [REDACTED]

14 [REDACTED] [REDACTED], who was
15 obviously enraged. Is there a process that you know of
16 that goes back to the 1950s where a priest should have
17 been disciplined, first of all, for his breach of the
18 vow of celibacy, [REDACTED]
19 [REDACTED]?

20 MR. O'CONNOR: You want him to comment on
21 the policy in the fifties?

22 Q. If you know. Was there a process by which he
23 should have been given some sort of counseling or

1 punishment or any sort of reaction from the bishop?

2 A. I don't know if there was a policy. There's
3 canon law that would address an issue like this. At the
4 time I was a second-year college student, so I don't
5 know what the policies of the diocese were at that time.

6 Q. I want to call your attention to Exhibit 353.
7 I'll read into the record once again a portion of the
8 letter from [REDACTED]. "How can you let Melfe say
9 mass and have the rights of a priest is way beyond
10 reason. He is a disgrace to the profession and religion
11 and you let him stay in that capacity."

12 As you sit here today do you recall
13 whether there was any method when you first were
14 ordained as bishop in 1977 to review files of the
15 priests that have been in practice for prior to you
16 coming in as bishop to see whether or not they could
17 possibly be a threat to society or the parish?

18 A. The bishop of the diocese when I was appointed
19 as the ordinary had the right to assess any of the
20 sealed files. And I only assessed those files when an
21 accusation was raised against the clergy to see if
22 there's anything in his background that would lend
23 further credence to a present allegation before me.

1 Q. If you became aware that a priest under you
2 when you first became bishop had [REDACTED] but
3 that no action had been taken, would you feel that it
4 was incumbent upon you, even if it was years later, to
5 take some sort of action to inquire to see whether this
6 priest is operating reasonably?

7 MR. SMALLINE: Somebody's speaker is on.
8 Somebody is talking about a videotape or
9 something.

10 MS. LaFAVE: Matt Kelly, you need to turn
11 your speaker off. We can all hear you.

12 Q. Did you hear the last question, Bishop?

13 MS. LaFAVE: Matt. Jim Kelly. You need
14 to turn the speaker off.

15 (There was a discussion off the record.)

16 MR. O'CONNOR: Can you have Dave reread
17 that question?

18 (The reporter read back the previous
19 question.)

20 MR. SMALLINE: Why don't you strike that
21 question? I think it was a little rambling. I
22 want to make it a little bit shorter.

23 Q. Bishop, having come into the position of bishop

1 in 1977, had you learned that Father Melfe had [REDACTED]
2 [REDACTED] would you find that it would
3 be encumbent upon you to take some action to see if he's
4 operating reasonably?

5 MR. O'CONNOR: Object to the form, but you
6 can answer.

7 MR. COSTELLO: Objection to form.

8 A. If I was aware of that I would most likely meet
9 with Father Melfe, find out if there was truth to the
10 fact that [REDACTED], and then what
11 [REDACTED]. And I would
12 also want to address his fidelity to celibacy. And I
13 was most concerned about the victim in this case,
14 [REDACTED] or future victims he
15 would have, and I would have probably referred him to a
16 treatment facility.

17 Q. Well, I'm assuming that this letter was readily
18 available in the file. Is there any reason why ten
19 years went by and no action had been taken against
20 Father Melfe to --

21 MR. SMALLINE: Yes. Terry's got a finger
22 up. What's up?

23 MR. O'CONNOR: You finish your question.

1 I'm going to object to it.

2 MR. SMALLINE: Strike that. Let's
3 rephrase.

4 Q. It seems as though that letter from
5 [REDACTED] and the other information on [REDACTED]
6 [REDACTED] was readily available. Why wasn't any action
7 taken?

8 MR. O'CONNOR: Object to the form.

9 A. Can I answer the question?

10 Q. Yes.

11 A. Well, there were three bishops before me who
12 may have known about this; who may not. Certainly,
13 Bishop Scully did because his letter shows that he did.
14 And Bishop McGinn was the apostolic administrator of the
15 diocese for three or four years. And then Bishop
16 Broderick was bishop of the diocese for seven or eight
17 years. So to think that I would have felt an incumbent
18 responsibility to go back and look at Father Melfe's
19 file when I didn't have any of this information, that
20 seems to me unreasonable.

21 Q. Unreasonable to go back and review it if the
22 other bishops didn't take action; is that a fair
23 statement?

1 MR. O'CONNOR: Objection to the question.

2 A. I didn't know there was no action taken and I
3 had no reason at that point in time to look into it.

4 Q. So it would be safe to say that there is no
5 review of files that were compiled prior to your coming
6 on as bishop?

7 A. I did not do a review except if something came
8 to me about a present situation, and I would then look
9 at the sealed file to see if there was any previous
10 indication that there were problems or issues that bore
11 upon the present situation.

12 Q. I call your attention to Exhibit 358. And this
13 is a bill of particulars from the plaintiffs [REDACTED]
14 [REDACTED], [REDACTED]. Actually, she is
15 withdrawn from the case, so strike that. [REDACTED] and
16 [REDACTED]. And I call your attention to page 11. If
17 you could scroll. One more. A little bit more. There
18 you go.

19 And in paragraph 13(a)(iv) the [REDACTED]
20 [REDACTED] if I can call them that, or the [REDACTED]
21 [REDACTED] state, "The defendant Albany Diocese through
22 Bishop Broderick and Bishop Hubbard failed to respond to
23 constructive notice when Father Melfe was absent from

1 the rectory at night and [REDACTED]

2 [REDACTED]."

3 Now, my first question is: Were you aware
4 that when you came in as bishop in 1977 that Father
5 Francis Melfe had taken up full-time residence in a home
6 on [REDACTED]?

7 A. No.

8 Q. Did you ever visit the rectory where he lived
9 within the first year of your being bishop at Immaculate
10 Conception?

11 A. If I did it was only for a confirmation, and
12 I'm not sure if I had one during my first year at
13 Immaculate Conception.

14 Q. Did you ever talk to Francis Melfe or any of
15 his co-residents at the rectory at Immaculate Conception
16 Church about their living conditions?

17 A. No.

18 Q. Would it surprise you if I told you today that
19 Francis Melfe had been running a bar in Schenectady from
20 1975 through 1977?

21 MR. COSTELLO: Object to the form.

22 A. Yes. I had no awareness of that.

23 MS. LaFAVE: Can the videographer mute

1 everybody but the people who are supposed to be
2 talking?

3 MR. SHERECK: Yes.

4 BY MR. SMALLINE:

5 Q. Did you have contact with Father Melfe on any
6 personal basis at all during your first three years as
7 bishop?

8 A. Yes, I did.

9 Q. And what was the basis of that personal
10 contact?

11 A. He came to see me to take a leave of absence
12 from priest and ministry.

13 Q. What was the reason for that?

14 A. He indicated that he was questioning whether he
15 wanted to remain a priest, that he had a strong desire
16 for family life, and that he would like a leave of
17 absence for discernment.

18 Q. When he said he had a strong desire for family
19 life, did he tell you he already had a family life?

20 A. Not that I recall.

21 Q. When did you first learn that he had [REDACTED]

22 [REDACTED] [REDACTED] ?

23 A. When it appeared on [REDACTED].

1 Q. And when was that?

2 A. I think it was in '83. I'm not sure of the
3 exact year. Not '83. Yes, '83, when he had left the
4 priesthood and was running for supervisor in the Town of
5 Guilderland.

6 Q. And that came out in the news during that
7 campaign, didn't it?

8 A. Yes.

9 Q. Did you have any discussions with him or had he
10 left the priesthood by that time?

11 A. He left the priesthood a number of years by
12 that time.

13 Q. I call your attention to a photograph. And
14 this is Exhibit P-364. If you could pull down that and
15 put this up. Do you recognize one or both of the
16 individuals in that photo?

17 A. I'm sad to say I recognize myself. I would
18 assume, that it's dealing with this case, that it's one
19 of the persons that are plaintiffs, but I don't know the
20 person so I can't say for sure who it is.

21 Q. And can you describe, if you know, what that
22 setting was? Was this a religious service?

23 A. Yes. It would be a confirmation service.

1 Q. And can you recognize where this picture was
2 photographed?

3 A. No, I can't. I assume it was in a church
4 someplace, but beyond that I couldn't tell you. If I
5 were to guess, based upon what we're dealing with, my
6 guess is Immaculate Conception.

7 Q. Now, [REDACTED] at her deposition testified
8 that when you had presided over this proceeding that you
9 had mentioned that [REDACTED]
10 [REDACTED]
11 [REDACTED] [REDACTED]
12 [REDACTED]

13 A. [REDACTED]

14 Q. [REDACTED]

15 A. [REDACTED]

16 Q. Is that an accurate depiction of your general
17 appearance at that time?

18 A. Well, I don't know if the camera could be
19 widened out. I don't have any specific recollection of
20 saying that to this candidate, but generally -- and I
21 don't know. If we had a wider picture I could tell.
22 Generally, the priests in the parish or the priest in
23 the parish sit on either side of me. And sometimes when

1 the candidate is coming forward they will whisper in my
2 ear something personal about the candidate that I can
3 say to that candidate. So it's conceivable that I said
4 that, but it's conceivable that the pastor or associate
5 pastor whispered to me, [REDACTED]

6 [REDACTED] I don't know that that happened, but that
7 is not uncommon when I celebrate the sacrament of
8 confirmation.

9 Q. So it sounds like her rendition of that event
10 sounds possible?

11 A. It's possible, yes.

12 MR. O'CONNOR: Object to the form.

13 Q. I'm going to call your attention to page 373.
14 I'm sorry. Plaintiff's Exhibit 373. And this is going
15 back to the topic of Father Miller. And I think where
16 we left off, you had indicated that you felt that you
17 were directed by the provincial superior, John J.
18 O'Neill, to deal with Father Miller. And this appears
19 to be a letter of May 4, 1987, and this is from the
20 provincial superior to yourself.

21 And the first paragraph reads, "Thank you
22 very much for your phone calls. I appreciate your help
23 and support in this delicate matter. I have called

1 Gerry Miller and all the points that you indicate to him
2 have been carried out. He will be contacting Attorney
3 Costello and be most cooperative."

4 So my question to you, just to clarify, is
5 that the provincial superior asked that you give some
6 direction to Father Miller, which you did; correct?

7 MR. O'CONNOR: Object to the form.

8 A. In the immediate crisis, yes.

9 Q. When you say immediate crisis, are you trying
10 to say that you didn't have control over him prior to
11 the crisis?

12 MR. O'CONNOR: Object to the form.

13 A. Ordinarily, I would not be dealing with him if
14 there was not a serious matter that needed immediate
15 attention.

16 Q. Is it possible --

17 A. It would be something the provincial would be
18 dealing with. It seems to me this letter is saying it
19 gets back to the provincial and the provincial is now
20 taking control.

21 Q. Is it possible you should have taken
22 supervision over him before a crisis arose as the bishop
23 of the diocese?

1 A. I had no reason to --

2 MR. O'CONNOR: Object to the form.

3 A. -- take supervision over him. And I followed
4 protocol that exists between a provincial and a bishop.

5 Q. I call your attention to Exhibit P-375. And
6 this appears to be a letter from you to the provincial
7 superior approving of the transfer of Father Miller to
8 Marietta, Georgia; is that correct?

9 A. Yes. That's correct.

10 Q. Did you ever have any conversations with the
11 provincial superior as to whether he was going to advise
12 the parish and the officials of the parish in Marietta,
13 Georgia, of the allegations of child sexual abuse that
14 you dealt with up here?

15 MR. COSTELLO: Object to the form.

16 A. I just want to see the letter here. I'm sorry.
17 I'm missing. Where does it say he's being transferred
18 to Marietta, Georgia? Could you point it out to me?

19 Q. Actually, I stand corrected. It approves a
20 transfer. This one doesn't indicate Marietta, Georgia.
21 It reads in the second paragraph, you state, "Father
22 Miller's transfer is acceptable and I have spoken to
23 your assistant by telephone regarding the matter. It is

1 my understanding that if Father Miller needs to be in
2 Albany to participate in any hearings relative to the
3 allegations presently under consideration, he will be
4 available for that purpose."

5 So I'm going to represent to you that he
6 was transferred to Marietta, Georgia. Do you have any
7 reason to dispute that?

8 MR. O'CONNOR: Object to the form.

9 A. I cannot affirm or deny it. I don't know off
10 the top of my head.

11 Q. Do you have a recollection of him being
12 transferred?

13 A. I have a recollection of his leaving the
14 diocese. And you've got to put this letter into context
15 of my concern that he be available for any court
16 appearances that were necessary in Albany so that the
17 victims would be able to pursue the allegations they had
18 made and that justice be done here.

19 Q. That I understand. The question that was
20 posed, though, was whether you or the provincial
21 superior ever gave warning to the parish to which Father
22 Miller was sent indicating that he had credible
23 allegations of child sexual abuse raised against him

1 here in Albany?

2 MR. O'CONNOR: Object to the form.

3 A. Well, based upon this letter I cannot remember,
4 number 1, where he was sent and whether it was a
5 pastoral assignment. Now, it may have been, but based
6 on what I have before me, I don't have a recollection.

7 Secondly, I would think that the
8 responsibility to do that in another diocese would have
9 been the responsibility either of the provincial or the
10 bishop in the other diocese, who would have to give him
11 permission to function if he was placed in ministry in
12 that diocese.

13 Q. Right. So I think it's safe to say you don't
14 have any recollection of advising the incoming diocese?

15 A. I don't have any recollection. I can't say yes
16 or no because I have no recollection about that.

17 Q. Calling your attention to Exhibit 378. And it
18 appears that this is a letter from Michael Costello that
19 was sent to the diocese; is that correct?

20 MR. O'CONNOR: Letter to Michael Costello.

21 Q. I'm sorry. Letter to Michael Costello. It
22 appears that Michael Costello was copying you in on all
23 correspondence regarding his representation of Father

1 Miller; is that correct?

2 MR. O'CONNOR: Object to the form. All
3 correspondence or this correspondence, Marty?

4 MR. SMALLINE: Well, this correspondence,
5 for starters. There's an exhibit behind it.
6 Strike that question so that we can move on.

7 Q. Is it fair to say that you had referred Father
8 Miller to Attorney Michael Costello during that period
9 where the allegations were raised by [REDACTED] and
10 [REDACTED]?

11 MR. O'CONNOR: Object to the form.

12 A. It is fair to say that I told him that I felt
13 that he needed to get counsel, which I always do when a
14 priest has been accused. And I don't know if I directed
15 him specifically to Mr. Costello, but if he asked for a
16 name I probably would have suggested Mr. Costello.

17 Q. Now, this appears to be a letter from Social
18 Services to Michael Costello wherein the Department of
19 Social Services denied Mr. Costello's request for
20 expungement of Father Miller's file. And my question is
21 to you a narrow one. Could you have referred Father
22 Miller to Mr. Costello for the sole purpose of having
23 his file expunged at Social Services?

1 MR. O'CONNOR: Object to the form.

2 A. Absolutely not.

3 Q. And how do you know that?

4 A. Because I know that I never was involved in any
5 decision asking that any criminal offense be expunged.
6 There may be reason for it, but I was never involved in
7 making such a request. I assume this was between
8 attorney-client.

9 Q. Okay. However, this was in the diocese file.
10 So is it safe to say that you were being apprised of
11 that proceeding by Mr. Costello?

12 A. Obviously, I was.

13 MR. SMALLINE: If we can take a few minute
14 break, I should be close to finishing up. And
15 I want to make sure that everything we need to
16 cover is covered. Is five minutes acceptable?

17 MR. O'CONNOR: Why don't you finish up and
18 then we can take a break, Marty?

19 MR. SMALLINE: Okay.

20 Q. I call your attention to what has been marked
21 as Exhibit 379. And this is a response to plaintiff's
22 demand for verified bill of particulars. I call your
23 attention to page 5. And in response 3(b)(i) it's

1 stated, and this is your response, "Available knowledge
2 according to the applicable standards in the community
3 at the time was that the parents were in the best
4 position to assess and evaluate the possible impact of
5 police involvement on the child and whether or not law
6 enforcement involvement would be beneficial or
7 detrimental to the child."

8 So to summarize that, it appears that you
9 leave the decision as to whether to bring credible
10 allegations of child abuse to law enforcement up to the
11 parents; is that a fair statement?

12 MR. O'CONNOR: Object to the form.

13 MR. COSTELLO: Object to the form.

14 A. I think that was the advice that we had
15 received from professionals at the time, yes.

16 Q. So that would assume that you advise parents in
17 every case when allegations of child abuse were raised;
18 is that correct?

19 MR. COSTELLO: Objection.

20 A. It assumes that if parents were involved, then
21 they were in the best position to determine what would
22 be in the child's best interests.

23 Q. Well, let me give you an example. The

1 plaintiffs [REDACTED] and [REDACTED] were
2 [REDACTED] and they
3 weren't in the custody of their parents when their
4 allegations came up. I represent to you now that their
5 parents didn't find out about that until the advent of
6 the CVA until just a few years ago.

7 So in the instance of Gerald Miller, if it
8 wasn't for Social Services how would it be expected that
9 the parents could notify law enforcement if they didn't
10 know about it?

11 MR. O'CONNOR: Object to the form.

12 MR. COSTELLO: Object to the form of the
13 question.

14 A. Did Social Services have a responsibility to
15 inform the parents?

16 Q. Well, they did, but that's not the question. I
17 think I'll strike that. The question is, the parents
18 weren't directly involved. Should the parents have
19 known about that?

20 MR. O'CONNOR: Object to the form.

21 A. I would assume that Social Services would have
22 had a responsibility to bring that to their attention,
23 yes.

1 Q. Would you have any reason, if I told you that
2 they were never contacted directly by Social Services,
3 would you have a reason to dispute that?

4 MR. O'CONNOR: Object to the form.

5 A. No. I would have expected that they would
6 have, but I have no reason to dispute it.

7 Q. So if there was an instance that a child came
8 to you regarding allegations of child sexual abuse --

9 A. A child didn't come to me. I never --

10 Q. I'm talking hypothetical now.

11 A. Well, you say child. I assume you mean child.

12 Q. Well, let's make it clear. Say a child came to
13 you for the first time regarding allegations of child
14 sexual abuse against a priest in your diocese. Would
15 you advise the parents if it was credible?

16 MR. COSTELLO: Object to the form of the
17 question.

18 A. Would you repeat the question again, please?

19 Q. Yes. If a child came to you for the first time
20 with allegations, credible allegations, of child sexual
21 abuse, would you advise their parents?

22 A. Would I advise their parents what?

23 Q. That the child came to you with credible

1 allegations of child sexual abuse.

2 MR. COSTELLO: Object to the form of the
3 question. These are rhetorical, hypothetical.

4 MR. SMALLINE: It's a very straightforward
5 question.

6 Q. Would you advise a parent of an allegation of
7 credible sexual abuse by a priest in your diocese if the
8 parents didn't already know about it, if the child came
9 to you himself or herself?

10 A. I think I would have to know much more
11 circumstance before I could answer that question.

12 Q. Well, what would be the reasons to withhold it
13 from a parent, for instance?

14 MR. O'CONNOR: Object to the form.

15 A. Well, it might be determined that the child
16 didn't want the parents to know, that he had adequate
17 supervision someplace else, and he thought that his
18 parents would reject him if he brought this to their
19 attention. And so in those circumstances that he was
20 adamant he didn't want his parents to know and I was
21 confident that he was being carefully supervised by a
22 child protection agency, I don't think I would advise
23 him that he had to inform his parents.

1 Q. What if there was no child protection agency?

2 MR. COSTELLO: Objection.

3 MR. O'CONNOR: Same objection.

4 A. Well, there might have been another situation
5 in which he was being supervised, foster care or living
6 with another family member. So I can't answer that
7 until I know the circumstances surrounding it.

8 Q. Well, say the circumstances are that you feel
9 that you shouldn't tell the parents because they are in
10 with foster care, for instance. Would you then find it
11 encumbent upon yourself to notify law enforcement, since
12 there are no parents in that position to do so?

13 MR. O'CONNOR: Object to the form.

14 A. Well, I assume foster parents in this situation
15 would have the same responsibility to make that
16 determination as the parents do.

17 Q. Would you tell the foster parents, then?

18 MR. COSTELLO: Objection to the form.

19 MR. O'CONNOR: Object to the form.

20 A. I would tell them if you feel it's in your
21 child's best interests to bring this to law enforcement,
22 please do so.

23 Q. So you tell the foster parents about the

1 allegations that were brought to you by the child;
2 correct?

3 MR. O'CONNOR: Object to the form. He
4 didn't say that.

5 MS. LaFAVE: Marty, we're substantially
6 over the hour.

7 MR. SMALLINE: That's all I have, Bishop.
8 Thanks so much.

9 THE WITNESS: Thank you.

10 MR. O'CONNOR: So let's push back the
11 lunch break a little bit today, Cynthia, and
12 maybe take a ten-minute break now and then
13 we'll go to quarter to 1:00 or so or 1 o'clock?

14 MR. SHERECK: We'll go off the record at
15 11:59.

16 (There was a discussion off the record.)

17 (A recess was taken in the proceedings.)

18 (The proceedings were reconvened as
19 follows:)

20 MR. SHERECK: We're back on the record at
21 12:13. Go ahead.

22 EXAMINATION BY MR. BONINA:

23 Q. Good afternoon, sir. My name is John Bonina,

1 of the firm of Bonina and Bonina. We met briefly
2 yesterday, although I'm told I went over time. I'm
3 going to be asking you some further questions this
4 afternoon. How are you feeling today?

5 A. Okay. Thank you.

6 Q. And you're okay putting off the lunch break for
7 another 45 minutes at your counsel's suggestion?

8 A. Yes. I have an egg salad sandwich waiting.

9 Q. Okay. At my church that I'm a member of we've
10 had the same priest for 20 years without anybody moving
11 out of the parish. So I wanted to ask you, when you
12 were bishop what's the average or typical time for a
13 priest to have a particular assignment at a particular
14 parish?

15 A. There's no policy or no procedure or protocol
16 about that. Sometimes there's a greater need someplace
17 else and you move somebody. There's no term of office
18 at all for associates.

19 Q. Understood. And to be clear, I wasn't asking
20 you about a policy. I was asking what the average is.

21 A. I would say two, three years, usually.

22 Q. And my next question is, along those lines --
23 I apologize for going back. For a priest's first

1 assignment after they have been ordained, how long does
2 such a priest typically remain at a particular parish?

3 A. One or two years.

4 Q. Now, when you were bishop approximately how
5 many priests within the Diocese of Albany did you
6 oversee?

7 A. Well, it kept declining, as is happening in all
8 dioceses. It was probably close to 400 when I began.
9 That would include retirees and active. But now we have
10 more retirees than we do active, so I think it's under
11 200.

12 Q. Was that a steady decline from the time of 1997
13 to the time you stopped being bishop in 2014? Do I
14 understand that correctly?

15 A. Yes, you do, but it's parallel in most dioceses
16 throughout the country.

17 Q. And is that decline in the number of priests
18 something that was a matter of concern to you as bishop?

19 A. A matter of tremendous concern.

20 Q. And why is that?

21 A. Well, because only the priest can perform the
22 liturgy at mass and the sacraments. And we can get
23 other people to exercise other responsibilities that the

1 priest historically has exercised, but you can't replace
2 laypeople, mostly the deacons, for a priest when it
3 comes to the liturgy and sacraments.

4 Q. Did the reduction in number of priests and
5 decline in number of priests put a strain on the
6 diocese?

7 A. Yes.

8 Q. And how do you react to or respond to that
9 strain?

10 A. Well, in our diocese, for example, I've been
11 appointing what we call parish directors. They can be a
12 layman, a laywoman, a deacon, or woman or man religious.
13 And so that person would act as the day-to-day pastor in
14 the parish, and maybe a retired priest would offer the
15 liturgies on the weekend.

16 Q. You mentioned retired priests. Did you make an
17 effort to try and keep retired priests somewhat active?

18 A. Yes. First of all, most of the retired priests
19 desire to be active; and, secondly, we encourage them to
20 be active.

21 Q. And why do you encourage them to be active?

22 A. Well, first of all, this is what they've done
23 throughout their life. And what they would like to

1 retire from is the full-time responsibilities of being
2 responsible for a parish or an agency or a department
3 every day of their life, but they do enjoy the
4 opportunity to say mass in a congregational setting,
5 certainly on the weekends and often on a daily basis.

6 Q. Did the declining number of priests during the
7 time that you were bishop and the strain that you
8 already mentioned it placed, did that influence your
9 desire to retain and continue to utilize the services of
10 retired priests?

11 A. Not really. I think that even if we didn't
12 have the decline we would certainly want the retired
13 priests to have an opportunity to say mass with a
14 congregation.

15 Q. I didn't ask if it was the only factor. I just
16 asked if it was a factor.

17 A. Yes, I suppose it's a factor, but it's not a
18 driving factor.

19 Q. How many parishes and churches are there within
20 the Diocese of Albany?

21 A. 128 parishes.

22 Q. So would it be fair to say that around the time
23 you started being bishop there were, on average, two to

1 three priests per parish?

2 A. In the cities there would be two, anyway, and
3 some big city parishes have three. In the country it
4 was pretty much one.

5 Q. And as the time wore on there were, just by
6 straight math, fewer priests per parish; correct?

7 A. That's correct.

8 Q. And did the decline in number of priests and
9 the strain you said it put on the diocese influence you
10 retaining priests who were not retired but may have had
11 other psychological issues?

12 A. No.

13 Q. You mentioned there were approximately 400 at
14 the start and approximately 200 when you finished.
15 Overall during your 37-year tenure as bishop,
16 approximately how many priests did you supervise?

17 A. Approximately how many priests did I supervise?
18 I really couldn't give you that off the top of my head.

19 Q. In other words, you started with 400, some left
20 but some new ones came in. Approximately how many new
21 ones came in during your tenure as bishop?

22 A. I would say we were averaging about three
23 priests per year times 37 years.

1 Q. So maybe 500?

2 A. No. That's about 100, isn't it?

3 Q. No, no, no. 400 at the start plus the 100 new
4 priests that came in after.

5 A. Yes, but then a lot of the 400 to start
6 included retired priests, and they have now deceased.

7 Q. I'm not saying there were 500 total at any
8 given time. I'm just looking for a total number that
9 you were charged with the responsibility of supervising
10 during the totality of the time that you were bishop.

11 A. Well, I would say maybe 6- or 700. It's a
12 ballpark figure.

13 Q. How many of those 6- or 700 priests spent one
14 year or less at a given parish?

15 A. I really don't know. I --

16 Q. Was it -- I'm sorry. I'll let you finish.

17 A. I have to check the files. I just couldn't
18 give you a ballpark figure on that.

19 Q. Was it more than 50 percent, less than 50
20 percent, that spent a year or less at a particular
21 parish?

22 MR. O'CONNOR: Object to the form.

23 A. I would say probably more than 50 percent.

1 Q. How many of them spent as few as six months or
2 less at a particular parish?

3 A. Very few.

4 Q. And what would be the reasons for a priest
5 leaving a parish in as short as four to six months?

6 MR. COSTELLO: Object to the form.

7 A. Well, it could be that they were, especially
8 since they were ordained, there might have been a third
9 priest in the parish and an opening came up and nobody
10 was going to be there to serve as associate. And they
11 might have asked one of the three priests, the youngest
12 of the three priests at one parish to take a vacant
13 parish site at another parish. That is not unusual.

14 Q. Were priests ever moved from parish to parish
15 when there were allegations of child sexual abuse within
16 the parish?

17 MR. COSTELLO: Objection.

18 A. Well, as we've testified before, if a priest
19 was accused of sexual abuse and we determined that the
20 allegation was credible, then we would send the priest
21 for treatment and then determine upon what the
22 recommendations of the treatment facility are. He would
23 either return or not return.

1 Q. When talking with other bishops at the various
2 conferences you've attended over the years or from any
3 other source, have you ever heard of a practice in which
4 priests were moved from parish to parish because there
5 had been allegations of child sexual abuse within their
6 parish?

7 MR. COSTELLO: Object to the form. You
8 may answer.

9 A. Well, there would be, given the circumstance I
10 just described. If a person was accused of abuse, it
11 was deemed credible and they were sent away for
12 treatment, they would be sent back to another parish.
13 If it reoccurred they would be removed from ministry.

14 Q. Now, I may have left something out a few
15 minutes ago and if I did I apologize. So I want to go
16 back to it. I had asked you the number of priests of
17 the 6- or 700 that you supervised who had an assignment
18 to a parish of six months or less. And I think you said
19 it was a very small number. Did I hear you correctly?

20 A. I think that would be correct.

21 Q. Approximately, if you can give us a best
22 estimate, either approximately how many priests or what
23 percentage of the priests you supervised were moved out

1 of a parish after spending six months or less there?

2 MR. COSTELLO: Object to the form. You
3 may answer.

4 A. I don't know. It would be low. It would be
5 under 5 percent.

6 Q. So that would be very unusual; correct?

7 MR. COSTELLO: Objection.

8 A. It all depends upon the circumstance.

9 Q. Okay. So let me ask you a question. If a
10 priest hypothetically was at a parish for a year, a
11 parish for a year, assigned to a school where they were
12 fired after a year, and then spent four months at their
13 next parish, is that something that the reasons for that
14 should be documented?

15 A. I can't answer that hypothetically. I would
16 have to have the reasons.

17 Q. You would have to have what?

18 A. I would have to know the reasons why those
19 moves were made.

20 Q. And I guess that's my question for you. If
21 those moves were made at the time in your capacity as
22 bishop, would you want to know the reasons for the
23 moves?

1 A. Yes, I would want to know the reasons for the
2 moves.

3 Q. And would you either conduct an inquiry or
4 direct someone to conduct an inquiry as to those moves?

5 A. I knew the reasons for the moves. I'm the one
6 that moves them, so I would know.

7 Q. All right. The reasons for moves such as that
8 that were described in that question a few moments ago,
9 is that something which should be documented in a
10 priest's file?

11 MR. COSTELLO: Objection as to form.

12 A. Well, for example, if the priest was moved as a
13 third priest in the parish to cover for a parish where
14 they needed an associate, there's no need to document
15 that.

16 Q. What if the priest had already been fired from
17 a school, left the parish after four months, and then
18 requested and was granted a leave of absence?

19 A. Well, you would have to know the reasons for
20 that, yes.

21 Q. You would want to know the reasons for that,
22 wouldn't you?

23 A. Well, I would know the reasons for that.

1 Q. And would you agree or disagree that it would
2 be important to document the reasons under those
3 circumstances?

4 MR. COSTELLO: Objection.

5 A. Again, if it was just an ordinary move because
6 there was a vacancy and we needed somebody to move from
7 one place to another, no, not in every case. It would
8 depend upon the circumstances.

9 Q. Of the 6- or 700 priests that you supervised
10 during your tenure as bishop, what percentage of them
11 took leaves of absence?

12 A. Very small percentage.

13 Q. If you can give us a number.

14 A. Small percentage. I can't give you a number.
15 It would be under 10 percent, certainly, maybe under 5.

16 Q. And when a priest took a leave of absence, that
17 had to be granted by you; correct?

18 A. Correct.

19 Q. And would you typically make an inquiry as to
20 why there was a leave of absence being requested?

21 A. No, I wouldn't typically do it. I would always
22 do it.

23 Q. Okay. And would you typically document the

1 reasons why a priest was asking for a leave of absence?

2 A. I don't know if I would or wouldn't. It all
3 depends what the reason was.

4 Q. Would it be good practice, let's say as of
5 1980, to document the reasons for a priest requesting
6 and being granted a leave of absence?

7 A. Again, it would depend upon the reason.

8 Q. Well, you were aware --

9 A. For example, if a priest needed a leave of
10 absence because his father died and he had to take care
11 of his mother for six months, I don't think I have to
12 make a notation that's why he had a leave of absence.

13 Q. What if it was because there was an allegation
14 of child sexual abuse?

15 A. There should be some notation of that.

16 Q. There should be a notation of that, should
17 there not?

18 A. Right.

19 Q. And would you agree there should be a notation
20 if a priest is sent to a treatment center such as, for
21 example, the House of Affirmation or the Paracletes or
22 anything like that, there should be a reason given as to
23 why?

1 MR. COSTELLO: Object to the form. You
2 may answer.

3 A. Ordinarily there would be, yes.

4 Q. And if there was no reason given why in a
5 particular priest's file, that would be a deviation from
6 what would be ordinary in terms of your practices;
7 correct?

8 MR. O'CONNOR: Object to the form.

9 A. In most instances I would document, but I don't
10 want to guess on that.

11 Q. And you would document in most instances
12 because referral of a priest to a treatment center is a
13 pretty serious action for you to undertake as the
14 bishop; would you agree?

15 MR. COSTELLO: Object to the form.

16 A. Well, it all depends. Sometimes the priest
17 will ask to go in himself.

18 Q. And would you ask him why?

19 A. Yes.

20 Q. And would you more often than not document why?

21 A. Not necessarily. If the priest had an alcohol
22 problem and he asked to go for treatment, I don't think
23 I had to necessarily document that.

1 Q. I appreciate that. Today at least I'm not
2 worried about priests that might have more than a
3 handful of drinks. What I want to ask you about is
4 why -- actually, let me stay on that for a moment. For
5 priests that had alcohol problems, where were they
6 typically sent for treatment?

7 A. A number went to Guest House, but not all.
8 Some went to the others. Many of these treatment
9 programs address all kinds of issues that individuals
10 have, not necessarily sex abuse. It could be an
11 addiction problem, but it could also be a psychological
12 problem. It could be a problem with their pastoral
13 style and how it continues to get them in trouble with
14 parishioners, and so they had to learn how to be more
15 sensitive and empathetic in the exercise of their
16 ministry. So there's a whole variety of reasons why
17 people can go away.

18 Q. So I want to ask you with respect to particular
19 places. I think you mentioned a place in Canada
20 yesterday. Was that called Southbound?

21 A. Southdown.

22 Q. Southdown?

23 A. Yes.

1 Q. Okay. And what would people be sent to
2 Southdown for?

3 A. All those reasons I just suggested.

4 Q. And how about House of Affirmation? What would
5 people be sent to House of Affirmation for?

6 A. I would say that all of these facilities treat
7 a variety of behavior issues that people have. And so I
8 don't say that there's any one reason. The only one
9 that I think is pretty single focused is Guest House.
10 The rest of them treat a variety of behavioral issues.

11 Q. If you know, what percentage of the priests who
12 received treatment at House of Affirmation were there
13 because of problems with child sex abuse?

14 A. I don't know, not off the top of my head.

15 Q. Did you ever send a priest to House of
16 Affirmation for a reason other than child sex abuse?

17 A. I would have to check my files or I would have
18 to check my recollection. I can't tell you off the top
19 of my head.

20 Q. Did you send priests to House of Affirmation
21 because of problems with child sex abuse?

22 MR. COSTELLO: Object to the form.

23 A. I think we did, but I'm not positive of that.

1 Q. I just want to make sure I understand your last
2 two answers. With respect to -- let me ask you. How
3 many priests total, if you can recall, did you send to
4 House of Affirmation?

5 A. It was not large in comparison to some of the
6 other facilities.

7 Q. And with respect to House of Affirmation, if I
8 understood you correctly, you recall sending some
9 priests there for child abuse and you're not certain one
10 way or the other if you sent any priests there for any
11 other issues? Did I understand that correctly?

12 A. I didn't say that.

13 Q. What did you say, then?

14 A. I said -- you asked me if I sent priests there
15 for sexual abuse of a minor, and I said I couldn't tell
16 you off the top of my head but I think we did.

17 Q. Okay. And do you know whether you sent them
18 there for any reason other than sexual abuse of a minor?

19 A. I think there was at least one that we sent
20 there. Off the top of my head, I can think of two
21 people I sent there. So I think the other was more a
22 behavioral issue.

23 Q. Who was that?

1 A. I think it was Father Haight.

2 Q. Haight was a behavioral issue. Are you aware
3 of any records that tell you whether Father Haight was
4 sent to House of Affirmation for a behavioral issue?

5 A. I would have to look at the files to see if
6 there's a record.

7 Q. I had asked you about that yesterday. Did you
8 review any records overnight to refresh your
9 recollection?

10 A. Did I review any records overnight? No, I
11 didn't.

12 Q. Did you review any records since last we were
13 together, whether it was this morning or yesterday
14 afternoon or anything else, to refresh your recollection
15 as to why Haight was sent to House of Affirmation?

16 A. No. I wasn't even aware that you were calling
17 me in today, so I had no reason to do that.

18 Q. I wasn't aware until last night either.

19 MR. BONINA: If we could, could we put up
20 Exhibit 466 and look at the first full
21 paragraph on the first page?

22 Q. Looking at the top first, you know that after
23 the incident which you described at St. Joseph's in

1 Scotia, which I'll represent to you was my client, that
2 you sent this gentleman, Father Mark Haight, to the
3 Paracletes; correct?

4 A. Correct.

5 Q. And so here I want you to assume that was,
6 according to his assignment sheet, I'll represent to you
7 that was in March of 1990 and here we have a date of
8 evaluation dated March 21, 1990. Do you see that?

9 A. Yes.

10 Q. So the first paragraph, I'm going to read parts
11 of it to you and we're going to talk about it. It says,
12 "Father Haight reports that he was referred for
13 psychological evaluation following the revelation that
14 there had been a relationship with a boy that involved
15 'touching and fondling.'" Let me stop there.

16 Was it your experience that priests who
17 were accused of child sex abuse always came forward and
18 told the truth, the whole truth, and nothing but the
19 truth?

20 MR. COSTELLO: Object to the form of the
21 question.

22 A. In my experience, that of the first nine cases
23 I dealt with all of them admitted that they were guilty

1 of the allegation.

2 Q. And Haight admitted that he was guilty of the
3 allegation arising out of St. Joseph's of Scotia, did he
4 not?

5 A. Yes.

6 Q. Did you ever discuss specifics of the sexual
7 abuse with him?

8 A. I can't recall if I did at the time.

9 Q. So I guess I'm going to represent to you that
10 elsewhere in the records from the Paracletes there is a
11 documentation that he was diagnosed as an androphilic
12 ephebophile. Is that a term you're familiar with?

13 MR. O'CONNOR: What's that term?

14 A. I wouldn't want to have to explain it, but I've
15 seen it.

16 MR. O'CONNOR: What was that again?

17 That's a new one for me.

18 MR. BONINA: Androphilic ephebophile.

19 We'll get to the bottom later. I'm still on
20 that paragraph. I apologize.

21 Q. I also will represent to you that elsewhere in
22 the records from the Paracletes there are notations that
23 he had problems with "denial and minimalization." Are

1 you familiar with those entries?

2 A. Where are the entries?

3 Q. I'm representing you that they are in the
4 records from the Paracletes that are in this file. Now
5 I'm asking you whether you're familiar with those
6 entries.

7 MR. O'CONNOR: With the entries?

8 A. I'm not familiar with them. I'm not denying
9 they're in there. I just don't have them in front of
10 me.

11 Q. So I guess my question to you is: If the
12 caregivers at the Paracletes documented that Mark Haight
13 had a problem with both denial and minimalization, are
14 we to assume that he came clean to them and that all the
15 abuse involved was just touching and fondling?

16 MR. COSTELLO: Object to the form.

17 MR. O'CONNOR: Yes, object to the form,
18 also.

19 A. I'm assuming from --

20 MR. O'CONNOR: Well, don't assume.

21 A. I'm assuming from the final report that we
22 received that they were suggesting that he could be
23 re-placed or placed again in ministry.

1 MR. BONINA: Move to strike as
2 non-responsive.

3 Q. My question is --

4 A. Give me a question so I can respond. Wait a
5 second. You asked me to respond. I didn't answer.

6 Q. I did. And I'm going to try to repeat the
7 question in case there was a problem with it. When
8 someone has a documented diagnosis in their records that
9 they have a problem with denial and minimalization, is
10 that the type of person that you would expect to come
11 clean about everything they did wrong?

12 MR. COSTELLO: Object to the form of the
13 question.

14 A. Well, if that's the initial diagnosis and they
15 have treatment, they could improve and be able to
16 respond to those questions more fully at the end of
17 treatment than they did at the beginning.

18 MR. BONINA: Objection and move to strike.

19 Q. But I'm going to move on, sir, in this
20 paragraph still. I'm going to continue reading from
21 where we left off. "Father Haight reports that this had
22 been going on for two years. He described several
23 occasions over the last two years where there was sexual

1 contact but does not describe it on a regular basis.
2 Father Haight stated that to the best of his knowledge
3 the allegations reached the bishop about three weeks ago
4 and this was when he was called in to discuss this with
5 the bishop." Does that refresh your recollection as to
6 your interactions with Father Haight after the
7 allegations arose out of Scotia?

8 A. The only thing that it reflects is that the
9 information came to me and I called him in. I can't say
10 the amount of time between when I received the
11 allegation and when I called him in. But I certainly
12 did call him in after I received the allegation.

13 Q. What, if anything, do you recall about that
14 conversation?

15 A. I can't recall anything except that he was
16 going to have to go for treatment and his future
17 ministry will be dependent upon how the people at the
18 facility assessed his suitability for ministry after
19 treatment.

20 Q. We can skip ahead to the top of the next
21 paragraph now. I had asked you a few moments ago about
22 House of Affirmation and you responded that you sent
23 Father Haight there specifically for a personality

1 problem or something like that. I don't recall. But
2 now I want to ask you what's documented in the record,
3 if I may. I'm reading from the second paragraph.

4 "Father Haight attended the program at the House of
5 Affirmation in 1985 concerning the same issues." Do you
6 see that there?

7 A. I do.

8 Q. Are there any records anywhere that you have
9 seen indicating a reason other than child sex abuse for
10 Father Haight having been at the House of Affirmation?

11 MR. O'CONNOR: Object to the form.

12 A. I could not guess. I cannot recollect.

13 Q. Do you dispute based on what is documented in
14 the records of the Servants of the Paracletes that
15 Father Haight's treatment at the House of Affirmation
16 was for the same issues he was there for at that time?

17 MR. O'CONNOR: Objection; asked and
18 answered. You can answer it.

19 A. Again, for example, there may have been an
20 issue that we sent him there for and they discovered
21 other issues that we were not aware of. So I'm not
22 confident that that is correct.

23 Q. I want to separate out speculation and

1 guesswork from what you actually recall. Do you
2 actually recall exactly why you sent Father Haight to
3 House of Affirmation?

4 A. No.

5 Q. In '85. Excuse me?

6 A. Sorry. Did somebody say something?

7 Q. I missed your answer to the last question. Do
8 you specifically recall exactly why you sent Father
9 Haight to House of Affirmation in 1985?

10 A. I cannot recall the specifics. What I do
11 recall is that, to the best of my recollection, the
12 first time I was aware of sexual abuse by Father Haight
13 was when he was sent in 1991 after the allegation in
14 Scotia.

15 Q. And that's your recollection of events from 35
16 years ago with respect to House of Affirmation; correct?

17 A. Correct.

18 Q. I believe you've testified that you don't have
19 a perfect recollection of those events; correct?

20 A. Correct.

21 Q. I'm going to represent to you that there are no
22 records from House of Affirmation, no records from
23 Haight's referral to the House of Affirmation, and no

1 records even mentioning the House of Affirmation until
2 the 1996 and 1997 meeting with Father Burke in Haight's
3 personnel file. Do you have any explanation for that?

4 MR. O'CONNOR: Object to the form. You
5 can answer.

6 A. Unless I had more information, no, I don't have
7 any explanation for it.

8 MS. LaFAVE: We're going to break for
9 lunch pretty soon, so if you can wrap up that
10 would be great.

11 MR. BONINA: Oh, boy. I went over again,
12 didn't I?

13 Q. So let's talk about -- if we can take that
14 down -- let's talk about warning of the risk. Did I
15 understand your testimony that prior to 2002 you would
16 not warn parishioners that you had sent a priest who had
17 previously sexually abused a child into their parish?

18 MR. COSTELLO: Object to the form. You
19 may answer.

20 A. That's what I testified, yes.

21 Q. And, similarly, you wouldn't notify the pastor
22 either, would you?

23 A. Ordinarily, no.

1 Q. Can you ever think of any reason why a priest
2 under your supervision would guarantee a victim of
3 sexual abuse that the offending priest was being closely
4 supervised in their parish?

5 MR. O'CONNOR: Object to the form. I'm
6 not sure of the question, John.

7 A. I'm not sure of the question either.

8 Q. Well, let's turn to Exhibit 4 -- I'm sorry.
9 Where am I? 471. I think I talked to you a little bit
10 about this yesterday, but this is a November 24, 1995,
11 memo from Father Patterson. Who was Father Patterson as
12 of 1995?

13 A. I think at the time he was a chancellor of the
14 diocese.

15 Q. And did he have any role or responsibility with
16 respect to the church's response to child sex abuse?

17 A. Well, he would not be the final person to make
18 a decision, but he would often be the person who would
19 receive the information initially.

20 Q. And based on what we talked about yesterday we
21 know that's what he was doing here, meeting with a
22 survivor of Father Haight's child sexual abuse problem;
23 correct?

1 A. I assume that's what this is.

2 Q. And if we can turn to the top of the second
3 page of this document. I'm going to represent to you
4 and I'm going to look at the highlighted parts, but that
5 Father Haight took this gentleman to drink, look at
6 pornography and masturbate, that there were incidents of
7 oral sex and two attempts to penetrate him anally.
8 Obviously, that's what this meeting is about; correct?

9 A. Yes.

10 Q. If we could turn to the past page, please. I
11 want you to look at the -- actually, if we could go to
12 the top of the previous page and then scroll back over
13 to this. The bottom. I apologize. "I related to,"
14 name is blacked out, "that Mark had been away for a time
15 and that I presumed this issue had been addressed and
16 that in order" -- and if we could scroll up. Scroll
17 back, I apologize, to page 3. -- "in order for Mark to
18 be reassigned in the diocese Bishop Hubbard would have
19 had to receive reasonable assurance from those
20 responsible for his treatment that he would not act out.
21 I also mentioned that a leadership person in the parish
22 where Mark is assigned would have to know the background
23 and be alert to anything that would raise concern."

1 With respect to that sentence, knowing
2 that it was written in 1995, seven years before you
3 changed your policy in 2002, that sentence, is that
4 true?

5 MR. O'CONNOR: Object to the form.

6 A. It certainly was not true in every case.

7 Q. Excuse me?

8 A. It certainly was not true in every case.

9 Q. It was not true prior to 2002, per your
10 testimony; correct?

11 MR. O'CONNOR: Object to the form. That's
12 not what he said.

13 A. It says that the parish where Mark is assigned
14 would have to know the background and be alert to
15 anything that might concern. I'm saying in some
16 instances the pastor may have been told; in other
17 instances he wasn't. So I'm saying it's not true in
18 every case, that that was the expectation.

19 Q. Is that a change from what you said under oath
20 previously?

21 MR. O'CONNOR: Objection to the form.

22 Q. Excuse me?

23 MR. O'CONNOR: Object to the form, I said.

1 MR. BONINA: I said "excuse me" to the
2 witness, Terry. I didn't hear the answer.

3 A. I don't know what the question is.

4 Q. Is what you just said now a change from what
5 you testified to previously?

6 MR. O'CONNOR: Object to the form.

7 A. What are you saying I testified to previously?

8 Q. That before 2002 you did not have a policy of
9 notifying pastors or parishes of the reassignment of sex
10 abuse offenders.

11 A. No, it's not a change. We didn't have a
12 policy. I said there may have been one or two instances
13 that I did tell a pastor what had happened in the
14 person's past, but it was not a general policy. So, no,
15 we didn't have a general policy of doing that.

16 Q. I want to ask you a question or two about
17 aftercare. And if we could go to Exhibit 464. So this
18 is another March 21 interview with Father Haight at the
19 Paracletes. I want to read you the last sentence of --
20 I'm sorry. Let me read you, there's a highlighted
21 sentence in the middle of the paragraph. "At the
22 beginning of the interview he took the initiative in
23 speaking about his sexual acting out and about his

1 previous treatment in 1985 to 1986 at House of
2 Affirmation." Does that confirm for you that, in fact,
3 his treatment at the House of Affirmation was for sexual
4 acting out?

5 MR. O'CONNOR: Object to the form.

6 A. It doesn't necessarily confirm it.

7 Q. Does it refresh your recollection?

8 A. Not necessarily. He could have gone for
9 another reason and then as a result of his treatment
10 started speaking with the House of Affirmation about his
11 sexual issues. So I'm not sure the reason that led us
12 to send him there.

13 Q. Are you guessing or speculating about that or
14 do you know for sure?

15 A. I'm speculating. I don't know for sure.

16 MR. BONINA: Move to strike the
17 speculation.

18 Q. I want to ask about the last highlighted
19 portion. "He sees that part of his problem was due to
20 failure to set up a practical program for maintaining
21 celibacy. He did not contact a therapist or a spiritual
22 director and did not join a support group. He feels
23 this lack of a program was the single most important

1 factor in his relapse." Do you see that?

2 A. I do.

3 Q. Now, before you reassigned Haight after the
4 House of Affirmation could you have asked the pastor to
5 oversee his aftercare program?

6 A. Could I have? I suppose I could have. I don't
7 think I did.

8 Q. Had you done that, based upon Father Haight's
9 statement here, he may not have reoffended; correct?

10 MR. O'CONNOR: Object to the form. Your
11 objection awhile ago was speculation,
12 counselor. This is pure speculation.

13 MR. BONINA: Let me rephrase it.

14 Q. I believe you said previously that you would
15 only let a priest back if there was a -- after treatment
16 if there was a plan in place for aftercare; correct?

17 MR. O'CONNOR: Object to the form.

18 MR. COSTELLO: Object to the form.

19 A. I didn't necessarily say what the particular
20 conditions might be. It might be different for one
21 priest than another. I said what we would do was follow
22 the recommendations of the treatment facility.

23 Q. And is there any way of ensuring followup with

1 aftercare if you don't involve the pastor of the parish?

2 A. There are aftercare programs at the treatment
3 facilities, so often they have to go back every four
4 months or six months or every year and they do an
5 assessment of how well they are abiding by the aftercare
6 program. The treatment facility does that.

7 Q. Do you remember a Father Mittler?

8 MR. BONINA: You can take that down,
9 please.

10 Q. Was there a Father Mittler in the Diocese of
11 Albany at any time that you served as a priest or as
12 bishop?

13 A. Is that M-i-t-t-l-e-r?

14 Q. I believe so, yes.

15 A. Yes, there was.

16 Q. And did Father Mittler leave the priesthood?

17 A. Yes.

18 Q. [REDACTED]

19 [REDACTED]

20 A. [REDACTED]

21 Q. [REDACTED]

22 [REDACTED]

23 A. [REDACTED] [REDACTED]

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[REDACTED]

Q. [REDACTED]

A. [REDACTED]

Q. [REDACTED]

[REDACTED]

[REDACTED]

A. [REDACTED]

MS. LaFAVE: John, we're going to have
to --

MR. BONINA: All right. Sorry. Is that
it?

MR. O'CONNOR: No need to apologize, John.
I think you did a great job.

MR. SHERECK: We'll go off the record at
12:56.

(There was a discussion off the record.)

(A luncheon recess was taken in the
proceedings.)

(The proceedings were reconvened as
follows:)

MR. SHERECK: We're on the record at 1:30.
Go ahead.

1 EXAMINATION BY MR. SAGHIR:

2 Q. Good afternoon, Bishop Hubbard.

3 A. Good afternoon.

4 Q. My name is Peter Saghir and I'm an attorney
5 with the law firm of Gair, Gair, Conason and I represent
6 Plaintiff [REDACTED]. As you know, on April 13 he
7 was deposed by your attorneys. You were present for
8 that deposition; correct?

9 A. Correct.

10 Q. And you sat through the entirety of that
11 deposition and heard all of that testimony; correct?

12 A. Correct.

13 Q. Bishop Hubbard, have you been known by any
14 nicknames?

15 A. Not that I recall. Some people might call me
16 Hub. That would be it.

17 Q. Have you gone by any other names besides Howard
18 Hubbard?

19 A. No.

20 Q. Has there ever been a policy at the Diocese of
21 Albany that if a priest is picked up by the police that
22 the priest not be charged but released to the diocese?

23 MR. COSTELLO: Objection to form.

1 A. It has happened, but it's not a policy.

2 Q. I'm sorry. I didn't catch that.

3 A. It has happened, but it's not a policy of the
4 diocese.

5 Q. How many times has that happened?

6 A. Four. Four that I'm aware of.

7 Q. Is that four times during your tenure as a
8 bishop? I mean, as the bishop.

9 A. Four and then one if you count one that I had
10 to handle that began with my predecessor. So that would
11 be five.

12 Q. When was the first time that happened? Who did
13 that involve, what priest?

14 A. Dozia Wilson.

15 Q. And what was he picked up for by the police and
16 then released?

17 A. I don't know if he was picked up by the police.
18 We were contacted by the District Attorney. Now, how
19 that came to the District Attorney's attention, I don't
20 know.

21 Q. And did you have a conversation with the
22 District Attorney about releasing Father Dozia Wilson?

23 A. No. This occurred with my predecessor. The

1 reason I got involved is after I became bishop the
2 question arose about reassignment. And the
3 understanding between Bishop Broderick and the District
4 Attorney was that the priest would not remain in this
5 area. So when the priest was due for another
6 assignment, I had to make sure the District Attorney was
7 willing to have him placed back within the confines of
8 the diocese.

9 Q. And did the District Attorney agree to that?

10 A. Yes.

11 Q. And did you have a conversation with the
12 District Attorney about that happening?

13 A. Yes.

14 Q. Did you make any representations to the
15 District Attorney about Father Dozia Wilson being back
16 in the confines of the diocese?

17 A. I asked him if it was acceptable to him because
18 it was on the basis of his intervention that Father
19 Wilson was not arrested.

20 Q. Who was the second person that was released to
21 the diocese who had been picked up?

22 A. Carl Stone.

23 Q. And that happened during your tenure as bishop?

1 A. It did. Someone contacted the chancellor.

2 Q. Who contacted the chancellor?

3 A. A State Trooper. I don't know his name or what
4 aspect of the State Police he was with.

5 Q. Who was the chancellor at the time?

6 A. Father Robert Ruse.

7 Q. Who was the third person, priest, that was
8 picked up and released to the diocese without being
9 charged?

10 A. There was one, John Phillips. I don't know if
11 he was ever picked up, but the sheriff's office in
12 Schenectady County again contacted the chancellor and
13 asked that, based upon their information, that the
14 diocese intervene.

15 Q. And did the diocese intervene?

16 A. Yes.

17 Q. What did the diocese do?

18 A. We removed him from ministry and he retired and
19 died shortly thereafter.

20 Q. Who was the fourth person, priest, that was
21 picked up without being charged and released?

22 A. David Bentley.

23 Q. And when was that?

1 A. I don't know the exact date. I think it was in
2 the early eighties.

3 Q. And what were the circumstances around Father
4 Bentley being picked up and released to the diocese
5 without being charged?

6 A. Again, I don't know if he was picked up. I was
7 informed -- our vice-chancellor was informed by the
8 Commissioner of Social Services in Delaware County. He
9 was informed that he had received a complaint about
10 abuse of a minor in his parish and he wanted us to
11 address the issue.

12 Q. And did the diocese address the issue?

13 A. Yes.

14 Q. How?

15 A. We moved him from his pastorate and we sent him
16 to a treatment facility.

17 Q. And who is the fifth person?

18 A. Klebie, K-l-e-b-i-e.

19 Q. Caleb? I'm sorry.

20 A. No. Klebie, K-l-e-b-i-e.

21 Q. And where was he picked up? Was he picked up
22 by the police?

23 A. I don't think so.

1 Q. Was he released to the diocese without being
2 charged?

3 A. Yes. And it was the same commissioner as the
4 previous one.

5 Q. Did they tell you why Klebie was being
6 detained?

7 A. It had something to do with the possible abuse
8 of a child with developmental disabilities.

9 Q. And approximately when was this that Father
10 Klebie was detained and then released to the diocese?

11 A. Again, I want to make it clear. I'm not sure
12 that the priest was ever formally charged by public
13 authorities, but it was the public authorities who made
14 the referral to us.

15 Q. Approximately when was that?

16 A. I would say 2001.

17 Q. And what did the diocese do in response?

18 A. It was the same as the former one. He was up
19 in years and removed him and he died shortly thereafter
20 at the Teresian House.

21 Q. With the exception of Father Wilson, were you
22 aware of each of these other four priests being released
23 to the diocese, if you will, at the time that it

1 happened?

2 A. Was I aware of it? Yes.

3 Q. At the time it was happening, I'm asking.

4 A. Yes.

5 Q. Have you ever been arrested?

6 A. No.

7 Q. Have you ever been detained by the police?

8 A. No.

9 Q. Have you ever been questioned by the police
10 about your conduct?

11 A. No. Well, let me clarify that. When I was
12 accused in 2004 and most recently when complaints came
13 through with the Child Victims Act, those were submitted
14 to the District Attorney.

15 Q. Did the District Attorney question you about
16 those claims at all?

17 A. No. No, but I just wanted you to know that law
18 enforcement received those complaints.

19 Q. Prior to 2004 had you ever been questioned by
20 any law enforcement about your conduct?

21 A. No.

22 Q. Have you ever been released by the police to an
23 attorney for the diocese?

1 A. No.

2 Q. Have you ever been released by the police to
3 Sol Greenberg?

4 A. No.

5 Q. Has Sol Greenberg ever picked you up from a
6 police precinct?

7 A. No.

8 Q. Earlier you were asked questions about the
9 doctrine of mental reservation and you stated that it is
10 usually used in situations like this. When you said it
11 is usually used in situations like this, you were
12 referring to a deposition?

13 MR. O'CONNOR: Object to the form.

14 MR. COSTELLO: Objection.

15 A. No. I don't recall saying it's usually used in
16 situations like this. I said my understanding is that a
17 mental reservation is something that you believe should
18 be withheld and made a decision that morally speaking
19 you're not going to share. But I don't recall saying it
20 was usually used in situations like this. It could be
21 used in a variety of situations.

22 Q. Have you ever exercised mental reservation?

23 A. No.

1 Q. Have you done it in these past three days that
2 you've been questioned?

3 A. No.

4 Q. Do you suffer from any medical condition that
5 impairs your memory?

6 A. Not that I'm aware of.

7 Q. As you know, [REDACTED], has
8 brought claims against you individually and also against
9 Father Gerald Kampfer. Do you know Father Gerald
10 Kampfer?

11 A. I knew him. He's deceased.

12 Q. He passed away in January of 2003?

13 A. That sounds right.

14 Q. Where did you first meet Father Kampfer?

15 A. I don't know for sure. He was behind me in the
16 seminary. I would suspect that I may have met him when
17 he was a seminarian, but I can't tell you precisely.

18 Q. You went to the same seminary?

19 A. No, but we used to have seminary gatherings at
20 Christmastime and during the summer and get together of
21 all the seminarians or picnic or something like that.
22 It's probably where I met him.

23 Q. Approximately when was it that you first met

1 him?

2 A. You know what year he was ordained?

3 Q. I don't. If you can just tell me approximately
4 when you first met -- you think you first met him when
5 he was ordained?

6 A. No. I think I probably met him prior to his
7 ordination at one of these seminarian gatherings, but I
8 don't remember what year he was ordained.

9 Q. If I was to tell you he was ordained in 1963,
10 would that refresh your memory as to approximately when
11 you first met him?

12 A. No, because I don't think he was ordained in
13 '63. I think he was ordained after me.

14 Q. Had you ever gone to school with Father
15 Kampffer?

16 A. No.

17 Q. Did you ever live with him?

18 A. No.

19 Q. Did you ever serve at any parish together?

20 A. No.

21 Q. Have you ever worked with Father Kampffer in
22 connection with any specific ministries being initiated
23 by the Albany Diocese?

1 A. Only in terms of he being a priest in a parish
2 and I being bishop and to meet at clergy gatherings and
3 things like that for diocesan presentations. That's
4 all.

5 Q. Describe for us your relationship with Father
6 Kampfer.

7 A. I didn't have a personal relationship. I had a
8 professional relationship as his bishop. And there were
9 a few complaints that I received about him relative to
10 his pastoral care or lack thereof and I called him in
11 and confronted him with those complaints and we talked
12 about it. And that was the extent of my relationship
13 with him.

14 Q. With respect to the few complaints about his
15 pastoral care that you received, did you document any of
16 those complaints?

17 A. No, I did not.

18 Q. Why not?

19 A. They were not the type of complaints that
20 needed to be documented. There were complaints of
21 displeasure that you receive all the time about a pastor
22 from a parishioner or group of parishioners. I can
23 share with you the two times that I had to confront him,

1 if that would be helpful.

2 Q. Sure. Tell me what the complaints were that
3 you received about Father Kampfer.

4 A. The two that I recall is that he was a pastor
5 out in Pittstown, a rural parish in our diocese, and on
6 Sunday morning he announced that he was entering his dog
7 into a show in New York City and, therefore, would not
8 be available until the following Wednesday, which was
9 Ash Wednesday, and so that parish would have their Ash
10 Wednesday celebration on Monday. And some of the people
11 in the parish were very upset.

12 And I called him in and confronted him and
13 told him how inappropriate it was and that if he
14 couldn't make that commitment that he had to the
15 sacramental ministry of the people, then he should have
16 contacted the chancery and gotten him a replacement.

17 Q. What was his response?

18 A. He admitted he was wrong.

19 Q. Did you take any disciplinary action against
20 him with respect to that complaint?

21 A. No. I didn't think anything disciplinary had
22 to be taken. He said he wouldn't do it again.

23 Q. What was the second complaint?

1 A. It had to do with -- I think it was a funeral.
2 It had to do with the celebration of either a wedding or
3 a funeral in his parish in Chestertown and somebody
4 complained that they felt that he was not very involved
5 in the preparation and that they felt he was treating it
6 as more of an annoyance than his sacramental duty.

7 Q. Those were the only two complaints you ever
8 received about Father Gerald Kampffer?

9 A. I might have received a complaint about his use
10 of alcohol. I don't know if I received that complaint
11 directly or it came from the priest personnel board or
12 the chancellor.

13 Q. What was the complaint concerning his use of
14 alcohol?

15 A. That he was drinking to excess.

16 Q. Other than these three complaints you've told
17 us about, are there any other complaints you've ever
18 received about Father Gerald Kampffer?

19 A. Not that I can recall. I'm not saying there
20 were none, but none comes to mind right now.

21 Q. With respect to the complaint about entering
22 his dog into this dog show, when was that complaint
23 received, approximately?

1 A. I don't know. I can tell you he was pastor out
2 in Pittstown, but I would have to look at the assignment
3 sheet to see what year that was.

4 Q. Approximately when was the complaint you
5 received with respect to his behavior at this funeral or
6 wedding --

7 A. When he was up in the north point parishes, so
8 it would be during those years. I would imagine that
9 would be in the mid to late nineties.

10 Q. Forgive me. I thought you said the issue about
11 the funeral or marriage was at its parish in
12 Chestertown.

13 A. Well, the parish is Chestertown, but the
14 grouping of parishes there is north point ministries.
15 It would include Chestertown.

16 Q. And with respect to his use of alcohol,
17 approximately when did you receive that complaint?

18 A. I'm speculating this because I don't have the
19 exact date, but I think it was while he was stationed in
20 Chestertown.

21 Q. At St. John the Baptist?

22 A. Yes.

23 Q. And with respect to his use of alcohol, did you

1 meet with him about that?

2 A. Either I did or the chair of the priest
3 personnel board. I don't remember which.

4 Q. With respect to the complaint about entering
5 the dog into the dog show, did you meet with him
6 personally about that complaint?

7 A. I did, yes. The only place that I ever meet
8 with people is at my office, ordinarily. So if it was
9 around the time I think it was, then it would have been
10 at 465 State Street, which was the chancery office up
11 until the mid nineties.

12 Q. Did Kampfer have any nicknames?

13 A. I don't know.

14 Q. Father Kampfer was assigned to St. John the
15 Baptist parish in Chestertown from 1981 to 1992;
16 correct?

17 A. If that's what you say. I don't have the list
18 in front of me.

19 Q. Regardless, his assignment at that parish was
20 made by you; correct?

21 A. Correct.

22 Q. At that same time he was also a pastor at St.
23 Monica parish in Johnsonville; correct?

1 A. I don't see how he could have done both. I
2 think that's not accurate information.

3 Q. To your knowledge, was he ever a pastor at both
4 St. John the Baptist and St. Monica at the same time?

5 A. I can't confirm that. It would seem -- I don't
6 see how he could have done that. St. Monica is 40 miles
7 east of Albany -- and Chestertown is the other parish
8 he's supposed to be serving at the same time?

9 Q. Correct, St. John the Baptist parish.

10 A. That's about 80 or 90 miles north of Albany.
11 So I don't know how he could have been pastor at both
12 parishes.

13 Q. Is the only reason you're saying that is
14 because of the distance between the parishes?

15 A. Yes. I'm saying that because I don't know how
16 a person could shepherd both parishes being that far
17 distant.

18 Q. From the time period from approximately 1981 to
19 1990 can you tell me with what frequency you would see
20 Father Kampfer?

21 A. Probably once or twice a year at a clergy
22 conference.

23 Q. Were there any other priests or pastors that

1 you knew Gerald Kampfer to be particularly friendly
2 with?

3 A. No.

4 Q. While Kampfer was the pastor at St. John the
5 Baptist in Chestertown was he an employee of the Diocese
6 of Albany?

7 MR. COSTELLO: Object to the form of the
8 question. You may answer, if you can.

9 A. He was an incardinated priest in the Diocese of
10 Albany, and I guess in that sense he was an employee.

11 Q. Was he an employee of the church of St. John
12 the Baptist?

13 MR. COSTELLO: Object to the form.

14 A. Well, his salary would come from the parish to
15 which he was assigned, so in that sense he was an
16 employee.

17 Q. And benefits would come from the diocese?

18 A. No. The benefits would come from the parish,
19 as well.

20 Q. Do you know any staff members, secretaries or
21 anybody else, who worked at St. John the Baptist between
22 1981 and 1992?

23 A. Not off the top of my head. There was a Sister

1 Francis Hesselbach, who helped out in what I call the
2 north country cluster. And I think she may have been
3 there during that period, but again I would have to
4 check the records.

5 Q. When you say she would help out, in what
6 capacity? What would she do?

7 A. I don't know her job description. She was not
8 hired by me. She was hired by the parishes up there.

9 Q. Are there any other positions, whether or not
10 you know who filled them, that existed at St. John the
11 Baptist during that time period from 1981 to 1992, such
12 as a associate pastor or anything else along those
13 lines?

14 A. Ordinarily, we would not have an associate
15 pastor in a parish that small, but usually there's an
16 organist. Usually there's somebody that does
17 maintenance work. Somebody does religious education,
18 but that is not always a paid position.

19 Q. Do you know who any of those people were at
20 St. John the Baptist?

21 A. No, I do not.

22 Q. Earlier you testified that you assigned Father
23 Kampfer to St. John the Baptist. Is it correct also

1 that you had the authority to remove him from the
2 parish?

3 A. Yes.

4 Q. And you had the authority to reassign him;
5 correct?

6 A. (No response.)

7 Q. Is that correct, sir?

8 A. Correct.

9 Q. My research to date indicates that he left
10 St. John the Baptist in 1992. Do you know why he left
11 St. John the Baptist at that time?

12 A. No, I don't, off the top of my head. No.

13 Q. Would the reason for him leaving the parish at
14 that time be documented anywhere in the records at the
15 Albany Diocese?

16 A. Well, ordinarily, if a person goes from one
17 parish to another parish it goes into the chancery file
18 and we would know that he went from St. John the Baptist
19 in Chestertown to wherever his next assignment was.

20 Q. Did he have any assignment after St. John the
21 Baptist in approximately 1992?

22 A. I don't know. I would have to look at the
23 assignment card.

1 Q. The assignment card is kept in the chancery
2 file?

3 A. Yes.

4 Q. Have you ever reviewed Father Kampfer's
5 chancery file?

6 A. Not that I recall.

7 Q. Never up until today?

8 A. I haven't reviewed it today.

9 Q. I'm saying, you've never reviewed his chancery
10 file up until this deposition today; is that your
11 testimony?

12 A. As far as I can recall, no. I didn't have any
13 reason to.

14 Q. Did Father Kampfer have a secret or, as you
15 say, a sealed file with the Albany Diocese?

16 A. Not that I'm aware.

17 Q. Have you ever checked?

18 A. No.

19 Q. Have you ever asked anyone if he has a sealed
20 or secret file?

21 A. No.

22 Q. Is it true that you don't know whether he has
23 such a file?

1 A. Yes. That's what I just testified to.

2 Q. When a priest passes away what happens to their
3 chancery file?

4 A. It remains with the chancery. I assume it's
5 placed in an area that contains the files of deceased
6 priests.

7 Q. And when you discussed earlier, you were
8 testifying about I think it was in 2013 you combined the
9 secret or sealed files with the chancery files. Do you
10 recall that testimony?

11 A. Yes.

12 Q. Did you do that for deceased priests, as well?

13 A. I assume so.

14 Q. Do you know? I don't want you to guess. I'm
15 asking if you know.

16 A. I don't know, but I assume that the sealed and
17 the assignment files were put together. And since we
18 have files of deceased priests, I assume that would be
19 true for them, as well, but I don't know.

20 Q. You testified that you had had a complaint
21 about Father Kampfer drinking to excess. Do you recall
22 that testimony?

23 A. Yes.

1 Q. Are you aware that Father Kampfer was an
2 alcoholic?

3 A. Well, I know that he had a drinking problem and
4 I know he attended AA meetings. I would assume from
5 that that he was an alcoholic.

6 Q. Did you ever refer Father Kampfer for alcohol
7 treatment?

8 A. I'm not sure. I would have to check the file.

9 Q. When you say check the file, would that be kept
10 in the sealed file or the chancery file?

11 A. Well, they're combined now, so I would assume
12 it would be that one file.

13 Q. But before they were combined, if you had
14 referred him for alcohol treatment, would you have put
15 that referral in the secret file or in the chancery
16 file?

17 A. Probably put it in the sealed file.

18 Q. And if you had referred him for treatment, what
19 places would he have been sent? I assume you don't
20 know, so what would have been the places he would have
21 been sent?

22 A. It could have been Guest House, Southdown, St.
23 Luke's. Those are the ones we used most.

1 Q. Who made that complaint about him drinking to
2 excess?

3 A. I'm not sure. It might have been Sister Fran,
4 but I'm not sure.

5 Q. Sister Fran --

6 A. The one I mentioned.

7 Q. The one you testified about earlier who was
8 helping out?

9 A. Right. But I'm not positive about that.

10 Q. And did you confront Father Kampfer about his
11 drinking, ever?

12 A. I don't have an actual recall of it, but if I
13 was aware of his drinking that would be my policy, to
14 confront him and to see what he was ready to do about
15 the issue.

16 Q. Sister Fran, who you mentioned earlier, is she
17 still living?

18 A. Yes.

19 Q. Do you know where she is?

20 A. I don't know precisely, but she's a Sister of
21 Mercy and her mother house is on New Scotland Avenue in
22 the City of Albany. Mercy Sisters' mother house.

23 Q. Do you know what assignment Father Kampfer was

1 in, at what parish, when you received that complaint
2 about him drinking to excess?

3 A. I don't know without looking at the chart.

4 Q. You had testified earlier about priests taking
5 a pledge not to drink. Do you recall that?

6 A. I said there was a pledge in the diocese, yes.

7 Q. Was that pledge not to drink in existence while
8 you were bishop?

9 A. No. It was put in by Bishop Gibbons and it was
10 a pledge for ten years postordination. It wasn't a
11 lifetime pledge. And then when Bishop Broderick became
12 bishop of the diocese in 1969 he revoked the pledge, so
13 it was no longer a commitment that the priests of the
14 diocese had to make or fulfill.

15 Q. Do you know when, if ever, Father Kampfer got
16 sober?

17 A. I don't know. No, I don't know.

18 Q. Are you able to approximate it without
19 guessing?

20 A. I'm afraid I would be guessing if I said I
21 knew.

22 Q. Did you ever receive any reports about Father
23 Kampfer relapsing?

1 A. No.

2 Q. Do you know anything about the nature of his
3 drinking, whether he was a binge drinker or if he drank
4 every day or anything else?

5 A. I don't know.

6 Q. If you sent Father Kampfer to an alcohol
7 treatment program would you have included a letter to
8 the alcohol treatment program explaining the
9 circumstances around that referral?

10 A. Ordinarily, I would, yes.

11 Q. And would that letter --

12 A. I didn't say that I did send it. I said I
13 don't know.

14 Q. Understood. If you did, you would have sent a
15 letter to the center explaining the circumstances;
16 correct?

17 A. Correct.

18 Q. And would that letter go in his chancery file
19 or his secret file, one of the two?

20 A. One of the two, yes.

21 Q. And if you did send him to alcohol treatment,
22 would a condition of that be that he would have to
23 release his treatment records to the diocese for review?

1 A. Well, it was understood that he was sent there
2 and that they would submit both periodic and final
3 reports into the diocese and we would receive that, yes.

4 Q. As part of his continued ability to work there
5 as a priest?

6 A. Right.

7 Q. If he was sent for the alcohol treatment, would
8 that be paid for by the diocese?

9 A. Yes. Yes.

10 Q. Are you familiar with what's known as a bottom
11 for an alcoholic?

12 A. I've heard the term before. I don't know if I
13 could -- I think I know what it is, but I wouldn't want
14 to be put on the spot to define it now.

15 Q. Well, I'll represent it's generally the episode
16 or series of events that finally brings someone into
17 alcohol treatment, where they recognize they have a
18 problem.

19 A. That would be my understanding, yes.

20 Q. Do you have any knowledge as to whether or not
21 Father Kampfer ever had a bottom?

22 A. I don't know.

23 Q. He never told you anything about a bottom;

1 correct?

2 A. Not that I recall, no.

3 Q. When you received notice of this lawsuit by
4 [REDACTED] did anybody in Father Kampfer's family contact
5 you?

6 A. No.

7 Q. You said no?

8 A. Yes.

9 Q. Okay. It just wasn't picking up. Did you
10 contact Father Kampfer's family after you received
11 notice of this lawsuit?

12 A. No.

13 Q. Do you know anyone in Father Kampfer's family?

14 A. No.

15 Q. When you received notice of this lawsuit did
16 you take it upon yourself to do any type of
17 investigation into [REDACTED] or the circumstances as
18 alleged in the complaint?

19 A. No.

20 Q. Did you make any sort of inquiry whatsoever on
21 your own when you received notice of the lawsuit?

22 A. No.

23 Q. Did you ever look up who [REDACTED] was?

1 A. I did not.

2 Q. Do you know anybody in [REDACTED] family?

3 A. Not that I'm aware of.

4 Q. Do you know someone named [REDACTED] ?

5 A. It doesn't ring a bell.

6 Q. Between 1981 and 1992 what, if anything, would
7 take you to the parish of St. John the Baptist in
8 Chestertown?

9 A. It would be probably one of two celebrations.
10 One would be for confirmation and the other would be if
11 the parish was having a milestone anniversary.

12 Q. Do you have any specific recollections of going
13 to St. John the Baptist between 1981 and 1992?

14 A. I know I've been there, but I don't have any
15 specific recollections of the dates. I would point out
16 that confirmations were often, in smaller communities,
17 combined. So in the larger or mid-sized parishes each
18 parish usually has its own confirmation. But in the
19 smaller rural areas often it's one confirmation for five
20 parishes in a given area. So sometimes the reason for
21 going or the site for the confirmation would be who
22 might have the largest parish, who could accommodate the
23 20 or 25 students being confirmed.

1 Q. I'm going to ask you some questions about
2 supervision. Who, if anyone, supervised Father Kampfer
3 while he was the pastor at St. John the Baptist?

4 A. He would have -- no pastor has a supervisor, as
5 such. There is a dean in an area. If anything comes to
6 his attention that he feels needs to be addressed by the
7 diocese and the priest himself has not initiated it, he
8 might bring that matter to the attention of the bishop.
9 But in terms --

10 Q. You said -- I apologize. I'm sorry. Go ahead.

11 A. But in terms of any pastor having a supervisor,
12 he does not.

13 Q. Did Father Kampfer report directly to you as
14 pastor at St. John the Baptist?

15 MR. COSTELLO: Object to the form.

16 A. Not on a regular basis. If I made an inquiry,
17 he had a responsibility of responding to my inquiry.
18 And he had, as all pastors do, to submit an annual
19 report of the parish activities to the diocese. But
20 that's the extent of the ordinary communication between
21 a pastor and a local parish.

22 Q. Earlier did you say that there was a deacon in
23 the area who might exercise some level of supervision?

1 I just didn't really catch what you said. Did you say
2 deacon?

3 MR. COSTELLO: I think he said dean.

4 A. I'm sorry. Dean, yes.

5 Q. What is a dean?

6 A. A dean is someone appointed by the bishop who
7 is his representative in a given area. For example, if
8 the bishop has asked the priests of the diocese to
9 gather to discuss a particular pastoral issue and he
10 wants it to be done on a local basis, it's the dean's
11 responsibility to invoke such a meeting and make a
12 report back to the bishop as to what happened at the
13 meeting.

14 Q. Who was the dean in that area back between 1981
15 and 1992?

16 A. I have no idea.

17 Q. If you wanted to find out, how would you find
18 out?

19 A. I would look at the record in the file to find
20 out who was the dean in that county during that period
21 of time.

22 Q. What record?

23 A. The one that's in the chancery file.

1 Q. But what's the name of the record so I can
2 request it? What's that record called?

3 A. Well, you don't have a -- you would have a file
4 for the priest. So you would have to go back to the
5 diocesan directory for the years involved and then find
6 out who the dean was at that time and then go back to
7 his chancery file.

8 I should note here that we no longer have
9 deans. The new bishop has moved from a deanery system
10 to what he calls a vicarate system. Just pretty much
11 the same responsibilities but different designations.

12 Q. Prior to 1990 did you provide any training to
13 anyone on what to do if they receive a complaint of
14 sexual abuse of a minor?

15 A. Formal training?

16 Q. Yes.

17 A. Not that I'm aware of.

18 Q. Prior to 1990 did you provide any instruction
19 to anyone on what they are required to do if they
20 receive a complaint about child sexual abuse?

21 A. I could not recall doing such.

22 Q. Prior to 1990 if a priest or if someone had
23 received a complaint about sexual abuse of a child, what

1 would you expect them to do?

2 A. I would expect them to contact the diocesan
3 office, my office, or somebody there in the office who
4 had reporting responsibilities to me.

5 Q. Did you expect them to report that child sexual
6 abuse to law enforcement?

7 A. Not at that time.

8 Q. I want to be clear. This is some testimony
9 that came yesterday. I just might have misheard it.
10 But in the 1960s you knew that child sexual abuse was a
11 crime; correct?

12 MR. COSTELLO: Object to the form.

13 A. I assumed it was a crime, yes.

14 Q. And you also assumed that child sexual abuse
15 was a crime in 1970; true, and in 1980; correct?

16 A. Correct.

17 Q. Prior to 1990 did you ever discourage a victim
18 of sexual abuse from going to the police?

19 A. No.

20 Q. I'm sorry?

21 A. No.

22 Q. Prior to 1990 did you ever tell a victim of
23 sexual abuse, "Don't go public with this"?

1 A. We had confidentiality settlements, but I never
2 told anybody not to go public with it.

3 Q. How many confidential settlements has the
4 Albany Diocese entered into prior to 2002?

5 A. I don't know the number.

6 Q. More than 100?

7 A. No.

8 Q. More than 50?

9 A. (No reponse.)

10 Q. Something is wrong with your mic, Bishop. I
11 apologize. I'm not hearing you. Sorry.

12 A. As far as I can recollect, 50 would be way too
13 high.

14 Q. Can you give any approximation between zero and
15 50?

16 A. I would be surprised in my own mind if it was
17 more than ten or 15.

18 Q. If you wanted to find out how many confidential
19 settlements were entered into pertaining to sexual
20 abuse, how would you do that?

21 A. I would probably check with the office of the
22 diocesan attorney.

23 Q. And when we talk about those ten to 15

1 confidential settlements --

2 A. That's speculation now.

3 Q. Whatever the number of confidential
4 settlements, were those involving child sexual abuse?

5 A. There were some. I don't know if all of them
6 involved child sexual abuse.

7 Q. Do you know of any other type of settlement
8 that would require confidentiality?

9 A. I know we've had other such settlements, but I
10 can't recall what they were. But I know that we have
11 had settlements with people other than the issue of
12 sexual abuse.

13 Q. Have you ever told a victim of sexual abuse
14 that it would bring embarrassment to them or their
15 family if they reported it and that they should not
16 report it?

17 A. No.

18 Q. Would you say something like that to a victim
19 of sexual abuse?

20 MR. O'CONNOR: Object to the form.

21 A. No.

22 Q. Why not?

23 A. Because I think that victims have been

1 seriously hurt and that they deserve to avail themselves
2 of whatever to bring healing to their lives.

3 Q. Let me focus your attention. Back in the 1970s
4 would you ever tell a victim of sexual abuse that it
5 would bring embarrassment on them and their family and
6 that they should not report it?

7 A. No.

8 Q. If you learned that a priest in your diocese
9 discouraged a victim of sexual abuse from going to law
10 enforcement, what would you have done?

11 A. I would have told him it was inappropriate and
12 he should retract that advice.

13 Q. And the reason it's inappropriate is because
14 this involves reporting a crime; correct?

15 MR. O'CONNOR: Object to the form.

16 A. It's inappropriate under any circumstances,
17 whether it involves a crime or not.

18 Q. My question is: One of the reasons it's
19 certainly inappropriate is because it involves reporting
20 a crime; correct?

21 MR. O'CONNOR: Object to the form. I
22 think he answered the question.

23 A. I don't think I understand your question.

1 Q. Sure. My question -- I'm going to back up for
2 a moment. If you learned that a priest had discouraged
3 a victim of sexual abuse from going to law enforcement
4 to report it --

5 A. Right.

6 Q. -- you agree that that would be inappropriate;
7 correct?

8 A. Yes. Correct.

9 Q. One of the reasons it would be inappropriate is
10 because sexual abuse is a crime; true?

11 MR. O'CONNOR: Object to the form. It's a
12 compound question.

13 A. Yes, sexual abuse is a crime.

14 Q. And for a priest to interfere with the
15 reporting of a crime would be entirely inappropriate;
16 true?

17 MR. O'CONNOR: Object to the form.

18 A. I think to communicate that information to a
19 victim who is already suffering would be inappropriate.

20 Q. And for a priest to interfere between a victim
21 reporting a crime, that would be entirely inappropriate;
22 correct?

23 MR. O'CONNOR: Objection. Didn't he just

1 answer that, Peter?

2 MR. SAGHIR: I don't think he did.

3 Q. Is that correct, Bishop?

4 MR. O'CONNOR: Object to the form.

5 A. Repeat the question, please.

6 Q. For a priest to interfere in a victim of sexual
7 abuse from reporting that sexual abuse to law
8 enforcement, that would be entirely inappropriate for
9 the priest; correct?

10 MR. O'CONNOR: Object to the form.

11 A. Correct.

12 Q. You would never stand for that; true?

13 A. No, not if I was aware of it.

14 Q. You certainly would never do it yourself, would
15 you?

16 MR. O'CONNOR: Asked and answered.

17 A. No.

18 Q. I'm going to focus on this Mary Jo White
19 report. That came out in approximately 2004; correct?

20 A. Correct.

21 Q. And this was after Father Kampfer passed away?

22 A. I think he passed away in 2003. Is that
23 correct?

1 Q. That's my understanding. So it's after he
2 passed away; correct?

3 A. If he did pass away in 2003, yes, it would have
4 been after he passed away.

5 Q. Did Mary Jo White ever ask you any questions
6 about Father Kampfer?

7 A. Not that I recall.

8 Q. Did you ever give her any information about
9 Father Kampfer?

10 A. Not that I recall.

11 Q. Did she ever ask you any information about
12 [REDACTED] ?

13 A. Not that I recall.

14 Q. Did you ever provide her any information about
15 [REDACTED] ?

16 A. Not that I recall.

17 Q. Can we agree that her investigation had nothing
18 to do with Father Kampfer or [REDACTED] ?

19 MR. O'CONNOR: Object to the form.

20 MR. COSTELLO: Object.

21 A. As far as I know.

22 Q. You testified earlier about psychological
23 evaluations --

1 A. May I just amend my answer to say that there
2 was a toll free hotline that the firm established that
3 anybody who had any report about my behavior could
4 contact the toll free hotline and were assured
5 confidentiality. So what happened with any of those
6 people who contacted that hotline, I'm not aware.

7 Q. Anything else you want to volunteer, Bishop?

8 A. No. I thought it was responsive to your
9 question because you were asking about people contacting
10 Mary Jo White.

11 Q. You testified earlier about psychological
12 evaluations of priests. Do you recall that testimony?

13 A. Yes.

14 Q. Were priests while you were bishop required to
15 undergo psychological evaluations?

16 A. They were required if there were reports of
17 behavior that deemed it appropriate that psychological
18 evaluation or treatment be conducted.

19 Q. A psychological evaluation should only be based
20 on certain behavior?

21 A. Yes. We don't have a policy that every priest
22 has to undergo a psychological evaluation. I had to
23 have a psychological evaluation to enter the seminary,

1 but there's no requirements postordination that you have
2 a psychological evaluation except the bishop asks you to
3 because of certain behavior.

4 Q. What behaviors warrant a psychological
5 evaluation?

6 A. Well, addiction to alcohol or drugs. Child
7 sexual abuse. Maybe the way you're relating to
8 parishioners that are generating problems within the
9 parish community. Those are off the top of my head.

10 Q. Did you ever ask Father Kampfer to undergo a
11 psychological evaluation?

12 A. I'm not sure. I would have to check the file.

13 Q. If he underwent a psychological evaluation
14 would that evaluation be contained in his chancery file?

15 A. It should be.

16 Q. Who conducted those psychological evaluations?

17 A. Well, at one time Dr. John Tucker conducted
18 many of the local evaluations. But then, if somebody
19 was deemed appropriate to go for inpatient evaluation,
20 then they would be conducted at the inpatient
21 facilities.

22 Q. Was Dr. John Tucker an employee of the Diocese
23 of Albany?

1 A. No.

2 Q. Is he still alive, if you know?

3 A. I'm not sure. I think he is, but I'm not
4 positive. Also, there was another psychologist that
5 frequently would interview priests, and that was Dr.
6 John Wapner.

7 Q. And is he still alive?

8 A. I think he is, yes. I'm not positive, but I
9 think he is.

10 Q. And do you know where his practice was when he
11 was conducting these evaluations?

12 A. I would assume Albany, but I can't say that
13 with certitude.

14 Q. Did you ever receive any complaints about
15 Father Kampfer's conduct around children?

16 A. Not that I can recall.

17 Q. Did you ever receive any complaints about
18 Father Kampfer being sexually inappropriate with a
19 child?

20 A. Not that I can recall.

21 Q. Did you ever ask Father Kampfer if he was
22 sexually inappropriate with a child?

23 A. Not that I can recall.

1 Q. Have you ever asked anybody if Father Kampfer
2 was ever sexually inappropriate with a child?

3 A. Not that I recall.

4 Q. And that would include, you never asked anybody
5 at St. John the Baptist; correct?

6 A. That would include that I can't recall anybody
7 making a complaint of sexually inappropriate behavior by
8 Father Kampfer. I can't recall that. I would have to
9 look at the file, but off the top of my head here today
10 I can't recall.

11 Q. Bishop Hubbard, you knew that you were coming
12 here for this deposition today about [REDACTED] and
13 Father Kampfer; correct?

14 A. No. I thought I was coming here about the
15 allegations against myself.

16 Q. Really? You had no idea you were going to be
17 answering questions about Father Kampfer?

18 A. I thought that you were going to be asking
19 questions about the allegations brought against me by
20 [REDACTED].

21 Q. You were asked questions earlier by one of the
22 attorneys about recordkeeping and about whether or not
23 you kept a calendar while you were bishop. Do you

1 recall that?

2 A. Yes.

3 Q. And you said your secretary maintained that
4 calendar?

5 A. Correct.

6 Q. What was the secretary's name, all of your
7 secretaries while you were bishop, that maintained your
8 calendars?

9 A. Onna Pollock, who is deceased; Carol Dugan, who
10 is still alive; and Ginny Daley, who is still alive.

11 Q. Did you ever make entries into your calendar
12 yourself or were they always made by the secretaries?

13 A. They were usually always made by the
14 secretaries. Sometimes I would have my calendar.
15 Usually they would give me the calendar on a weekly
16 basis. And sometimes I would have a half day off and I
17 might jog in something that I intended to do in a half
18 day, but that's about it.

19 Q. Do you know if any of your calendars during the
20 time that you were bishop still exist?

21 A. Yes.

22 Q. Do all of your calendars still exist or only
23 some?

1 A. I'm not sure. I know going back to the
2 seventies. Just whether the more recent ones exist, I'm
3 not sure.

4 Q. Where are those calendars kept?

5 A. I assume at the pastoral center in the Diocese
6 of Albany.

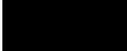
7 Q. Have you reviewed any of your calendar entries
8 in preparation for these depositions over the past
9 couple of days?

10 A. No, not for these discussions the past couple
11 days. I have reviewed them for other purposes, but not
12 for this deposition.

13 Q. Have you reviewed them since you have retired
14 as bishop?

15 A. I reviewed them recently. Not all of them.
16 But, as you may know, I have allegations that have been
17 brought against me and I have had to go back to check my
18 calendars to be able to give a response to some of those
19 allegations.

20 Q. So did you go back and check your calendars in
21 1987 in connection with the allegations made by 

22 

23 A. I did.

1 Q. When did you check your calendars?

2 A. Probably at least a month ago.

3 Q. And that was in preparation for the
4 depositions?

5 A. No.

6 Q. When you --

7 MR. O'CONNOR: That was at my request,
8 counsel.

9 Q. When you checked your calendars what did you
10 find with respect to 1987 and [REDACTED]?

11 MR. COSTELLO: Object to the form. You
12 may answer.

13 A. I'm not quite sure. I think one of the
14 problems in checking calendars is that we don't have
15 exact days. And I don't know. There are six cases that
16 have been brought to the attention of the diocese and
17 the Child Victims Act, and I'm not sure I can remember
18 when the allegations were made in every case without
19 looking at the notes.

20 Q. What notes?

21 A. The complaints that have come forward.

22 Q. [REDACTED] has alleged that you sexually
23 abused him at some point between Thanksgiving of 1987

1 and Christmas. Did you check your calendars for those
2 specific dates?

3 A. Yes, I did.

4 Q. What did you find?

5 A. I found that in most instances it would have
6 been impossible for this to happen.

7 Q. Why?

8 A. Because I was elsewhere.

9 Q. Does your calendar contain any type of personal
10 entries? Like if you have personal time, would you put
11 that in your calendar?

12 A. No. These are diocesan calendars.

13 Q. So the calendars would only reflect things that
14 you were doing in your capacity as bishop; is that
15 correct?

16 A. Correct.

17 Q. If you were going to go out to dinner with
18 someone that had nothing to do with you being bishop,
19 would you put that in the diocesan calendar?

20 A. Ordinarily, no.

21 Q. Back between 1987 and 1988 what kind of car did
22 you drive?

23 A. I don't recall.

1 Q. Do you remember what color your car was?

2 A. No, I don't.

3 Q. Do you remember the names or the types of any
4 kind of cars that you drove in the 1980s?

5 A. I don't recall.

6 Q. Did you have a driver?

7 A. I didn't have a driver. Usually a priest would
8 accompany me to a confirmation so they could serve as my
9 master of ceremonies, and that was usually my secretary.
10 But that changed in the late eighties, early nineties.
11 And between deacons in given areas of the diocese and
12 they would meet me at the parish for the confirmations
13 so that my secretary wouldn't have to go to every
14 confirmation.

15 Q. And you would drive to those events on your
16 own?

17 A. I would.

18 Q. Do you know of any cars that Kampfer owned?

19 A. No.

20 Q. Are you aware that Kampfer owned 

21  ?

22 A. I'm only aware of it via this suit.

23 Q. Prior to this lawsuit did you have any

1 knowledge that Father Kampfer owned [REDACTED]

2 [REDACTED] ?

3 A. No, I didn't. In fact, I still don't know.
4 Was it Father Kampfer's place or was it the parish's
5 place?

6 Q. If it was Father Kampfer's place would there
7 have to be some kind of disclosure on a record with the
8 diocese that he owns this piece of property?

9 A. No.

10 Q. Have you ever been inside the rectory at
11 St. John the Baptist?

12 A. I can't say.

13 Q. Do you have any knowledge as to what the
14 rectory looks like, its layout, anything like that?

15 A. No.

16 Q. Have you ever been into the sacristy at
17 St. John the Baptist?

18 A. I assume I was.

19 Q. Do you have a specific recollection of what it
20 looks like?

21 A. No.

22 Q. Do you know if your picture was in the sacristy
23 of St. John the Baptist?

1 A. I know that many parishes have the picture of
2 the bishop of the diocese someplace in the parish
3 property, but I have no recollection if that's true at
4 St. John the Baptist.

5 Q. Do you deny that [REDACTED] was sexually
6 abused by Gerald Kampfer?

7 A. No.

8 Q. You had talked earlier about other people named
9 Howard and someone came up. His name was Howard
10 Manning. Do you recall that?

11 A. Yes.

12 Q. And you also I think testified there were a
13 couple other Howards in the diocese?

14 A. Yes.

15 Q. Who are those Howards?

16 A. They're all deceased, but they were alive at
17 the time. Howard Russell, who was vice-chancellor; and
18 Howard Mulcahy, who was the pastor of St. Paul's in
19 Troy.

20 Q. Describe Howard Russell.

21 A. Howard Russell was four years older than I am.
22 He was rather thin, good-looking young man. He left
23 ministry in 1976.

1 Q. Why did he leave ministry in '76?

2 A. It was his own desire to leave the priesthood.

3 Q. Describe Howard Mulcahy.

4 A. He would be the opposite of Father Russell
5 physically. He was short and chubby.

6 Q. When you say short, can you approximate his
7 height?

8 A. 5' 6', 5' 5".

9 Q. White? African-American?

10 A. White.

11 Q. Facial hair?

12 A. I can't recall.

13 Q. Did you assume the duties of bishop on
14 February 1st, 1977?

15 A. I was named on February 1st. I think in a
16 certain sense I would have to look canonically whether I
17 had full responsibility as bishop before my ordination,
18 but I certainly had the ability to act in the interim
19 and make the decisions. I became a bishop in March, the
20 27th of that month.

21 MS. LaFAVE: Peter, we're over an hour
22 right now.

23 MR. SAGHIR: I need five more minutes,

1 please.

2 Q. Are you familiar with the Sisters of St.
3 Joseph's of Carondelet?

4 A. I am.

5 Q. Is that an order?

6 A. It's a religious order of women.

7 Q. Does that religious order require your
8 permission to operate within the Diocese of Albany?

9 MR. COSTELLO: Object to the form. You
10 may answer.

11 A. Yes, they require our permission from the
12 diocese, but they have been here for a long time. I
13 don't recall them ever asking for any other permission
14 or action while I was bishop.

15 Q. Is there any operating agreement between the
16 diocese and the Sisters of St. Joseph?

17 A. Not that I'm aware of.

18 Q. Did anybody from the Sisters of St. Joseph's
19 report to the diocese, to your knowledge?

20 A. Not on a regular basis. They might come in to
21 discuss a particular situation, but there's not a
22 reporting requirement.

23 Q. Do you know a Sister Helen Trian?

1 MR. O'CONNOR: How do you spell that,
2 Peter?

3 MR. SAGHIR: Helen, H-e-l-e-n, Trian,
4 T-r-i-a-n.

5 A. It doesn't ring a bell. I'm not saying I don't
6 know her.

7 Q. Do you know [REDACTED]

8 [REDACTED]

9 A. Again, it doesn't ring a bell.

10 Q. Did you ever receive a complaint from anybody
11 at the Sisters of St. Joseph of Carondelet about someone
12 being a victim of sexual abuse by one of their sisters?

13 A. Did I ever receive a complaint?

14 Q. Yes.

15 A. Well, I think there have been some lawsuits
16 filed under the Child Victims Act that have accused them
17 of physical or sexual abuse, but I have not received
18 them.

19 Q. Aside from any lawsuit that was filed, did you
20 ever receive any kind of notice in 1970s that someone
21 was sexually abused by one of the Sisters of St. Joseph
22 of Carondelet?

23 A. I cannot recall. Well, I assume if I received

1 such a complaint it would have been after I became
2 bishop in 1977. I don't know why anybody would bring
3 such a complaint to me before that.

4 Q. And do you know of any complaints received
5 after 1977?

6 A. I can't recall. I'm not saying they didn't,
7 but I can't recall what they were.

8 Q. If you learned that a nun who was part of
9 Sisters of St. Joseph of Carondelet was sexually abusing
10 a child, would you have the authority to remove that nun
11 from the Diocese of Albany?

12 MR. COSTELLO: Object to the form.

13 A. I would have the authority to ensure that an
14 investigation took place. And if the community refused
15 to do the investigation, then I would have the authority
16 to step in, because we always have to be concerned about
17 the well-being of any victims of clergy sexual abuse.

18 Q. When you say you have the authority to step in,
19 you have the authority to step in and remove that nun
20 from the dioceses; correct?

21 MR. O'CONNOR: Object to the form.

22 A. Not remove from the diocese. I could interact
23 with a superior to maybe have her removed as a member of

1 the religious community, but I couldn't remove her from
2 the diocese.

3 Q. Would you have the authority to send that nun
4 for treatment?

5 A. I don't know if I would have the authority to
6 send a nun for treatment. I would have the authority to
7 ensure that she not present herself as a woman religious
8 in the community.

9 Q. Have you ever heard of St. Patrick's Central
10 Catholic High School in Catskill, New York?

11 A. Yes.

12 Q. That school is closed now; correct?

13 A. Correct.

14 Q. It was a diocesan high school; true?

15 A. It was, yes.

16 Q. Part of the Albany Diocese?

17 A. It was part of the Albany Diocese school
18 system, yes.

19 Q. Did the Sisters of St. Joseph have some kind of
20 housing on that campus, maybe a convent?

21 A. They may have.

22 Q. St. Joseph's Convent?

23 A. They may have. I would have to refresh my

1 memory, but it wouldn't be unusual, if they were
2 staffing the school, to have a convent.

3 Q. Did you ever go to St. Patrick's Central
4 Catholic High School with John Bartolucci?

5 A. I never went there with him. Whether I was at
6 St. Patrick's and he was also present, I don't recall.

7 Q. Do you know a priest named Dominic Ingenie,
8 I-n-g-e-n-i-e?

9 A. Dominic Ingemie, yes.

10 Q. Who is that?

11 MR. O'CONNOR: How do you spell that,
12 Peter, again? I'm sorry.

13 MR. SAGHIR: I think it's I-n-g-e-n-i-e,
14 but I might have that wrong.

15 THE WITNESS: m-i-e.

16 Q. Okay. Who was he?

17 A. Well, he's still alive. He's a retired priest
18 of the diocese. He served at a few schools at the
19 diocese as a teacher and I think he was principal of at
20 least one and maybe two schools and he was
21 superintendent of schools.

22 MS. SAGHIR: I have three more minutes,
23 Cynthia.

1 Q. Did Dominic Ingemie ever report sexual abuse to
2 you?

3 A. I can't recall.

4 Q. Do you know a priest by the name of Tartaglia,
5 T-a-r-t-a-g-l-i-a?

6 A. Yes.

7 Q. Who is that?

8 A. He's a retired priest in our diocese.

9 Q. Did he provide counseling to victims of sexual
10 abuse?

11 A. Not that I'm aware of.

12 Q. If he did provide counseling to victims of
13 sexual abuse and he took notes, where would those notes
14 be kept, if you know?

15 MR. O'CONNOR: Object to the form.

16 A. I don't. I don't know.

17 Q. And with respect to certain church records, if
18 I wanted to find out who an altar boy was during certain
19 years or when someone was baptized, are those records
20 kept by the parish locally or are they kept with the
21 diocese?

22 A. Baptismal records are kept locally. Altar boy
23 records, I can't imagine anybody keeps altar boy

1 records.

2 Q. You said several times that you didn't report
3 sexual abuse because you were not a mandated reporter,
4 in part. Do you recall that?

5 MR. O'CONNOR: Object to the form.

6 MR. COSTELLO: Object to the form.

7 MR. SAGHIR: I'll withdraw it.

8 Q. Bishop Hubbard, one of the reasons you told us
9 you did not report sexual abuse to law authorities is
10 because you weren't a mandated reporter; is that
11 correct?

12 MR. O'CONNOR: Objection.

13 A. That was one reason. Another reason was
14 oftentimes if a parent brought a complaint they didn't
15 want their child to have to deal with the law
16 enforcement agencies.

17 Q. I'm not talking about that. I'm talking about
18 your saying that you're not a mandated reporter. Can we
19 agree --

20 A. That's my understanding, although now -- excuse
21 me. I'm sorry.

22 Q. Can we agree that the laws that require people
23 to report don't say that you are not allowed to report

1 if you're not a mandated reporter?

2 MR. COSTELLO: Object to form.

3 MR. O'CONNOR: Objection to form. What
4 law, Peter?

5 MR. SAGHIR: The mandated reporting laws
6 we've been discussing the past three days.

7 MR. O'CONNOR: No. I get it. I get it.
8 Just to be fair to the bishop, though, you're
9 asking him what the laws say or don't say. Can
10 you show him the law?

11 MR. SAGHIR: If he can't answer it he'll
12 let me know. I'm running out of time.

13 Q. Bishop Hubbard, my question is very simple.
14 The laws concerning who is a mandated reporter talk
15 about who is required to report. But, to your
16 knowledge, there's nothing in the law that would prevent
17 someone from reporting sexual abuse; true?

18 MR. O'CONNOR: Object to the form.

19 MS. LOMANTO: Objection to the form.

20 A. I'm not sure I have an answer to that question.

21 Q. Well, if you do not report sexual abuse to law
22 enforcement, that's a choice that you're making; true?

23 A. Right now --

1 Q. I'm not talking about now. Withdrawn. I'm not
2 talking about now. I don't mean to interrupt you,
3 Bishop. Back in the 1970s or '80s when you were bishop,
4 if you did not report sexual abuse to law enforcement
5 authorities that was a decision you made; true?

6 A. Correct.

7 Q. You sent a letter, a bishop's letter, in May of
8 2003. And I'm going to read you a portion of that
9 letter. It reads, "I assure you that we have learned
10 from the mistakes of the past and are committed to doing
11 everything possible to make the protection of children
12 and young people, healing for victims and their
13 families, and the removal from ministry of any clergy or
14 church personnel who have abused their position of
15 sacred trust an urgent priority for our diocese." Do
16 you recall sending a letter containing that statement?

17 A. Sounds familiar, yes.

18 Q. When you say "I assure you that we have learned
19 from the mistakes of the past," what mistakes?

20 A. I would say we now have committed ourselves to
21 a zero tolerance policy, which we didn't have in the
22 past. We now committed ourselves to a much broader
23 program of assistance to victims and their families.

1 And we have committed ourselves to prepare the people of
2 our diocese with manuals we put out about safe
3 environment. The most important thing is we have
4 learned how terribly and horrendously victims have
5 suffered and many continue to suffer and we have
6 responsibility to respond to their suffering.

7 Q. You've testified over the past few days that if
8 you sent a priest for treatment at a center for sexual
9 abuse of a child that you would generally not disclose
10 this to the particular parish. Do you recall that
11 testimony?

12 A. Prior to 2002, yes.

13 Q. And part of the reason is that you were
14 respecting the priest's rights; correct?

15 MR. O'CONNOR: Object to the form.

16 A. That was part of the reason.

17 Q. And part of the reason was to prevent scandal
18 in the church; correct?

19 MR. O'CONNOR: Object to the form.

20 A. Another part of the reason was we didn't want
21 any focus to be placed on victims, which might happen if
22 a public disclosure was made.

23 Q. And if someone inquired as to why Father -- a

1 particular priest took a leave of absence and you knew
2 it was for sexual abuse, you would say he took a leave
3 of absence for health reasons; correct?

4 MR. O'CONNOR: Object to the form.

5 A. That would ordinarily be the response, yes.

6 Q. And when you would say that it was for health
7 reasons, we can agree that you were withholding part of
8 the truth; correct?

9 MR. O'CONNOR: Object to the form.

10 MR. COSTELLO: Objection.

11 A. I think that is the truth. It was for health
12 reasons.

13 Q. So health reasons could include someone having
14 a cardiac condition; true?

15 A. It could. I'm not saying it was the full
16 truth. I'm just saying that it was not untruthful.

17 Q. So we can agree it's not the full truth; true?

18 A. Right.

19 Q. Don't you think parents, Bishop Hubbard, would
20 want the full truth if there was a pedophile priest in
21 their parish?

22 A. I understand now that they would and I can
23 appreciate that and now we have greater transparency --

1 Q. Is it your testimony --

2 MR. O'CONNOR: Wait. He's answering your
3 question, Peter.

4 MR. SAGHIR: I'm doing it by Zoom. I
5 thought he was finished.

6 Q. Go ahead.

7 A. We want to make sure the victims have come
8 forward and know that they should come forward. And so
9 when we make this known publicly it gives encouragement
10 to victims to come forward and receive the support and
11 the help they need, will prevent further abuse if the
12 priest has not already been identified.

13 Q. Let me focus on the times when you weren't
14 telling the whole truth because you weren't divulging
15 that the priest was being sent for treatment for sexual
16 abuse of a child. Don't you believe that's information
17 that a parent would appreciate having to protect their
18 child?

19 MR. O'CONNOR: Object to the form.

20 A. In retrospect I appreciate that, but I don't
21 know, given the guidance that I had earlier in my
22 ministry, that that was at the forefront.

23 Q. What guidance? From who?

1 A. The guidance of attorneys. The guidance of
2 people with whom I consulted. Pretty much that. I
3 mean, at the outset there wasn't a lot of the resources
4 available to assist someone to deal with these issues.

5 Q. What attorneys?

6 A. Attorneys that were employed by the diocese.
7 Attorneys that represented victims. Attorneys that -- I
8 think those are the two major groups.

9 Q. And you said people that you consulted with.
10 Who did you consult with?

11 A. I consulted with the psychologists and
12 psychiatrists that we use locally. I consulted with the
13 members of my cabinet in the bishop's office. I --

14 Q. What's the name -- I'm sorry.

15 A. I consulted with church officials who may have
16 had some experience in dealing with this issue.

17 Q. What's the name of the psychologist that you
18 consulted with?

19 A. We're going back to 1977. I know over the
20 years we have had Dr. Wapner and Dr. Tucker, I think,
21 and Dr. Hamill. There's maybe more, but those are the
22 ones I remember.

23 Q. Is it your testimony that you know better than

1 parents what's in the best interest of their child?

2 MR. COSTELLO: Object to the form.

3 MR. O'CONNOR: Objection.

4 A. I think their child is a victim and they know
5 better than I do whether a child wants to be exposed
6 further to interrogation by other persons than
7 themselves.

8 Q. Well, I'm talking about when you would withhold
9 the full truth that you had sent a priest for treatment
10 for sexual abuse. In those instances you're not
11 divulging that information to the parents and the
12 parish; fair enough?

13 A. No, but very often if a child has come forward
14 and the next step has to be taken, I think sometimes the
15 parents are in a better position than I am as to whether
16 or not this would be for the well-being of the child or
17 not.

18 MR. O'CONNOR: Peter, are you about done?
19 I want to take a little breather.

20 MR. SAGHIR: Yes. I am. Yes, Terry. I
21 have literally another minute or two here, I
22 promise.

23 MR. O'CONNOR: You said that about ten

1 minutes ago.

2 MR. SAGHIR: I know. Never trust an
3 attorney.

4 Q. Knowing that parents, Bishop Hubbard, know
5 better what's in the best interest of their child, you
6 still chose to withhold information about a specific
7 priest being a pedophile to those parents; correct?

8 MR. O'CONNOR: Object to the form.

9 A. Correct. I've already testified to that.

10 Q. You testified earlier about supposed best
11 practices that you were following. Did anybody tell you
12 it was the best practice not to tell a parish that its
13 priest admitted to sexually abusing a child? I'm asking
14 if anybody told you that was a best practice.

15 A. I can't recall.

16 Q. Did they teach you in seminary that it was best
17 practice to hide information about a priest being a
18 pedophile from a congregation?

19 MR. COSTELLO: Objection.

20 MR. O'CONNOR: Objection to form.

21 A. No.

22 MR. SAGHIR: I have no further questions
23 at this time.

1 MR. O'CONNOR: Thank you, Peter.

2 MR. SHERECK: Let's go off the record at
3 2:49.

4 (A recess was taken in the proceedings.)

5 (The proceedings were reconvened as
6 follows:)

7 MR. SHERECK: We're back on the record at
8 3:01. Go ahead.

9 EXAMINATION BY MR. THOMPSON:

10 Q. Good afternoon, Bishop Hubbard.

11 A. Good afternoon.

12 Q. My name is John Thompson. Walter John
13 Thompson. I go by John. I'll be asking you a few
14 questions this evening about one of the plaintiffs who
15 has brought an allegation directly against you. Are you
16 aware of that allegation?

17 A. Yes, I am.

18 Q. The good news is I'll probably be your briefest
19 deposition so far out of this grueling stretch you've
20 been through. The plaintiff I represent, her name is
21 [REDACTED]. Are you familiar with [REDACTED]?

22 A. Yes. I was at the deposition last week.

23 Q. Yes, you were at the deposition last week, so

1 you heard her allegations; correct?

2 A. Yes.

3 Q. So I'm going to ask you some questions
4 surrounding general practices for confirmation and
5 general practices and if you remember that confirmation
6 that day and then your knowledge of [REDACTED], okay?
7 Thank you. So [REDACTED] alleged that during her
8 confirmation in 2012 that you were present and that you
9 touched her. Are you aware of that?

10 A. Yes.

11 Q. To prepare for today's deposition did you
12 review your calendars, as you just testified about
13 reviewing other calendars, around that time?

14 A. I looked at my calendars. Yes, I did.

15 Q. So you reviewed your calendars for May of 2012?

16 A. No, I haven't looked at those in 2012 yet. So,
17 no, I haven't reviewed my calendar for this particular
18 date.

19 Q. Okay. Thank you very much. In May of 2012 my
20 client was confirmed at [REDACTED].
21 Would you, as bishop, have been at that confirmation?

22 A. I would assume so, yes.

23 Q. You have presided at that confirmation;

1 correct?

2 A. Well, there have been times when a retired
3 bishop, and so forth, would be in the diocese and would
4 help me out, but as far as I know I was present at that
5 confirmation.

6 Q. Okay. Thank you. The standard procedure for a
7 confirmation, would it normally be during a mass or
8 would it be on a separate day?

9 A. It would be ordinarily during a mass.

10 Q. And at some point during the mass all the --
11 forgive me. I'm not Catholic. -- confirmants, I guess
12 you would refer to them?

13 A. Yes.

14 Q. Would line up and come to the front and they
15 would be confirmed by you?

16 A. Correct.

17 Q. Each individually; correct?

18 A. Each individually, with a sponsor with their
19 hand on the one to be confirmed's shoulder.

20 Q. And then you would anoint them?

21 A. I would anoint them, right.

22 Q. And then there would be an exchange of blessing
23 and confirmation from the person; correct?

1 A. We would confirm the person. We anoint the
2 forehead with oil and then say the words of
3 confirmation. And then I usually spend 30 seconds or a
4 minute just making the person to be confirmed feel at
5 ease.

6 Q. Okay. And so when you were making them feel at
7 ease what sort of conversation would you be having with
8 them?

9 A. I might ask them where they go to school, what
10 they hope to do when they graduate from high school,
11 what's their favorite activity. Things like that. I
12 always try to ask them a question that does not require
13 an answer, like how many sacraments are there? What are
14 the three most famous creeds in the church? I never
15 want them to feel and remember their confirmation by
16 giving the wrong answer.

17 Q. I understand. So you weren't grilling them?

18 A. No. I was just trying to make them feel at
19 ease.

20 Q. So you would want to make them feel warm and
21 welcome and a part of the family of the church, I
22 imagine?

23 A. Yes.

1 Q. Thank you. So on this day in May at
2 [REDACTED], were you the bishop doing the
3 confirmation that day?

4 A. Yes.

5 Q. And would there be a record of your attending
6 that service in your diocesan calendar?

7 A. If we still have the calendars for that year,
8 I'm not sure we do, but if we still had the calendars
9 there would be a record. But there would also be a
10 record in the church file.

11 Q. Yes. I was going to get there next. So the
12 way that these events are arranged, is there
13 communication between the church and the diocese to
14 schedule your appearance?

15 A. Yes. The church submits an application to have
16 the sacrament of confirmation celebrated in the parish.
17 They usually give a general time that they would like
18 and we try to accommodate that. In my calendar I would
19 have it written like [REDACTED], 6 o'clock in
20 the evening, whatever time it was. But the church has
21 to file who is confirmed on such and such a day, and
22 that should be a permanent file. And even if the parish
23 were to close, that file has to be transferred to

1 another parish so people have access to when they
2 received the sacrament.

3 Q. So, as I understand, this should be pretty easy
4 for us to verify whether you were there and whether my
5 client was there on the same day?

6 A. Correct.

7 Q. Okay. And then also during the deposition last
8 week my client was asked a lot of questions about
9 photographs at the confirmation. So, in general, after
10 the confirmation mass concludes do you mingle with the
11 celebrants and their families?

12 A. No. My ordinary procedure is that as soon as
13 the service is over I go directly from the church to the
14 hall or meeting room where the reception is being
15 conducted. I try not to get caught up with the
16 congregation because many people have made arrangements
17 for dinner or reception someplace and I want to be
18 available immediately to the candidates, so I go
19 directly from the altar to the meeting room.

20 Q. And I haven't seen the layout for [REDACTED]
21 yet, but where is the reception room in relation to the
22 altar?

23 A. The best I remember, it's behind the altar. In

1 other words, the church is built out to the street. And
2 then behind the altar and the church itself is a big
3 meeting space, and that's where receptions are
4 conducted.

5 Q. Is it part of the actual church or is it a
6 separate building attached to the church?

7 A. I'm not sure of -- I'm not sure.

8 Q. And do you remember if there is a hallway or a
9 passageway or a pass-through that takes you from the
10 altar to the reception room?

11 A. I think you can go from the altar to the
12 reception room. My best recollection, and that's all it
13 is at this time, is I would ordinarily go down the aisle
14 from the altar to the back of the church and come around
15 the side aisle to get into the meeting area.

16 Q. And you were wearing generally your red
17 vestments for the ceremony; right?

18 A. Correct. And I also wear those vestments at
19 the meeting hall because usually the sponsors and the
20 candidates want to have a picture with the bishop in
21 vestments.

22 Q. So it's not standard practice but it's pretty
23 common that all of them would want to have a picture of

1 you in your vestments with the confirmants?

2 A. Yes. Not all of them always come, but I would
3 say 90 percent.

4 Q. 90 percent. Of course. It's a very proud
5 moment; correct?

6 A. It is for a family because it's a culmination
7 of their formal faith formation.

8 Q. And is it a proud moment for you?

9 A. Yes, it is. It's one of the best things I've
10 ever done as a bishop is to be available to confirm so
11 many young people in our diocese.

12 Q. So in that passage from the church to -- you
13 said you would go down the altar and come back and
14 around and then go into the reception area; correct?

15 A. Correct.

16 Q. Would --

17 A. I'm talking about [REDACTED] now.

18 Q. Yes, we're talking about [REDACTED].

19 A. Sometimes the meeting room is in another
20 building on the other side of the street or next to the
21 church, but [REDACTED] is behind the altar.

22 Q. Okay. Thank you. We can limit this to [REDACTED]

23 [REDACTED]

1 A. Okay. Fine.

2 Q. We're talking about one day and one event or
3 two events on one day. To the best of your
4 recollection, is that a crowded journey?

5 A. No. I try to avoid the crowd. That's why
6 ordinarily when I'm celebrating mass and it's not a
7 confirmation I go down the center aisle, get to the rear
8 of the church, and then stand there to greet people
9 leaving. But because I know that the confirmation
10 candidates are looking to have their pictures taken with
11 their family or their sponsor, I try to avoid that by
12 during the exit procession I try to get right into the
13 reception area without getting caught up in the crowd in
14 the church.

15 Q. Okay. Thank you. And in addition to the
16 family photos, are there any church photos that are
17 taken? Is there a church photographer that takes
18 pictures of the event for the church bulletin, say?

19 A. Sometimes there is. It's less and less so, but
20 sometimes there is. I couldn't tell you which ones do
21 it and which ones don't.

22 Q. Well, are you aware that on the [REDACTED]
23 [REDACTED] website they post multiple pictures of

1 confirmations?

2 A. I'm not on the web.

3 Q. You're probably better off, Bishop. Okay.

4 Thank you. So you're not aware of being asked to pose
5 with the congregants by anybody other than family
6 members and from the church?

7 A. Sometimes they would want a group picture, and
8 if that's the case I accommodate them. But even there
9 the picture will be at the altar and then I try to move
10 right from the altar to wherever the reception is going
11 to take place.

12 Q. I appreciate that. Thank you. And then after
13 the reception and after the event, the day's event, the
14 mass, what would be your practice generally?

15 A. Well, frequently I have two confirmations. So
16 sometimes I -- that's another reason why I try to move
17 it along, because sometimes I have a second confirmation
18 at another parish either in that community or the next
19 town over.

20 Q. And are you aware, do you remember -- I know
21 it's nine years ago and you've been asked to recall a
22 lot, but do you recall how frequently you would have two
23 confirmations in a day?

1 A. I would say four days a week, at least, during
2 the spring and the fall. That's when I do confirmation.

3 Q. That was my next question. Is there a specific
4 season for confirmation?

5 A. Yes. Busy from March until June and from mid
6 September to Thanksgiving.

7 Q. Okay. Thank you. Are you ever invited to
8 personal events after the confirmations?

9 A. Occasionally, but more often than not I'm not
10 free to accept them because of other commitments.

11 Q. Okay. But have you accepted them in the past?

12 A. Only if I know somebody personally and have a
13 personal relationship with a family. Otherwise, no.

14 Q. Okay. So my plaintiff, my client, her name is
15 [REDACTED]. Are you familiar with [REDACTED]?

16 A. Only through the deposition. Well, no. I
17 shouldn't say that. I've met her once before.

18 Q. On what occasion did you meet her once before?

19 A. I met her at the celebration that was honoring
20 [REDACTED]
21 [REDACTED].

22 Q. And what was [REDACTED] name?

23 A. I'm getting confused by her maiden name and her

1 married name.

2 Q. Okay.

3 A. The name that's coming to my mind is [REDACTED]
4 [REDACTED] but I may be wrong with that. I mean, I know
5 who she is. I know I went to that reception. Right now
6 my head is full, I guess. I can't recall her name.

7 Q. I appreciate that. Thank you for your effort.

8 [REDACTED] --

9 A. [REDACTED] I think was her maiden name.

10 Q. Do you also know [REDACTED] ?

11 A. No. I think I was confusing [REDACTED] with
12 somebody else.

13 Q. Would you be surprised to know that [REDACTED]
14 [REDACTED] is the mother of [REDACTED] ?

15 A. No. I guess that's why I'm mixing it up.

16 Q. Okay. So the [REDACTED] family was --

17 A. Because [REDACTED] was the one that hosted
18 this reception for [REDACTED].

19 Q. And was that reception on the same day as the
20 communion?

21 A. No.

22 Q. It was a separate time?

23 A. A separate time, yes.

1 Q. Do you remember approximately when that was?

2 A. No, I don't.

3 Q. Do you remember if it was winter or summer?

4 A. I really don't remember. I remember going, but
5 I don't remember much else about it.

6 Q. Okay. Do you remember where that was located?

7 A. It was at [REDACTED] home.

8 Q. At [REDACTED] home. Okay. Was it a
9 crowded event?

10 A. My recollection would be maybe 30 to 40 people.

11 Q. It's my understanding the [REDACTED] family is
12 [REDACTED]. Do you know any of the other members of
13 the family?

14 A. Well, I probably met them on occasions going
15 around the diocese. And I probably met some of them
16 there at that reception because it was in honor of
17 [REDACTED]. The only one I really know is [REDACTED].

18 Q. But you met [REDACTED] at that reception, you just
19 said?

20 A. I think she was at the reception, yes.

21 Q. Okay. What do you remember about her at that
22 reception?

23 A. I don't remember anything about her

1 specifically. I mean, it was 30 or 40 people. I wasn't
2 there that long, maybe 45 minutes, an hour. And I was
3 mainly interested in showing my support for [REDACTED]
4 because she was like the honored guest.

5 Q. I appreciate that. Thank you. And I don't
6 mean to grill you on this, but I just want to be clear
7 and be safe on both sides. But when I did bring up
8 [REDACTED] name and you said you met her at confirmation
9 and you said, "I met her at one other occasion." So you
10 recalled meeting her at this occasion?

11 A. Well, I assume she was there.

12 Q. But you can't recall anything else about her at
13 that occasion?

14 A. No.

15 Q. Do you recall if you spoke to her?

16 A. I can't recall specifically, no.

17 Q. At these types of occasions or at this specific
18 occasion would you drink?

19 A. No. I don't drink.

20 Q. You don't drink?

21 A. Well, I mean I don't drink alcohol.

22 Q. Okay. Have you ever drank alcohol?

23 A. For a period of maybe four years, between 1969

1 and 1973, I would take a drink at a wedding reception.
2 That was it. Before and after that I did not drink.

3 Q. Okay. Are you in recovery for alcoholism?

4 A. No.

5 Q. So you just don't drink because you choose not
6 to?

7 A. Correct.

8 Q. Thank you. So there would be nothing to impair
9 your memory regarding [REDACTED] ?

10 A. Age.

11 Q. Your memory seems pretty sharp to me. Okay.
12 So I just have a few more questions, then. We already
13 confirmed that there would be records of the event
14 either at the church or through the diocese, possibly
15 photos; correct?

16 A. Yes. The diocese would only be through my
17 calendar, if that's available, but the parish has to
18 keep the record.

19 Q. Yes. Absolutely. Okay. Thank you. And they
20 may in their bulletin have had some sort of publicity
21 around the event, too?

22 A. They may have, but I don't know if they would
23 retain the parish bulletins from almost ten years ago.

1 I don't know if they do. You have to ask the parish
2 that.

3 Q. So is it common to have a parish historian?

4 A. Some places do. I don't think it's common.

5 Q. It would be more of a volunteer effort, I
6 think; right? Okay. Earlier we talked about
7 confidential settlements. I'm not even sure if I can
8 ask this, but I'm going to ask it. Were any of them
9 about you?

10 A. No.

11 Q. When you spoke about Mary Jo White earlier you
12 mentioned the 800 number. And you said, if you recall,
13 there was an 800 number set up regarding your behavior?

14 A. Yes. I was being investigated at the time. I
15 was accused of abuse of children in 2004. We turned the
16 allegations over to the District Attorney. The District
17 Attorney said he didn't have jurisdiction because the
18 statute of limitations, and yet my credibility and
19 ability to serve as bishop was under a cloud. And so it
20 was the recommendation of our diocesan review board that
21 we hire an outside firm with no association with the
22 diocese to do an investigation of the charges. And they
23 did that. I think it was the Plimpton firm in New York

1 City, but Mary Jo White was the prime investigator of
2 the allegations that were made against me.

3 Q. Thank you. Just about done. A couple quick
4 questions. Are you familiar with Sister Jerome?

5 A. Not off the top of my head.

6 Q. She was a seventh grade teacher. But this
7 would have been earlier.

8 A. Where?

9 Q. Cathedral.

10 A. The Cathedral?

11 Q. Cathedral Academy, I think.

12 A. I think there was a Sister Jerome there. I
13 didn't know her well, but I think there was a Sister
14 Jerome there.

15 Q. So did you ever hear of any complaints of
16 sexual abuse by Sister Jerome?

17 A. Not that I recall.

18 Q. Monsignor John Jones?

19 A. Yes. I was an assistant to him for one year as
20 a newly ordained priest from '64 to '65.

21 Q. Were you ever aware of any sexual abuse
22 allegations against Monsignor John Jones?

23 A. No.

1 Q. And Father Romano?

2 A. There have been allegations against him and
3 he's listed on the diocesan website as a priest that was
4 credibly accused.

5 MR. THOMPSON: Bishop, thank you. That's
6 all I need at this time.

7 THE WITNESS: Thank you.

8 MR. COSTELLO: Thank you, John.

9 EXAMINATION BY MR. AMALA:

10 Q. Bishop Hubbard, my name is Jason Amala. I
11 asked you some questions yesterday. Today my questions
12 are going to focus on St. Mary's Catholic Church to
13 start. St. Mary's Catholic Church in Ballston Spa was a
14 parish in the Diocese in Albany; correct?

15 A. Correct.

16 Q. How would you describe St. Mary's during your
17 tenure as bishop?

18 A. Well, describe it in what sense?

19 Q. Fair question back, Bishop. Was it a rural
20 parish? Was it a busy parish? If someone asked you to
21 describe in a few sentences St. Mary's parish.

22 A. It's a very busy parish in a small community.

23 And I know when I go there for confirmations they

1 usually have a high number of candidates, which shows
2 that it's a big parish for a rural community and,
3 obviously, they have an excellent faith formation
4 program. And I can also say proudly that my niece is a
5 principal of the local school there, the local Catholic
6 school.

7 Q. She is today?

8 A. She is today, yes.

9 Q. Did St. Mary's present any particular
10 challenges to you when you were the bishop of Albany?

11 MR. COSTELLO: Object to the form. You
12 may answer.

13 A. There was only one challenge and it was not so
14 much from the parish. It was from the surrounding
15 parishes. The pastor there for many years was Father
16 Paul Bondi and he used to do very quick masses. And a
17 lot of people liked to identify with that parish because
18 they were in and out quickly, and other pastors from
19 neighboring parishes felt that he was stealing their
20 sheep.

21 Q. Did you at one point appoint Father Bondi to
22 serve at St. Mary's?

23 A. I'm not sure if he was already pastor when I

1 became bishop or whether I appointed him. I would have
2 to check the appointment list on that.

3 Q. But Father Bondi did serve at St. Mary's as
4 pastor while you were there supervising --

5 A. Yes. He was there most of the time --

6 (Interruption by the court reporter
7 because of overlapping voices.)

8 Q. Bishop, good news for you. I believe I'm the
9 last person to ask you questions today. I know it has
10 been a long few days, but let's try hard not to talk
11 over each other. I know you didn't mean to, sir. So my
12 question was that Father Bondi did serve at St. Mary's
13 while you were bishop of the diocese; correct?

14 A. Correct.

15 Q. When you were bishop of the Diocese of Albany
16 you expected any priest at St. Mary's to report to the
17 diocese if it felt that a child at St. Mary's was in
18 danger of being sexually abused; correct?

19 A. Correct.

20 Q. And if a priest or an employee of St. Mary's
21 believed that Father Bondi might be sexually abusing a
22 child at St. Mary's, you expected them to report that to
23 the diocese; correct?

1 A. I'm sorry. Who is it I would expect to report?

2 Q. If a priest or an employee of St. Mary's
3 believed that a child at St. Mary's might be in danger
4 of being sexually abused by Father Bondi, you expected
5 them to report that to the diocese; correct?

6 A. Correct.

7 Q. And, Bishop, you, during your tenure as bishop,
8 you felt that that was one of the job responsibilities
9 of your priests and the employees of the diocese and
10 parishes; correct?

11 A. I think that was made clearer from the time I
12 became bishop to the time I retired. But yes, I think
13 that that would be an important part of the
14 responsibility, caring for the well-being of vulnerable
15 children.

16 Q. When you were bishop of the Diocese of Albany
17 did you ever visit St. Mary's yourself?

18 A. As far as I can recall, except for
19 confirmations and maybe a funeral or an anniversary
20 celebration, I didn't have any other occasions to visit
21 there.

22 Q. Did you ever have reason to be in the sacristy
23 at St. Mary's?

1 A. I think that -- I'm not sure. I assume I was
2 in the sacristy, although sometimes I would vest in the
3 rectory. So it differed from parish to parish and I
4 can't say which ones were which right now. At one time
5 we had over 200. We're still around 130. So I can't
6 recall what each parish had as a vesting practice.

7 Q. [REDACTED]
8 [REDACTED]

9 A. [REDACTED]

10 Q. [REDACTED]

11 A. [REDACTED] [REDACTED]

12 [REDACTED]

13 [REDACTED] [REDACTED]

14 [REDACTED]

15 [REDACTED] [REDACTED]

16 [REDACTED] [REDACTED]

17 [REDACTED]

18 [REDACTED] [REDACTED]

19 [REDACTED]

20 [REDACTED] [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 Q. [REDACTED]

1

[REDACTED]

2

[REDACTED]

3

A.

[REDACTED]

4

[REDACTED]

[REDACTED]

5

[REDACTED]

6

[REDACTED]

7

[REDACTED]

8

Q. So, Bishop, again I appreciate -- I think we've

9

had a pretty good conversation yesterday and today so

10

far, but you're starting to jump in before I finish

11

asking my question. And so I've got to reask the

12

question just so we have a good transcript of the

13

question and answer. Okay?

14

A. I apologize.

15

Q. I know you didn't mean to, Bishop. Fine. So

16

my question was:

[REDACTED]

17

[REDACTED]

18

[REDACTED]

19

[REDACTED]

20

A.

[REDACTED]

21

[REDACTED]

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[REDACTED]

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[REDACTED]

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[REDACTED]

Q. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

A. [REDACTED]

MR. COSTELLO: [REDACTED]

Q. [REDACTED]

A. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Q. [REDACTED]

[REDACTED]

[REDACTED]

MR. COSTELLO: Object to the form.

MR. O'CONNOR: Object to the form. Stupid

question.

A. I can't tell you whether the alter boy would feel empowered. If it came to my attention that it happened I would call the pastor in and chastise him.

MR. AMALA: Real quick, folks. I don't

1 know who said it. We're all big boys and girls
2 here, but whoever said that was a stupid
3 question, I ask that you watch comments like
4 that.

5 Q. Bishop Hubbard, I now want to talk a little bit
6 more about Father Bondi. Did you consider Father Bondi
7 to be a close personal friend?

8 A. No.

9 Q. Did you participate in his funeral?

10 A. I probably did. I usually celebrate the
11 funerals of every priest. Unless I was out of town for
12 some reason I always celebrated the funeral. When I was
13 ordinary I always celebrated the funeral of any deceased
14 priest of the diocese.

15 Q. And did you preside over Father Bondi's
16 funeral?

17 A. I can't recall exactly, but I would be
18 surprised if I didn't.

19 Q. Bishop Hubbard, do you know if the Diocese of
20 Albany maintained a record of your correspondence as
21 bishop?

22 A. I would think they have a record, yes.

23 Q. Did you when you were bishop follow any

1 particular process to help make sure that the diocese
2 could maintain a record of your correspondence as
3 bishop?

4 A. No, I didn't dictate any policy. I just
5 followed the policy that was in place when I was named
6 bishop.

7 Q. And, Bishop, that's my question. What was the
8 policy or procedure that you followed to make sure that
9 a record was kept with your correspondence as bishop?

10 A. My understanding is all correspondence would be
11 kept in the file.

12 Q. And is that something that your secretaries
13 handled, Bishop?

14 A. Yes.

15 Q. I want to ask you now about [REDACTED]

16 [REDACTED] Bishop, could you please take a look at Exhibit
17 138? Bishop Hubbard, do you see [REDACTED]

18 [REDACTED]

19 A. [REDACTED]

20 [REDACTED]

21 Q. Yes, sir.

22 A. Yes, I see it.

23 Q. I will represent to you that that young boy's

1 name is [REDACTED], who is one of the plaintiffs, and
2 that he served at St. Mary's in the mid 1990s. Do you
3 recall this young boy?

4 A. No.

5 Q. Do you remember a young boy named [REDACTED]
6 who served as an altar boy at St. Mary's in the mid
7 nineties?

8 A. No. But you have to remember that I have
9 probably 500 services in the course of a year with altar
10 boys in 120 parishes. To think that I would remember
11 most of these altar boys or be able to pick them out of
12 a lineup is just impossible.

13 Q. Do you have any recall of [REDACTED]
14 parents?

15 A. Not from this picture.

16 Q. Aside from this picture, do you have any recall
17 of [REDACTED] parents?

18 A. No.

19 Q. Bishop Hubbard, do you deny that you sexually
20 abused [REDACTED] in the 1990s when he was an altar
21 boy at St. Mary's?

22 A. Absolutely.

23 Q. Bishop Hubbard, do you deny that you sexually

1 abused an altar boy in the 1990s at St. Mary's?

2 A. Absolutely.

3 Q. Bishop, do you deny that you sexually abused an
4 altar boy at St. Mary's in the 1990s after a [REDACTED]
5 [REDACTED]?

6 A. Absolutely.

7 Q. You attended [REDACTED] deposition last week;
8 correct?

9 A. I did.

10 Q. Did you ask to be present at his deposition?

11 MR. O'CONNOR: No. I asked him to be
12 present.

13 MR. COSTELLO: It was part of the
14 stipulation, too.

15 BY MR. AMALA:

16 Q. Bishop, did you ask to be present at [REDACTED]
17 deposition?

18 A. No. I was asked by my attorney.

19 Q. During his deposition you saw that [REDACTED]
20 testified that you sexually abused him in relation to a
21 [REDACTED] at St. Mary's; correct?

22 A. Correct.

23 Q. Did you look at your calendar to see if you

1 were ever at St. Mary's for a [REDACTED] in
2 the nineties?

3 A. I haven't personally, no.

4 Q. Do you know of someone else who has?

5 A. I think my attorneys are looking at that.

6 Q. Bishop Hubbard, are you aware that multiple
7 abuse survivors allege that you sexually abused them
8 after they were abused by another priest?

9 MR. COSTELLO: Object to the form.

10 A. No, I'm not aware of that.

11 Q. Did Father Bondi tell you that he had been
12 sexually abusing [REDACTED] ?

13 A. No.

14 Q. Did Father Bondi suggest to you that [REDACTED]
15 [REDACTED] was an altar boy who you could sexually abuse?

16 A. No.

17 Q. Bishop Hubbard, I'd like to talk a little bit
18 more about --

19 MR. AMALA: You can take down that
20 exhibit, please. Thank you.

21 Q. Bishop Hubbard, I'd like to talk with you a
22 little bit more about law enforcement in the Albany
23 area. While you were bishop of the Diocese of Albany

1 there were multiple instances where you were contacted
2 by law enforcement about a priest accused of sexual
3 abuse; correct?

4 MR. O'CONNOR: Object to form.

5 A. I forget the number. I think it was four or
6 five. Yes.

7 Q. And you were contacted or the diocese was
8 contacted so that you could come and take that priest
9 into your own care rather than the priest being charged
10 with a crime; correct?

11 MR. O'CONNOR: Object to the form.

12 A. They referred it to me and asked me to do
13 something about it. I can't say anything more about
14 what their motivation was except that I was supposed to
15 deal with it.

16 Q. Do you know why, Bishop, law enforcement seemed
17 to make an exception for those priests and released them
18 into your custody rather than charging them with a crime
19 like would presumably happen to most people who were
20 accused of sexually abusing a child?

21 A. I don't know why they would do that. I never
22 requested it be done.

23 Q. Do you know of anyone else from the diocese who

1 requested that that be done?

2 A. Not that I know of.

3 Q. Did the diocese while you were bishop have an
4 understanding with local law enforcement regarding how
5 to handle a suspicion that a priest had engaged in
6 criminal activity?

7 A. No.

8 Q. Did the diocese while you were bishop have an
9 understanding with local law enforcement regarding how
10 to handle a suspicion that a priest might have sexually
11 abused a child?

12 A. No.

13 Q. Bishop Hubbard, did you ever have contact with
14 law enforcement while you were at Washington Park?

15 A. No.

16 Q. Did you ever have contact with law enforcement
17 on your way to Washington Park?

18 A. No.

19 Q. Did you ever have contact with law enforcement
20 after leaving Washington Park?

21 A. No.

22 Q. Bishop Hubbard, were you ever detained by law
23 enforcement at Washington Park?

1 A. No.

2 Q. Were you ever detained by law enforcement on
3 your way to Washington Park?

4 A. No.

5 Q. Were you ever detained by law enforcement after
6 leaving Washington Park?

7 A. No.

8 Q. Bishop Hubbard, were you ever questioned by law
9 enforcement in relation to you having been at Washington
10 Park?

11 A. No.

12 Q. Did you ever have contact with law enforcement
13 in any way whatsoever as a result of you being at
14 Washington Park?

15 A. No.

16 Q. Bishop Hubbard, I now would like to talk about
17 the transition from your predecessor, Bishop Broderick,
18 to you. When you became the bishop of the Diocese of
19 Albany did you ask your predecessor, Bishop Broderick,
20 if there were any issues that you needed to be aware of
21 so that you could protect children in the diocese from
22 danger?

23 A. No.

1 Q. When you became bishop of the Diocese of Albany
2 did Bishop Broderick tell you which priests had been
3 accused of sexually abusing children?

4 A. No.

5 Q. At that point you had been a chair of the
6 priest personnel board; correct?

7 A. Yes.

8 Q. And you were aware of at least one instance
9 when you were in that position of a priest being accused
10 of sexual abuse; correct?

11 A. Correct.

12 Q. And that was Father Wilson; correct?

13 A. Correct.

14 Q. When you then assumed the position of bishop of
15 the Diocese of Albany did you ask Bishop Broderick if
16 other priests who were still serving in the diocese had
17 been accused of molesting children?

18 A. I'm sorry. Would you please repeat the
19 question?

20 Q. We're both tired, so, Bishop, I'm going to ask
21 the court reporter to please read that question back.

22 (The reporter read back the previous
23 question.)

1 A. No, I did not ask him that.

2 Q. And he did not tell you that either; correct?

3 A. Correct.

4 Q. When you became the bishop of the Diocese of
5 Albany did Bishop Broderick tell you which priests had
6 sealed files?

7 A. No.

8 Q. Did he ever tell you which priests had sealed
9 files?

10 A. No.

11 Q. Did you ever ask Bishop Broderick which priests
12 had sealed files?

13 A. No.

14 Q. Why did you never ask Bishop Broderick which
15 priests had sealed files?

16 A. Because when I became bishop I was only aware
17 of one case. And even my first 25 years as bishop I had
18 nine cases, so it was not something that I was aware of
19 as a problem when I became bishop. It wasn't something
20 that I expected I would have to address.

21 Q. But you knew at the time that the diocese
22 maintained the sealed files that reflected problems with
23 priests that were serious enough that they need to be

1 kept in sealed files that were only accessible to the
2 chancellor; correct?

3 A. Correct.

4 Q. And you understood that at least one of those
5 files contained files containing child sexual abuse;
6 correct?

7 A. Correct.

8 Q. And you never did anything when you became
9 bishop to look at those files to ascertain what problems
10 existed within the priests serving your diocese;
11 correct?

12 A. I did look at files regarding priests for whom
13 an allegation was made to me to see if there was
14 anything in their file that would indicate any past
15 activity of that nature, but that's the only time I went
16 to the files. I didn't do a review of every file that
17 was in the sealed files.

18 Q. When was the first time that you did that, that
19 you went into the sealed files to look and see what the
20 diocese knew about a particular priest who had been
21 accused of child sexual abuse?

22 A. I'm not sure. I think if I look at the priests
23 that I dealt with, it was probably Father Stone.

1 Q. And, Bishop, when approximately did that review
2 by you take place?

3 A. Probably late seventies, early eighties.

4 Q. And when you went into the sealed files and
5 looked for the file on Father Stone, while you were
6 there did you think that maybe you should look at the
7 other files to see if other priests who were still
8 serving your diocese had previously been accused of
9 child sexual abuse?

10 MR. O'CONNOR: Object to the form.

11 A. No. I never went in the file myself. I asked
12 the chancellor to get the file for me. The first time I
13 was ever in the room where the sealed files were kept
14 was after I retired as the ordinary. So I was never in
15 the sealed files during the time I was the ordinary in
16 the diocese.

17 Q. When you asked your chancellor to go and
18 retrieve that file from the sealed files, did you think
19 that you might at that time ask your chancellor to pull
20 any other files that were in there on other priests who
21 were still serving in your diocese that had been accused
22 of sexually abusing children?

23 A. I don't think he would know unless he went into

1 each file.

2 Q. And you never asked him to do that; correct?

3 A. No, I didn't.

4 Q. But you knew, at this point you had at least
5 two priests, Father Wilson, Father Stone, who were
6 serving in your diocese and had been accused of sexual
7 abuse; correct?

8 A. That's correct.

9 Q. And you knew there was a risk that you had
10 other priests who were still serving in the diocese
11 despite the fact that there had been prior allegations
12 of child sexual abuse by them; correct?

13 A. I didn't know that, because I hadn't reviewed
14 those files.

15 Q. Well, that's I guess my point, Bishop. You
16 didn't know whether or not you had any priests who were
17 serving within your diocese who had faced those types of
18 allegations because you never went to look at the files;
19 correct?

20 A. That's correct.

21 Q. All right, Bishop. I'm going to go over a few
22 things we talked about the last few days just to make
23 sure we're all on the same page. So I want to talk just

1 briefly on the procedure for handling a complaint of
2 child sexual abuse at the local level. By that I mean
3 at the parish or the school level.

4 Did your tenure as bishop of the Diocese
5 of Albany you expected your priests and others serving
6 the diocese to report to the diocese if they believed a
7 child might be in danger of being sexually abused;
8 correct?

9 A. Correct.

10 Q. And that, in your view as the bishop, was one
11 of their job responsibilities; correct?

12 A. Correct.

13 Q. How did your priests and the others who were
14 serving the diocese know that one of their job
15 responsibilities was to make a report to the diocese if
16 they believed a child might be in danger of being
17 sexually abused?

18 A. Well, we put out a manual and updated that over
19 the years.

20 Q. When was that manual first published?

21 A. 1993.

22 Q. So before 1993 -- let me do it this way. When
23 you first became bishop how did the priests and others

1 who were serving the diocese know that one of their job
2 responsibilities was to report to the diocese if they
3 believed a child might be in danger of being sexually
4 abused?

5 A. Well, I don't know if there was any written
6 policy in that, so I can't tell you how they knew. It
7 would seem to me from common sense they would know.

8 Q. And why would they know that from common sense?

9 A. Well, why wouldn't they? If a child, who is so
10 vulnerable, was being abused, they had a responsibility
11 to make sure that that child was protected, that that
12 child was given help. And anybody with common sense
13 would have to know that you could not allow a child to
14 be abused and not be reported to somebody so it would
15 stop.

16 Q. And, Bishop, was that true up until the manual
17 was published in 1993?

18 A. Is what true?

19 Q. I originally asked you how the priests and
20 others who were serving the diocese would know that one
21 of their job responsibilities was to report to the
22 diocese if they felt the child was in danger of sexual
23 abuse. And you said, "Well, we had a manual that was

1 published on that and that was published in 1993."

2 A. Correct.

3 Q. And my next question was, "When you first
4 became bishop how did they know that that was one of
5 their job responsibilities?" And you testified, "Well,
6 I'm not sure, but that would be common sense."

7 So my question is, between the time you
8 became bishop and 1993 how did the people who were
9 serving the diocese know that this was one of their job
10 responsibilities?

11 A. Well, I assume that if they were working in a
12 Catholic institution or a Catholic parish they know that
13 sexual abuse of a child is a sin and a crime and that
14 the interests of children with whom they had been
15 entrusted would demand that something be done to prevent
16 that from happening again and to assure that the child
17 who is abused get the help and assistance that a child
18 might need in the future.

19 Q. Bishop Hubbard, I would like to now talk about
20 the diocese procedures for handling complaints of child
21 sexual abuse during your tenure as bishop. Again,
22 Bishop, I know we've talked about this at different
23 times over the past few days, so my goal here is to just

1 make sure we have a good timeline of what those policies
2 were and how they changed over time. Okay?

3 A. Okay.

4 Q. When you first became bishop of the Diocese of
5 Albany what was the procedure that the diocese followed
6 if it learned of an allegation of child sexual abuse by
7 a priest or someone else who was serving in the diocese?

8 A. What we would do is to reach out and have the
9 priest who is accused learn of the allegation and ask
10 what his response was to this allegation. If he
11 indicated that he was the person who had committed the
12 crime, then we would have him evaluated by a local
13 psychologist or maybe both a local psychiatrist and then
14 sent to a treatment center. If he denied it, then we
15 would have an investigation. But if it was proven that
16 it was credible reasonably that he abused he would be
17 sent to a treatment center and we would rely upon the
18 experts at the centers who advise us whether or not it
19 was appropriate to return a priest to an assignment or
20 to have him removed from ministry.

21 Q. And, Bishop Hubbard, that procedure that you
22 just described, did that ever change during the time
23 that you were bishop?

1 A. Yes. It changed after the Dallas charter. It
2 changed also in 1993 when we received a report from the
3 National Conference of Bishops and we appointed the
4 misconduct review board so that every allegation of
5 sexual abuse of a minor or young adult was presented to
6 the review board. And they also, if the priest had not
7 acknowledged the abuse, would receive the results of an
8 investigation done by the private investigator and then
9 make a recommendation to me about the future of the
10 priest in terms of his ministry.

11 Q. Bishop, as I said at the start of this series
12 of questions, my goal here is to just make sure we all
13 have a good timeline of how the policy changed, which is
14 why I asked you if what you first described changed over
15 time. So I'm going to revisit some of what you just
16 talked about, just again to make sure we've got a good
17 understanding of what the full policy was over time.
18 You said --

19 A. Can I -- excuse me. I stopped at the end of
20 '93, but did you want to know the further changes or are
21 you going to bring that up in subsequent questions?

22 Q. Let's clean it up in subsequent questions,
23 Bishop, because I would like to start and just do this

1 in time chunks. So you said when you are first bishop
2 until the Dallas charter that if a priest was accused of
3 child sexual abuse you would interview the priest and if
4 he admitted to the allegations he would be sent for
5 treatment; is that correct?

6 A. Correct.

7 Q. If a priest admitted to sexually abusing a
8 child was any further investigation done to determine
9 whether or not the priest had sexually abused other
10 children?

11 A. The investigation usually centered on whatever
12 allegations were before us, so there was not an
13 investigation as to whether or not there were previous
14 incidents.

15 Q. Okay. Or other contemporaneous incidents, for
16 that matter; correct?

17 MR. O'CONNOR: Object to form.

18 MR. AMALA: I'll strike the question.

19 Q. So, Bishop, when you first became bishop of the
20 Diocese of Albany if a priest admitted to sexually
21 abusing a child the diocese didn't do anything at that
22 point to determine whether or not the priest had
23 sexually abused other children in that same assignment;

1 correct?

2 A. That's correct.

3 Q. And the diocese didn't interview the other
4 people who had been working with the priest to see if
5 they thought perhaps the priest had sexually abused
6 other children; correct?

7 A. No, we did not, although there would be an
8 expectation if they suspected they should have reported
9 to us previously.

10 Q. If a priest when you first became bishop was
11 accused of child sexual abuse and they admitted to the
12 abuse, did you at that point do anything to determine
13 whether there had been other complaints in the past
14 regarding that same priest?

15 A. Yes. I would check the sealed file to find out
16 if there were any complaints in the past.

17 Q. Anything else that the diocese would do when
18 you first became bishop until the Dallas charter if a
19 priest was accused --

20 MR. O'CONNOR: Form.

21 A. No.

22 MR. AMALA: Go ahead, Terry.

23 MR. O'CONNOR: I think he gave testimony

1 about '93, a difference in practices.

2 MR. AMALA: Well, you know what, Terry?
3 Bishop, real quick. I appreciate you pointing
4 that out because he did them in reverse order
5 on me so I was using his timeline. I know the
6 Dallas charter is afterwards and I was confused
7 by the testimony. So I appreciate you jumping
8 in there. Thank you.

9 Q. So, Bishop, between when you first became
10 bishop and until 1993 did the diocese do anything else
11 if a priest was accused of sexually abusing a child and
12 admitted to the abuse?

13 A. Anything else beyond what I've already said?

14 Q. Yes, sir.

15 A. Well, as I indicated, after we appointed a
16 review board in '93 we also issued a manual about the
17 safe environment and protection of children. And then
18 in 2002 I established a task force to review how I had
19 handled these cases historically and that the report was
20 released publicly to the people of the diocese prior to
21 the Dallas charter. And then after the Dallas charter
22 we accepted the charter fully. We imposed a zero
23 tolerance. We updated the '93 manual twice during the

1 first decade of the Twentieth Century and I think two
2 other times before I retired as bishop. And I think it
3 has been updated further since then.

4 Q. Bishop, I'm going to try to break down that
5 answer. My question was when you became bishop and
6 1993. You told me a lot of stuff that happened in 1993
7 and later. I was trying to focus just on the time from
8 when you became bishop to 1993.

9 So during that timeframe was there
10 anything else that the diocese did to investigate an
11 allegation of child sexual abuse if the priest admitted
12 to the allegation?

13 A. Not that I recall.

14 MR. O'CONNOR: Jason, I want to take a
15 break. You tell me when, though. It's about
16 an hour since they started questioning at 3:01.
17 So you tell me when. I don't want to break
18 your mojo.

19 MR. AMALA: That's fine. Terry, let's
20 take a break and go off the record.

21 MR. O'CONNOR: All right.

22 MR. SHERECK: Going off the record at
23 4 o'clock.

1 (A recess was taken in the proceedings.)

2 (The proceedings were reconvened as
3 follows:)

4 MR. SHERECK: Back on the record at 4:13.

5 BY MR. AMALA:

6 Q. Bishop Hubbard, before 1993 if a priest had
7 been accused of sexually abusing a child and denied the
8 allegation, what process did the diocese follow at that
9 point?

10 A. We then had an investigation done. And then
11 based upon the information received through the
12 investigation we made a decision as to whether or not
13 the allegation was reasonable and credible and then we
14 would send the person for treatment. If the
15 psychologist and psychiatrist at the treatment center
16 recommended that they could be returned safely to
17 ministry, then they were restored. If not, they were
18 removed from ministry.

19 Q. And the investigation that the diocese would
20 conduct, that was by an investigator chosen by the
21 diocese; correct?

22 A. Chosen by the diocese but at the recommendation
23 of the local District Attorney.

1 Q. And the investigator was not given access to
2 the sealed files; correct?

3 A. Correct.

4 Q. At most, you yourself would ask for a sealed
5 file and would provide whatever you felt was appropriate
6 to the investigator; is that correct?

7 A. That's correct.

8 MS. DANEK: Object to the form.

9 BY MR. AMALA:

10 Q. Did you ask the investigator before 1993 to
11 interview other children at a priest's assignment to see
12 if other children had been sexually abused by the same
13 priest?

14 A. No.

15 Q. Did you ever make that part of the diocese
16 procedures for investigating complaints of child sexual
17 abuse?

18 A. Not that I recall.

19 MS. DANEK: Object to the form.

20 Q. Before 1993 the diocese when it would
21 investigate allegations of child sexual abuse also did
22 not ask others who served with that priest whether or
23 not they had seen warning flags or signs that the priest

1 may have been sexually abusing children; correct?

2 MR. O'CONNOR: Object to the form.

3 MS. DANEK: Object to the form.

4 A. I don't know if that's correct, because the
5 investigator was not prohibited from speaking to such
6 persons.

7 Q. Did you instruct the investigator at any point
8 to go and interview other people who served with a
9 priest accused of child sexual abuse to see if they had
10 ever seen any signs that they thought might suggest the
11 priest had sexually abused children?

12 A. No, I never instructed the person to do that,
13 but I never prohibited him from doing that either. And
14 I relied upon his professional competence to interview
15 whoever he thought was appropriate.

16 Q. The diocese's first written policy regarding
17 investigating accusations of child sexual abuse wasn't
18 published until 1993; correct?

19 A. Which policy?

20 Q. The diocese's policy for investigating
21 allegations of child sexual abuse was not published
22 until 1993; correct?

23 A. I don't think we had a specific policy we were

1 investigating sexual abuse. The manual of safe
2 environment was published in 1993, but it was much more
3 expansive than that.

4 Q. Did the diocese ever publish any sort of manual
5 or directive on how to handle allegations of child
6 sexual abuse?

7 A. In 1993 the manual did.

8 Q. Bishop, I want to shift gears and talk about
9 reporting obligations of child sexual abuse to law
10 enforcement. You testified that it was your policy as
11 bishop of the Diocese of Albany to leave it up to the
12 parents of a child to report allegations of child sexual
13 abuse to law enforcement; correct?

14 A. Correct.

15 Q. And you left it up to the parents rather than
16 the diocese making that report to law enforcement;
17 correct?

18 A. Correct.

19 Q. And why was that the diocese's policy when you
20 were bishop?

21 A. It was based upon what I had learned in the
22 very initial stages of my episcopacy. I was told, and I
23 was told by parents themselves, that they preferred that

1 their child not be caught up in the law enforcement
2 system.

3 Q. Did you consult with lawyers regarding that
4 policy of leaving it up to parents to report allegations
5 of child sexual abuse to law enforcement?

6 A. I'm sure I discussed it with the law firm that
7 advises the diocese.

8 Q. And who is that?

9 A. Well, going back, in those days it was probably
10 Charles Tobin.

11 Q. And I believe you testified, did you also
12 consult with psychologists and psychiatrists about this
13 policy of leaving it up to the parents to report
14 allegations of child sexual abuse to law enforcement?

15 A. We discussed that with them at the time,
16 although the primary purpose of our interaction with the
17 psychologist was to get their input in terms of
18 assessing what the needs of the priests accused might be
19 and how best to address those needs. And then later
20 on -- excuse me.

21 Q. Bishop, I didn't mean to interrupt you. Sorry.
22 Go ahead.

23 A. And then later on we spoke with the

1 psychologist, psychiatrist, about how best to provide
2 for the needs of the victims.

3 Q. Then let's talk about the danger of priests
4 reoffending. You knew when you were the bishop of the
5 Diocese of Albany that a priest who had sexually abused
6 a child needed continued support from their community in
7 order to reduce the chance that that priest might
8 reoffend and sexually abuse another child; correct?

9 A. Correct.

10 MS. DANEK: Object to the form.

11 MR. O'CONNOR: Object to the form.

12 Q. Is that correct, Bishop?

13 A. I answered correct. Yes.

14 Q. Nobody ever told you that a priest who had been
15 sent to treatment for child sexual abuse was cured of
16 any temptation that they might have to sexually abuse
17 children in the future; correct?

18 MS. DANEK: Object to the form.

19 A. I don't think they ever put it that way, but
20 they would often make suggestions about the progress the
21 priest had made in treatment and they felt that they
22 could be placed back in ministry, and sometimes they
23 would indicate what type of ministry would be most

1 appropriate for the priest that they had treated.

2 Q. Now, you mentioned progress, but you never had
3 a treatment provider tell you that a priest who had
4 sexually abused a child could go to treatment and be
5 cured of ever having a temptation again of sexually
6 abusing the child; correct?

7 MS. DANEK: Object to the form.

8 A. I don't think anybody ever said that was
9 absolutely certain, they would never reoffend, no.

10 Q. You knew that there was always a chance that a
11 priest who had sexually abused a child might reoffend
12 and sexually abuse another child; correct?

13 MR. O'CONNOR: Form.

14 MS. DANEK: Object to the form.

15 A. I did know that was possible, but I also know
16 from experience that I had seen priests who were treated
17 and did not reoffend posttreatment. So they had some
18 experience in that regard.

19 Q. Well, Bishop, that assumes that you would have
20 learned if a priest had sexually abused other children
21 after treatment; correct?

22 A. Sorry. Would you please repeat the question?

23 Q. Sure. I'll ask it a different way. Your

1 testimony was that you had priests who had sexually
2 abused children, were sent to treatment, and that you're
3 not aware of them ever sexually abusing children again;
4 correct?

5 A. Correct.

6 Q. But you agree with me that priests, when they
7 sexually abuse children, they try at least to do it in
8 secret; right?

9 A. Yes.

10 Q. So there's a chance, Bishop, that every priest
11 that you sent for treatment did, in fact, reoffend. You
12 simply aren't aware of it; correct?

13 MR. O'CONNOR: Object to the form.

14 MS. DANEK: Object to the form.

15 A. There might be a chance, but I'm not aware of
16 it.

17 Q. You understood, Bishop, that in order to reduce
18 the chances of a priest who had sexually abused a child
19 from reoffending they needed additional support and
20 supervision; correct?

21 A. I understood that they would need support and
22 an aftercare program, and that was established by the
23 treatment center.

1 Q. Bishop Hubbard, when you say that a priest had
2 gone to treatment for child sexual abuse would need
3 continued support after they returned from treatment to
4 reduce the chances of reoffending, you knew that that
5 included making sure that their supervisors were aware
6 that they needed to support that priest and put
7 safeguards in place to prevent them from abusing
8 children; correct?

9 MR. O'CONNOR: Object to the form.

10 MS. DANEK: Object to the form.

11 A. I don't think -- I think the aftercare program
12 provided a support system for the priest. It didn't
13 necessarily require informing the superiors of that
14 priest that he had offended previously.

15 Q. Nobody from the Servants of the Paraclete ever
16 told you that a priest that you had sent to them would
17 never reoffend and abuse another child in the priest's
18 career; correct?

19 MS. DANEK: Object to the form.

20 A. Correct.

21 Q. And, in fact, the Servants of the Paraclete,
22 every time you sent a priest for treatment, for sexual
23 deviancy treatment, when they returned that priest to

1 you they were sure to inform you that that priest might
2 reoffend if the priest did not receive care and support
3 to help ensure that they didn't abuse again; correct?

4 MR. O'CONNOR: Object to the form.

5 MS. DANEK: Object to the form.

6 A. I don't recall that that was in the final
7 letter of recommendation in every case that came from
8 the treatment facility.

9 Q. Bishop, can you think of a single instance
10 where you sent a priest to sexual deviancy treatment
11 where the treatment provider didn't tell you as part of
12 their treatment that that priest stood a risk of
13 reoffending if they didn't have support from you in
14 making sure they didn't reoffend?

15 MS. DANEK: Object to the form.

16 A. Certainly, they were looking to make sure the
17 priest got the support they needed, but to put it in
18 terms that you just put it is not correct.

19 Q. Tell me why it's not correct.

20 A. You're suggesting that they specifically said
21 that this priest without support is at high risk to
22 reoffend. And I don't think I've ever received a report
23 that said it in that manner.

1 Q. Whether or not they said they were at a high
2 risk to reoffend, whenever you sent a priest for sexual
3 deviancy treatment you were told by the treatment
4 providers that there is always a risk that a priest who
5 sexually abused a child might reoffend; correct?

6 MR. O'CONNOR: Object to the form.

7 MS. DANEK: Object to the form.

8 A. I knew that there's always a possibility
9 somebody could reoffend. You can't make that a
10 certitude in every situation. But I cannot recall any
11 report of a final recommendation that I received from
12 the treatment center that stated it the way you just
13 did.

14 Q. Bishop, I would like to talk now about that
15 1985 meeting of the U.S. bishops. At the 1985 meeting
16 of the U.S. bishops that you attended you were presented
17 with information regarding the danger of childhood
18 sexual abuse by clergy; correct?

19 A. Yes, we were.

20 Q. And tell us what you recall about that
21 presentation.

22 A. I can't recall a great deal about the
23 presentation except that they indicated that this

1 problem may have been greater than most of us were aware
2 and that it was the duty and responsibility of the
3 bishops to try to develop a program that would best
4 protect the needs of vulnerable victims. And a task
5 force was then appointed by the president of the
6 conference to study further the reports that we received
7 at the 1985 meeting and then to report back to the
8 Conference of Bishops the fruit of that study.

9 Q. And when did that study come out?

10 A. 1992, I believe.

11 Q. Between 1985 and 1992 you were waiting for this
12 report to come out about how to deal with the danger of
13 childhood sexual abuse by clergy; correct?

14 A. Yes, I was waiting for that report.

15 Q. During those seven years did you take any steps
16 as bishop to inform the priests working in your diocese
17 about this danger that you were told about in 1985?

18 MR. O'CONNOR: Sorry. Can I have that
19 question read back? I'm sorry. I missed it.

20 MR. AMALA: Terry, it was actually a
21 poorly phrased question, so I'll strike it and
22 reask.

23 MR. O'CONNOR: I didn't mean for you to do

1 that, Jason.

2 Q. Bishop, between 1985 and 1992 did you do
3 anything to inform the priests in the Diocese of Albany
4 about what you had learned at that 1985 meeting?

5 A. I did in 1992, yes, at a clergy meeting. I
6 spoke to them about the problem of clergy sexual abuse.
7 You have to remember that at that time I probably had
8 four, at the most five cases that I had dealt with. But
9 I told the priests it was the most serious issue that I
10 had faced in my years as bishop at that time, probably
11 15 years, whatever it was, and that I wanted them to be
12 aware of the problem.

13 I also shared with them that if they had a
14 personal problem in that direction that they be willing
15 to get the help that they needed. And I also reported
16 that in accord with the recommendations that the
17 committee had made that we would be establishing a
18 misconduct review board the following year.

19 Q. That was in 1992 that you had that meeting with
20 your priests; correct?

21 A. That's correct.

22 Q. Why did you wait seven years between 1985 and
23 1992 to tell your priests what you had learned in 1985?

1 A. Well, first of all, we had one presentation.
2 That doesn't answer all the questions and all the issues
3 that I as a bishop had to face or we as a church had to
4 face. And I felt I needed, before I addressed this with
5 the entire clergy, I needed a fuller picture than what
6 we received in 1985.

7 Q. So you waited seven years to have a discussion
8 with your priests at all about this danger of child
9 sexual abuse?

10 A. That's correct.

11 MR. O'CONNOR: Object to the form.

12 MS. DANEK: Object to the form.

13 BY MR. AMALA:

14 Q. When you came back from that 1985 meeting did
15 you at least talk with your top administrators in the
16 diocese about what you had learned?

17 A. Yes, I did.

18 Q. Who did you speak with?

19 A. I spoke with our chancellor, I spoke with our
20 superintendent of schools, and I think I spoke with the
21 director of our consultation service center.

22 Q. And what did you tell them about what you had
23 learned at this 1985 meeting with the other U.S.

1 bishops?

2 A. I told them that one of the things that I had
3 appreciated both from my own experience up to that point
4 as a bishop and from the presentation I had heard in
5 Dallas that the impact upon victims was far greater than
6 I had originally understood and appreciated and that if
7 victims were not protected and if they didn't get the
8 help and assistance that they needed this could have
9 traumatic lifelong effect upon them and that we had to
10 develop a procedure and process that would best protect
11 the children. That was the lesson I came away with very
12 loud and clear at the 1985 meeting.

13 Q. Did you come back from that 1985 meeting and
14 provide any new training in the diocese about what you
15 had learned?

16 A. No, I didn't.

17 MS. DANEK: Object to the form.

18 A. I didn't. But I would also say, in fairness,
19 that when I came back from the 1985 meeting and knew
20 that the president had appointed a task force to address
21 the issue, I didn't understand it was going to be
22 another seven years before that task force would have
23 its final report. So I guess I was laboring under the

1 impression that I would receive greater guidance from
2 the conference in a more timely fashion than we did.

3 Q. So you had a meeting with your top
4 administrators about what you had learned at this 1985
5 meeting. And what was their response?

6 A. The only response was they appreciated the fact
7 that the bishops were addressing this. I think they
8 were surprised to learn both that this was as serious a
9 problem as was presented, and also I think they were
10 surprised to understand and appreciate the grave effects
11 it could have upon victims if the victims did not
12 receive the help and support that they needed. And I
13 think the focus was more on what we could do to ensure
14 that the victims received the support they needed.

15 Q. Between 1985 and 1992 did you take any steps to
16 see if there were abuse survivors out there who needed
17 more support?

18 A. Not at that time, no.

19 Q. So you met with your top officials, talked
20 about the fact that there is this problem and the need
21 to more fully support abuse survivors. Did you share
22 with them that you were waiting for a report to be
23 issued about what to do next?

1 A. Yes.

2 Q. After the first year went by did you or they
3 talk about the fact that you were still waiting for a
4 report?

5 A. I can't recall that. I don't remember any
6 requests. Maybe at a meeting or something they would
7 ask, was there any report that you received or that was
8 presented at the bishops conference? But in terms of
9 them knocking down my door looking for this report, I
10 can't say that that happened.

11 Q. After the second year did anyone ask you --

12 A. I said between 1985 and 1992 I did not have
13 many requests from diocesan administration about this
14 task force report.

15 Q. So you had a meeting with your top officials
16 where they conveyed to you, I think the term used was
17 shock that there was this problem and there needed to be
18 more to address it, but nothing was done for seven years
19 to address the shock and this apparent feeling that you
20 all had that you needed to do more to help abuse
21 survivors?

22 MR. O'CONNOR: Object to the form.

23 MS. DANEK: Object to the form.

1 A. I waited until I received the report before we
2 took the next public steps.

3 Q. Did anyone tell you that you as the bishop of
4 the Diocese of Albany had to wait until that report was
5 issued before you could do anything to address what you
6 learned about in that 1985 meeting regarding the danger
7 of child sexual abuse?

8 A. No.

9 MR. AMALA: Bishop Hubbard and Terry, we
10 have about 25 minutes left. I would like to
11 take our last and final break just so we can
12 all gather our thoughts and power through this.
13 I know the bishop is a little tired. Why don't
14 we just make it maybe five minutes?

15 MR. O'CONNOR: Sure. What time is it now?

16 MR. SHERECK: Going off at 4:37.

17 (A recess was taken in the proceedings.)

18 (The proceedings were reconvened as
19 follows:)

20 MR. SHERECK: Back on the record at 4:47.

21 Go ahead.

22 BY MR. AMALA:

23 Q. Bishop Hubbard, when you returned from that

1 1985 meeting with the U.S. bishops you said you spoke
2 with some of your top officials about the meeting. Did
3 you speak with anyone who oversaw the CCD program?

4 A. I think probably, yes. I think I spoke with
5 the person, yes.

6 Q. And you said that you spoke with your
7 chancellor. Who was the chancellor at the time?

8 A. Father Michael Farano.

9 Q. Bishop Hubbard, I now would like to talk about
10 your testimony that other people told you that it was
11 acceptable to put a priest back into ministry if they
12 had been accused of sexually abusing a child. Who was
13 it that told you that it was acceptable to put a priest
14 back into service if they had sexually abused a child?

15 A. I think -- I can't think of -- there were
16 several people. I know that I discussed the issues that
17 we were facing. And I think people that I consulted
18 with said that it would be okay if there was treatment
19 offered to the priest and there was a recommendation by
20 trained professionals that they could responsibly be
21 placed back to ministry.

22 MR. O'CONNOR: Does somebody have -- wait
23 a second. Make sure everybody is muted. I

1 hear a little bit of static. All right.

2 Sorry.

3 Q. Bishop Hubbard, you testified earlier that
4 lawyers told you that it would be acceptable to put a
5 priest back into service after they had been accused of
6 child sexual abuse; is that correct?

7 MS. DANEK: Object to the form.

8 A. Yes.

9 Q. Which lawyers told you that it would be
10 acceptable to put a priest back into service after an
11 allegation of child sexual abuse?

12 A. I told you that our law firm --

13 MS. DANEK: Objection.

14 MR. O'CONNOR: You can answer.

15 A. I told you that I consulted with our law firm
16 of Tobin and Dempf.

17 Q. That's the diocese's same law firm as today;
18 correct?

19 A. Correct.

20 Q. Any other law firms that gave you that advice?

21 A. That was the only firm that was consultant to
22 the diocese at that time.

23 Q. You testified that other church officials who

1 may have dealt with the same issue of priests sexually
2 abusing children also told you that it was acceptable to
3 put a priest back into service after they had been
4 accused of molesting a child. Which church officials
5 told you that?

6 A. Well, I discussed it with a couple of bishops
7 in the province and what their practice was and what
8 some of the other dioceses were doing.

9 Q. Which other bishops in the province did you
10 talk with?

11 A. I can't remember specifically. It was
12 probably -- I shouldn't say probably. Ordinarily, in
13 something like that I would have consulted with the
14 archbishop and Bishop Clark, who was originally from the
15 Diocese of Albany. Those are the two I would have
16 consulted with.

17 Q. Let's back up, Bishop. You said other bishops
18 in the province --

19 MR. O'CONNOR: Jason, somebody is typing
20 or something and I can't hear the testimony
21 that well. Make sure everybody else is muted,
22 all right? Thank you. Sorry.

23 Q. Bishop, you testified that you spoke with other

1 bishops in the province. What is a province?

2 A. The bishops conference of the United States is
3 divided into provinces. New York State is the only
4 state that's a province in and of itself. It's a
5 province. A province is a given geographical area.
6 We're the only diocese that's limited to a state. For
7 example, province 1 would be all of New England. Out in
8 the Midwest you might have four or five states in a
9 province. That's what a province is.

10 Q. So you spoke with some of the other bishops in
11 the province, which would have been some of the other
12 bishops in New York; correct?

13 A. Correct.

14 Q. And you believe you spoke with the archbishop
15 of New York about whether it was acceptable to return a
16 priest to ministry after the priest had been accused of
17 child sexual abuse; correct?

18 A. I don't know if I asked him --

19 MS. DAN EK: Object to the form.

20 A. I don't know if I asked him that way. I
21 probably asked -- to the best of my recollection, I
22 asked, how do they deal with their problems? And I
23 thought it was helpful to get some insight from others

1 who were dealing with the same issues.

2 Q. When did you have that discussion with the
3 archbishop of New York?

4 A. I can't tell you the time and date.

5 Q. Was it shortly after you became bishop of the
6 Diocese of Albany?

7 A. I would say probably within five years but not
8 within five months.

9 Q. Any other bishops in the province of New York
10 that you spoke with about whether it was acceptable to
11 return a priest to ministry after an allegation of child
12 sexual abuse?

13 MS. DANEK: Object to the form.

14 A. Those are the only two I can remember.

15 Q. And who was the other one, Bishop?

16 A. Bishop Clark from Rochester.

17 Q. And when did you speak with the bishop of the
18 Diocese of Rochester about what to do with priests who
19 had been accused of sexually abusing children?

20 A. Probably in the early eighties.

21 Q. So around the same time that you spoke with the
22 archbishop of New York?

23 A. Probably a little before that.

1 Q. What was the reason that you reached out to the
2 bishop of Rochester to ask him about what to do with a
3 priest who been accused of sexually abusing a child?

4 A. The reason was that this was an issue for which
5 there was very little guidance and I was wondering what
6 the practice may have been in other dioceses in the
7 state.

8 Q. Bishop, my question is, what was it that caused
9 you to make that inquiry?

10 MR. O'CONNOR: I think he has answered
11 that question. I think that answer was
12 appropriate. He answered the question. Do you
13 want to read it back?

14 MR. AMALA: Sure.

15 MR. O'CONNOR: Dave.

16 (The reporter read back the previous
17 question and answer.)

18 Q. So, Bishop, what I'm trying to understand is,
19 did something happen that caused you to want to learn
20 more about how other bishops were addressing this issue?

21 A. Well, at that time, in the early eighties, I
22 probably had two or three cases I was dealing with and I
23 was dealing with it on my own. I didn't have much

1 guidance except the people around me in the chancery and
2 a few of the psychologists, psychiatrists. And they had
3 their own limited perspective. And I wanted to find out
4 how other bishops in the state that I knew well were
5 handling it, if they had any insights or experience that
6 would help me as I tried to address this issue when it
7 arose.

8 Now, as I've testified before, I only had
9 nine cases between 1977 and 2002. So it wasn't that we
10 were overwhelmed with cases, but every time I had a case
11 it created great turmoil for me. And especially I was
12 concerned about how we could do better in responding to
13 the needs of the victims.

14 If you ask me early on what it was like
15 for the victim, without any experience in that at all, I
16 probably would have said it would be like a broken arm,
17 that it would hurt for three or five months and then it
18 probably would not be a major problem. And I was coming
19 to experience that this was a long-term event for people
20 and it began to change my perspective much greater than
21 it had been.

22 Q. What did the bishop of Rochester tell you about
23 how the Diocese of Rochester was handling this problem?

1 A. It was pretty much the way that I was coping
2 with it at the same time in Albany.

3 Q. And what did the archbishop of New York tell
4 you about how the archdiocese of New York was handling
5 this problem?

6 A. As best I can recall, it was that if an
7 allegation was brought to them, they addressed the issue
8 with the priest and tried to get appropriate analysis of
9 his likelihood to reoffend from professionals. And if
10 they got that, they would probably re-place him in
11 ministry. If they didn't, they would remove him.

12 Q. Bishop, when did the law firm tell you that it
13 was acceptable to return a priest to ministry who had
14 been accused of sexually abusing a child?

15 A. I don't know the exact date.

16 Q. Was it shortly after you became bishop of the
17 Diocese of Albany?

18 A. When I first began to address these cases I
19 consulted with the firm in terms of from a legal
20 perspective what were my duties and responsibilities and
21 I followed that.

22 Q. So would that have occurred, then, when you
23 were dealing with Father Wilson and his return from the

1 Archdiocese of Boston?

2 MS. DANEK: Object to the form.

3 A. I don't know about that because he had already
4 been confronted with the issue and it had been dealt
5 with by Bishop Broderick. I think it was probably more
6 with the allegation that I received following that that
7 I consulted with a law firm.

8 Q. And which allegation was that? Was that Father
9 Stone?

10 A. To the best of my recollection, yes.

11 Q. When you brought Father Wilson back from the
12 Archdiocese of Boston you learned that he had been sent
13 to Boston because an allegation of child sexual abuse;
14 correct?

15 A. Correct.

16 Q. Did you consult with the law firm at that point
17 to decide whether or not you should allow Father Wilson
18 to continue serving within the Diocese of Albany?

19 A. I don't recall one way or the other.

20 MS. DANEK: Objection.

21 Q. You testified that psychologists or
22 psychiatrists had also told you that it would be
23 acceptable to put a priest back into ministry after the

1 priest had been accused of child sexual abuse. I want
2 to make sure I've got a full list of any psychologists
3 or psychiatrists who told you that. So who was it that
4 you recall telling you that, a psychologist or
5 psychiatrist?

6 MS. DANEK: Object to the form.

7 A. I know there was Dr. Tucker, Dr. Wapner, in the
8 early stages. The later stages was a Dr. Hamill.

9 Q. And what was Dr. Tucker's full name?

10 A. John.

11 Q. And you said Dr. John Tucker had this
12 discussion with you in the early stages. When was that?

13 A. I can't give you an exact date.

14 Q. Which priest was it in relation to that you
15 first had a discussion with Dr. Tucker?

16 A. I can't even remember which priest it was.

17 Q. In your memory, Bishop Hubbard, would it have
18 been the first time when you worked with Dr. Tucker
19 regarding a priest who had been accused of child sexual
20 abuse?

21 MR. O'CONNOR: If you know.

22 A. I can't recall whether it was the first time.
23 We also used him for other issues, as well. So I can't

1 remember which time was the first that I ever discussed
2 it about a priest who had abused a minor.

3 Q. And Dr. Wapner, what was his full name?

4 A. John.

5 Q. And Dr. John Wapner, when did you consult with
6 him about whether it was advisable to put a priest back
7 into service if the priest had been accused of sexually
8 abusing a minor?

9 A. I cannot tell you an exact time.

10 MS. DANEK: Object to the form.

11 MR. O'CONNOR: I didn't hear the answer.

12 A. I cannot recall the exact time.

13 Q. Do you recall which priest it was in relation
14 to?

15 A. No, I don't.

16 Q. Dr. Hamill, what was his full name?

17 A. I don't know his first name.

18 Q. Where was his office located?

19 A. He was much later. This would be after the
20 1993 period.

21 Q. And where was Dr. Hamill --

22 A. There may have been other doctors. Those are
23 the two I remember.

1 Q. Where was Dr. Hamill's office located?

2 A. I don't know. I had never been to his office.

3 Q. Which priest were you consulting with
4 Dr. Hamill about that led you to have this conversation?

5 A. I don't recall.

6 Q. Do you recall any other psychologists or
7 psychiatrists who you contend told you that it would be
8 acceptable to put a priest back into service if the
9 priest had been accused of sexually abusing a child?

10 MS. DANEK: Object to the form.

11 A. I don't know if it was ever addressed that way,
12 that they told me it was acceptable or not acceptable.
13 They told me what needed to be done, they told me what
14 type of treatment they would suggest, but I don't know
15 if they gave me the advice that I should place them in
16 ministry. But they would say, "If you're going to place
17 him in ministry, this needs to be done." It wasn't
18 phrased in the way you're phrasing that question.

19 Q. What did they tell you needed to be done if you
20 as the bishop of the Diocese of Albany made the decision
21 to place a priest back into service who had been accused
22 of sexually abusing a child?

23 MS. DANEK: Object to the form.

1 MR. O'CONNOR: Jason, haven't we been
2 talking about that for the last three or four
3 hours? You're beating a dead horse here, I
4 think, respectfully.

5 Q. Go ahead, Bishop.

6 A. They were telling me that they would recommend
7 that the priest receive long-term treatment, residential
8 treatment, and that based upon that treatment and the
9 analysis of the staff at the treatment center you should
10 review that, maybe speak with the people at the
11 treatment center, and then make a decision whether the
12 priest should be restored to ministry or not.

13 Q. If they were restored to ministry you knew that
14 you needed to follow their guidance in order to help
15 minimize the chance that a priest might reoffend;
16 correct?

17 MS. DANEK: Object to the form.

18 A. It was my hope and expectation that the
19 treatment they received would prevent from reoffending.
20 And, you know, I relied upon that advice.

21 Q. Well, Bishop, you hoped that the treatment that
22 they had received would keep them from reoffending, but
23 you also knew that there was a chance that they might

1 still reoffend and sexually abuse another child;
2 correct?

3 MR. O'CONNOR: Object to the form.

4 MS. DANEK: Object to to the form and
5 asked and answered.

6 A. I relied on their advice. Yes, I always knew
7 there was a possibility of reoffense. That's for any
8 human enterprise, that somebody cannot measure up to the
9 expectations that others have for them.

10 Q. Last questions on this topic, Bishop Hubbard.
11 I believe you testified that you had discussions with
12 certain treatment centers about placing priests back
13 into service after they had been accused of sexually
14 abusing a child; is that correct?

15 A. Occasionally, if I wasn't satisfied with the
16 report I received and felt I needed more information I
17 may have talked to the director of the treatment
18 facility or staff to get some clarification, but that
19 was basically a clarification of my understanding of the
20 report that they had submitted in writing.

21 Q. All right. And which treatment centers were
22 those?

23 A. I know Jamez Springs was one and I think St.

1 Luke's. I can't be sure of the second. But I know I
2 had discussion with staff at at least two of the
3 facilities.

4 Q. Jamez Springs is Servants of the Paraclete;
5 correct?

6 A. Correct.

7 Q. Are there any other treatment centers you can
8 recall discussing this issue of putting the priest back
9 into service after an allegation of child sexual abuse?

10 MR. O'CONNOR: Can you repeat that
11 question, Jason? I'm sorry.

12 MR. AMALA: Dave, would you please read
13 that back?

14 (The reporter read back the previous
15 question.)

16 A. I think I may have had some interaction with
17 someone at the staff of Southdown.

18 Q. Any other treatment centers you can recall
19 where you discussed this issue?

20 A. These are the only ones I can recall.

21 Q. Was there a point, Bishop Hubbard, during your
22 tenure as the bishop of the Diocese of Albany that the
23 decision was made to stop sending priests for sexual

1 deviancy treatment?

2 A. No.

3 Q. Bishop Hubbard, were there ever instances of an
4 allegation of child sexual abuse where the allegation
5 did not make its way into the priest's file?

6 MS. DANEK: Object to the form.

7 A. To my knowledge, any reports we received went
8 into the file.

9 Q. If you or someone else with the diocese
10 concluded that an allegation of child sexual abuse was
11 not founded, were there instances where the allegation
12 wasn't put in the priest's file because you had
13 concluded it was not founded?

14 A. Not that I remember.

15 MS. DANEK: Objection to form.

16 MR. O'CONNOR: Repeat your answer, Bishop.

17 A. Not that I'm aware of.

18 Q. Bishop Hubbard, I'm getting a text message
19 saying that I've only got about a minute left. Bishop
20 Hubbard, you've been asked about the doctrine of mental
21 reservations. And again, that's a doctrine that allows
22 you to withhold information if you believe doing so
23 would be in the best interests of the church; correct?

1 A. No. That's not my answer.

2 MS. DANEK: I object to the form.

3 A. Using the word doctrine. I don't think there
4 is any doctrine in the church about mental reservation.
5 There is an opinion, along with theologians and
6 philosophers, that someone can use mental reservation,
7 but it's not a doctrine of the church.

8 Q. Bishop Hubbard, you're aware of the opinion
9 that a church official could withhold information if
10 they believe that it's in the best interests of the
11 church; correct?

12 MR. O'CONNOR: Object to the form.

13 MS. DANEK: Object to the form.

14 A. It is an opinion on the part of some, but I
15 don't think it's a universally held opinion.

16 Q. And that's called the doctrine of mental
17 reservations?

18 MR. O'CONNOR: Object to the form.

19 MS. DANEK: Object to the form.

20 MR. O'CONNOR: Jason, to be fair, didn't
21 he just say it wasn't a doctrine?

22 MR. AMALA: It was referred earlier as a
23 doctrine. Now he's saying it's not a doctrine,

1 which I understand.

2 Q. Bishop Hubbard --

3 A. You referred to it as a doctrine earlier, not
4 myself.

5 Q. Bishop Hubbard, if I asked you whether or not
6 you applied mental reservations while answering
7 questions during this deposition, you could answer no
8 but actually be applying mental reservations to that
9 very question; correct?

10 MR. O'CONNOR: Object to the form.

11 MS. DANEK: Object to the form.

12 A. I could, but I haven't.

13 MR. AMALA: Thank you, Bishop Hubbard.

14 MR. O'CONNOR: All right.

15 MR. SHERECK: Let's go off the record at
16 5:11.

17 (There was a discussion off the record.)

18 (The proceedings were adjourned from
19 April 22, 2021, at 5:15 p.m. to April 23, 2021,
20 at 10:00 a.m.)

21

22

23

1 STATE OF)

2 COUNTY OF) ss.:

3

4

5 I have (heard) read the foregoing record
6 of my testimony taken at the time and place noted in the
7 heading thereof and do hereby acknowledge it to be a
8 true and correct transcript of the same.

9

10

11

HOWARD J. HUBBARD

12

13

14 Sworn to before me this

15 ____ day of _____, 2021

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Notary Public

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C E R T I F I C A T E

I, David Mayo, a court reporter and notary public, do hereby certify that the foregoing is a true and accurate transcript of the proceedings reported stenographically by me in the above matter.

Dated: 5-17-21

David Mayo

1 I, _____, have read the transcript of
2 my testimony and would like the following changes:

3	PAGE	*	LINE	*	CHANGE FROM	*	CHANGE TO
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19
20 Subscribed to and sworn to before me
21 this ___ day of _____ 2021

22 _____

23 Notary Public

Signature

1 STATE OF NEW YORK
2 SUPREME COURT COUNTY OF ALBANY

3 STIPULATION AND ORDER CONCERNING THE
4 DEPOSITION OF DIOCESE OF ALBANY BISHOP
5 EMERITUS HOWARD J. HUBBARD IN CHILD VICTIMS
6 ACT CASES

7
8 EXAMINATION OF BISHOP EMERITUS HOWARD J.
9 HUBBARD, held via Zoom on Friday, April 23, 2021,
10 commencing at 10:08 a.m.

11
12
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S T I P U L A T I O N S

It is hereby stipulated and agreed by and between the attorneys for the respective parties hereto that the signing and filing of the Notary's Oath be waived; that the examination be conducted before David Mayo, a Court Reporter and Notary Public in and for the State of New York; that the filing of the transcript of testimony in the Office of the Clerk of the Court be waived; that the examining party will furnish the examined party a copy of the transcript of testimony free of charge; that all objections to questions except as to the form thereof be reserved until the time of trial; that the transcript may be signed before any Notary Public or other officer authorized to administer oaths.

	<u>NAME</u>	<u>EXAMINATION BY</u>	<u>PAGES</u>
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2	HOWARD J. HUBBARD	MS. CERNIGLIA	908-913
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5		MR. COSTELLO	1036-1062
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7		MR. WILLIAMS	1100-1108
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11		MR. SAGHIR	1129-1139

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1 (The proceedings were convened at
2 10:08 a.m. as follows:)

3 MR. SHERECK: We're back on the record.
4 The time is 10:08 a.m. Today is Friday,
5 April 23, 2021, the continued deposition of
6 Bishop Emeritus Hubbard. And go ahead, Dave.

7 THE COURT REPORTER: Bishop, I remind you,
8 you're still under oath.

9 THE WITNESS: I understand.

10 THE VIDEOGRAPHER: Go ahead.

11 EXAMINATION BY MS. CERNIGLIA:

12 Q. Good morning, Bishop Hubbard. My name is Alexa
13 Cerniglia and my firm represents the Carmelite Fathers.
14 I only have a few questions for you this morning and I
15 expect this to be quite brief, as I know it has been a
16 long few days. I just ask that you bear with me here
17 for a moment.

18 Now, you were asked a few days ago some
19 questions regarding a Father Robert Hulse. Do you
20 recall being asked about him?

21 A. Yes.

22 Q. Bishop Hubbard, when you were asked what you
23 knew about him you mentioned that you knew he sometimes

1 was "staying at" St. Joseph's parish located in Troy,
2 New York. I just want to elaborate on that a bit. What
3 do you base that knowledge on?

4 MR. O'CONNOR: Object to the form. You
5 can answer it, if you can.

6 A. Quite frankly, I don't think I was the one who
7 said he was staying at St. Joseph's in Troy.

8 Q. Okay.

9 A. You can read the record back, but I think
10 someone else said that and I said I knew of him. As far
11 as I know, he was assigned to St. Joseph's parish by his
12 provincial.

13 Q. Do you know approximately during what time
14 period that was?

15 A. I do not.

16 Q. I know I'm asking you to think back quite some
17 time here, but do you recall the names of any other
18 priests who served or stayed at St. Joseph's parish
19 during approximately 1977 to 1980?

20 A. No, I don't.

21 Q. I'm just going to shift gears a bit here. You
22 were also asked a few questions over the last few days
23 regarding somebody named [REDACTED]

1 [REDACTED]. Do you recall being asked about her?

2 A. I do.

3 Q. Did you eventually become aware of complaints
4 made by [REDACTED] against Father Hulse?

5 A. I don't recall the meeting, so I cannot say for
6 sure whether or not the meeting took place and what was
7 shared at the meeting.

8 Q. I understand. I'm just asking if you
9 eventually became aware of her complaints.

10 A. Well, I certainly have from the exhibits.

11 Q. When did you first become aware of these
12 complaints?

13 A. I cannot recall.

14 Q. Do you recall if it was in connection with the
15 course of litigation or if it was dating back to
16 approximately during the time of the allegations?

17 A. I cannot recall.

18 Q. Okay. Now, you just mentioned the alleged
19 meeting. I just want to bring your attention back to
20 this meeting. When you were questioned about it over
21 the course of the last few days you referenced an
22 exhibit that referenced this meeting. Is that an
23 accurate recount of your testimony?

1 A. Yes.

2 Q. Do you recall what this exhibit was that
3 pertained to this meeting?

4 A. I think it was an exhibit that described --
5 [REDACTED], is it? Her recounting of the meeting, and
6 it was presented by one of the attorneys.

7 Q. Do you recall if it was a letter from
8 [REDACTED], a letter from someone at the parish, or
9 something else?

10 A. I recall it was in the exhibit. I don't know
11 in what format it was.

12 Q. Understood. Thank you. What was the formal
13 title of Father Farano back in 1977, 1980, roughly that
14 time period?

15 A. I'm not quite sure. He was my secretary when I
16 became the bishop in 1977. Father Ruse was a
17 chancellor. And after a few years Father Ruse was
18 assigned to the parish in Oneonta and Father Farano went
19 from vice-chancellor and secretary to chancellor. I
20 can't tell you whether that was 1979 or '80. It's
21 around that period.

22 Q. Understood. Thank you. And I ask the same
23 question regarding Father Doyle, his formal title back

1 in roughly the late seventies, early eighties.

2 A. He was not involved in the diocesan
3 administration at that point in time.

4 Q. Okay.

5 A. He may have even been in Rome at that time
6 doing work for the Vatican -- or the bishop's
7 conference, rather. But I can't recall exactly. He was
8 not involved in the diocesan administration.

9 Q. Understood.

10 MS. CERNIGLIA: And with that, I have no
11 further questions at this time, but I would
12 just like to put a statement on the record on
13 behalf of the Carmelite Fathers.

14 Like the parties that have questioned
15 Bishop Hubbard before me, we just reserve our
16 right to further depose the bishop at the close
17 of documentary discovery. But more
18 specifically, for reasons that have been well
19 documented, we weren't permitted to receive the
20 links to partake in these proceedings up until
21 mid day on April 20.

22 Prior to our receipt of the link and as
23 just recounted by the bishop, there was

1 allegedly a document shown to Bishop Hubbard
2 which bears on our case, the matter of [REDACTED]
3 [REDACTED] Despite phone calls and emails trying to
4 ascertain what document this applies, to date
5 we have not been able to do so. If anyone has
6 that document and is able to send it over now I
7 would be happy to take a few minutes to review
8 it and question the bishop accordingly.

9 But should we not be able to review that
10 document and not have an opportunity to
11 question the bishop on it further at this point
12 in time, I just want to make a statement on the
13 record that we'll be forced to move to preclude
14 his testimony as it pertains to the [REDACTED]
15 matter.

16 But with that, I have nothing further.

17 MR. O'CONNOR: Let me just jump on
18 briefly. Miss Cerniglia, to be clear, it's not
19 my fault or anybody's fault that you weren't
20 involved in the stipulation and didn't get the
21 link. I mean, it was made clear to everybody,
22 everybody signed off on the stipulation, they
23 could have been here for the whole thing. And

1 I know it was available for you. I don't know
2 why it took so long for you to sign off on it
3 and become involved.

4 So I reserve all rights and I stand by the
5 stipulation which was agreed upon by -- I don't
6 know how many lawyers -- maybe 40 different
7 lawyers.

8 MS. CERNIGLIA: Understood. And that has
9 all been documented to date. And we might have
10 no questions on that, but we just have to
11 reserve our right once we review the document.

12 MS. LaFAVE: For the record, I just want
13 to state that the plaintiffs agree with Terry's
14 position on that.

15 MR. GORDON: This is Attorney William
16 Gordon for the law firm Mitchell Garabedian.
17 We represent [REDACTED]. There were no
18 documents that we gave to anyone on [REDACTED]
19 case other than her complaint, which all the
20 defendants have got a copy of. So I'm not sure
21 what the issue is here at all. There aren't
22 such documents.

23 MS. CERNIGLIA: To the extent that the

1 document Bishop Hubbard is discussing here
2 regarding this meeting, we just have to reserve
3 our right to review it. And if that comes out
4 during the course of discovery, so be it, but
5 we just have to make our record clear based
6 upon his testimony.

7 MR. O'CONNOR: Okay. Allison, you're up.

8 MS. SANDERS: Thank you.

9 EXAMINATION BY MS. SANDERS:

10 Q. Good morning, Bishop.

11 A. Good morning.

12 Q. My name is Allison Sanders. I'm from
13 Harrington, Ocko and Monk. As previously mentioned, we
14 represent the Franciscan Friars and our Lady of Angels
15 Province. Are you familiar with Our Lady of Angels
16 parish?

17 A. In Albany?

18 Q. Yes.

19 A. Yes.

20 Q. And that goes with St. Patrick's parish;
21 correct?

22 A. Correct. It's no longer St. Patrick's parish.
23 Our Lady of Guadeloupe. But it formerly was

1 St. Patrick's.

2 Q. Now, in the 1980s what was the relationship
3 with Our Lady of Angels parish and St. Patrick's parish?
4 Were they one parish, two parishes, something else?

5 A. It was a point at which it was joint
6 supervision, pastoral supervision, over both parishes.
7 And around that time, if not when it first began, I
8 think those two parishes were no longer called Our Lady
9 of Angels and St. Patrick's but Holy Family.

10 Q. Was that later on or was that also in the
11 1980s?

12 A. I can't give you the exact dates. I would
13 think once they had one pastor, who is probably Holy
14 Family, but I would have to check the records to give
15 you an accurate account of that.

16 Q. So I know you just said you would have to check
17 the records, but, to your knowledge, when you say there
18 is joint supervision over both parishes, does that mean
19 there was one priest or pastor?

20 A. That's my best understanding of the
21 arrangement.

22 Q. And, to your knowledge, in the 1980s who was
23 the pastor?

1 A. I don't recall.

2 Q. And you mentioned records. Where would those
3 records be?

4 A. Well, usually the records are kept with the
5 parish that is still in existence. And if it's no
6 longer in existence, then it's in a nearby parish. And
7 that's listed in our directory as to where those records
8 can be obtained.

9 Q. And who would be in charge of the pastor?

10 MR. COSTELLO: Object to the form. You
11 may answer.

12 A. Well, the pastor is appointed by the bishop, so
13 in that sense the bishop is the one that oversees the
14 exercise of the pastor's responsibilities.

15 Q. Are you familiar with a Brother Michael Snyder?

16 A. I may be, but I would have to refresh my
17 memory. I don't think I could pick him out of a lineup
18 right now.

19 Q. Do you know whether or not if I said that he
20 was part of St. Patrick's/Our Lady of Angels, would that
21 refresh your recollection of him?

22 A. No, it does not.

23 Q. And a brother that was assigned to a specific

1 parish, would that need approval from the diocese?

2 A. Ordinarily, no.

3 Q. When you say ordinarily, no, are there
4 instances where it would need approval?

5 A. I can't think of an incident that it might be
6 required. If, for example, a brother came in the
7 diocese and we didn't have any relationship with that
8 community and he started to function and we didn't know
9 that he was presenting himself as a religious brother
10 and didn't have the opportunity to verify that he had
11 the permission of his community to be working in our
12 diocese, then we should be notified. But if it was just
13 an appointment to an entity, a parish or an institution
14 that was already in existence in our diocese, then that
15 could be done directly by the provincial without the
16 authorization of the local bishop.

17 Q. Now, a brother within a parish, who would be in
18 charge of their day-to-day? Who would he report to?

19 A. Ordinarily, it would be the pastor.

20 Q. And --

21 A. On the other hand, for example, if he was in a
22 school, it would be the principal of the school that he
23 would report to.

1 Q. And if he was part of the school, the
2 principal, is that someone that is required to get
3 approval by the diocese?

4 MR. O'CONNOR: Object to the form.

5 A. The principal has to be appointed by the
6 superintendent of schools and usually that's done in
7 consultation with the local bishop.

8 Q. Now, if there were any complaints about the
9 performance of a brother or sister or even a lay
10 teacher, who would those complaints go to?

11 MR. O'CONNOR: Objection.

12 A. Ordinarily, it would go either to the pastor or
13 to the principal of the school. And then, depending
14 upon what the nature of the complaint was, it might come
15 to the diocese.

16 Q. And what about whether or not the diocese had
17 any control as to the firing of a brother or sister or a
18 teacher, would the diocese have any control over that or
19 any part of that?

20 MR. COSTELLO: Object to the form of the
21 question. You may answer, if you can.

22 MS. LOMANTO: Objection to the form of the
23 question.

1 A. Ordinarily, that would be the responsibility of
2 the pastor or the principal of the school. There might
3 at their initiative be some consultation with the
4 diocese, but that would not necessarily be required.

5 Q. In the 1980s do you know whether or not the
6 diocese or the pastor would perform any background
7 searches as to brothers or sisters or any of the
8 teachers in schools or parishes?

9 A. Well, I would assume if there was a position
10 open they would seek letters of reference. And if it
11 was religious I would think part of the letters of
12 reference that would be sought would be from the
13 provincial of the brother's or sister's community.

14 Q. What about general performance reviews? Would
15 that be conducted by the pastor and/or the principal?

16 A. Correct.

17 Q. And would the diocese have any say as to those
18 reviews?

19 MS. LOMANTO: Objection to the form.

20 MR. COSTELLO: Objection to form.

21 A. Not ordinarily.

22 Q. And do you know whether or not performance
23 reviews, those records were kept by a school or the

1 parish?

2 A. I wouldn't know specifically, no.

3 Q. Now, you had testified a lot about the secret
4 files or the sealed files of priests and fathers. Do
5 you know whether or not brothers also have similar
6 sealed files?

7 A. Not to my knowledge. By the diocese, I'm
8 talking about. I don't know if the brothers themselves
9 have sealed files, but to my best recollection I don't
10 think we have sealed files on members of religious
11 communities.

12 Q. But possibly the schools and/or the parish
13 might have sealed files?

14 MR. COSTELLO: Object to the form. You
15 may answer.

16 MS. LOMANTO: Objection to the form.

17 A. I really don't know one way or another.

18 Q. Okay. That's fair. You had also testified
19 about superintendents and chancellors. So turning to
20 superintendents. Was that one superintendent for all
21 the schools?

22 A. Correct.

23 Q. And the same in the 1980s?

1 A. Correct.

2 Q. And who was the superintendent in the 1980s?

3 A. Well, to the best of my recollection, when I
4 became bishop it was Matty Semenza. And then I believe
5 he was followed either by Sister Ann McCarthy or Jerry
6 Porath. I can't remember the sequence there.

7 MR. O'CONNOR: Can I stop you there,
8 Bishop? Was it Matty Semenza?

9 THE WITNESS: Yes. Amato, A-m-a-t-o. He
10 was known as Matty.

11 MR. O'CONNOR: And the last person you
12 named, for Dave's sake, is who?

13 THE WITNESS: The last person I just
14 named? Jerome Porath, P-o-r-a-t-h.

15 MR. O'CONNOR: Thank you, sir.

16 BY MS. SANDERS:

17 Q. I'm sorry. Can you spell that last name again?

18 A. P-o-r-a-t-h.

19 Q. And, to the best of your knowledge, those would
20 be the three superintendents from the 1980s; right?

21 A. Yes. I know all three were superintendents
22 around that time.

23 Q. You just don't know the timeframe, and that's

1 fair. Is Amato Menza (phonetically) still alive?

2 A. I didn't hear the question.

3 Q. Sorry. Can you hear me?

4 A. I can now.

5 Q. Okay. Is Matty Menza (phonetically) still
6 alive?

7 A. It's Semenza, S-e-m-e-n-z-a, and he's deceased.

8 Q. And what about Sister Ann McCarthy?

9 A. I'm not sure. She's from the Brooklyn area and
10 she returned there after she left the superintendency.
11 But I'm not sure if she's still alive or not.

12 Q. And what about Jerome Porath?

13 A. To the best of my knowledge, he's still living.

14 Q. Do you know where he lives?

15 A. No. I had correspondence with him a couple
16 years ago. I think he may have been down in Long
17 Island, but I can't be sure of that.

18 Q. Now, turning to the chancellors. Was there
19 also one for all the schools?

20 A. The chancellor wasn't for the schools. He was
21 for the entire diocese. It was not his direct
22 responsibility to oversee the schools. At times he
23 would have to deal with the schools about financial

1 issues. Or if we received some report about something
2 that may have been amiss in a school, he might look into
3 that. But he was a chancellor to the bishop of the
4 diocese.

5 Q. Understood. And who was the chancellor in the
6 1980s, to your recollection?

7 A. Father Michael Farano.

8 Q. And is Michael Farano still alive?

9 A. No. He died last month.

10 Q. And both the superintendent and the chancellor
11 would report to you; correct?

12 A. Correct. I'm not saying -- ultimately, they
13 report to me. I don't mean that they had to be
14 reporting to me on a regular basis. It would be on a
15 need basis.

16 Q. Understood. And, to the best of your
17 recollection, did either the superintendent or
18 chancellor or anybody else come to you with abuse by any
19 of the brothers in the 1980s with respect to Our Lady of
20 Angels or St. Patrick's?

21 A. I have no recollection of that, but I'm not
22 saying that it didn't happen.

23 Q. A lot of your testimony over the past few days

1 with regards to treatment had to do with priests. Did
2 brothers ever get sent to treatment if there were any
3 allegations of sexual abuse?

4 A. I would have no knowledge of that because that
5 would be a decision of their provincial or superior.

6 Q. And what is a letter of obedience?

7 A. I'm not familiar with that terminology.

8 Q. And since the establishment of the review
9 board, do you know if they would review any claims about
10 brothers or sisters or any teachers?

11 A. No. That is not their responsibility. It's to
12 deal with diocesan priests, priests or deacons.

13 Q. Now, lastly, I know you had testified yesterday
14 that you spoke to other bishops in other dioceses about
15 how they would handle sexual abuse claims. Did you ever
16 talk to them about the specific treatments?

17 A. The specific treatments that the facilities
18 offer?

19 Q. Yes.

20 A. I assume that --

21 MR. O'CONNOR: Don't assume.

22 A. Well, then, I don't recall.

23 Q. But, to your knowledge, most, if not all, the

1 other dioceses were handling the abuse claims the same
2 way? And when I say that, I mean, based on your
3 testimony, you would get the report of the abuse, talk
4 to the person accused, and then send them off to
5 treatment if they admitted to the abuse; correct?

6 A. Yes, or if it was determined by the bishop or
7 religious superior that the allegation was credible and
8 that treatment would be required.

9 Q. To your knowledge, all the other dioceses acted
10 in the same way?

11 A. To the best of my knowledge, but I can't
12 comment on every diocese.

13 Q. Do you know if all the other dioceses also kept
14 sealed files?

15 MR. COSTELLO: Object to the form. You
16 may answer, if you can.

17 Q. If you know.

18 A. I do not know.

19 MR. O'CONNOR: Allison, I think you're
20 getting a little far afield here. You're
21 asking him about other dioceses.

22 MS. SANDERS: I'm only asking because I
23 know he testified that some of the fathers

1 would then go to the other dioceses. And I
2 just wanted to know if it was the same.

3 Q. The 1985 meeting, do you know if there were
4 other bishops from the New York Diocese in attendance?

5 A. Do I know with certitude? No, but it was a
6 general meeting of the body of bishops and it would be
7 unusual if there were not almost 100 percent attendance.
8 But I cannot verify the numbers that were at that 1985
9 meeting.

10 Q. And last question. Like I had just mentioned,
11 I know that you had some priests come back from
12 treatment and then go to other dioceses. If they were
13 in another province, would that province also keep
14 files? And it doesn't have to be secret files. Just in
15 general, a general file about that priest, or would
16 anything about that priest be put into your files?

17 MR. COSTELLO: Object to the form of the
18 question. You may answer, if you can.

19 A. Number 1, if any priest from our diocese were
20 to go to another diocese, number 1, I would inform them,
21 the other diocese, that there was a history of sexual
22 abuse here so that they would have an opportunity to say
23 that they did not want them to be transferred to their

1 diocese. And, second, unless they had some complaint,
2 there was no requirement that they report back to me.
3 They might send a letter commenting on how well the
4 person did or not, but that was not a requirement.

5 Q. My question is: Do you know whether or not
6 that bishop would have a separate file for that priest?

7 A. I would not know.

8 MR. COSTELLO: I object to the form.

9 MS. SANDERS: Thank you, Bishop.

10 THE WITNESS: You're welcome.

11 MR. O'CONNOR: Any other defense lawyers?

12 Going once. Going twice. Sold.

13 So, Cynthia, you're on mute.

14 MS. LaFAVE: I'm here.

15 MR. O'CONNOR: Can I take a two-minute
16 break? I'm getting garbled communications for
17 whatever reason.

18 MS. LaFAVE: If you're on more than one
19 Zoom, that might be doing it, but go ahead.
20 Take a break.

21 MR. SHERECK: Going off at 10:36.

22 (A recess was taken in the proceedings.)

23 (The proceedings were reconvened as

1 follows:)

2 MR. SHERECK: Back on the record at 10:44.

3 EXAMINATION BY MR. O'CONNOR:

4 Q. Bishop Hubbard, how are you today?

5 A. I'm glad the week is over.

6 Q. So, Bishop, I'm going to ask you a series of
7 questions. I'm taking you through your direct testimony
8 in this case. And we're doing it via Zoom; is that
9 right?

10 A. Correct.

11 Q. Okay. You have to understand that with these
12 unnatural times we're doing it this way to preserve your
13 testimony for the jury in case this case is tried down
14 the road and you're not available. Do you understand
15 that?

16 A. I'm old.

17 Q. Okay. So, sir, I'm going to take you through
18 your background, first of all, and then I'm going to
19 talk to you a little bit about the report of the
20 independent investigation and I'm going to take you
21 through the case. So let's start out. Can you tell us,
22 start out with your date of birth and tell us a little
23 bit about your upbringing?

1 A. I was born on Halloween in 1938. It was the
2 night of the War of the Worlds. Orson Welles had a
3 radio program and people didn't realize that it was a
4 drama and thought we were really being attacked by
5 martians. So that was kind of an auspicious entrance
6 into the world.

7 I was the first of three children. I had
8 two sisters, one a year younger and the other two and a
9 half years younger. I attended public school from
10 kindergarten to third grade, Haskell School in
11 Lansingburgh, Troy, and I went to St. Patrick's Academy,
12 which was the school for our parish church. And there I
13 first came into contact with a number of the priests and
14 the parish, serving as an altar boy. I think that sowed
15 the seeds for my eventual vocation as a priest.

16 I attended high school at LaSalle
17 Institute in Troy. And upon graduation I intended to
18 matriculate at Siena College. At the time that I
19 graduated I was thinking about three different types of
20 vocation. One was journalism because I worked on the
21 school newspaper for several years. The other was law
22 because the only person in my extended family that had a
23 degree was a lawyer. And the third was the priesthood.

1 A couple times during the course of the
2 spring of my senior year in high school one of the
3 priests in my parish asked me if I was ever thinking
4 about the vocation to the priesthood, and I said I was
5 but I wasn't quite ready to make that decision. And so
6 I decided to go to Siena College. I was accepted there
7 as a freshman. Went to the freshman orientation.

8 And then one evening, I think it was early
9 July, my father came home and he was telling my mother
10 at the dinner table about one of their mutual friends
11 whose son was entering the seminary in Albany, Mater
12 Christi. And, quite frankly, I was pleasantly surprised
13 at how positive my mother and father were and excited
14 about the fact that this mutual acquaintance's son was
15 going into the seminary.

16 One of the things I had in the back of my
17 mind is I never talked to my parents directly about a
18 vocation to the priesthood and I thought that they might
19 have some reservations, especially since I was the only
20 male child and that may be the end of the family name,
21 at least in our family tree.

22 So when I heard them speak so positively
23 about this other young man who was entering the seminary

1 that fall it made me reconsider. And I spoke to my
2 family a couple days after that and then went to see my
3 pastor to find out what would be required, because it
4 was getting very late to be applying for the seminary.
5 And they said -- the pastor told me that I would need a
6 letter from him, that I would need a medical workup by a
7 physician, and that I would need to meet with the
8 director of the seminary.

9 Q. Can I stop you there?

10 MR. O'CONNOR: Can we go off the record
11 for one second?

12 MR. SHERECK: We're going off at 10:48.
13 (There was a discussion off the record.)

14 MR. SHERECK: Okay. Back on, 10:49.

15 BY MR. O'CONNOR:

16 Q. Bishop, just to put some dates on this. So you
17 graduated high school, LaSalle Academy. What year was
18 that?

19 A. 1956.

20 Q. And did you have a rank in your class at
21 LaSalle Academy?

22 A. Yes. I was lieutenant colonel and I was in
23 charge of the first two divisions of the cadet corps.

1 Q. All right. So you just took us up through your
2 decision to enter the seminary; is that right?

3 A. Correct.

4 Q. What year was that?

5 A. That would be in the summer of 1956, and I
6 entered right after Labor Day in 1956 at Mater Christi
7 Seminary in Albany.

8 Q. Great. Can you share with the jury your
9 seminarian training?

10 A. Well, at that time it was staffed by priests
11 from the diocese, so I got to understand the priesthood
12 better, especially as it was lived in the Diocese of
13 Albany, from the six or eight faculty members that were
14 overseeing the students at the seminary. I was very
15 happy at the end of that first year to be asked to serve
16 as a counselor at Camp Tekakwitha. And I did that for
17 the next four years. And I enjoyed the interaction with
18 young people and it gave me some experience about
19 exercising a leadership role in the community.

20 Q. And where is Camp Tekakwitha?

21 A. Camp Tekakwitha is on Lake Luzerne in our
22 diocese.

23 Q. All right.

1 A. And then after I completed my formation at
2 Mater Christi, which was a two-year program, I was
3 assigned to one of the eight major seminaries that our
4 diocese employed for those in what was known as major
5 seminary. And I was assigned to St. Joseph's in
6 Dunwoodie or in the City of Yonkers.

7 I was there for two years, and it was
8 interesting to be with a group of basically New Yorkers.
9 I think there were about six or eight seminarians from
10 the Diocese of Albany at St. Joseph's and the rest were
11 all candidates for the Archdiocese of New York. But
12 they had a whole different perspective on the nature of
13 parish life and their experience with church compared to
14 me, who came from Upstate New York.

15 Q. And what years was that, sir?

16 A. That was from 1958 to 1960. And then at the
17 end of 1960 I was asked by the bishop to attend the -- I
18 went to American College in Rome, Italy. And the
19 college was named for a residency in the Italian system,
20 and it was not actually a college as we would know it
21 here in the United States. And so while I resided at
22 the North American College I did my studies at the
23 Gregorian University.

1 And one of the wonderful opportunities I
2 had in my life was to be in Rome at the time of the
3 Second Vatican Council. I was there at the opening of
4 the council. I was there when the pope convened the
5 council. Pope John XXIII passed away. I was there when
6 Pope Paul VI was elected. I was there when President
7 Kennedy and Jackie Kennedy visited the college.

8 And so those were very exciting days and
9 it gave me a sense of the church universal because at
10 Gregorian University just in our case alone there were
11 about 300 students and we were taught in a large what
12 they call aula, or large classroom. And we had the
13 opportunity to get to know these students from European
14 countries, from Africa, from Asia, from Australia,
15 Canada, and so forth, and it gave you the sense of the
16 church universal, which I think in and of itself was a
17 wonderful gift.

18 Q. So what year did you complete that program,
19 sir?

20 A. Well, I was ordained as a subdeacon, deacon and
21 priest toward the end of 1963. I completed my degree,
22 which was a license in theology, which is comparable to
23 a master's degree in theology here in the United States,

1 and then I returned in the summer of 1964 to the
2 diocese, where I received my first assignment.

3 Q. So when did you complete your degree in the
4 United States?

5 A. No. I completed my degree in Rome in 1964.

6 Q. Then you came back to the Albany Diocese?

7 A. Then I came back to the Albany Diocese. And my
8 first, I had a short, six-week appointment. One of the
9 priests was away for a problem with stuttering and he
10 was in a course over in Rhode Island so I took his place
11 for six weeks when I first arrived home.

12 And then my first full assignment as a
13 priest in the Diocese of Albany was as the associate
14 pastor at the Cathedral of the Immaculate Conception.
15 There were two associates there at the Cathedral. The
16 superintendent of schools also was living at the
17 Cathedral. And the rector of the Cathedral was
18 Monsignor John Jones, who was a fellow Trojan.

19 But the thing that kind of shook me up
20 when I first received my assignment was while I was
21 assigned as associate pastor by the bishop, the pastor
22 said that the associate pastor in the Cathedral
23 community included --

1 MR. O'CONNOR: Can we stop there for one
2 second? Can everybody please mute their
3 microphones? Jim, I think yours is on. Matt
4 Kelly.

5 (There was a discussion off the record.)

6 BY MR. O'CONNOR:

7 Q. I'm sorry to interrupt, sir. I think I was
8 asking you about your first assignment on the Albany
9 Diocese.

10 A. Well, to my amazement, when I reported for duty
11 the first day at the Cathedral parish I was made aware
12 of the fact that with that associate pastorship went the
13 title of principal of the school. I was no more
14 prepared to be principal of a school than jumping over
15 the moon.

16 Fortunately, the head of the convent at
17 the Cathedral Academy was a nun who I knew from my days
18 in grammar school at St. Patrick's in Troy. She was in
19 charge of the altar boys. And I went to see her and I
20 said, Sister, I don't know the first thing about being
21 the principal of a school, so as far as I'm concerned,
22 in terms of the day-to-day activities of the school,
23 you're in charge. You are the principal. I will do

1 anything you want me to do. I agree to teach religion
2 and Latin to the seventh and eighth graders, I will be
3 responsible for disciplining the students, and I would
4 do home visitation to the parents of the children in the
5 school and also be responsible for the group of parents
6 that would meet on a monthly basis overseeing
7 fundraising and things like that for the school.

8 But it was a wonderful experience and I
9 think it worked out very well. And I was looking
10 forward to a second year when I might even be able to
11 contribute more based upon the wonderful leadership I
12 received from the school principal.

13 Q. So what was your next assignment?

14 MR. O'CONNOR: And can we stop once again?

15 Somebody is unmuted and it's coming through
16 on mine, anyway. Is everybody muted, please?

17 Q. All right. So let me ask you. After you
18 finished your first assignment -- and I apologize for
19 the interruptions, sir. That should not have happened.
20 After you finished your first assignment -- and what
21 year was that, sir?

22 A. That was in the summer of 1965. And I didn't
23 know I was finishing my first assignment, but during the

1 course of the summer the bishop called me in and asked
2 me if I would be willing to serve as the associate
3 editor of the diocesan newspaper, The Evangelist. I
4 said that while I would do whatever he asked me to do in
5 light of my commitment to obedience that I made at the
6 time of my ordination, it was not something that I would
7 prefer to do. And he asked me to think about it and
8 come back and see him in a day or two, which I did.

9 And he said, "Well, what did you conclude
10 on the basis of your reflection or anybody you talked
11 to?" I said, "Just the thought of going to serve as an
12 associate editor at The Evangelist makes me violently
13 ill." So he said, "Well, I have another proposal to
14 make to you." He said, "I would like you to consider
15 being a member of the Catholic Charities family in the
16 diocese and I would like you to get your degree in
17 social work from the School of Social Work Sciences at
18 the Catholic University of America."

19 And it was not something that I had in
20 mind. Since the bishop had asked me and I already
21 refused him once, I didn't have the courage to say no, I
22 prefer to stay in a parish. And so I accepted that
23 assignment. I only had about two weeks to prepare.

1 Q. Did you do that?

2 A. Yes, I did. And I would have to say it was a
3 very positive experience. We had the classroom studies
4 and we also had responsibilities to do with internship.
5 And my internship was at St. Elizabeth's Hospital. It
6 was not a Catholic facility. It was an entity of the
7 City of Washington, D.C., but it cared for the mentally
8 ill. And I got a firsthand understanding of the
9 challenges that are faced by those with a mental illness
10 and the wonderful care they were receiving there at St.
11 Elizabeth's Hospital.

12 At the end of that year at Catholic
13 University I returned to the diocese and it was the
14 expectation that I would do an internship and I was
15 assigned to Catholic Charities in Schenectady. However,
16 in the City of Albany, for the second year in a row,
17 they were having a project known as the Interfaith Task
18 Force. This was composed of members of the Protestant,
19 Jewish, and Catholic communities and the Catholic
20 community priests and laypersons who gave six weeks of
21 their summer to work with the poor in either Arbor Hill
22 or the South End of Albany. And that had a great
23 attraction for me.

1 So I made a deal with the director of
2 Catholic Charities in Schenectady that I would be at the
3 agency from 9:00 in the morning until 1:00 in the
4 afternoon and then the rest of the time I could spend
5 with this Interfaith Task Force. And I did that and it
6 was a ministry that I loved very much, but I still had
7 another year of school to go.

8 And at the end of the year, the time of
9 the task force, the members who were participants in the
10 task force gathered together to do an analysis of what
11 was or wasn't accomplished during the course of the
12 summer. And out of that discussion came a resolution
13 that each of us would report the results of the
14 Interfaith Task Force and also to ask the nomination of
15 executive to consider allowing people to do this type of
16 ministry full-time because we felt it was unfortunate
17 that all of this activity was generated for six weeks
18 and then wouldn't take place again until the following
19 summer.

20 I went to see Bishop McGinn, who was the
21 administrator of the diocese at the time, with that
22 request, not for myself but just in general, that
23 somebody or some persons be assigned to this type of

1 ministry. And the bishop said -- he apologized. He
2 knew I had another year to do at the Catholic University
3 to complete my degree, but he wanted me to begin that
4 work immediately. And so he was asking that I spend at
5 least a couple years doing that type of ministry in the
6 Diocese of Albany and then maybe I could go back and
7 complete my degree.

8 Well, as I've already mentioned, I wasn't
9 thrilled about going there in the first place so it was
10 no hardship for me not to go back and get my degree at
11 Catholic University. And I asked the bishop what he had
12 in mind and he said, "Well, I would like something
13 that's not particularly traditional." So he said, "I
14 was thinking about maybe renting a storefront in the
15 South End of Albany and we would operate out of there
16 and develop whatever program you felt with your limited
17 resources you could exercise there in the South End."

18 The only request I had of him was that I
19 be able to live there at the storefront. And he said,
20 "No. I think it's important that you have priestly
21 companionship and I want you to live at St. John the
22 Baptist in Albany." And that was wonderful advice
23 because I had the fellowship and the friendship of

1 fellow priests and people whom I could bounce my needs
2 off in an informal setting there at St. John the Baptist
3 rectory.

4 Q. So what timeframe was this, Bishop?

5 A. This would have been at the end of the summer
6 in 1965.

7 Q. The storefront, did that ultimately turn into
8 some kind of agency?

9 A. Yes. I opened the storefront in the fall of
10 1965. I had a budget of \$5,000; \$2,000 to rent the
11 storefront, \$2,000 for my salary, and \$1,000 for
12 everything else. So that first year I operated solely
13 with volunteers. And it became obvious to me that while
14 there were many, many needs in the community and we
15 could only respond in a limited way to these needs, the
16 number 1 problem in that community at the time was
17 addiction to narcotics. And there was absolutely no
18 program available in the City of Albany or in the
19 greater Capital District region at that time.

20 And, quite frankly, knowing that there was
21 a problem was all I knew. I didn't know much at all
22 about dealing with it. And so I went to some of the
23 Alcoholics Anonymous persons whom I knew in the

1 community and asked them if they would be willing to
2 come to the storefront once or twice a week to conduct
3 group sessions, maybe ala AA, for these people who were
4 addicted to narcotics. And they agreed to do that. But
5 they realized that their experience dealing with alcohol
6 was considerably different than those who were addicted
7 to illegal drugs.

8 And so it was decided that for those who
9 were willing to undertake treatment that we would make
10 arrangements to transfer them to resources that existed.
11 And the closest ones that I could find at the time were
12 Daytop Village and the Renaissance House down in the
13 Catskills. And so if a person after coming to our
14 groups was willing to go for residential treatment I
15 would bring them by car down to these programs.

16 However, after about a year of this they
17 contacted me from these two facilities and said, "You
18 know, our funding comes from New York City and you're
19 bringing so many down here now that we can't, in
20 fairness to our funders, continue to take more from the
21 Albany or Capital District area. So you're going to
22 have to find a place up in Albany to care for such
23 folks."

1 And I was able to convince Renaissance
2 House to assign one of their staff to work with me in
3 Albany, and we opened a storefront up on Lark Street and
4 we began to have group programs for anyone who was
5 addicted to narcotics. And within a year we were able
6 to get assistance from the Drug Assistance Control
7 Commission in the State of New York to purchase a
8 property where we could have residential care. And we
9 did so down in the Town of Glenmont.

10 And over the years that grew from a
11 residence in Glenmont to three residences that we have
12 today for women and children, for adults, and for young
13 men and women, either in adolescence or young adulthood.

14 And just this past week we completed a
15 contractual relationship to take over the drug treatment
16 program that's available in Rensselaer County,
17 Rensselaer Mohawk drug treatment program. So we will be
18 expanding that program that started in 1967 to
19 Rensselaer County the end of this week.

20 Q. Is that called Hope House?

21 A. I don't know whether it will continue the names
22 Mohawk and Hudson or be called Hope House. I'm not
23 familiar in that detail. But Hope House will be

1 responsible for the administration and staffing of those
2 programs.

3 Q. So your initial work was in '67 with Hope House
4 in the treatment of heroin addicts?

5 A. Correct.

6 Q. Okay. Can you just bring us through
7 chronologically -- maybe I'll move forward a bit here.
8 You were a priest at the time that you helped found Hope
9 House. Tell me about your progression through the ranks
10 here in the Albany Diocese over the years.

11 A. Some people wouldn't call it progression. But
12 I was on the first board of the ecumenical and
13 interfaith commission of the diocese. This was shortly
14 after the Second Vatican Council and there was a decree
15 on humanism which encouraged the Catholic community to
16 be more involved in interaction with our brothers and
17 sisters in the Protestant community and in the Jewish
18 community. And I was on the founding board of that
19 commission and then later became the chair of that
20 commission in 1973.

21 I was also elected by the priests of the
22 diocese in 1973 to serve as the chair of the priest
23 personnel board in the diocese. And out of that

1 experience grew the need to what we term pastoral
2 planning. And the bishop asked me to serve as the first
3 director of the office of the pastoral planning in the
4 diocese. That was in 1975. And in 1976 I was asked by
5 my predecessor, Bishop Broderick, to serve as vicar
6 general.

7 Q. What does that mean, vicar general? What does
8 that mean?

9 A. He would be the second in command in the
10 diocese. He would be the vice-president of all diocesan
11 corporations. And he would fulfill any task that the
12 bishop asked him to undertake.

13 Q. And you were appointed to that in what year?

14 A. It was in the late spring or early summer of
15 1976.

16 Q. All right.

17 A. And then at that time Bishop Broderick was
18 serving as the administrator of the diocese. He had
19 been appointed in 1969, but he had also been appointed
20 in the spring of 1976 to be director of Catholic Relief
21 Services, which is the relief effort internationally on
22 the part of the Catholic Church in the United States.

23 And he began to do that in the summer of

1 '76. And by the fall he realized that he couldn't still
2 be faithful to his responsibilities to the diocese and
3 also starting upon this new multifaceted responsibility
4 that he had accepted.

5 So I was asked by the president of the
6 bishops conference to head the board of consulters, in
7 accordance with canon law, to elect an administrator of
8 the diocese until a new bishop had been assigned. And
9 the board of consulters was convened and they elected me
10 as the administrator of the diocese.

11 And then a few months later, on
12 February 1, 1977, I was appointed as the bishop of the
13 diocese and was ordained to that responsibility in March
14 of 1977.

15 Q. And how old were you when you became bishop of
16 the Albany Diocese, sir?

17 A. I was 38.

18 Q. As I understand it, you were the youngest
19 bishop in the country, were you?

20 A. At that time, yes, I was the youngest bishop in
21 the country. Correct.

22 Q. So how long did you serve as bishop of the
23 Albany Diocese?

1 A. I served from 1977 until 2014. It was 37
2 years, I think. And it was a wonderful experience. I
3 got the opportunity to do so many things, both in the
4 diocese, nationally and internationally. And it's one
5 of the great blessings that I had the honor to receive
6 in my life.

7 Q. Bishop, have you ever been appointed to any
8 committees by any of the popes?

9 A. Yes. I was appointed by Pope John Paul II to
10 the Vatican Commission on Non-believers. Maybe they
11 felt that my faith didn't animate the great -- what
12 shall I call it? -- fervor that was needed. So maybe
13 they felt I needed to learn what is to be a non-believer
14 and to move out of that category into a more faithful
15 believer. But, anyway, that's what I was appointed to.

16 Q. How long did you serve on that?

17 A. That was a three-year appointment.

18 Q. How about any other -- have you ever been
19 appointed to any other committees or commissions by any
20 other political figures?

21 A. I was appointed to serve in the Martin Luther
22 King Committee by Governor Cuomo, I believe.

23 Q. Was that Mario Cuomo?

1 A. That would be Mario Cuomo.

2 Q. And tell me about that.

3 A. Well, he was trying to follow through on the
4 values and ideals of the great civil rights leader
5 Martin Luther King and see how his vision could be
6 incorporated in the various governmental entities
7 throughout the State of New York. So it was an advisory
8 committee to the governor.

9 Q. You were appointed to the White House
10 Conference on Families by who?

11 A. I was appointed to that by Governor Hugh Carey.
12 And that was again a wonderful opportunity. I had been
13 serving on the Marriage of Family Life Committee of the
14 bishops conference and I think it was that background
15 that gave me the experience I needed to serve as a
16 delegate to the Whitehouse Conference on Families.

17 Q. What's the Conference for Human Development?

18 A. The Conference for Human Development was a
19 conference in New York State that was looking at
20 opportunities to help particularly minority communities
21 to have full access to all the resources to which they
22 were entitled but for which they might have been
23 unaware.

1 Q. And what role did you serve on that committee
2 and who with?

3 A. Well, I can't recall all the members of the
4 committee, but we would have I think bimonthly meetings
5 and come up with reports that were then submitted to
6 State authorities.

7 Q. All right. You told us a little bit about Hope
8 House. Have there been any other civic organizations
9 that you've been involved with over the years?

10 A. Well, I was the first president of Living
11 Resources Corporation, which was a program that was
12 designed to meet the needs of the developmentally
13 disabled in Albany and the greater Capital District.
14 And I'm proud to say that that organization has grown
15 and flourished through the years and is doing wonderful
16 work in the community today.

17 I also had the opportunity to serve as
18 president of the Urban League in the City and County of
19 Albany. And again I was able to draw upon my own
20 experience at Providence House and involved with local
21 committees to address the civil rights movement of the
22 mid 1960s. And that, again, gave me some good
23 background for service with the Urban League.

1 Q. What's Providence House?

2 A. Providence House is that storefront that I
3 initially used as kind of an information and referral
4 center that would be available to members of the South
5 End and Arbor Hill communities in the City of Albany.

6 Q. And how is that different from Hope House?

7 A. Well, Hope House just had one specific
8 function; namely, to provide treatment and referral for
9 those who are addicted to narcotics.

10 Q. And what's the Hospitality House?

11 A. Hospitality House, I served on that board, but
12 that was another program that was initiated by a priest
13 of our diocese at the time, Father Michael Hogan. And
14 since I was already active in Hope House he thought I
15 could bring some of that experience to his initiative to
16 start another drug treatment program in the community.

17 Q. Tell us about Arbor Hill Halfway Community for
18 Women.

19 A. It was called Arbor House. And this was a
20 community for young women who either didn't have a home
21 or were transitioning from a correctional facility at
22 the county or state level back to the community and
23 needed a place to stay and find a job and stabilize

1 themselves after incarceration.

2 Q. Have you been involved with the Red Cross
3 locally?

4 A. I served on the board of the Red Cross and the
5 Albany County Senior Citizens and the Albany County
6 Mental Health Association.

7 Q. And what's Community Maternity Services?

8 A. Community Maternity Services was a program
9 sponsored by Catholic Charities that provided a facility
10 for women who were pregnant out of wedlock. And most of
11 them were adolescents or young adults. And they would
12 come for a period, usually about four or five months,
13 toward the end of their pregnancy. They received
14 support, they continued their education, and they had
15 all the medical care that was required for their
16 pregnancy. And as a volunteer there, I conducted a
17 weekly group for the young women who were residents and
18 I also said a weekly mass as their chaplain.

19 Q. In preparation for your testimony today I was
20 reviewing some old newspaper articles. And I know you
21 don't want to get into some of the awards you received
22 throughout the years, but do you recall being honored by
23 the Albany County Bar Association?

1 A. I can't say as I recall it until you mentioned
2 it, but yes, I did receive such an honor. And it's one,
3 coming from that group, who I admire greatly, I treasure
4 greatly.

5 Q. And that was for your treatment of drug
6 addicts?

7 A. Yes, because we were really the first program
8 in Albany County to deal directly with those who were
9 addicted to narcotics.

10 Q. And the Anti-Defamation League honored you in
11 1989. Do you recall that at all?

12 A. I was honored because of my work early on with
13 the Ecumenical Interfaith Commission of the diocese.
14 And then I --

15 Q. Stop there. What does that mean, Ecumenical
16 Interfaith Commission?

17 A. It means establishing better relationships with
18 at that time members of the Protestant and Jewish
19 communities. And, of course, as time has evolved and
20 new arrangements exist we have extended that to the
21 Muslim community today, but that was not something on
22 our radar screen back in the mid eighties.

23 Q. And I saw something about the Jewish World

1 Award. What's that about?

2 A. Well, I was heavily involved with two or three
3 of the synagogues in Albany shortly after I became
4 bishop. And we actually had a joint trip of the
5 Jewish/Catholic community to Israel in the early
6 eighties. And that cemented relationships with a lot of
7 leadership in the Jewish and Catholic community and it
8 also intensified our involvement with each other's faith
9 communities.

10 Q. So I know that you've done plenty of
11 confirmations over the years. Can you tell us a little
12 bit about that in terms of what role you had in
13 confirming our local community?

14 A. Well, I would say it was most attractive of all
15 my pastoral responsibilities as a bishop. Ordinarily,
16 those who were to be confirmed in our diocese are
17 usually teenagers, between the ages of 15 and 18. And I
18 got a lot of energy from interacting with these
19 teenagers. And I must have confirmed during my years as
20 a bishop well over 120,000 young people, and I cherish
21 every moment I spent in that particular celebration of
22 the sacrament.

23 Q. All right. And again, this is a short question

1 which could be a long answer, but just briefly, your
2 duties as the bishop from '77 to 2014, generally
3 speaking, what type of responsibilities and functions
4 were you engaged in?

5 A. I don't know if I can capture it very
6 succinctly, but I was responsible for the oversight of
7 all the Catholic entities in the diocese. I mean, not
8 hands-on supervision, but if there were any problems or
9 concerns that arose in any Catholic institution, be it a
10 parish or a hospital or social service program, then
11 ultimately if there were challenges or needs to be met I
12 had to be consulted or informed. And that occupied a
13 great deal of my activity.

14 But then on a daily basis I would have
15 meetings with some of the 26 department heads in our
16 diocese. I would have meetings with our chancery staff.
17 I would meet with different Catholic organizations in
18 the diocese, like Knights of Columbus, the Catholic
19 Interracial Council, the Daughters of Charity. I would
20 be doing confirmations in the spring and fall, often two
21 a night, sometimes three on the weekends. I would also
22 be involved in meeting with civic leaders.

23 And I chaired for I think 35 years the New

1 York Public Policy Committee, which formulated public
2 policy that we would bring to the attention of the
3 members of the State Legislature, the members of the
4 Assembly and Senate. Of course, we would formulate the
5 policies, but they would have to be adopted by the board
6 of bishops. And then the staff of the New York State
7 Catholic Conference would bring to the attention of the
8 Legislature what stance our conference may or may not
9 have taken on a particular position.

10 Q. How many square miles is the Albany Diocese, if
11 you know?

12 A. Yes, I do know that because I've traveled it
13 many times over the past 42 years that I've served as a
14 bishop. But it's 10,400 square miles. It runs about
15 120 miles north and south, 120 miles east and west, and
16 a little further than that. In Delaware County it goes
17 down to the Pennsylvania border. So it's a lot of
18 territory to cover.

19 Q. So it goes from Delaware County in the south.
20 How far south of Albany? What counties?

21 A. Columbia and Greene. And going north it goes
22 to Washington. And it goes from the Massachusetts
23 border over to the Utica city line.

1 Q. And over the years how many -- so when you
2 became bishop about how many priests were there?

3 A. I would say about 400. That would include both
4 the active priests and those who were retired. But,
5 still, they would have performed the sacraments.

6 Q. And then over the years I think we all know
7 that the number of priests have declined; is that right?

8 A. That's true. We've got about less than 200
9 priests today, and actually there are more retired
10 priests than there are active priests.

11 Q. All right.

12 A. And one of the things I foresaw as the decline
13 continued was the need to prepare more people to
14 exercise some of the pastoral and administrative roles
15 in our parishes. So we were fortunate to have an
16 extension of St. Bernard's Institute in Rochester to the
17 Diocese of Albany and were provided the opportunity to
18 train laypeople to get a degree in theology and in
19 church administration so that they could serve the
20 various parishes and other church entities in our
21 diocese.

22 Q. Let me just go back. How many confirmations
23 did you do a year between '77 and 2014?

1 A. I would say I averaged between 70 and 80 a
2 year.

3 Q. And it's a pretty busy schedule, I take it?

4 A. It was. It was confined pretty much to the
5 spring, say from April to June 1, and then from
6 October 1 until November 30. So we had to squeeze in a
7 lot of celebrations during that period of time.

8 Q. All right. And then since your retirement in
9 2014 up to the past several years what have you been
10 doing?

11 A. Well, I've continued to do confirmations. I
12 also continue to serve on a number of boards or
13 committees in the diocese. And I also, to the present,
14 have maintained my relationship with Hope House and I
15 serve as president of that board.

16 Q. What are your personal interests?

17 A. Well, I love sports, and especially I love
18 baseball. At confirmation I sometimes will ask a
19 candidate, does he or she play baseball. Do they have a
20 favorite team? And if I find out they're a Yankee fan I
21 tell them to go to the back of the line and reconsider
22 before I confirm them. I'm a great Red Sox and Mets
23 fan.

1 Q. Great. How about basketball?

2 A. Well, I'm a great follower of Siena basketball
3 and I have season tickets to the games and I try as
4 often as I can, not as much as I would like to, to get
5 to the games. Last year I didn't get to any games
6 because they were all virtual.

7 Q. Yes. So I'm going to switch --

8 A. I also love to read. And I think now I'm a
9 privileged member of Amazon because they send me their
10 monthly reviews because I've been purchasing so many
11 books with the free time I have.

12 Q. What do you enjoy reading?

13 A. I enjoy reading crime novels and especially
14 those that involve court drama.

15 Q. Yes.

16 A. And I also like historical novels.

17 Q. Great. So I'm going to switch gears a little
18 bit, sir. So you've been -- you wouldn't know this
19 today, but you've been testifying for the last three or
20 four days. And I'm going to kind of ask you some
21 questions that were asked earlier by a very capable
22 lawyer. He asked you first about -- I'll ask you this.
23 You're sitting here today because there are allegations

1 of sex abuse directed towards you. So let me ask you a
2 couple questions, first of all.

3 What is the vow of celibacy? Can you
4 share that with the jury, what that means, first of all,
5 the vow of celibacy?

6 A. It means that you commit yourself to the fact
7 that you will not marry and that you will not engage in
8 a sexual relationship with another person.

9 Q. And is that a vow that you took?

10 A. I did.

11 Q. Have you ever broken your vow of celibacy?

12 A. No.

13 Q. I'm sorry?

14 A. No, I've never broken my vow of celibacy.

15 Q. You were also asked by I think it was
16 Mr. Anderson about your own sexuality. And, obviously,
17 just because you're a priest or religious, we all have
18 sexuality. Do you identify -- how do you identify
19 sexually?

20 A. Well, I'm a heterosexual person.

21 Q. All right. And how do you express your
22 sexuality if you've taken a vow of celibacy?

23 A. Well, we're all sexual beings whether you've

1 taken a vow of celibacy or not. And if you're going to
2 be in a meaningful sexual relationship with others you
3 have to show qualities of empathy, compassion,
4 understanding, deep concern for the needs of others.
5 And so those qualities I think emerge from one's
6 sexuality, and I had tried to bring those qualities to
7 my pastoral interaction with others.

8 Q. Is that how you express your own sexuality,
9 with compassion?

10 A. I try to. I'm not always successful in that,
11 but to the best of my ability I try to bring those
12 qualities to my ministry.

13 Q. All right. In this case you've been sued and
14 they have served written pleadings. And you obviously
15 met with me and you're aware that there are allegations
16 that you sexually abused a minor. You're aware of that,
17 aren't you, sir?

18 A. I'm aware, but I can state categorically and
19 look anyone in the eye and say I never sexually abused
20 another person, be that person an infant, a child, an
21 adolescent or an adult.

22 Q. Have you ever had sex with anyone in your life?

23 A. No.

1 Q. I'm sorry?

2 A. No, I've never had sex with anyone in my live.

3 Q. When you hear these allegations against you,
4 how does it make you feel?

5 A. I feel embarrassed and shamed that my name is
6 associated with any form of abuse because I've come to
7 learn over the years meeting with so many victims how
8 traumatizing and lifelong that abuse may remain with the
9 victim. And the worst thing that I have had to deal
10 with in my ministry as a bishop is issues of clergy
11 sexual abuse. And I have not always done it as I might
12 have done if I had better knowledge at certain points in
13 my episcopacy, but I always took it seriously and as
14 years went on I became much more aware and appreciative
15 of the terrible damage and harm inflicted upon anyone
16 who was abused sexually, and especially by a trusted
17 figure like a priest. And I think it's one of the most
18 horrific things that is perpetrated on any individual,
19 especially a child.

20 Q. Okay. To switch gears again, sir.

21 MR. O'CONNOR: David, can you pull up P,
22 as in papa, 10? I think there were several
23 lawyers that had marked that exhibit. P-10.

1 MR. SHERECK: Natalie, have you got that?

2 MR. O'CONNOR: Great.

3 Q. Bishop, over the last several days you were
4 asked questions about the report of the independent
5 investigation. And it was dated 6-24-04. It's marked
6 as Plaintiff's Exhibit 10. And it was a report that was
7 authored by a New York City law firm called Debevoise
8 and Plimpton.

9 Briefly, can you tell us -- and you were
10 asked numerous questions by multiple lawyers about it --
11 how it came about that this investigation was done?

12 MR. SAGHIR: Note my objection to this
13 report.

14 A. Can I answer?

15 Q. Yes, you can.

16 A. Thank you. It came about through allegations
17 made in the newspaper that I had sexually abused minors,
18 that it was patently false. And once those allegations
19 were printed in the newspaper we brought them to the
20 attention of the local District Attorney. It was
21 determined that the District Attorney did not have
22 jurisdiction. And in consultation with the diocesan
23 review board I wanted these allegations to be refuted

1 because I knew that I never, ever abused a person or
2 never had a thought of abusing any person, but
3 especially a child.

4 So I felt the only way my name could be
5 cleared would be for an independent group, totally with
6 no relationship to the diocese, to undertake an
7 investigation of these false allegations. And I was not
8 involved in contracting the relationship with the Mary
9 Jo White firm, but I cooperated fully with the
10 investigation. And I think it was a thorough
11 investigation. I was subject to polygraph tests about
12 my alleged sexuality.

13 Q. Let me stop you right there.

14 MR. O'CONNOR: Just for further
15 background, page 12, David. And again this is
16 the Plaintiff's Exhibit 10. 14. I'm sorry,
17 David.

18 Q. The report reflects --

19 MR. O'CONNOR: If you could scroll up a
20 little bit. No, the other way. I'm sorry.

21 Q. The report reflects the investigative team
22 included Mary Jo White. She was the chair of the
23 Debevoise litigation department and a former United

1 States Attorney for the Southern District. Did you know
2 Mary Jo White before this investigation was ever done?

3 A. No.

4 Q. It was done by her partner, Mary Beth Hogan,
5 who led the investigation, along with an associate,
6 Stephen Lee. Did you know either of those lawyers?

7 A. No.

8 Q. The investigators included an Anthony Valenti,
9 V-a-l-e-n-t-i. He's a former IRS special agent and
10 senior criminal investigator. Had you ever met him
11 before?

12 A. No.

13 MR. SAGHIR: Objection.

14 Q. One of the investigators was Kevin Barrows,
15 B-a-r-r-o-w-s, former special agent of the FBI. Did you
16 know him before?

17 MR. SAGHIR: Objection.

18 A. No.

19 MR. O'CONNOR: Peter, just do me this
20 favor. I will give you a continuing objection
21 throughout this whole questioning. All right?

22 MR. SAGHIR: Sure. All objections to this
23 entire document and all the questions

1 pertaining to it. Thank you, Terry.

2 MR. O'CONNOR: Very fair.

3 Q. So my last question was, Kevin Barrows was also
4 an investigator. He's a former agent of the FBI. Did
5 you know him at the time of the investigation?

6 A. No.

7 Q. Frank C-i-t-e-r-a, a United States postal
8 inspector. Did you know him at all?

9 A. No.

10 Q. And finally there was a polygrapher named
11 James K. Murphy. It says he was a nationally known
12 polygrapher and certified polygraph examiner who was the
13 chief of the FBI's polygraph unit at the FBI laboratory
14 in Washington. Did you know him at all?

15 A. No.

16 MR. SMALLINE: Terry, note my continuing
17 objection to the document, as well.

18 MR. WILLIAMS: I think all plaintiffs join
19 in that objection, Terry.

20 MR. O'CONNOR: No question about it. So
21 one objection applies you all. I think your
22 friend Peter covered you all with that. Okay?

23 MR. WILLIAMS: Yes.

1 MR. O'CONNOR: The next page of the
2 report, David.

3 Q. Reflects that over 300 people were interviewed
4 in the course of this investigation; is that right?

5 A. Yes.

6 MR. O'CONNOR: Page 18, David.

7 Q. Reflects that over 20,000 pages of documents
8 were reviewed.

9 MR. O'CONNOR: Keep on going down a little
10 bit, David. I'm sorry.

11 Q. Do you see that?

12 A. Yes.

13 Q. Were you aware of that, sir?

14 A. I was aware of it in the executive summary that
15 was given.

16 Q. And then it reflects that you made available to
17 these investigators, number 1, your phone records and
18 personal phone numbers. Are you aware of that?

19 A. Correct. Yes, I was aware of it.

20 Q. All your cable bills?

21 A. Yes.

22 MR. O'CONNOR: Next page, David.

23 MR. SAGHIR: Just for clarity, my

1 objection is to the document and also to the
2 form of all these questions.

3 BY MR. O'CONNOR:

4 Q. What other documents did you provide to the
5 investigators, Bishop?

6 A. I mean, I know there were other documents. Can
7 you scroll down so I can see it?

8 Q. Well, no. Actually, scroll the other way
9 slightly. Did you provide them with your cable bills?

10 A. I provided them with everything they asked for.
11 I can't recall everything I submitted, but there was no
12 request they made that I failed to comply with.

13 Q. Did you waive your medical privileges to all
14 your doctors' records?

15 A. I did.

16 Q. It also reflects that they did a computer
17 forensic analysis of the hard drive of your computer.
18 Are you aware of that, sir?

19 A. I was aware of that, yes.

20 MR. O'CONNOR: Page 166, David. Actually,
21 page 109. Thanks.

22 Q. Do you recall being asked by the polygrapher
23 from the FBI as to whether or not you ever had sex of

1 any kind with another person? Do you recall that
2 question, sir?

3 A. Yes, I recall taking the polygraph and being
4 asked that question.

5 Q. And the report concluded that you were truthful
6 when you denied ever having sex of any kind with another
7 person; is that right?

8 MR. WILLIAMS: Objection to form.

9 A. That's right.

10 Q. And again, that was done in 2004; is that
11 correct?

12 A. That's correct.

13 Q. And then the conclusions of the report, to skip
14 ahead to page 166, number 1 reflected, "There is no
15 credible evidence to substantiate allegations that
16 Bishop Hubbard ever led a homosexual lifestyle or
17 engaged in homosexual relations at any time." Do you
18 see that?

19 A. I do.

20 Q. Are you aware of that conclusion?

21 A. Yes.

22 MR. SAGHIR: Objection to form.

23 Q. Number 2, it says, "There is credible evidence

1 indicating that Bishop Hubbard may have been
2 misidentified as a result of the activities of a former
3 Albany priest who bore some physical resemblance to
4 Bishop Hubbard." Do you see where it says that?

5 A. I do.

6 Q. Are you aware of that conclusion?

7 MR. SAGHIR: Objection to form.

8 A. I am.

9 Q. The last three days you've been asked a lot of
10 questions about this report; is that right?

11 A. I know I've been asked questions. I can't
12 remember how many times.

13 Q. Finally, they found that "there is credible
14 evidence that Bishop Hubbard has been the subject of
15 false and unfounded rumors." Are you aware of that
16 conclusion?

17 MR. SAGHIR: Objection to form.

18 A. I'm aware of it. And more than anything else I
19 am so pleased that they came to that conclusion because
20 that is an accurate assessment of the purpose of her
21 investigation.

22 Q. Finally, they reflect, bottom of page 166, "In
23 sum, we found no credible evidence to substantiate the

1 investigated allegations. Future allegations of a
2 similar nature, which can be expected to emerge, should
3 be met with considerable skepticism and should be very
4 carefully scrutinized for their factual basis." Are you
5 aware of that conclusion, sir?

6 MR. SAGHIR: Objection to form.

7 A. I am.

8 Q. All right. So let me switch gears a bit once
9 again. So I'm completed with my background questions of
10 you.

11 MR. O'CONNOR: And just for the record, if
12 for some reason the bishop is unavailable down
13 the road I will be using those background
14 questions. And in the cases that I represent
15 the bishop on, I'll be using those separately
16 in all three of those cases that I have, for
17 the record.

18 Q. So my first case I'm going to ask you about, as
19 you know, they sued these cases under pseudonyms. Are
20 you aware of that?

21 A. Yes, I am.

22 Q. So as not to identify the name of the person,
23 they've used fictitious names. You're aware of that?

1 A. I am.

2 Q. Okay. And the first case I'm going to talk to
3 you about, it's a woman identified as [REDACTED], I
4 believe.

5 A. [REDACTED]

6 Q. I'm sorry?

7 A. [REDACTED] [REDACTED]

8 Q. So, obviously, you've seen the pleadings that
9 the lawyers for [REDACTED] set forth with regard to the
10 allegations; is that true?

11 A. I have.

12 Q. And were you present at [REDACTED] deposition
13 about a week ago?

14 A. I was.

15 Q. And you're aware of the allegations of sexual
16 abuse that she has made against you?

17 A. I am.

18 Q. I'm sorry?

19 A. I am aware.

20 Q. All right. [REDACTED] counsel produced a
21 photograph of her confirmation. I guess you confirmed
22 her way back when. Do you recall her confirmation at
23 all?

1 A. Not specifically, no.

2 Q. Okay. Other than that, have you ever met
3 [REDACTED] in any capacity whatsoever?

4 A. Not that I'm aware of.

5 Q. She has alleged that from 1977 to 1979 on
6 Friday and Saturday nights three times a month for three
7 years that you sexually abused her in the presence of
8 one, two -- in the presence of four other priests. How
9 do you respond to those allegations, Bishop?

10 A. That is absolutely not true. There has never
11 been an occasion that I would abuse anyone. And,
12 specifically, I find it inconceivable that anyone would
13 conduct sexual misconduct with a minor. In my mind,
14 that's reprehensible. I deny categorically that I ever
15 abused [REDACTED]. Now, that she might have been
16 abused, that may be true. The only thing I know with
17 absolute certitude is the abuser is not me.

18 The other thing I would say is between
19 1977 and 1979 my responsibilities were multitudinous
20 and I was, you know, going pretty much seven days a week
21 for those years. To think that I could be available
22 every Friday and Saturday night is just not true.

23 Q. These allegations are from '77 to '79 for three

1 years. You became bishop just a year earlier? No. You
2 became bishop in '77; right?

3 A. Correct.

4 Q. So how was your level of busyness during your
5 first three years as a bishop?

6 A. It was extremely busy. I would suggest that
7 most weeks, between the responsibilities I had in the
8 office, the responsibilities I had to be out in the
9 parishes and at community events, and the
10 responsibilities I had for preparing talks for
11 graduations and groups that wanted me to make
12 protections was overwhelming. And so I just did not
13 have the time to spend three weekend nights -- or two
14 weekend nights three times a month. I just did not have
15 that time.

16 Q. So Immaculate Conception. [REDACTED] alleges
17 this occurred at the Immaculate Conception. Where is
18 that, Bishop?

19 A. There are several Immaculate Conception
20 parishes, but the one alleged to have had me there
21 engaging in these type of activities was Immaculate
22 Conception in Schenectady.

23 Q. And she alleges in her bill of particulars and

1 at her deposition that there were card parties on every
2 Friday and Saturday night three times a month that
3 were -- and [REDACTED]

4 [REDACTED]
5 [REDACTED]

6 During this timeframe, '77 to '79 -- and
7 she alleges it occurred at the rectory -- did you have
8 any occasion to go to Immaculate Conception rectory for
9 any reason, much less a card party?

10 A. Well, I may have been there for confirmation
11 and sometimes the pastor may offer a bite to eat
12 afterwards, but sometimes I'm going to a second
13 confirmation. Except for a confirmation, I have no
14 recollection of ever being there at the Immaculate
15 Conception rectory.

16 Q. Have you ever played cards at the Immaculate
17 Conception rectory with Father Melfe, Father
18 Delvecchiho, Father Nugent and Father DePasquale? These
19 are the folks that she alleges was there.

20 A. Never. I'm not a card player. I don't think
21 I've played cards since Old Maid with my sisters when I
22 was a youngster, 11 or 12 years of age.

23 Q. It was alleged that while at these card parties

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[REDACTED]

[REDACTED] Sir, do you drink alcohol?

A. No, I do not.

Q. In 1977 to 1979 did you drink alcohol?

A. No, I never did during that period of time. I would take a social glass of wine maybe between 1969 and 1973 if I was at a wedding reception or something like that. But except for that period, and it was a very limited period of time, and I ever had more than one drink that I can recall, I had never had any intake of alcohol except for celebrating the eucharist, where you have to have wine to confect the sacrament.

Q. Would you describe yourself as a teetotaler?

A. I would.

Q. She also alleges that you appeared at the rectory, again, every Friday and Saturday night three times a month for three years with a driver. Did you have a driver from '77 to '79 that would escort you around in a car?

A. No. Now, when I had confirmations I needed another person to assist me with the ceremony. And so when I went to confirmations I usually had my secretary, a priest secretary, who would come with me and who would

1 assist in conducting the sacrament of confirmation. But
2 very often the driver was myself. He was the passenger.
3 But except for an occasion like that or an ordination,
4 where I needed the assistance of a special ceremony
5 wherein the people in the parish were not prepared to
6 oversee the ceremony, I never had a driver.

7 Q. She said the person that would come to her who
8 she described as you always wore a black hat. Did you
9 ever wear a black hat back in the sixties or seventies?

10 A. No. I think the only hats I've ever worn was a
11 birretum when I was a seminarian and newly ordained
12 priest, a miter as a bishop, and my cap at LaSalle
13 Institute when I was a member of the ROTC there.

14 Q. The four priests that [REDACTED] alleges were
15 involved in these heinous acts were Father Melfe, Father
16 DelVecchiho, Father DePasquale and Father Nugent. As of
17 this timeframe, '77 to '79, did you have any type of
18 social relationship or friendship relationship with any
19 of these priests?

20 A. No. I knew them all, but I had no social
21 relationship with them. I should note that Father
22 DePasquale for a short period of time lived at
23 St. John's rectory, where I resided in the South End of

1 Albany. But I knew him during that short period of
2 time, but I did not have any ongoing social relationship
3 with him.

4 Q. Had you ever socialized with any of these
5 priests?

6 A. No.

7 Q. I'm sorry?

8 A. Well, socialized? I mean, was I ever in the
9 same place where we were gathered for a clergy
10 conference or something like that and would I chat with
11 them? Yes. But, I mean, did I ever go out with them on
12 a regular basis? No. Never.

13 Q. I've marked as exhibits your diaries that you
14 very recently provided to me. Can you get those in
15 front of you, Bishop?

16 MR. SMALLINE: Terry, I would like to note
17 my objection and also make a demand for
18 preservation and production of the original
19 calendars. They're not legible for purposes
20 today. On recross I'm going to use your list,
21 but I would ask that the originals be preserved
22 for inspection at a mutually agreeable time in
23 the future.

1 MR. O'CONNOR: No problem.

2 MS. LaFAVE: I think we need to make a
3 general objection to the fact that we did not
4 receive the calendars until -- I know they were
5 sent out last night. Apparently, there's some
6 kind of Microsoft problem around the country.
7 I didn't receive them until this morning, when
8 I received them from another plaintiff's
9 attorney.

10 And so I think there's a general objection
11 by the plaintiffs of the calendars not having
12 been turned over in a timely fashion before the
13 trial testimony. And that includes, according
14 to the stipulation, the exhibits were supposed
15 to be turned over two weeks beforehand.

16 MR. SAGHIR: I join in that objection.

17 MR. O'CONNOR: I get your objections. We
18 can raise this down the road. My simple reply
19 is, just for the record, I realize the
20 stipulation is what it is. I've been receiving
21 exhibits from plaintiff's counsel right up to
22 these depositions, number 1.

23 Number 2, these calendars became a topic

1 of conversation during the last three days, and
2 that's why I decided to produce them today. I
3 didn't have any intention of doing that before
4 they were raised by counsel in questioning.

5 And, number 3, until I deposed these
6 alleged victims last week I didn't even know
7 the dates of treatment. And the dates of
8 treatment have shifted in actually all three of
9 the cases. So it has been a difficult time for
10 me to even nail down when the dates of
11 treatment were.

12 So let's move on. We can argue all this
13 with the Court down the road. And I reserve
14 all your rights to object and you can reserve
15 my rights to reply. How does that sound?
16 Fair?

17 MR. SAGHIR: Fair.

18 MR. SMALLINE: Agreed.

19 MS. ALLEN: And let me jump in quickly
20 here, not to belabor this further but I want to
21 make sure our objection is on the record, as
22 well. This is Mallory Allen. It's a different
23 issue, Terry. Just one quick second.

1 We have been requesting these calendaring
2 records from the diocese, as well. So we don't
3 have a direct claim. I haven't been dealing
4 with you, Terry. Our firm has been dealing
5 with Mr. Costello and Ms. Danek. So we have
6 received no documentation of these calendars
7 despite the fact that apparently they have been
8 reviewed for quite some time on the defense
9 side. I want to make sure my objection is on
10 the record to that extent.

11 MR. O'CONNOR: I can't say that the
12 diocese has these records either, honestly. I
13 got these from my client. They have never been
14 requested of me.

15 But I will produce -- I can guarantee I'll
16 produce any and all calendars that we can find.
17 I don't think any demands were made for them on
18 me. But I will produce. There will be no
19 hiding the ball. I'll produce everything that
20 we get. I assure you of that. Okay?

21 MS. ALLEN: Okay. Yes.

22 MR. GORDON: Terry, it is agreed that the
23 objections that have just been stated by these

1 plaintiffs' counsel are objections that are
2 reserved and are reserved for all plaintiffs'
3 counsel?

4 MR. O'CONNOR: Yes.

5 MR. GORDON: Thank you.

6 MR. O'CONNOR: All right. Let's move on
7 dot com. We're back on the testimony record.

8 Q. Bishop, you're not showing up on my screen for
9 some reason. Are you with me?

10 A. I'm on the screen here.

11 Q. There you go. So in front of you I had marked
12 Exhibit 1, 2 and 3. And just for the record, they are
13 12-month photocopied calendars purporting to be from
14 1977, 1978 and 1979. Do you have those in front of you?

15 A. Yes.

16 Q. And can you share with the jury what these
17 calendars are of and who kept these calendars?

18 A. I'm sorry. I didn't hear the question.

19 Q. Can you share with the jury, what are these
20 calendars and who kept them?

21 A. The calendars were kept by my secretary, Onna
22 Pollock, at that time and she would make notations of
23 the commitments that she had made for me for each day of

1 the week. And then she would print them up in a typed
2 version so that I could clearly read them and follow
3 through on the appointments and the commitments that
4 were made.

5 Q. And were these kept in the ordinary course of
6 business?

7 A. Yes.

8 Q. The 1977 diary begins in February of '77. Why
9 is that?

10 A. Well, because I was appointed bishop February
11 1, 1977. So that would be when she would take over
12 responsibilities as my secretary.

13 Q. Were these diaries kept -- did you keep this
14 type of diary prior to February of '77?

15 A. I had a personal calendar that I kept so that I
16 would know what I was supposed to do on a given day, but
17 I never had anything outlined like this.

18 Q. When they had these calendars, did she print
19 out a calendar for you on a weekly basis, your
20 secretary?

21 A. To my best recollection, it was a weekly basis.
22 Maybe she gave me something for the entire month, but
23 that could be changed in the course of a given day when

1 two or three other commitments were made to the
2 calendar. But I always received a typed version.

3 Q. And just to save on discovery demands, you
4 mentioned a personal calendar. Do you still have any
5 personal calendars?

6 A. No. Excuse me. Excuse me. I don't keep it
7 personally. I still have a secretary, and if I have
8 appointments I ask her to put it on my calendar that she
9 keeps for me. And so I have that on my iPad.

10 Q. So after you provided me with these calendars I
11 asked if you could type out your weekend activity which
12 would be germane to this [REDACTED] case for '77, '78
13 and '79; is that right?

14 A. Correct.

15 Q. And I don't want to belabor it, but again, the
16 allegation in this case is that you were at this
17 Immaculate Conception rectory at these poker parties for
18 three weekends a month, every Friday and Saturday,
19 from --

20 MR. SMALLINE: Objection to the
21 mischaracterization of the evidence. Testimony
22 wasn't that it was every Friday and Saturday.

23 MR. O'CONNOR: You're objecting to the

1 form, Marty?

2 MR. SMALLINE: Object to the form, Terry.
3 You can answer the question.

4 MR. O'CONNOR: Do you want me to answer
5 it?

6 MR. SMALLINE: I'm saying the bishop can
7 answer.

8 MR. O'CONNOR: I don't want you to answer
9 my question. And I'll rephrase it. I don't
10 mind your objections, Marty. Just make it to
11 form. And other ones you reserve, obviously.

12 Q. Bishop, you were there for the testimony of
13 [REDACTED] when she testified that these card
14 parties/sexual abuse occurred every Friday and Saturday
15 night, three weekends a month, from '77 to '79. Were
16 you present during that testimony?

17 MR. SMALLINE: Objection to form. You can
18 answer.

19 MS. LaFAVE: Objection.

20 A. That's my best recollection of what she
21 testified at the deposition.

22 Q. And you were there at the time?

23 A. I was at the deposition, yes.

1 Q. Can you get April in front of you, sir? And
2 that's Exhibit 4, which is, for the record, Exhibit 4 is
3 a four-page --

4 MR. O'CONNOR: Thank you, David.

5 Q. -- a four-page typed out schedule for your
6 events on these weekends from 1977; is that right?

7 A. That's correct.

8 Q. Very briefly -- and I'm going to have you do
9 this for three years. It's going to be a little
10 monotonous, but I just want to make a record of it. In
11 April of '77 what was your weekend schedule?

12 A. Friday and Saturday?

13 Q. Fridays and Saturdays. It covers the
14 allegations in this case.

15 A. Friday, April 22, I had a marriage formation
16 retreat. I had a marriage formation gathering at the
17 Provincial House. I had a mass at 5:30 followed by
18 dinner. That was Saturday, the 23rd.

19 On Friday, the 29th, I had confirmation in
20 Frankfort and Little Falls.

21 On Saturday, April 30, I had confirmation
22 at St. John's in Newport and confirmation in Ilion.

23 Q. And how about May '77?

1 A. May of '77. On May 6 I had confirmation.

2 Q. What time was that?

3 A. 7:30.

4 Q. Where was that?

5 A. Well, it's just got "7:30 confirmation." And
6 then St. Pius in Loudonville.

7 MR. COSTELLO: Terry, can we scroll down a
8 little bit?

9 MR. O'CONNOR: Yes. Thank you.

10 Q. May 13, '77?

11 A. I had a prayer service for those to be ordained
12 on Friday night, May 13.

13 Q. If you include the times, Bishop, that would be
14 appreciated.

15 A. Friday, May 13, I had a prayer service at the
16 at the chancery for the Ordinands. That's 5:30. At
17 7:30 I had a confirmation.

18 On Saturday, May 14, at 6 o'clock I had a
19 confirmation and 7:30 I had another confirmation.

20 On Friday, May 20, I was at a dinner at
21 5:30. And at 7 o'clock I had a confirmation in
22 Richfield Springs.

23 On Saturday, May 21, I had a graduation at

1 St. Rose. At then that afternoon I had a confirmation
2 at St. Madeleine Sophie's and St. Gabriel's in
3 Rotterdam.

4 On Friday, May 27, I had a confirmation at
5 the Nativity Parish. And on Saturday -- excuse me.
6 That was Friday, May 27, at 5:00.

7 And on Saturday, May 28, I had a
8 confirmation in the afternoon at St. Mary's, Hoosick
9 Falls, and in the evening I had a meeting with the
10 Vincentian Institute Alumni Association.

11 Q. June?

12 A. June. On Friday, June 3, from 6:00 to 8:00 I
13 had a dinner at the Empire State Plaza, where I was the
14 honored guest.

15 On Saturday, June 4, I had a 4:00 p.m.
16 confirmation.

17 On Friday, June 10, at 4 o'clock I had
18 confirmation at St. Mary's in Schenectady. At 6 o'clock
19 a confirmation at St. Adalbert's in Schenectady.

20 On Saturday, June 11, I had a confirmation
21 in Herkimer, New York.

22 On Friday, June 17, I had Keveny
23 graduation at the Keveny Academy in Cohoes.

1 On Saturday, June 18, I had a 6 o'clock
2 bishop burse dinner with the Knights of Columbus.

3 Q. What time was the Keveny graduation, sir?

4 A. 8:00 p.m.

5 Q. And the Columbus dinner, Knights of Columbus?

6 A. 6:00 p.m.

7 Q. All right.

8 A. On Friday, June 24, I had a dinner with the
9 Knights of Malta. That was an evening dinner.

10 And on Friday, June 25, I had an
11 11 o'clock Saratoga Catholic Central graduation.

12 Q. July.

13 A. July, I have nothing on the calendar or I can't
14 read it, one or the other. Same. That would be the 1st
15 and 2nd of July. Same would be true for the 8th and 9th
16 of July.

17 On Friday, July 15, I attended a birthday
18 party for Bishop Matthew Clark. It was in the evening.
19 And Friday, July 15, I attended the annual Hope House
20 dinner, where I was the president.

21 On Friday, July 22, there was nothing
22 scheduled.

23 On Friday, the 23rd of July, I had a

1 6:00 p.m. wedding in Lake Placid.

2 On Friday, July 29, I was on vacation.

3 And the same the following day.

4 Q. Where would you go on vacation?

5 A. At that time, 1977, I usually went with Bishop
6 Clark and Father Powers to Cape Cod for a couple weeks.

7 Q. All right. August?

8 A. In August, Friday, August 5, I was still on
9 vacation, as I was on August 6.

10 On Friday, August 12, there is nothing
11 listed on the calendar I have here or we can't decipher
12 it.

13 Saturday, August 13, I had a 4 o'clock
14 mass at Camp Scully.

15 On Friday, August 19, there was nothing on
16 the calendar.

17 On Saturday, the 20th of August, I had a
18 wedding anniversary.

19 On Friday, August 26, at 4:00 p.m. I had
20 confirmation at the Cocksackie Correctional Facility.

21 And on Saturday, August 27, at 7:00 p.m. I
22 had an event, which I can't decipher.

23 Q. September.

1 A. From the written calendar. September. Friday,
2 September 2 and September 3, I have on the calendar "no
3 evening appointments" listed on the calendar.

4 On Friday, September 9, I had 7 o'clock
5 confirmation at St. Henry's in Averill Park.

6 On Saturday, September 10, I had a jubilee
7 celebration for married couples at St. Ambrose in
8 Latham. Well, 50th jubilee celebration for married
9 couples at St. Ambrose in Latham.

10 On Friday, the 23rd of September,
11 7 o'clock, I had an event, but I cannot decipher it.

12 On Saturday, September 24, I had the Boy
13 Scouts mass in Auriesville at 7:30 p.m.

14 Q. I think you skipped over the 16th and 17th.

15 A. I'm sorry. On Friday, September 16, I had a
16 4:30 p.m. service of reconciliation or communal penance.

17 And on Saturday, the 17th of September, I
18 was at a Catholic Charities meeting in New York City.

19 Q. September 30.

20 A. September 30 I had a Memorial Foundation
21 dinner.

22 Q. What time?

23 A. At 6 o'clock. And at 7 o'clock on the 1st of

1 October, Saturday, I had a confirmation at St. Joseph's
2 in Stephentown.

3 Q. October.

4 A. October 7 at 7 o'clock I had a testimonial
5 dinner for Father Young. That was 7:00 p.m. I had
6 another commitment that I cannot decipher.

7 On Friday, the 14th of October, I was
8 giving a talk in Rochester, New York.

9 And Saturday, October 15, I was
10 celebrating an event at the Provincial House at
11 7:30 p.m. I'm sorry. That was an event for Providence
12 House, not the Provincial House.

13 On Friday, October 21, I had a 7 o'clock
14 confirmation at St. Paul's.

15 On Saturday, October 22, there was nothing
16 listed on the calendar.

17 On Friday, October 28, I had an event at
18 5:45 at Temple Beth Emeth.

19 And on Saturday, October 29, at 7:30 I had
20 an event at the College of St. Rose.

21 Q. Those are in the evening?

22 A. They're both evening events. For November,
23 Friday, November 4, there was nothing listed on the

1 calendar.

2 Saturday, November 5, at 5:30 p.m. I had
3 an anniversary dinner at Castleton, New York.

4 On Friday, November 11, I had a dinner at
5 4:00 p.m. at a place that I cannot decipher.

6 And on Saturday, November 12, I had a
7 meeting with the presbyterate council.

8 On Friday, November 18, in the evening I
9 had a retreat.

10 On Saturday, November 19, at 4:00 p.m. I
11 had a mass and dinner celebration.

12 On Friday, November 25, Thanksgiving Day
13 weekend, there was nothing on those calendars for the
14 Friday and Saturday of November 25 and November 26.

15 Q. But that was Thanksgiving weekend?

16 A. That was Thanksgiving weekend. December 1977,
17 on Friday at 5:30 I had a confirmation and at 7 o'clock
18 I had a confirmation. That was the 2nd of December.

19 And December 3 I had an event at
20 St. Mary's parish.

21 On Friday, December 9, there's nothing
22 recorded.

23 On Saturday, December 10, I had a

1 7:00 p.m. event at St. Joseph's in Troy.

2 On December 16 there's an indication that
3 I was in New York City. And there was nothing on the
4 calendar for the following day.

5 On Friday, December 23, there's nothing on
6 the calendar.

7 On Saturday, December 24, I had midnight
8 mass at the Cathedral.

9 And on the 30th and 31st of December,
10 Friday and Saturday, there's nothing on the calendar.

11 MR. O'CONNOR: Counselors, can I propose
12 we take about a ten-minute break? We've been
13 going for a little while.

14 MR. SHERECK: Going off the record at
15 12:13.

16 (A recess was taken in the proceedings.)

17 (The proceedings were reconvened as
18 follows:)

19 MR. SHERECK: We're back on at 12:27. Go
20 ahead.

21 BY MR. O'CONNOR:

22 Q. Bishop, you've completed 1977. In front of you
23 do you have Exhibit 5?

1 A. Yes.

2 MR. O'CONNOR: Hold that up, please,
3 David.

4 Q. I know this is monotonous and I apologize, but
5 based upon the allegations of this case I just want you
6 to once again take us through your weekends of 1978, if
7 you could, starting with January of '78.

8 A. January '78. Friday, January 6, at 6:00 p.m. I
9 had the Knights of Malta liturgy, followed by dinner.

10 On Friday, the 13th, there was nothing
11 listed on the calendar.

12 Saturday, the 14th, I had a 5:00 p.m.
13 liturgy for the members of our presbyterate.

14 Friday, January 20, I had an all-day
15 bishops meeting in New York City.

16 And the same on Saturday, the 21st of
17 January; an all-day meeting in New York City.

18 On Friday, January 27, there was nothing
19 on the calendar.

20 On Saturday, January 28, I had a 6:00 p.m.
21 liturgy at St. Adalbert's Church.

22 On Friday, the 3rd of February, I had an
23 8:30 p.m. mass and candidacy ceremony for our

1 seminarians.

2 On Saturday, February 4, 6:30 p.m., I had
3 a chancery employees dinner.

4 On Friday, February 10, I had nothing on
5 the calendar.

6 On Saturday, the 11th, from 7:30 to 9:30
7 p.m. I had a meeting with the Mercier Corporation.

8 On Friday, February 17, from 5:00 to 7:30,
9 there's an event listed but I can't decipher it.

10 On Friday, the 28th of February, I had a
11 6:00 p.m. --

12 Q. No. I'm sorry. You mean Saturday, the 18th of
13 February?

14 A. I'm sorry, yes. Saturday, the 18th of
15 February, 6:00 p.m., Knights of Columbus dinner.

16 On Friday, February 24, there was nothing
17 listed on the calendar.

18 On Saturday, February 25, I had an evening
19 mass at St. Lucy's in Altamont.

20 On Friday, March 3, at 6:00 p.m. I had a
21 confirmation in Troy. At 7:30 I had a confirmation
22 again in Troy. I'm sorry. Excuse me. On Friday,
23 March 3, I had two confirmations in Troy, one at 6:00

1 p.m. and the other at 7:30 p.m. at St. Patrick's.

2 On Saturday, March 4, there was nothing
3 listed on the calendar.

4 On Friday, March 10, there's a diaconate
5 board meeting that I had at the Brady Building on 7:30
6 p.m.

7 On Saturday, March 11, there's something
8 on the calendar but not legible.

9 On Friday, the 17th of March, I had a
10 reception dinner at the Albany Thruway House at 6:30
11 p.m.

12 And Friday, the 18th of March, Saturday, I
13 had a liturgy and dinner at St. Patrick's in Troy.

14 Q. That's Saturday, the 18th; right?

15 A. Yes. I'm sorry. Saturday, March 18. On
16 Friday, March 24, it was Good Friday. I had an evening
17 celebration at 5 o'clock, celebration at the Cathedral.

18 On Saturday, March 25, I had an 8:00 p.m.
19 Easter vigil service at the Cathedral.

20 On Friday, March 31, I had a 7:00 p.m.
21 confirmation at West Winfield. There was also a Hope
22 House cocktail party. No. Wait a second. Saturday,
23 April 1, was a Hope House cocktail party, and at 8:00

1 p.m. I had a confirmation at St. Anthony's in Troy.

2 Q. April.

3 A. April 1978. On April 7 I had a Friday meeting
4 about the diocesan development program in Queensbury,
5 outside of Glens Falls.

6 On Saturday, April 8, I had confirmation
7 at St. Matthew's in Voorheesville.

8 On Friday, April 14, there was nothing
9 listed on the calendar.

10 On Friday, the 15th of April, I was
11 journeying to Rome for our ad limina visit.

12 Q. You mean Saturday, the 15th of April; right?

13 A. Yes.

14 Q. What is ad limina, l-i-m-i-n-a?

15 A. That's the meeting that the bishops of a given
16 province have with the Pope and with the various
17 dicasteries or departments in the Vatican. That's
18 usually a weeklong meeting.

19 And I was in Rome on Friday, April the
20 21st, and then Saturday, April the 22nd, for the ad
21 limina visit. And I was also in Rome on Friday, April
22 the 28th.

23 Q. Is that Rome, New York, or Rome, Italy?

1 A. I assume it's Rome -- well, Rome, New York, is
2 not in our diocese, so I assume it's Rome, Italy.

3 And there's an event on the calendar for
4 Saturday, the 29th of April, which is not legible. Do
5 you want me to do May?

6 Q. Please.

7 A. Friday, May 5, a 5:00 p.m. confirmation at
8 Delanson and at 7 o'clock on Friday, May 5, 7 o'clock
9 confirmation in Cobleskill.

10 On Saturday, May 6, I had two
11 confirmations in Delaware County.

12 Friday, May 12, 7:00 p.m. confirmation,
13 Lake George.

14 Saturday, May 13, at 8:00 p.m.,
15 confirmation at St. Pius in Loudonville.

16 On Friday, May 19, I had a confirmation
17 and dinner.

18 And on Saturday, May 20, I had an evening
19 confirmation.

20 On Friday, May 26, at 7:00 p.m. I had a
21 100th anniversary mass at St. Mary's in Little Falls.

22 And on Saturday, May 27, I had afternoon
23 confirmations. And at 4 o'clock it's just listed as a

1 get-together. I don't know, a get-together for what.

2 Q. June.

3 A. June 1978. Friday, June 2, at 7:30, Urban
4 League dinner. 7:30 p.m. And at 8:30 p.m. there was
5 some event at Lawanga House.

6 Q. What's that?

7 A. Lawanga House is a center for homeless men on
8 Grand Street in Albany.

9 Q. All right.

10 A. On Saturday, June 3, I had a 4:30 p.m. liturgy
11 with the Catholic Daughters of America in Auriesville.

12 On Friday, June 9, I had a 7:00 p.m.
13 confirmation at St. Mary's in Oneonta.

14 And on Saturday, June 10 I had
15 confirmation at St. Anne's in Albany.

16 On Friday, June 16, I had mass and dinner
17 at St. Jude's in Wynantskill at 6:00 p.m.

18 And on Saturday, June 17, I had an
19 Association for Clinical Development dinner.

20 Q. What time was that?

21 A. That was at 8:00 p.m. On Friday, June 23, at
22 8:00 p.m. I had St. Patrick's High School graduation.

23 And on Friday, June 24, I had a 5:00 p.m.

1 Knights of Malta dinner.

2 On Friday, June 30, I had a dinner at Holy
3 Names honoring Sister Rose Infante.

4 Q. July.

5 A. I'm separating the pages here. Please excuse
6 me. On Saturday, July 1, I had a 5:00 p.m. renewal
7 liturgy in St. Mary's, Little Falls.

8 On Friday, July 7, there's nothing on the
9 calendar.

10 On Saturday, July 8, I had an engagement
11 party for John Molloy, who was an employee of Providence
12 House.

13 Q. That was at 6:00 p.m.?

14 A. That was at 6:00 p.m. On Friday, July 14, I
15 had a 6:30 p.m. for the Gigliotti wedding at our
16 Cathedral.

17 On the 15th of July there's nothing on the
18 calendar.

19 On Friday, July 21, I had a 7:00 p.m.
20 gathering and dinner for John O'Grady, Father John
21 O'Grady, to celebrate the completion of his doctorate or
22 his thesis.

23 On Saturday, the 22nd of July, I had a

1 5:00 p.m. Camp Scully event.

2 On Friday, July 28th and 29th, there's
3 nothing on the calendar.

4 On Friday, August 4, at 7:00 p.m.,
5 ecumenical service at the Emanuel Baptist Church.

6 On Saturday, August 5, I had a visit for
7 adoration at one of our parishes.

8 On Friday, August 11, there's nothing
9 listed on the calendar, either that day or for the
10 following day.

11 Q. Bishop, did you typically take vacation in the
12 summers at that time?

13 A. I did. I've got a question mark about vacation
14 about both of those weekends, but I can't decipher the
15 calendar.

16 Q. And where would you go?

17 A. Cape Cod.

18 Q. All right.

19 A. On Friday, August 18, there's nothing on the
20 calendar.

21 On Saturday, August 19, there's a mass at
22 Hartigan home and then there's a dinner at Reverend Bob
23 LaMar's home.

1 On Friday, the 25th of August, there's
2 nothing on the calendar.

3 On Saturday, the 26th, I had to be at St.
4 Bridget's at Copake Falls.

5 Do you want me to move into September?

6 Q. Please.

7 A. September 1, on Friday, and also on the 2nd, on
8 Saturday, there's nothing listed on the calendar. That
9 was Labor Day weekend.

10 On Friday, September 8, Sons of Italy
11 dinner in Saratoga in the evening.

12 And on Saturday, September 9, 7:00 p.m.,
13 Spanish liturgy at the Cathedral.

14 On Friday, September 15, an all-day priest
15 retreat.

16 On Saturday, September 16, I was in
17 Washington, D.C., for a meeting.

18 On Friday, September 22, I had a 7:30
19 confirmation at St. Mary's, Hoosick Falls. And
20 on Saturday -- that was at 7:30 p.m.

21 And then 7:30 the following day,
22 September 23, I had the Boy Scouts mass in Auriesville.
23 That was at 7:30 p.m.

1 On Friday, September 29, it's not legible.

2 And on Saturday, the 30th of September,
3 there's nothing listed on the calendar.

4 Going to October. On Friday, October 6, I
5 had a 6:00 p.m. Waite House fundraiser.

6 And on October 7, Saturday, at 8:30 p.m.,
7 State University inaugural, in which I was to give the
8 invocation.

9 On Friday, October 13, at 6:30 p.m. I had
10 a dinner for G.E. at the Empire State Plaza. That was
11 in the evening, at 6:30.

12 And on Saturday, October 14, 5:30 p.m., an
13 event at St. Mary's celebrating an anniversary, liturgy
14 conducted at Auriesville.

15 On Friday, October 20, at 5:15 p.m.,
16 liturgy and dinner at the chapel and cultural center at
17 RPI.

18 On Saturday, the 21st of October, I had an
19 8:00 p.m. mass for marriage encounter at St. Joseph's
20 in Scotia.

21 On Friday, the 27th of October, I had the
22 wedding for John Molloy, whose engagement party I had
23 earlier in the year.

1 And Saturday, the 28th, there's nothing
2 listed on the calendar.

3 Same would be true for Friday and
4 Saturday, November 3 and November 4.

5 On Friday, November 10, same thing.
6 Nothing on the calendar for those two dates.

7 On Friday, November 17, I had a 6:00 p.m.
8 Hope House fundraising dinner.

9 And at 6:00 p.m. on Saturday, November 18,
10 the event is not legible.

11 On Friday, November 25th and 26th, the
12 Thanksgiving weekend, there's nothing on the calendar.

13 And finally for 1978, Friday, December 1,
14 Hope House board meeting. That was at 7:30.

15 And on Saturday, December 2, there was a
16 5:00 p.m. gathering with the Catholic Women's Service
17 League.

18 On Friday, December 8, at 5:15 I had
19 confirmation at the Cathedral. And at 7:30 that day I
20 had confirmation at -- I think it's Stillwater.

21 On Friday, the 15th of December, from 5:00
22 to 7:00, I had a WOC event. And I'm not able to
23 decipher what that stands for.

1 On Saturday, December 16, I had a 5:30
2 Ladies of Charity mass and dinner.

3 And for the rest of the year, namely, the
4 22nd, 23rd, 29th and 30th of December there's no evening
5 appointments listed.

6 Q. And that's the Christmas holiday?

7 A. That's the Christmas holiday, yes.

8 Q. And lastly, if you could pick up Exhibit 6,
9 sir. Can you bring us through your weekend schedule for
10 1979?

11 A. 1979. On January 5 and January 6 there's
12 nothing listed on the calendar.

13 On Friday, January 12, at 7:00 p.m. I had
14 confirmation at the Greene County Correction Facility.

15 Saturday, the 13th of January, there's
16 nothing on the calendar for that day, nor nothing on the
17 calendar for Friday, January 19th and 20th.

18 On Friday, January 26, I had a 7:00 p.m.
19 ecumenical talk in Canajoharie.

20 On Friday, January 27, at 4:30 I had a
21 parish meeting at a parish that's not legible.

22 On February 2, 1979, and February 3,
23 Friday and Saturday of that weekend, there's nothing

1 listed on the calendar.

2 On Friday, February 9, at 8:00 p.m. I had
3 an ecumenical celebration in Hudson.

4 And at 6:30 p.m. on Saturday, February 10,
5 I had mass at Siena College.

6 On Friday, the 16th of February, I had a
7 3:00 p.m. Community Maternity Services dedication.

8 And Saturday, February 17, I had a
9 fundraiser in Saratoga at 9:00 p.m.

10 On Friday, the 23rd, there is nothing in
11 the evening.

12 On Saturday, the 24th of February, I had
13 an 8:00 p.m. Love Thy Neighbor conference.

14 On Friday, the 2nd of March, I had an 8:00
15 p.m. Catholic Central School event.

16 On Saturday, March 3, I was in New York
17 City for a bishops' meeting.

18 On Friday, March 9, I had a 5:00 p.m.
19 liturgy and dinner.

20 On Saturday, March 10, there was no
21 evening appointment listed.

22 On Friday, March 16, I had a 5:00 p.m.
23 reception at the chancery.

1 On March 17 there was no evening
2 appointment listed, on Saturday, the 17th of March, St.
3 Patrick's Day. That's interesting because I always
4 attended the annual St. Patrick's Day dinner, but it's
5 not listed on the calendar.

6 On Friday, March 23, there's no
7 appointment listed.

8 On Friday, March 24, I had a 6:30 Hope
9 House dinner.

10 On Friday, March 30, I had an evening
11 reconciliation service.

12 Q. What does that mean? What is the evening
13 reconciliation?

14 A. Communal celebration of the sacrament of
15 penance.

16 Q. Saturday, March 31.

17 A. That probably would have been at the Cathedral.
18 The April calendar, I had an all-day Family Life board
19 meeting at the Cathedral -- or Washington, D.C. Excuse
20 me. And also Saturday, April 7, a Family Life board
21 meeting in Washington, D.C.

22 Friday, April 13, I had the liturgy at the
23 Cathedral for Good Friday, 5 o'clock.

1 Saturday, April 14, 8 o'clock, there was a
2 Holy Saturday Easter vigil.

3 On Friday, April 20, I had an all-day
4 provincial meeting with the bishops.

5 On Saturday, April 21, I had an all-day
6 provincial meeting with the bishops.

7 On Friday, April 27, at 6:30 I had a
8 meeting with the diocesan development program.

9 On Saturday, April 28, I had a 7 o'clock
10 confirmation in Johnstown.

11 On Friday, the 4th of May, I had 5:30 and
12 7:30 confirmations. And I had two confirmations then on
13 that day.

14 And then on Saturday, the 5th of May, I
15 had a confirmation and had to attend the Monsignor Burns
16 dinner.

17 On Friday, May 11, I had a 7 o'clock
18 confirmation in Copake Falls.

19 And on Saturday, May 12, I had a
20 confirmation in Sidney, New York, which is the second
21 last furthest parish in our diocese.

22 On Friday, May 18, I had 5 and 8 o'clock
23 confirmations in Canajoharie and Schoharie.

1 Then on the 19th of May I began
2 representing the bishops of the United States at the
3 Asian Bishops Conference in Bangkok. I was there on
4 Friday, May 25, and also on Saturday, May 26.

5 On Friday, June 1, I had confirmation in
6 Amsterdam in the evening and I had a reception and
7 walk-through in the evening on Saturday, June 2.

8 On Friday, June 8, I had a 7 o'clock
9 meeting -- confirmation, excuse me, at St. Jude's,
10 Wynantskill.

11 On Saturday I had a 7:30 confirmation at
12 St. Patrick's in Ravena.

13 On Saturday (sic), June 15, I had a 7:30
14 confirmation at St. Mary's in Nassau.

15 On Saturday, June 16, I had a confirmation
16 at 4 o'clock in Palenville and a meeting at 8:00 p.m.
17 with the Pine Hills Youth Group.

18 On Friday, June 22, I had graduation at
19 Keveny Academy at 8:00 p.m.

20 And at 7:00 p.m. the following day, on
21 Saturday, June 23, I spoke at the baccalaureate at
22 Johnstown.

23 On Friday, June 29, I was in Rochester for

1 the day.

2 On Saturday, June 30, I was at Bishop
3 Clark's ordination as bishop for the day. I think
4 that's June.

5 Q. All right. July.

6 A. July. I had Friday, July 6, an all-day Always
7 His People study day.

8 On Saturday, July 7, there are no
9 appointments on the calendar.

10 On Friday, July 13, I had a dinner meeting
11 at St. Pius with Father Farano.

12 On Saturday, July 14, there's no
13 appointment listed. Neither is there any appointment
14 listed for July 22.

15 Q. You mean July 20?

16 A. July 20. And Saturday, July 21, I had a
17 6 o'clock fundraiser at Camp Scully.

18 Friday, the 27th of July, I had a
19 7 o'clock rehearsal for the ordination the following
20 day. And the following day I had an ordination for
21 Father Burke, after which I left for my vacation in Cape
22 Cod.

23 I was in Cape Cod the following Friday,

1 August 3, and Saturday, August 4. I was also coming
2 back from Cape Cod on Friday, August 10.

3 On Saturday, August 11, I was at SPAC on
4 Friday in the evening.

5 On Friday, August 17, there was nothing on
6 the calendar.

7 On Saturday, August 18, I was listed at
8 SPAC.

9 On Friday, August 24, there's nothing on
10 the calendar.

11 On Saturday, August 25, I had a jubilee
12 liturgy for the Sisters of Mercy.

13 And nothing on the calendar for Friday,
14 August 31.

15 Q. We're almost there, Bishop. Just finish up.

16 A. On Friday, September 7, there is nothing listed
17 on the calendar.

18 On Friday, September 8, I had liturgy and
19 dinner at 4:30 at St. Joseph's Provincial House.

20 On Friday, September 14, I had a 7:00 to
21 9:00 celebration at St. John's/St. Ann's parish.

22 On September 15 at 5:00 p.m. I have an
23 event but it's not legible.

1 On Friday, the 21st, there was nothing
2 listed on the calendar.

3 On Friday (sic), the 22nd, at 5:00 p.m. I
4 had a 30th anniversary liturgy.

5 Q. You mean Saturday, the 22nd; right?

6 A. Yes.

7 Q. All right.

8 A. On Friday, September 28, I had a 7:30 Holy Name
9 mass at the Cathedral.

10 And on Saturday, September 29, I had
11 nothing listed on the calendar.

12 Moving along to October 1979. Friday,
13 October 5, I was in Chicago all day for a meeting.

14 On Saturday, October 6, I had the
15 diaconate youth ministry liturgy at 4:00 p.m. at
16 Auriesville.

17 On Friday, October 12, 7:25, I had a
18 flight to Kansas City.

19 On Saturday, October 13, I was in Kansas
20 City all day.

21 On Friday, October 19, I had a 7:45 p.m.
22 charismatic mass.

23 And at 3:00 p.m. on Saturday, October 20,

1 I had a memorial jubilee celebration and reception.

2 On Friday, October 26, and 27th there is
3 nothing listed on the calendar.

4 Going to November. On the 2nd of
5 November, 5:00 p.m. confirmation at St. Pius.

6 And on the 3rd of November there was a
7 7:00 p.m. dinner and reception.

8 On Friday, November 9, there was a 6:00
9 p.m. dinner.

10 And on Saturday, November 10, I had a
11 meeting with Delores Leckey from the USCC Conference,
12 who was head of the laity committee, of which I was a
13 member.

14 On Friday, November 16, at 6:00 p.m. I had
15 St. Mary's Hospital benefactors reception. St. Mary's
16 in Amsterdam.

17 And on Saturday, November 17, there was
18 nothing on the calendar.

19 And the same would be true on Friday and
20 Saturday of November 23rd and 24th, which was the
21 Thanksgiving Day weekend.

22 And there's also nothing on the calendar
23 for Friday, November 30.

1 December 1979. On Saturday, December 1, I
2 had a 5 to 7 o'clock dinner.

3 On Friday, December 7, 5:15, I had the
4 Holy Day of Obligation mass at the Cathedral.

5 And on Friday (sic), December 8, I was at
6 the house of Dr. Furlong for a dinner.

7 Q. You mean Saturday, December 8; right?

8 A. Yes, Saturday. On Friday, December 14 I had a
9 reception for the ARC and CDPC organizations.

10 Q. What's that, Bishop, ARC?

11 A. It's for the developmentally disabled. I'm not
12 sure if I can recall what the letters mean. I know it
13 was an organization for the developmentally disabled.

14 Q. I'm sorry.

15 A. That was Friday, December 14, at 6:30. And
16 Saturday, December 15 I had a gathering at 894 Hudson
17 Avenue at 7:00 p.m.

18 On Friday, December 21, there's nothing
19 listed on the calendar.

20 And on Saturday, the 22nd of December, I
21 had a Saratoga Catholic reception.

22 Q. And what time was that?

23 A. That was 7:00 p.m. On Friday, the 28th,

1 there's nothing listed on the calendar.

2 And on Saturday, the 29th, I had a 4 to 8
3 o'clock dinner at Carnell's.

4 Q. All right. Thank you, Bishop. That's all the
5 questions I have on the [REDACTED] case. So I'm going
6 on a new case now. My next case, just for the record,
7 is going to be the [REDACTED] case. Are you okay,
8 Bishop, to continue?

9 A. Yes.

10 Q. Okay. Bishop Hubbard, I'm going to ask you --
11 I've just covered your background information.

12 MR. O'CONNOR: In this case the plaintiff,
13 Jerry, how is he identified, as [REDACTED] or did we
14 use his name? I can't remember.

15 MR. WILLIAMS: His name. You can use his
16 name, [REDACTED].

17 Q. The plaintiff, [REDACTED], you're aware that
18 in this case he has alleged that you sexually abused him
19 as a minor. You're aware of that, sir?

20 A. I am.

21 Q. Do you know or have you ever met [REDACTED]
22 at any time in your lifetime, if you're aware?

23 A. Would you please cite the place and time of the

1 allegation?

2 Q. This is a case where he's alleging that you
3 abused him [REDACTED]
4 [REDACTED] and then he's alleging that you abused him either
5 before or after masses at St. James in Albany. Are you
6 aware of that?

7 A. Thank you. Yes.

8 Q. You appeared at his deposition, which was done
9 last week; is that right?

10 A. Yes, I did.

11 Q. And you're familiar with his allegations?

12 A. Yes, I am.

13 Q. What's your response to his allegation that you
14 sexually molested him?

15 A. As I've stated many times in the past, I've
16 never abused anyone, child, adolescent, adult, sexually.
17 Never anyone. And so I adamantly deny the allegation
18 that has been made.

19 Q. So, first off, in this case he has alledged
20 that he was initially abused in November of 1975 at an
21 [REDACTED].

22 MR. WILLIAMS: Terry, let me just object
23 to the form of the question because I think

1 that allegation was elaborated on at the
2 deposition. I understand what you're saying,
3 but just put my objection on the record. And
4 it would be to the form of the question,
5 assuming facts not in evidence.

6 MR. O'CONNOR: Well, I'm reading your bill
7 of particulars, Gerald, which you reflected
8 that he was abused at [REDACTED]
9 [REDACTED]. Is there something that I misidentified
10 about that?

11 MR. WILLIAMS: Well, among other things,
12 you are not including his testimony that he may
13 have been wrong about [REDACTED]. But I
14 don't want to delay things. Just go on. My
15 objection is on the record.

16 MR. O'CONNOR: I'm using a sworn document.
17 Two sworn documents, actually.

18 MR. WILLIAMS: I know what you're using.
19 My objection is on the record.

20 BY MR. O'CONNOR:

21 Q. So, sir, you're aware in the first instance
22 [REDACTED] is alleging that you sexually molested him on a
23 trip sponsored by St. James Church [REDACTED]

1 [REDACTED]? Are you aware of that?

2 A. I am aware of that, yes. And I have said
3 repeatedly that I have never abused anyone sexually.

4 Q. Have you ever gone on a trip [REDACTED]

5 [REDACTED]?

6 A. Not to my recollection, no.

7 Q. When are the times you ever recall going to
8 [REDACTED] in your whole life?

9 A. I remember when I was in seventh, eighth grade
10 one of my classmate's parents were taking him down just
11 to visit [REDACTED] on a weekend for just one day. We
12 went down and back. And I remember being at a
13 celebration where one of the chaplains was being honored
14 whom I knew and I went down for that celebration. Those
15 are the only times I can recall being in [REDACTED].

16 Q. He also alleges, according to the pleadings,
17 that after November '75 and into '76, [REDACTED]
18 [REDACTED] that you abused him on approximately
19 seven times at St. James Church, either in the rectory
20 or somewhere in the church. And he said it occurred and
21 the pleadings reflect it occurred sometimes before mass
22 and sometimes after mass. From November '75 into 1976
23 did you have any occasion to ever say mass at St. James?

1 A. To the best of my recollection, no. I cannot
2 recall saying mass at St. James in that period of time.
3 During that period of time that you cite there I was a
4 weekend associate at Our Lady of Assumption parish in
5 Latham. I would be there every Saturday and Sunday for
6 mass and hearing confessions on Saturday and for mass on
7 Sunday morning. I was there from 1969 until I was
8 appointed bishop in 1977.

9 So I have no recollection of celebrating
10 mass at St. James. And I don't know what else to say
11 about it except I did not abuse him and I was regularly
12 on weekends at Our Lady of Assumption in Latham.

13 Q. So Our Lady of Assumption during this timeframe
14 is where you did the vigil mass on Saturday?

15 A. Well, I would be there for the vigil mass.
16 There were also confessions before the mass, so I
17 sometimes did confessions and had the mass. Sometimes I
18 just had confession. But then I also had confessions
19 there in the evening.

20 Q. On Saturday?

21 A. On Saturday.

22 Q. And how about Sunday?

23 A. Sunday I would have one or two of the

1 liturgies.

2 Q. You would do one or two of the liturgies every
3 Sunday?

4 A. Every Sunday, yes.

5 Q. [REDACTED] also alleges that on occasion you and
6 Dan O'Connell and Mayor Whalen would go to [REDACTED]

7 [REDACTED] where
8 you would, to use his terms, "beg for money." Did you
9 ever have occasion to go to [REDACTED]

10 [REDACTED] First of all, do you know who [REDACTED]
11 is?

12 A. Not off the top of my head, no. And I have no
13 recollection of going to somebody's house by that name.

14 Q. He said this occurred at or about the time of
15 the alleged abuse. Did you have any reason to go to
16 someone's house to "beg for money?"

17 A. No, not that I can recall.

18 Q. He indicated that you would go to [REDACTED]
19 [REDACTED] with Dan O'Connell. Have you ever
20 met Dan O'Connell?

21 A. Once.

22 Q. Tell me about that.

23 A. I was contacted by a friend of the family

1 saying that Mr. O'Connell was in the hospital and they
2 thought he only had a few hours or a few days to live
3 and would I be willing to go and offer a prayer for him
4 and for his family at the hospital. And I did that. I
5 was not there too long, probably 15 or 20 minutes, and
6 did offer prayers for him. And then the following day I
7 was informed that he passed away. That was the only
8 contact I ever had personally with Dan O'Connell.

9 Q. You had never met him prior to that day?

10 A. No.

11 Q. He also alleges that during these events of
12 abuse at St. James Church that there was a wet bar
13 behind the altar at St. James Church. Are you aware of
14 that at all, that there was a wet bar behind the altar
15 at St. James Church?

16 A. I'm not aware of that at St. James Church and
17 I've never seen a wet bar in any parish in the 14
18 counties of our diocese in the church.

19 Q. He alleges that he was asked to bring you
20 brandy from this wet bar during some of these instances
21 of sexual abuse. Can you tell us about your alcohol
22 intake at that time?

23 A. First of all, I have never had brandy in my

1 life. The only time that I ever had alcohol that I can
2 recall was from 1969 to 1973, after Bishop Broderick
3 removed the pledge that priests had to take when they
4 were ordained to the priesthood, a ten-year pledge
5 abstaining from alcohol. That was under Bishop Gibbons
6 and Bishop Scully. But that was removed in 1969 as a
7 commitment that the priests were expected to make. And
8 I would occasionally take a drink to toast a couple at a
9 wedding reception, and that was about the extent of it.
10 That ceased in 1973.

11 Q. Have you been a teetotaler since 1973?

12 A. Yes, I have.

13 Q. Have you ever had any problems with alcoholism
14 or alcohol abuse?

15 A. No.

16 Q. I'm sorry?

17 A. No.

18 Q. So that's the end of my questions on the
19 [REDACTED] case. So I'm switching gears once again to
20 my third case. So this is a new trial, new testimony,
21 new jury, Bishop. So, Bishop, I just covered your
22 background and we talked about your history of being the
23 bishop and being a priest and your activities. In this

1 case the plaintiff alleges --

2 MR. O'CONNOR: So, Peter, how do I
3 identify your client?

4 MR. SAGHIR: [REDACTED]

5 MR. O'CONNOR: Okay.

6 Q. In this case, Bishop, the plaintiff, [REDACTED]
7 [REDACTED] has alleged that you sexually abused him at some
8 point in time between Thanksgiving and December of 1987.
9 All right?

10 MR. O'CONNOR: For some reason my screen
11 is bagging out. Peter, I'm getting some
12 feedback from you. I don't know why. All
13 right. I'm going to start again.

14 Q. Bishop, we just went through your background.
15 In this particular case the plaintiff, [REDACTED],
16 has alleged that --

17 MR. O'CONNOR: I'm getting feedback.

18 THE WITNESS: I'm having trouble hearing
19 you.

20 MR. SAGHIR: First of all, it's not coming
21 from me. Everyone just mute if you're not
22 participating in this case, please.

23 MR. O'CONNOR: I'm just looking through

1 here. David, where do you think you're getting
2 that feedback from?

3 MR. SHERECK: Let's go off the record for
4 one second.

5 MR. O'CONNOR: Yes.

6 MR. SHERECK: At 1:05.

7 (There was a discussion off the record.)

8 MR. SHERECK: We're back on the record at
9 1:08. Go ahead.

10 BY MR. O'CONNOR:

11 Q. Bishop, I just finished your background
12 questions. I want to ask you this. In this case
13 [REDACTED] has alleged that you sexually abused
14 him. Are you aware of that, sir?

15 A. I am.

16 Q. And you were present at his deposition?

17 A. I was present at the deposition, yes.

18 Q. What's your response to those allegations,
19 Bishop?

20 A. I absolutely deny that there is any substance
21 to the allegation. I never have abused this man or
22 anybody in my life. Never.

23 Q. Sir, the allegations of abuse go back to

1 November and December of 1987.

2 MR. KELLY: Hold up.

3 MR. O'CONNOR: Jim, can you turn off your
4 microphone?

5 Q. Bishop, the allegations of abuse go back to
6 1987, November and December of '87. And specifically
7 the abuse alleges the location was St. John's the
8 Baptist Church. On what kind of occasion did you have
9 to go to St. John's the Baptist Church?

10 MR. SAGHIR: Objection to form.

11 A. May I answer?

12 Q. Yes.

13 A. Ordinarily, I would go there for either a
14 confirmation or some type of church anniversary
15 celebration or the anniversary of a priest's ordination.
16 I can't recall specifically the number of times I've
17 been to the church in Chestertown. It was not many.

18 Q. The allegations allege that the abuse occurred
19 at [REDACTED]

20 [REDACTED] Have you ever been to [REDACTED]
21 [REDACTED]?

22 A. As far as I recall, I have never been to [REDACTED]

23 [REDACTED]. I know that I've never been to [REDACTED]

1 █ with Father Kampfer or anybody else.

2 Q. So Father Kampfer was one of your many parish
3 priests back in 1987; is that right?

4 A. Yes. He would have been in 1987, yes.

5 Q. And what was your relationship with him?

6 A. Well, I knew who he was, but I didn't have any
7 type of social relationship with him. Unfortunately,
8 there were a few occasions in which there was a
9 complaint about him relative to his pastoral activities
10 and I had to confront him with those allegations and get
11 his side of the story.

12 Q. And elaborate upon that very briefly, if you
13 could.

14 A. Well, I remember on one occasion that he
15 announced to the congregation on a weekend that he was
16 entering his dog into a dog show in New York City and
17 that the dog show was on the following Wednesday. And
18 since there was a conflict between the dog show and Ash
19 Wednesday, he was moving Ash Wednesday to Monday.

20 And I received another complaint the
21 following day from the parishioners who were outraged
22 that he would not make arrangements, at least, for
23 someone else to conduct the Ash Wednesday service on the

1 day it was supposed to be celebrated. And I had to
2 address that with him and told him it was totally
3 inappropriate.

4 Q. And what was the other occasion where you had
5 interaction with Father Kampfer that you recall?

6 A. I just remember that there was someone who said
7 that he didn't feel that Father Kampfer was pastor
8 sensitive to a situation that she brought to his
9 attention and she complained to me. And I had to get
10 his side of the story. And from what he told me and
11 what she told me, it seems that the woman had a right to
12 be upset.

13 Q. All right. Sir, I show you what has been
14 marked as Exhibit 7 and Exhibit 8. And for the record,
15 can you tell me what Exhibit 7 is?

16 A. It's a copy of my calendar as recorded by my
17 secretary in November of 1987.

18 Q. And does that include December of '87, also?

19 MR. O'CONNOR: If you could scroll down.

20 Thank you, David.

21 A. Yes, it does include December of 1987, as well.

22 Q. And was that calendar kept in the ordinary
23 course of business when you were the bishop?

1 A. Yes, it was.

2 Q. And it was maintained --

3 A. Not by me but by my secretary.

4 Q. It was maintained at the diocese?

5 A. Yes.

6 Q. I next show you Exhibit 8, which is a two-page
7 typed -- I'm sorry. Three-page typed review of your
8 activities taken from this calendar from Sunday,
9 November 29, '87, up until the end of '87; is that
10 right?

11 A. Yes. That's correct.

12 Q. And you and your secretary did this at my
13 request?

14 A. Well, it was at your request. And my secretary
15 did the typing here.

16 Q. So can you take us through your activities
17 between Thanksgiving and Christmas of '87?

18 A. Well, we'll start with the first Sunday of
19 Advent, which would have been November 29. And it was
20 an 11 o'clock mass at St. Patrick's in Albany, that was
21 11 o'clock in the morning, and a 5:00 p.m. event at
22 Siena College.

23 Q. All right.

1 A. You want me -- this is not just the weekends,
2 it's the whole rest of November and December; is that
3 correct?

4 Q. Yes, sir.

5 A. Tuesday, December 1, 1987, I had an 11 o'clock
6 funeral in the morning, I had a 3:00 p.m. office meeting
7 with Father Guillaume, and I had a 4:00 p.m. meeting
8 with Sister Joan Curley in the office.

9 Q. You skipped Monday, the 30th. What happened on
10 that day?

11 A. Monday, the 30th of November, I had a meeting
12 at the Catholic Conference gathering in New York City
13 in the afternoon, from 1:00 to 4:00 p.m.

14 Q. Please continue.

15 A. On Wednesday, December 2, 1987, there is
16 nothing listed on the calendar on that day.

17 On Thursday, December 3, I had an
18 11 o'clock meeting with Father Farano, a 12 o'clock
19 meeting with Father John Cairns, a 1:30 meeting with
20 Father Bill Ryan, and at 7 o'clock I had a presentation
21 that I made. And there's a Dr. Batener presentation, is
22 what the calendar recalls. I am not familiar, at least
23 now, with Dr. Batener so I don't know exactly what that

1 means. But it was 7 o'clock and I was making the
2 presentation.

3 On Friday, December 4, 1987, from 5:30 to
4 7:30 I was at the Duffey reception. And at 7:00 p.m. I
5 had a Community Maternity Services dinner.

6 On Saturday, December 5, I had a Siena
7 basketball game at 7:00 p.m. in the evening.

8 On Saturday (sic), December 6, at noon I
9 had a 50th anniversary of Sacred Heart parish in Troy,
10 New York.

11 On Monday, December 7, I had a 3 o'clock
12 meeting with someone whose first name is Harold and I
13 had a 4 o'clock community meeting with people in
14 Rensselaer.

15 On Tuesday, December 8, 1987, I had a
16 7:00 p.m. meeting in Hoosick Falls.

17 On Wednesday, the 9th of December 1987, I
18 had a 5:00 p.m. public policy reception and at 6 o'clock
19 I attended a Siena basketball game.

20 Q. Was that in Washington D.C.?

21 A. (No response.)

22 Q. If you know.

23 A. Washington, D.C., is listed here, but I can't

1 relate it to any time. I would have to recheck the
2 original calendar.

3 Q. All right. Continue. We're kind of tight for
4 time.

5 A. Are we at Thursday, December 10, now?

6 Q. Yes, Bishop.

7 A. On Thursday, December 10, I had an all-day
8 public policy committee meeting.

9 On Friday, December 11, 3:00 p.m., I had a
10 meeting at Warren House.

11 On Saturday, December 12, I had a 2:00
12 p.m. St. Mary's nursing school graduation.

13 On Sunday, the 13th of December, I had a
14 tree lighting service at 3:45 p.m. and a 7:30 New York
15 conference.

16 On Monday, December 14, 1987, I had a 2:00
17 p.m. meeting with Father Jude Meade.

18 On Tuesday, December 15, I had a 4:15 Hope
19 House board meeting and a 7:00 p.m. meeting with a
20 priest, whose name is not legible at this point.

21 On Wednesday, December 16, 1987, I had a
22 taping for the Christmas liturgy. That was a televised
23 taping at 2:30 p.m. And I had a 4:30 meeting in my

1 office.

2 On Thursday, the 17th of December, I had a
3 1:00 p.m. support group meeting, which started from 2:00
4 and went to 6:00. And then I had attendance at the
5 Ironweed -- I think it's Ironweed. The premier at the
6 palace. That was a local production or authorship to
7 it.

8 On Friday, December 18, 1987, I had a 1:30
9 p.m. priesthood board meeting and I had a Christmas tree
10 trimming party in the evening at our chancery.

11 On Saturday, December 19, I was in
12 Rochester all day and for a dinner that evening.

13 On Saturday (sic), December 20, I attended
14 the ecumenical commission's Christmas party at the home
15 of Bill Toomey in Albany. That was an evening
16 Christmas -- well, it may have been a daytime, afternoon
17 Christmas party. There's no time listed here.

18 On Monday, the 21st, at 12:30 I had to
19 deliver a Christmas message at Channel WMHT. At 2:00
20 p.m. I had a mass at the Hallmark Nursing Home. And at
21 3:30 I had a visit with John Chupka and Sister Kathleen
22 Turley in my office.

23 On Tuesday, the 22nd, I had a 4:00 p.m.

1 meeting with a parishioner from Our Lady of Assumption
2 that I knew from those days when I was a weekend
3 associate at 4:00 p.m. At 5:30 I had a Hope House board
4 meeting. And at 7:30 I had a Cathedral penance or
5 reconciliation service.

6 Wednesday, the 23rd of that month, I had a
7 9 o'clock morning mass at Catholic Central High School,
8 an 11:30 meeting with Sister Serena, director of
9 Catholic Charities, and a noon hour luncheon for the
10 employees of the pastoral center.

11 On the 24th of December I had the midnight
12 mass at the Cathedral. And since what was alleged, this
13 was a rehearsal for the Christmas liturgy, I don't think
14 we have to go any further.

15 MR. O'CONNOR: That's all I have. Thank
16 you, Bishop.

17 MR. SAGHIR: Before we go off the record,
18 so the record is preserved, I would ask the
19 bishop to please hold up what he was just
20 reading to the camera, please. Each of these
21 three pages.

22 MR. SHERECK: Do you want to go off the
23 record?

1 MR. SAGHIR: On the record, please.

2 Please hold it up into the camera what you were
3 just reading.

4 MR. O'CONNOR: Didn't you get that, Peter?

5 MR. SAGHIR: And the second page? And the
6 third page, please? Thank you. And I just ask
7 that that be preserved.

8 MR. O'CONNOR: Good. We're off.

9 MR. SHERECK: Going off at 1:21.

10 (A luncheon recess was taken in the
11 proceedings.)

12 (The proceedings were reconvened as
13 follows:)

14 MR. SHERECK: We're back on the record at
15 2:02. Go ahead.

16 EXAMINATION BY MR. COSTELLO:

17 Q. Good afternoon, Bishop.

18 A. Good afternoon, Mike.

19 Q. I represent the diocese in connection with
20 these proceedings. And thank you for your time and
21 patience in this matter and for the last several days.
22 I have a series of questions I would like to advance to
23 clarify for the jury some of the allegations and

1 statements that have been made in this series of
2 proceedings. I'd like start with the case of [REDACTED]

3 Now, the [REDACTED] deposition was conducted on
4 April 15, 2021, beginning at 11:00 a.m. And were you
5 present for that deposition? Did you observe it?

6 A. I did.

7 Q. Did you observe the entire deposition?

8 A. As far as I know, yes.

9 Q. And [REDACTED], of course, is a pseudonym for the
10 plaintiff. And there were allegations advanced that he
11 was abused by you at St. Mary's Church in Ballston Spa.
12 Do you recall that?

13 A. Yes. I recall that's the accusation.

14 Q. The accusation. Of course. And he alleges
15 that that occurred on one occasion in the year 1998. Do
16 you recall that?

17 MS. ALLEN: Object to form. I think that
18 misstates the testimony.

19 A. Could you repeat the question?

20 Q. Let me represent to you, Bishop, that the bill
21 of particulars that [REDACTED] provided in this case states at
22 paragraph response number 9, "Bishop Hubbard abused
23 plaintiff on one occasion in approximately 1998." Did

1 you hear him make a comparable reference to that during
2 the course of his deposition?

3 A. Yes, I did.

4 MS. ALLEN: Same objection.

5 Q. You may answer, of course. Now, that
6 allegation of inappropriate conduct took place at St.
7 Mary's Church of Ballston Spa. Have you been there
8 previously?

9 A. At the church, yes.

10 Q. The allegation advanced by [REDACTED] was that he was
11 there for [REDACTED]
12 [REDACTED]. Did you hear him testify about that?

13 A. Yes, I did.

14 Q. And what do you equate a [REDACTED]
15 in connection with any religious service? What is that
16 connected to?

17 A. [REDACTED]
18 [REDACTED] [REDACTED]
19 [REDACTED]
20 [REDACTED]

21 Q. [REDACTED]
22 [REDACTED]
23 [REDACTED]

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A. [REDACTED]

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Q. [REDACTED]

[REDACTED]

[REDACTED]

A. [REDACTED]

Q. [REDACTED]

[REDACTED]

A. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Q. [REDACTED]

[REDACTED]

A. [REDACTED]

Q. Now, his attorney asked you a series of questions about that. I think it was Mr. Amala. And he suggested in a question that perhaps that was done to empower [REDACTED] by you. Is that true?

1 A. I'm sorry. I don't think I understand the
2 question.

3 Q. Well, Mr. Amala asked you a question and
4 suggested that by [REDACTED] that
5 you empowered him as a victim.

6 MS. ALLEN: Objection to form.

7 Q. You may answer.

8 A. I don't understand the question.

9 Q. Would you ever [REDACTED]
10 in a liturgical ceremony?

11 MS. ALLEN: Object to form.

12 A. Not that I can recall.

13 Q. The allegations advanced by [REDACTED] also state,
14 and he testified to this, that you took him into the
15 sacristy and that you touched his genitals over and
16 under his clothing. Did you do that?

17 A. Absolutely not.

18 Q. He also alleges that he touched you in a sexual
19 way. Did that occur, Bishop?

20 MS. ALLEN: Object to form.

21 A. Absolutely not.

22 Q. I didn't get the answer.

23 A. Absolutely not.

1 Q. He also alleges and he testified that in
2 addition to the abuse that he advanced and alleged that
3 you sexually kissed him on his forehead. Did you do
4 that, Bishop?

5 A. No.

6 Q. Did you have any contact with [REDACTED]?

7 A. No.

8 Q. Until the deposition do you recall ever meeting
9 [REDACTED]?

10 A. I don't recall it. It doesn't mean that -- the
11 many events I attend I could have encountered him, but I
12 don't have any recollection meeting him.

13 Q. He also alleges in his pleadings, as well as in
14 his deposition, that Father Bondi abused him five to
15 seven or eight times. Do you recall that testimony?

16 A. I recall the testimony.

17 Q. Did you ever observe any of those alleged acts
18 of abuse of [REDACTED] by Father Bondi?

19 A. No.

20 Q. No?

21 A. No.

22 Q. Did Father Bondi ever share with you or did you
23 ever receive any complaints involving any inappropriate

1 conduct on behalf of Father Bondi?

2 A. No, I did not.

3 Q. Is it your testimony, Bishop, that you never
4 touched or groped or in any way inappropriately touched
5 [REDACTED] ?

6 MS. ALLEN: Object to form.

7 A. Yes, that is my testimony.

8 Q. And is it your testimony that you never touched
9 or groped or inappropriately had any sexual contact with
10 anyone?

11 MS. ALLEN: Object to form.

12 A. That is my testimony.

13 Q. If you were ever at St. Mary's Church, Ballston
14 Spa, to participate in a [REDACTED] or
15 something comparable to that, would that have been
16 reflected on your calendar, Bishop?

17 A. Yes.

18 MS. ALLEN: Object to form. I didn't get
19 my objection in there.

20 Q. You may answer.

21 A. Yes.

22 Q. And then you reviewed a number of calendars
23 today. And I know they were limited to three years.

1 Did any of those entries as you sit here today reference
2 any type of ceremonies or liturgical events at
3 St. Mary's, Ballston Spa?

4 MS. ALLEN: I'm just going to jump in
5 here, Mike. The calendars are from the
6 seventies. This abuse happened in the
7 nineties. I'm not sure what you're referring
8 to.

9 MR. COSTELLO: I'm asking him if any of
10 his calendars referred to St. Mary's over the
11 years that he testified to earlier.

12 MS. ALLEN: Object to form.

13 Q. You may answer.

14 A. Well, there would certainly be indications that
15 I was at the parish of St. Mary's in Ballston Spa for
16 confirmation. But as far as I'm aware, there's nothing
17 on my calendar about being there for [REDACTED]

18 [REDACTED]

19 Q. And your testimony is that [REDACTED]

20 [REDACTED]

21 [REDACTED]; correct?

22 A. That's correct.

23 Q. [REDACTED]

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[REDACTED]

[REDACTED]

A. [REDACTED]

[REDACTED]

[REDACTED]

Q. [REDACTED]

[REDACTED]

A. [REDACTED]

Q. Next, I would like to proceed with the case of

[REDACTED] Her deposition was conducted on April 15, 2021,

beginning at 3:00 p.m. Were you present during that

deposition and did you observe it in its entirety?

A. Yes.

Q. The allegation of abuse there is centered on

the year 2016, according to the plaintiff, and when she

was 16 years of age. Do you recall meeting [REDACTED] at any

time?

A. I may have met her on one occasion.

Q. Do you recall her testimony was that she was

one of the students, young adults, who were confirmed by

you in 2016 at [REDACTED]

[REDACTED]? Do you recall that?

A. I don't recall that specifically, but I have

1 many, many confirmations each year. But I think in the
2 exhibit there's a picture of her being confirmed by me.
3 So, obviously, if that picture is correct, and I assume
4 it is, then I did encounter her on that occasion.

5 Q. And that confirmation, as well as the others,
6 you were accompanied by a priest, secretary or a deacon;
7 is that true?

8 A. Yes.

9 MR. O'CONNOR: What year is this,
10 counselor? I didn't hear that. I'm sorry.

11 MR. COSTELLO: 2016.

12 THE WITNESS: I think it has been amended
13 to 2012.

14 MR. COSTELLO: 2012?

15 MR. O'CONNOR: Yes, 2012.

16 BY MR. COSTELLO:

17 Q. In 2012 were you accompanied by a priest,
18 secretary or a deacon conducting confirmations?

19 A. I usually always am accompanied by someone who
20 serves as my master of ceremonies and has been trained
21 to do such.

22 Q. So are you familiar with the configuration of
23  at and around 2012?

1 A. Yes.

2 Q. And where was the reception area vis-a-vis the
3 altar itself?

4 A. The reception area is behind the altar, in a
5 building behind the church structure.

6 Q. So it's a room behind the altar itself?

7 A. Yes.

8 Q. And to access it do you walk around the altar
9 through a set of doors to get to the room?

10 A. I can't recall exactly how to access it, but I
11 know that I would go after a ceremony like that directly
12 from the altar and the procession to the reception area.

13 Q. Now, you've heard the allegations advanced by
14 [REDACTED] on the date of her confirmation at [REDACTED];
15 is that correct?

16 A. I did.

17 Q. Now, she alleges that after the confirmation
18 ceremony itself, as the people gathered in front of the
19 altar, some of them leaving, that you walked up to her
20 and grabbed her buttock. Did you hear that testimony?

21 A. I did.

22 Q. Did you touch her at any time during, after,
23 the confirmation ceremony?

1 A. No. I absolutely did not touch her at any time
2 except when I placed the oils on her forehead during the
3 ceremony.

4 Q. And after the ceremony was it your custom to
5 proceed to the reception area?

6 A. Yes. I always moved to the reception area
7 because I knew that candidates wanted pictures and
8 sometimes had receptions, and so forth, they had to go
9 to. So I did not want to get caught up greeting people
10 leaving the church when people wanted to have a picture
11 with me. And so I always had the practice of going
12 immediately from the church to wherever the reception
13 was being conducted.

14 Q. And when you left the altar itself to go to the
15 reception area would you have been accompanied by your
16 priest, secretary or deacon?

17 A. Usually they would accompany me, but sometimes
18 they would return to the sacristy and start packing
19 things up that were required for the service.

20 Q. So is it your testimony that at this
21 confirmation that was referenced by [REDACTED] you did not
22 mingle in the crowds in front of the altar after the
23 ceremony?

1 A. My testimony is that whenever what was required
2 of me in the service, in the liturgy, I would
3 immediately process out of the church and go to the
4 reception hall.

5 Q. So it's your testimony that you did not mingle
6 with the crowd in front of the altar before going to the
7 reception area; is that correct, Bishop?

8 A. There is a picture in the exhibit that
9 indicates that there was a photo taken with the
10 candidates. And I don't know when that was. So it
11 could have been at the end or the beginning of the
12 liturgy.

13 Q. And if it was at the end of the liturgy it
14 would have been in the reception area? If you recall.

15 A. I don't recall.

16 Q. That could have occurred beforehand?

17 A. It could have occurred beforehand. It could
18 have occurred at the end. I don't recall.

19 Q. Thank you, Bishop. Now, the testimony of ██████████
20 was that after the confirmation ceremony you were
21 invited and you attended a reception at her home. Do
22 you recall that testimony?

23 A. I do recall that testimony.

1 Q. Did you, in fact, attend any reception or event
2 at her home following that ceremony?

3 A. No.

4 Q. I can't hear you.

5 A. No, I did not.

6 Q. You heard her testimony that she alleges that
7 at the home after the ceremony where several people were
8 mingling throughout the house that you allegedly
9 approached her and put your hand in her blouse or shirt
10 and touched her breast. Did you hear that testimony?

11 A. I did.

12 Q. Did you touch her at any time?

13 A. Absolutely not.

14 Q. Now, have you ever been to the home of [REDACTED] ?

15 A. My understanding, to the best of my
16 recollection, is I went to a reception conducted at her
17 home in which the family was gathered to celebrate an
18 event in the life of [REDACTED]

19 [REDACTED]

20 [REDACTED] And
21 since I knew her and it was an event to honor her, I did
22 attend an event at the house of [REDACTED]

23 [REDACTED]

1 Q. And do you recall when that occurred?

2 A. No, I do not.

3 Q. Was it before or after the confirmation
4 ceremony that [REDACTED] referenced?

5 A. I do not recall the time or the date of the
6 event.

7 Q. But, Bishop, were you at the home before the
8 confirmation or did the event at the home occur after
9 the confirmation, meaning sometime after the
10 confirmation?

11 A. (No response.)

12 Q. Let me rephrase the question. [REDACTED] alleges
13 that following the confirmation, immediately following,
14 on the same day, you attended as a "guest of honor" at
15 her home and mingled and allegedly sexually assaulted
16 her.

17 A. I can say categorically I was not at her home
18 on the day of that confirmation.

19 Q. But you testified that at some point in time
20 you did visit the house for a different occasion in
21 honor of [REDACTED]?

22 A. That's correct.

23 Q. And do you know what period of time thereafter

1 that took place? If you recall.

2 A. I don't know. I can't recall.

3 Q. And at that time, when you did attend that
4 reception or that -- strike the word reception.

5 Afterward, when you did go to the home to participate in
6 that party or whatever it was for [REDACTED], did you have
7 any contact with [REDACTED], if you recall?

8 A. I cannot recall whether I did or didn't.

9 Q. Do you recall if you touched her at any time
10 during that time --

11 A. I've never touched anyone inappropriately in my
12 life.

13 Q. And that includes [REDACTED] and all the other people
14 we've been discussing for the last three days; is that
15 correct?

16 A. That's correct. It is correct.

17 Q. Thank you, Bishop. The next case I would like
18 to briefly touch on is [REDACTED]. Do you recall observing the
19 testimony of [REDACTED], which took place on April 16, 2021,
20 beginning at 10:00 a.m.?

21 A. Yes, I do.

22 Q. And you were present during the entire
23 deposition and observed [REDACTED] testimony?

1 A. Yes.

2 Q. Do you recall that he alleged that during the
3 summer months of 1977 he was at a "Carnival" at
4 St. Edward the Confessor Church in Clifton Park, New
5 York?

6 A. Yes.

7 Q. And that he drove there from his home to the
8 church on his bicycle? Do you recall that?

9 A. Yes, I recall that. Yes.

10 Q. And do you recall that he alleges that at one
11 point he was asked to recover some cups from a storage
12 room in the church itself, in the storage area? Do you
13 recall that testimony?

14 A. I do.

15 Q. And do you recall that he testified that when
16 he went there he saw you and that you improperly touched
17 him? Do you recall that testimony?

18 MR. SANDLER: Object to form.

19 A. I recall the testimony.

20 Q. And then do you recall his testimony that he
21 alleged that you invited him to go into the rectory area
22 and then asked him to retrieve a box from a shelf and
23 that you rubbed yourself against him? Do you recall

1 that testimony?

2 MR. SANDLER: Object to form.

3 A. Yes.

4 Q. And do you recall his testimony that he alleges
5 that you took two folding chairs, opened them, and then
6 you and he sat down and had a discussion? Do you recall
7 that testimony?

8 A. Yes.

9 Q. Do you recall that he alleged that at that time
10 you placed your hand on his leg and then fondled him?
11 Do you recall that?

12 A. I recall the testimony.

13 MR. SANDLER: Note my objection to the
14 form.

15 Q. You may answer.

16 A. It's absolutely false. I never touched anybody
17 inappropriately.

18 Q. So your testimony, Bishop, is you didn't
19 touch -- were you even at this bazaar or carnival that
20 was alleged by the plaintiff?

21 A. I cannot recall being present for it.

22 Q. Now, this is alleged to have occurred in the
23 summer months of 1977. And I believe today, earlier,

1 Mr. O'Connor took you through your calendar for 1977.

2 Do you recall that?

3 A. I do.

4 Q. And do you recall that when you reviewed the
5 calendar for 1977, specifically during the summer
6 months, were there any activities listed on there for
7 St. Edward the Confessor Church in Clifton Park?

8 MR. SANDLER: Just note my objection to
9 the use of these calendars as stated by my
10 colleagues and to the form of the question.

11 Q. You may answer, Bishop.

12 A. There was nothing on the calendar indicating I
13 was at St. Edward the Confessor during the summer of
14 1977.

15 Q. Do you have any recollection of being there for
16 any carnival or bazaar event?

17 A. I have no recollection of it.

18 Q. Now, there was testimony by [REDACTED] that when you
19 were there you were dressed with a sash on you and you
20 were walking around that way. Do you dress that way
21 when you go to public events?

22 MR. SANDLER: Objection to the form of the
23 question.

1 Q. You may answer.

2 A. No, I don't dress like that except if it was a
3 liturgical event that I was celebrating mass. But I
4 don't know what kind of garb he's describing there.

5 Q. Do you recall ever having met [REDACTED] before,
6 Bishop?

7 A. No.

8 Q. Have you had any contact with [REDACTED] in any way
9 other than what is alleged in this case?

10 A. Not that I'm aware of.

11 Q. Were you ever informed about any alleged
12 misconduct by any of the other priests at St. Edward the
13 Confessor involving [REDACTED] at any time?

14 A. No.

15 Q. So your testimony is that you did not in any
16 way have any contact with [REDACTED], sexual or otherwise; is
17 that correct, Bishop?

18 MR. SANDLER: Objection to the form of the
19 question.

20 A. Could you please repeat the question?

21 Q. Is it your testimony you never had any contact
22 with [REDACTED], sexually or otherwise, that you are
23 testifying to today?

1 MR. SANDLER: Objection to the form of the
2 question.

3 A. I never had any contact with [REDACTED] in any
4 improper manner. I go around the diocese and have been
5 doing so for the last 44 years. To say that I never --
6 I couldn't tell you the number of people I see and
7 interact with, so I can't say categorically I never was
8 in his presence.

9 I can tell you categorically that I did
10 not do what he alleges. And I've never abused anybody
11 sexually. Whether I ever encountered him before in some
12 capacity, I don't know, but I never had any personal
13 relationship with him. And if he was a victim of sexual
14 abuse I feel very sorry for him and regret that happened
15 to him, but I know that I was not the perpetrator of
16 this abuse.

17 Q. Thank you, Bishop. Bishop, I would like to
18 spend a few minutes on another topic regarding covering
19 the three cases in which these allegations have been
20 advanced. Bishop, do you recall that you convened a
21 task force back in 2002?

22 A. There's something going on with the -- I'm
23 having trouble hearing the question. Is everybody's

1 phone muted?

2 MR. COSTELLO: Are we all muted?

3 MR. SHERECK: Yes.

4 BY MR. COSTELLO:

5 Q. Let's try it again, please. Do you recall back
6 in 2002 that you convened a task force on behalf of the
7 diocese?

8 A. Yes, I do.

9 Q. What was the purpose of convening that task
10 force?

11 A. The purpose was to review how I and the diocese
12 handled allegations of sexual abuse historically and to
13 make recommendations as to what changes might be made
14 going forward.

15 Q. And was this task force convened after you
16 returned from the meeting of the United States
17 Conference of Catholic Bishops?

18 A. No. It was prior to the Conference of Bishops.
19 I think the task force was convened in March of 2002 and
20 made a report prior to the Dallas conference.

21 Q. What month was the Dallas conference, if you
22 recall?

23 A. June of 2002.

1 Q. Thank you. So you had a task force. Do you
2 recall who the members of the task force were?

3 A. I can recall some of the members. Senator John
4 Dunn. Arlene Reed-Delaney, who was a psychologist,
5 psychiatrist, and member of the Board of Regents. Judge
6 Leonard Weiss. Those are the ones that come to mind.
7 There was a professor from SUNY University by the name
8 of Phillips, who I think was a psychologist.

9 Q. What about Richard Bartlett?

10 A. Yes. Richard Bartlett was the dean of Albany
11 Law School, was part of the task force.

12 Q. And do you recall a Sister Maryanne Hayes was
13 on there, too?

14 A. Yes. Sister Maryanne Hayes was a sister at
15 St. Joseph's and she has a background in canon law.

16 Q. And did this task force meet from time to time
17 before it issued its report?

18 A. I understand they met on a regular basis until
19 the report was issued in May of that year.

20 Q. And you testified that the task force was
21 charged with examining retrospectively cases that you
22 might have handled involving sexual abuse?

23 A. Yes.

1 Q. Do you recall how many cases the task force
2 reviewed?

3 A. I think they reviewed nine cases, to the best
4 of my recollection.

5 Q. And do you recall what the disposition of the
6 task force was after they examined how you handled the
7 nine cases?

8 A. My understanding is that they felt that the
9 cases were handled appropriately.

10 Q. And did the task force act on its own or did
11 you attend the meetings with the task force?

12 A. No, I did not attend any of the meetings.

13 Q. And did you have any part in the task force
14 report?

15 A. No, I did not.

16 Q. And do you recall what the recommendations
17 advanced by the task force were at that time?

18 A. I can't recall all the specific
19 recommendations. I do remember that they said that
20 going forward there should be no confidentiality
21 agreement in any settlements made with any person who
22 had been abused by someone from the diocese. And we
23 independently, shortly before that, had made that a part

1 of our policy, but that was not known to the task force
2 and was recommended by them.

3 Q. And when the task force was constituted and
4 when it met and issued a report, was there
5 contemporaneously still a review board, a sexual
6 misconduct board, in place?

7 A. Yes, it was.

8 Q. And when was that established, if you recall?

9 A. In 1993.

10 Q. And do you recall if the task force had any
11 recommendations for the review board?

12 A. I think they had a series of recommendations.
13 I can't recall each one of them, but they may have. I
14 can't recall that.

15 Q. And did you as bishop and ordinary at the
16 diocese at that time implement the recommendations of
17 this task force in their entirety?

18 A. Yes, I did. Specifically, I remember the
19 following year, in 1973, we put out a manual about the
20 whole issue of sexual misconduct and how best to respond
21 to the needs of victims but also how to prevent such
22 abuse going forward.

23 MR. WILLIAMS: Mike, I don't want to

1 interrupt, but just so the record is clear.
2 The bishop just referred to 1973. I think he
3 meant to say 1993.

4 THE WITNESS: I did. If you're talking
5 about the establishment of the misconduct
6 review board it was 1993. I misspoke.

7 MR. COSTELLO: Thank you, Jerry. Thank
8 you, Bishop.

9 Q. So at that time, Bishop, do you recall if there
10 was any interaction with the various District Attorneys
11 in the 14 counties that the Diocese of Albany covered?

12 A. Was there any interaction?

13 Q. Well, let me rephrase the question. Were there
14 any agreements reached among the various District
15 Attorneys that the Diocese of Albany comprised?

16 A. Yes. We agreed that any allegation of
17 misconduct committed against a minor would be reported
18 to the appropriate District Attorney.

19 Q. And do you recall if a memorandum of
20 understanding was achieved and entered into by and among
21 all the DAs and the Diocese of Albany?

22 A. Yes.

23 Q. And was that complied with during the term of

1 your active ministry as the bishop of the Diocese of
2 Albany?

3 A. Yes.

4 MR. COSTELLO: That's all I have, Bishop
5 Hubbard. I thank you very much.

6 THE WITNESS: Thank you.

7 MR. COSTELLO: Are we within the time
8 limit?

9 MS. LaFAVE: You are.

10 MR. O'CONNOR: How much time do we have
11 left, Cynthia?

12 MS. LaFAVE: You have about eight minutes.
13 Do you want it?

14 MR. O'CONNOR: No.

15 MR. COSTELLO: We're all set. You have an
16 hour and a half now; right?

17 MS. LaFAVE: Yes.

18 MR. O'CONNOR: Have at it.

19 MS. LaFAVE: Do you want me to keep going?

20 MR. O'CONNOR: Please.

21 EXAMINATION BY MS. LaFAVE:

22 Q. Bishop Hubbard, I'm going to ask you a few
23 questions in followup to questions that have been asked

1 over the last few days. I know it has been a long week
2 and we're almost at the end. I just want to get through
3 a few subjects with you.

4 Bishop Hubbard, when is the first time
5 that you really understood that child sexual abuse was
6 something that caused lifelong problems?

7 A. I would say probably at the end of the
8 seventies or the beginning of the eighties.

9 Q. And before that time any of the decisions that
10 you made were in part based on the belief that child
11 sexual abuse was not something that caused lifelong
12 problems; right?

13 MR. O'CONNOR: Object to the form of that
14 question.

15 Q. You can answer it.

16 A. I had a much greater awareness at the end of
17 the seventies, beginning of the eighties, the impact
18 that such abuse had on the individual.

19 Q. So all of the decisions that you made after the
20 end of the seventies and the beginning of the eighties
21 was with this understanding of the fact that child
22 sexual abuse would cause lifelong problems to the people
23 who had been sexually abused; right?

1 A. Yes. It could, at least.

2 Q. I'm sorry?

3 A. At least could create lifelong problems.

4 Q. So all of the decisions you made after that
5 time, you already had that understanding? I just want
6 to be clear on that.

7 A. I had an understanding that continued to
8 increase through the years, right. But I had the
9 understanding that it could have lifelong consequences,
10 yes.

11 Q. And that was the end of the seventies,
12 beginning of eighties?

13 A. That's correct.

14 Q. So you said when you came in as bishop and over
15 your first few years as bishop there were only a few
16 times that you knew of a priest committing sexual abuse;
17 right?

18 A. Prior to becoming bishop?

19 Q. No. When you became bishop.

20 A. Would you please repeat the question? I don't
21 know if I understand it.

22 Q. I'll rephrase it.

23 MR. O'CONNOR: Cynthia, can I jump in,

1 too? Are we going to redo all the testimony?

2 MS. LaFAVE: No, we're not, Terry.

3 MR. O'CONNOR: He has been here for almost
4 18 hours on your questions.

5 MS. LaFAVE: I know. I just want to get
6 through this testimony.

7 MR. O'CONNOR: Get through it, but you
8 can't redo this whole thing.

9 MS. LaFAVE: I'm not redoing it. I'm not
10 redoing it. This doesn't count against my
11 time, either.

12 Q. Bishop Hubbard, when you became bishop you
13 never went back to the files and looked at them even
14 though you were at that time making decisions on what to
15 do with accused priests, whether to contact the children
16 and their families who had been abused, and whether the
17 church would offer help and compensation to the abused
18 children; correct?

19 MR. COSTELLO: Object.

20 A. That's not correct.

21 Q. What is that?

22 A. It's not correct.

23 Q. What's not correct about it?

1 A. Well, we did offer at that time assistance to
2 any victim that came forward.

3 Q. But you were making those decisions without
4 having reviewed the files that were there before you
5 became bishop; correct?

6 MR. O'CONNOR: Objection; asked and
7 answered.

8 A. That's not true. I reviewed the files of any
9 priest who was accused to see if there was anything in
10 the sealed file that would support the allegation. If
11 there wasn't anything, that doesn't mean that the
12 allegation was not valid. But I did look at those files
13 when a report came forward to see if there was anything
14 in the priest's background that might support the
15 allegation.

16 Q. You would have looked in those files at that
17 point to see if the allegation of child sexual abuse
18 that was being made at that time had been made
19 previously against the priest; correct?

20 A. That's correct.

21 Q. And yet you didn't look at those files for that
22 very purpose before the reoffense occurred; correct?

23 A. No, I did not. That's correct.

1 Q. You talked a lot about the zero-tolerance
2 policy. Tell me exactly what the zero-tolerance policy
3 meant.

4 A. You're talking the zero-tolerance policy at the
5 Dallas meeting?

6 Q. Yes.

7 A. It meant --

8 Q. 2002.

9 A. 2002, yes. It meant that if anybody was
10 alleged to have abused a child and they admitted to it
11 or that the recommendation of the sexual misconduct
12 board to me was that they should be removed from
13 ministry, that they would be removed permanently from
14 ministry.

15 Q. And while those allegations were pending did
16 the zero-tolerance policy require you to remove the
17 cleric from ministry while the investigation was being
18 done?

19 A. I'm not sure that the Dallas charter addressed
20 the issue of what was to be done with the cleric between
21 the time of the allegation and the time of the decision.

22 Q. What did you do?

23 A. I think initially we did the investigation.

1 And then, depending upon the outcome, then the priest
2 would be able to continue in ministry or was removed
3 permanently from ministry.

4 Q. So you would let the cleric continue while the
5 investigation was being done?

6 A. I cannot recall what was done exactly
7 immediately following Dallas. We did develop the policy
8 that frequently the priest would be put on leave of
9 absence until the investigation was completed, but I
10 don't know if that was true immediately following the
11 Dallas conference.

12 Q. Well, when do you think that was true?

13 MR. O'CONNOR: He said he doesn't know,
14 Cynthia.

15 MS. LaFAVE: No, he hasn't said he doesn't
16 know.

17 A. I do not know.

18 Q. In any case, when you were accused of child sex
19 abuse in 2004 you continued in your job without any
20 leave of absence while the investigation was pending
21 that was done; correct?

22 A. That's correct.

23 Q. And that investigation was done not by the

1 District Attorney's Office but by Mary Jo White.

2 Mr. O'Connor talked about that today. Correct?

3 A. No. It was turned over to the District
4 Attorney first and the District Attorney said that he
5 could not follow through to do an investigation because
6 it was beyond the statute of limitations.

7 Q. And because the DA said he would not follow
8 through because of the statute of limitations, then in
9 order to clear your name the diocesan review board then
10 hired Mary Jo White; correct?

11 MR. COSTELLO: Object to the form.

12 A. It's correct that we entered into a contract
13 with the firm that Mary Jo White is an investigator for.
14 I don't know -- I know that this met with the approval
15 of the diocesan review board. I would have to check to
16 see whether the contract was with the diocese or the
17 review board. I don't recall that. I was not involved
18 in that discussion.

19 Q. Your position on the diocesan review board at
20 that point was what?

21 A. I didn't have a position.

22 Q. But you were the one who reviewed everything
23 that came from them and either stamped it that it was

1 okay or sent it back to them; correct?

2 MR. COSTELLO: Object to the form.

3 A. When it came to allegations involving someone
4 who was alleged to have abused a minor they would submit
5 a report to me, yes.

6 Q. And you would either say that's okay or you
7 would send it back to them?

8 MR. COSTELLO: Objection.

9 A. If I had some --

10 Q. Right?

11 A. Well, if I received a report and it was okay, I
12 didn't have to send it back to them. If I had some
13 questions that I felt were unanswered and needed further
14 clarification, I would communicate that to the board.

15 Q. So you were the one who made the determination
16 whether or not their investigation was complete;
17 correct?

18 A. I didn't make the determination. I raised
19 questions that needed clarification.

20 Q. You are aware of the fact that the Mary Jo
21 White report, where your counsel talked today in detail
22 about how many people were interviewed and how many
23 pages were reviewed and how many lie detector tests you

1 took and things like that, you are aware that none of
2 the people who made accusations against you were ever
3 interviewed by Mary Jo White or anyone having to do with
4 that investigation; is that correct?

5 MR. O'CONNOR: Object to the form.

6 A. That's not correct.

7 Q. The allegations were [REDACTED] [REDACTED] and
8 Minkler, and none of them were interviewed in the course
9 of that investigation; is that correct?

10 A. I do not know.

11 Q. Were there any allegations ever made against
12 you between 2004 and 2019, when the Child Victims Act
13 opened?

14 A. No.

15 Q. Is there, in fact, a sealed file pertaining to
16 you in the diocese?

17 A. I don't know.

18 Q. When you talked to the apostolic nuncio on the
19 issue of the allegations against you in 2004 the entire
20 conversation was ten minutes and it included you telling
21 him that there would be no prosecution because of the
22 statute of limitations; correct?

23 MR. O'CONNOR: Object to the form.

1 A. I told him there would not be an investigation
2 by the District Attorney because of the statute of
3 limitations. I didn't tell him there would be no
4 investigation. Indeed, there was, by the Mary Jo White
5 firm.

6 Q. Who was paid by the diocese; correct?

7 A. Yes, it was. Who else was going to pay for it?

8 Q. Now, you were asked a number of questions about
9 mental reservation. Back on Tuesday, when you first
10 were asked questions about this, you said, "I don't feel
11 I'm competent to answer questions on that." But on
12 Thursday you told us --

13 A. On what?

14 Q. On mental reservation.

15 MR. O'CONNOR: Objection.

16 Q. On Thursday you told us unequivocally that you
17 have not used it. Did you study it between Tuesday and
18 Thursday?

19 MR. COSTELLO: Object to the form.

20 MR. O'CONNOR: Object to the form. You
21 can answer, Bishop.

22 A. No, I didn't study it between the day that it
23 was brought up and my response yesterday.

1 Q. You told us on Tuesday that you reviewed the
2 exhibits of the various attorneys representing the
3 survivors of sex abuse here. And you said that during
4 this review -- during the time period encompassing this
5 review you only knew of 11 to 13 occurrences of child
6 sex abuse by priests in the Albany Diocese between 1977
7 and 2002. Do you recall that?

8 MR. O'CONNOR: Object to the form.

9 A. I would agree, yes.

10 Q. And now, having looked at the information that
11 has been submitted in exhibits for this trial testimony,
12 do you understand that there were hundreds of
13 allegations made against priests and clerics and others
14 in the Albany Diocese?

15 MR. COSTELLO: Object.

16 MR. O'CONNOR: Object to the form.

17 A. I don't understand the question.

18 Q. Do you now know from looking at those exhibits
19 that hundreds of people allege that they were sexually
20 abused as children by clerics and other people employed
21 by or under the control of the Albany Diocese?

22 MR. O'CONNOR: Whoa! Whoa! Object to the
23 form. At what point in time, Cynthia, did he

1 know this?

2 MS. LaFAVE: Now.

3 MR. O'CONNOR: So now, once the CVA has
4 been instituted?

5 MS. LaFAVE: Right.

6 MR. O'CONNOR: I mean, these are just
7 complaints and allegations now with lawyers and
8 lawsuits.

9 A. I know that now, yes. But did I know that at
10 the time? No.

11 Q. Over time by keeping the secrets of the sexual
12 abuse of clerics and others under the control of the
13 Albany Diocese you have allowed those clerics and others
14 under the control of the Albany Diocese to be above the
15 law. Would you agree with that?

16 MR. COSTELLO: Object to the form of the
17 question.

18 MR. O'CONNOR: Object to the form.

19 A. No, I do not agree with that.

20 Q. Over time you never insisted that they be
21 prosecuted by law enforcement, did you?

22 MR. COSTELLO: Objection.

23 A. I insisted from 2002 on.

1 Q. Before that time you never did; right?

2 A. No. I didn't insist upon that, no.

3 Q. Now do you wish that you had?

4 MR. COSTELLO: Object to the form.

5 A. In retrospect, yes.

6 Q. Do you understand now that if those priests had
7 been prosecuted they would likely not have had the
8 opportunity to reoffend?

9 MR. O'CONNOR: Object to the form;
10 speculation.

11 A. I think there's a possibility, but I can't say
12 with certitude.

13 Q. You have said that you regret the way that the
14 child sex abuse problems were handled in the Albany
15 Diocese. You understand that sometimes regretting
16 something is not enough for justice, don't you?

17 MR. O'CONNOR: Object to the form.

18 A. Well, I'm sure --

19 MS. LOMANTO: Form objection. Sorry,
20 Bishop.

21 A. I'm sure, as we've seen now with the Chauvin
22 case, people are saying the conviction doesn't
23 necessarily bring about full justice. And I assume

1 that's true in these cases, as well.

2 Q. Well, I'm not talking about a conviction,
3 because nobody was ever prosecuted. I'm talking about
4 now you regret what happened and you're saying I'm
5 sorry, but you understand I'm sorry is not enough, don't
6 you?

7 MR. O'CONNOR: Object to the form.

8 MS. LOMANTO: Objection to the form.

9 MR. COSTELLO: Objection.

10 A. I'm sure that for many people who have been
11 abused or their family members or for the community at
12 large it may not be enough.

13 Q. Rape and sexual abuse, just saying I'm sorry is
14 not enough, is it?

15 MR. O'CONNOR: Object to the form.

16 Cynthia, these questions are improper.

17 MS. LaFAVE: No, they're not.

18 MR. O'CONNOR: He's here as a factual
19 witness. The jury will decide these issues.

20 MS. LaFAVE: They're going to decide that
21 issue? I'm asking him how he feels about it.
22 He can tell me how he feels about it. He ran
23 the diocese.

1 MR. O'CONNOR: How he feels about it is
2 irrelevant.

3 MR. COSTELLO: Irrelevant.

4 BY MS. LaFAVE:

5 Q. In your mind, in your mind, Bishop Hubbard,
6 now, today, I want to know, how important do you think
7 it is to the Catholic Church that these victims get
8 justice?

9 MR. O'CONNOR: Object to the form.

10 A. I think it's very important, and that's why we
11 established the independent mediation program in 2004
12 and invited people who had suffered abuse at the hand of
13 anybody that was a representative of the church to come
14 forward. And we continue to have such a program. We
15 had to discontinue IMAP at a certain point because the
16 number of people coming forward did not justify the
17 administrative cost. But we still continue through our
18 victims coordinator to provide therapy and assistance to
19 those who have been sexually abused by someone in the
20 institution of the church.

21 Q. The program that you're talking about is the
22 one that required until 2002 that they sign a
23 confidentiality agreement; correct?

1 A. No. The program I'm talking about was
2 established in 2004 and didn't require any
3 confidentiality agreement. And as of 2002 any
4 settlement before the IMAP program didn't require a
5 confidentiality agreement either.

6 Q. The IMAP program did require a confidentiality
7 agreement if people were settling; correct?

8 MR. COSTELLO: Objection.

9 A. That's not my understanding.

10 Q. Well, I can't pull out one of the releases at
11 this point. But you've seen them, haven't you?

12 A. No, I haven't seen the releases. That was done
13 by Judge Levine and the members of the IMAP staff.

14 Q. Who were paid by the diocese; correct?

15 A. They were paid by the diocese, yes. But they
16 didn't submit all the reports to me. They may have made
17 a communication with the victim assistance coordinator
18 of the diocese, but I didn't receive direct reports from
19 IMAP administration.

20 Q. But you know that any of the releases that were
21 signed as a result of that program had confidentiality
22 in them? You know that?

23 A. No, I don't know that.

1 MR. COSTELLO: Objection.

2 Q. Right up until the time that the Child Victims
3 Act passed in New York State you opposed it; correct?

4 MR. O'CONNOR: Object to the form.

5 MR. COSTELLO: Object to the form.

6 MR. O'CONNOR: That's not his testimony.

7 A. The New York State Catholic Conference, I
8 understand, was opposed to it. And so in that sense I
9 would, as a bishop, support what the conference had
10 decided.

11 Q. Which was that you opposed the Child Victims
12 Act and actually lobbied politicians to try and keep the
13 act from going into effect; correct?

14 MR. O'CONNOR: Objection.

15 A. I personally didn't lobby politicians.

16 Q. You talked to politicians yourself about that,
17 didn't you?

18 MR. O'CONNOR: Object to the form.

19 MS. LOMANTO: Objection to the form.

20 A. I don't recall talking to any politician about
21 it.

22 Q. I want to change to another subject.

23 MR. O'CONNOR: Cynthia, can I jump in for

1 a second? Respectfully, you indicated to me
2 that you wouldn't repeat any of the 18 hours of
3 previous testimony. This isn't fair to this
4 witness. He has been here --

5 MS. LaFAVE: I'm not going to be much
6 longer. I'm just going to finish.

7 MR. COSTELLO: Is this part of the one and
8 a half hours?

9 MS. LaFAVE: It is. It is.

10 MR. O'CONNOR: All right.

11 BY MS. LaFAVE:

12 Q. Bishop Hubbard --

13 MS. LaFAVE: Terry, this doesn't count
14 against my time. Okay?

15 MR. O'CONNOR: I don't care about the
16 time. I just don't think this is fair any
17 longer. He has been here --

18 MS. LaFAVE: All right.

19 MR. O'CONNOR: Listen, he testified for
20 you folks for 18 hours. I would say the first
21 six hours you covered all new stuff. The rest
22 of the time it's repeat, repeat, repeat. It's
23 not fair.

1 MS. LaFAVE: This isn't against my time,
2 just so you know.

3 MR. O'CONNOR: I'm not holding it against
4 your time.

5 MR. COSTELLO: This is day four.

6 MS. LaFAVE: This is day four. I'm going
7 to keep going.

8 Q. Now, Bishop Hubbard, you testified a lot about
9 people that you removed from the ministry. And, as I
10 understand it, what you did is you removed them from the
11 ministry and they went out into the public. You didn't
12 do anything to make sure that as members of the
13 public --

14 (There was a discussion off the record.)

15 Q. So when you removed priests from the ministry
16 and sent them out into the public without warning the
17 public, you realized that they could reoffend out in the
18 public; correct?

19 MR. O'CONNOR: Object to the form.

20 MR. COSTELLO: Objection.

21 A. What period of time are you talking about?

22 Q. When you were removing anyone from the ministry
23 before you were making it public.

1 A. Yes. Since 2002 we made it public. Before
2 that we did not. Correct.

3 Q. And before 2002 when you sent them out you knew
4 that they could reoffend. That's why you were removing
5 them from the ministry; right?

6 MR. O'CONNOR: Object to the form.

7 A. Is there a possibility they could reoffend?
8 Yes.

9 Q. And that wasn't for the safety of the children.
10 That was for the reputation of the church; correct?

11 MR. O'CONNOR: Object to the form.

12 MR. COSTELLO: Objection.

13 A. It was for the due process rights of the
14 priest, as well.

15 Q. You carried a lot of baggage as bishop, as I
16 understand it. Your attorney made that pretty clear
17 today. You were the head of all parishes, the head of
18 many, many committees. You decided if committees'
19 reports were accepted or rejected, whether people
20 nominated for posts were accepted. You were the person
21 who literally ran the diocese; correct?

22 A. Correct.

23 MR. COSTELLO: Objection.

1 Q. You appointed the director and superintendent
2 of schools for all of the Catholic schools; correct?

3 A. Correct. Schools --

4 Q. In fact, you picked all of the -- I'm sorry.
5 Go ahead.

6 A. The superintendent, there were certain schools
7 that were not under -- they were Catholic but not under
8 the superintendent because they were overseen by
9 religious communities. But for all of the
10 diocesan-sponsored schools, yes.

11 Q. And you appointed the people who served on the
12 Albany Diocese Sexual Misconduct Review Board?

13 A. Correct.

14 Q. And you served on the boards of a number of
15 social services agencies, Catholic Charities, Mission
16 House, St. Clare's Hospital, the board of St.
17 Catherine's. You were the bishop and the buck stopped
18 with you in almost every aspect of the Albany Diocese,
19 didn't it?

20 MR. O'CONNOR: Object to the form.

21 A. In many instances, yes, it stopped with me.
22 Not all instances, but in many.

23 Q. So if you didn't understand the horror of sex

1 abuse on children for the rest of their lives, if you
2 didn't understand the need for transparency, then the
3 whole diocese was run with this limited perspective
4 through your leadership, wasn't it?

5 MR. O'CONNOR: Object to the form.

6 A. No. I don't agree with that.

7 Q. You said there was a hotline established so
8 everyone could call in allegations against you after the
9 allegations came out in 2004?

10 A. Yes.

11 Q. How was that advertised?

12 A. I don't recall, but I know that it was
13 disseminated widely. But I don't recall exactly how it
14 was advertised.

15 Q. So if I did a search on Google of the
16 newspapers I would find something about that hotline?

17 A. I would assume you would if you did a thorough
18 search.

19 Q. And, Bishop Hubbard, have you been able to
20 determine that New York State mandated reporting started
21 in 1973?

22 MR. O'CONNOR: Object to the form.

23 A. I don't know -- would you repeat the question,

1 please?

2 Q. New York State, the law in mandated reporting,
3 do you know that started in 1973?

4 MR. O'CONNOR: Object to form.

5 A. No, I don't.

6 MR. COSTELLO: Objection.

7 Q. But, in any case, the Albany Diocese didn't
8 start reporting until 2002; right?

9 MR. COSTELLO: Objection.

10 MR. O'CONNOR: Object to the form.

11 A. Reporting to whom?

12 Q. Well, who did you start reporting to in 2002?

13 MR. COSTELLO: Objection.

14 A. I started reporting to the local District
15 Attorney or the District Attorney who had jurisdiction.

16 Q. Okay. But that started in 2002; right?

17 A. Correct.

18 Q. You told us in your testimony earlier if there
19 was transparency then they might not want him to be
20 their pastor. Do you recall that?

21 A. Yes.

22 Q. And they would have been right, wouldn't they?

23 MR. O'CONNOR: Object to the form.

1 A. Probably.

2 Q. Were you ever sent to a treatment center for
3 anything?

4 A. No.

5 Q. How do you know that it was exactly 1973 when
6 you quit drinking alcohol?

7 A. Because I was the one that stopped drinking.

8 Q. But why 1973? Did something happen?

9 A. Nothing happened except my own personal
10 decision, that I come from a family in which people do
11 have a problem with alcoholism and I wanted to make sure
12 that I was not one of those. But I didn't have a
13 problem. It was a personal decision. Nobody ever
14 confronted me and said you need to stop drinking,
15 because I don't think I had -- between 1969 and 1973 if
16 I had 50 drinks in that period of time that would
17 probably be an overexaggeration.

18 Q. Do you remember us talking about Mercure?

19 A. If you say so. I don't know who -- I know
20 somebody --

21 Q. He's the only one that was ever laicized;
22 correct?

23 A. Under my administration. I don't know about --

1 Q. Under your administration?

2 A. Right.

3 Q. And you never, ever asked for him to be
4 laicized until after his criminal conviction; right?

5 A. Right.

6 Q. Because you felt that he had the right to due
7 process; right?

8 MR. O'CONNOR: Cynthia, we haven't asked
9 this before, this exact question?

10 MS. LaFAVE: I'm getting to the new
11 question.

12 MR. O'CONNOR: I know, but the problem
13 is --

14 MS. LaFAVE: Terry, I'm almost done. Just
15 give me a minute.

16 MR. O'CONNOR: By me allowing him to
17 answer the questions five times, sooner or
18 later it's going to be inconsistent. It's just
19 not fair to the witness.

20 MS. LaFAVE: Do you think? I'm not doing
21 that. I'm not doing that.

22 MR. O'CONNOR: Object to the form.

23 MS. LaFAVE: Why don't you just say

1 "object to the form," okay?

2 MR. O'CONNOR: I did. I did.

3 MS. LaFAVE: All right. Can I have the
4 last question, Dave?

5 (The reporter read back the previous
6 question.)

7 BY MS. LaFAVE:

8 Q. Bishop Hubbard, you knew that he was guilty
9 before he went to trial, didn't you?

10 MR. COSTELLO: Object to the form.

11 A. I can't answer that because unless I have a
12 file in front of me I would be speculating and it would
13 be inappropriate for me to speculate and not give you an
14 appropriate answer, because I just don't have that
15 recollection right now.

16 Q. Well, if his file said that you knew before the
17 trial, then you would accept that?

18 A. Yes, I would.

19 Q. Now, you told us that there were no credibly
20 accused priests in the diocese before 1993; right?

21 MR. O'CONNOR: Object to the form.

22 A. I don't understand the question. Could you
23 repeat it, please?

1 Q. When did the diocese finally set up a credibly
2 accused list?

3 A. That was after I retired as bishop.

4 Q. And the review board before that, when did the
5 review board start determining whether people were
6 credibly accused?

7 A. 1993.

8 Q. Okay. And you accepted or rejected the
9 findings from that board; right?

10 A. I accepted the findings of the board. I don't
11 think it's fair to say I rejected, because I don't
12 recall ever rejecting the recommendation of the board.

13 Q. But you were the final say?

14 A. I was the final say, yes.

15 Q. And you told us that you were unable to define
16 credibly accused; right?

17 MR. O'CONNOR: Objection to form.

18 MR. COSTELLO: Objection.

19 A. I was saying that I don't have an awareness of
20 the definition of credibly accused, but I understood
21 when that was submitted to me it meant that the review
22 board was convinced, as far as one can be, just as you
23 serve on the jury, that the person was guilty of the

1 allegation made.

2 Q. But the sealed files never went to that
3 committee, anyway; right?

4 A. No, not that I'm aware of.

5 Q. Bishop Hubbard, if we look at today and what
6 you know today, would you say that you minimized the
7 problem of child sex abuse on children over the time
8 that you were bishop?

9 MR. O'CONNOR: Object to the form.

10 MR. COSTELLO: Object to the question.

11 A. I said that I grew to understand through my
12 years as bishop what a horrendous problem this was. I
13 talked to so many victims over the years that my
14 appreciation deepened each time I met with a victim.
15 And that's what prompted me with dioceses in the country
16 to set up an independent mediation program wherein
17 victims could go and meet with with someone independent
18 from the diocese to receive appropriate compensation for
19 the harm they had suffered, as best a financial or
20 therapeutic offer would help them overcome the horror
21 they experienced.

22 Q. Do you wish now that you had taken the
23 opportunity early on in your role as bishop to study

1 child sex abuse, child sex offenders, recidivism, and
2 the effects of child sex abuse?

3 MR. O'CONNOR: Object to the form.

4 MR. COSTELLO: Objection to form.

5 A. With 2020 hindsight, yes, I wish I had done
6 things differently, but I did the best I could with the
7 insights I had and the counsel I received from legal and
8 medical authorities.

9 Q. Do you wish now you had been forthright and
10 honest with the public about child sex abuse right from
11 the beginning of the time that you became bishop?

12 MR. O'CONNOR: Object to the form of that
13 question.

14 A. Well, in 1977 if I had the understanding I have
15 today in 2021, yes, I wish I had that understanding
16 then, but I didn't.

17 Q. You and I carry a heavy burden, don't we,
18 Bishop? You represent the church --

19 MR. O'CONNOR: Oh, stop.

20 Q. -- and I represent people who were sexually
21 abused as children. That's a heavy burden for both of
22 us, isn't it?

23 MR. O'CONNOR: I object to that.

1 A. I know it is for me and I assume it is for you.

2 Q. And you know that these children don't have
3 broken arms but broken souls, don't you?

4 MR. O'CONNOR: Object to the form.

5 MR. COSTELLO: Object to the form.

6 A. I never said that they -- I said that when
7 people spoke about it at that time. I didn't say that I
8 had that belief. I said that people at the time often
9 understood it in that sense.

10 Q. Well, we'll have to go back and look at how you
11 said that. But now --

12 A. Well, that's what I meant, if it doesn't
13 reflect it in the testimony.

14 Q. Now you agree with me that they have the right
15 to be heard, don't you?

16 MR. O'CONNOR: Object to the form.

17 A. Yes, I do.

18 Q. And you know that they need to know that they
19 were not the ones at fault, don't you?

20 MR. O'CONNOR: Objection to form.

21 MR. COSTELLO: Objection.

22 A. Yes.

23 Q. And you understand that there needs to be

1 justice for them even if it's against powerful priests
2 and a powerful church?

3 MR. O'CONNOR: Object to the form.

4 MR. COSTELLO: Objection.

5 A. Yes.

6 Q. Do you believe that all people are created
7 equal?

8 A. I do.

9 MR. COSTELLO: Objection.

10 Q. Do you understand now that it was very wrong
11 for priests to be above the law?

12 MR. O'CONNOR: Object to the form.

13 A. Very wrong for priests to abuse a child. Yes,
14 I understand that.

15 Q. But above the law means that they were never
16 prosecuted in our society because people hid what they
17 did. You understand that; right?

18 MR. O'CONNOR: Object to the form.

19 MR. COSTELLO: Objection.

20 A. Please, would you -- I got lost between the
21 objections here.

22 Q. Do you want to have that read back?

23 A. Please.

1 MR. O'CONNOR: Cynthia, we've been going
2 on for --

3 MS. LaFAVE: I am almost done.

4 MR. O'CONNOR: Well, we have been going on
5 for an hour. I want to take a break. You can
6 finish after the break, all right? We started
7 at 2:02 and right now it's 3:11. So I want to
8 take a quick break, all right?

9 MS. LaFAVE: Go ahead.

10 MR. SHERECK: Going off the record at
11 3:11.

12 (A recess was taken in the proceedings.)

13 (The proceedings were reconvened as
14 follows:)

15 MR. SHERECK: We're back on the record,
16 3:27.

17 MS. LaFAVE: Dave, there was a question
18 pending. Can you read that back?

19 (The reporter read back the previous
20 question.)

21 MR. O'CONNOR: Object to the form of that
22 question.

23 MS. LaFAVE: We didn't get an answer on

1 that.

2 Q. Bishop, can you answer that question?

3 MR. O'CONNOR: Did he answer that, Dave?

4 MS. LaFAVE: No.

5 MR. O'CONNOR: Object to the form of the
6 question.

7 THE WITNESS: Could you repeat the
8 question, please?

9 MS. LaFAVE: Can you read it again, Dave?

10 (The reporter read back the previous
11 question.)

12 MR. O'CONNOR: Object to the form. I want
13 a ruling on that, too. You can answer.

14 A. I guess -- I'm sorry. I really don't
15 understand the question.

16 Q. The question is, that they were above the law
17 because people hid what they did and they were never
18 prosecuted for what they did. You understand that;
19 right?

20 MR. O'CONNOR: Object to the form of the
21 question. And I want a ruling on that before
22 you read that.

23 A. May I answer the question or no?

1 Q. Yes.

2 A. I think some people may rationalize it in that
3 way. Others may not. I really can't answer that
4 question.

5 Q. They were allowed to sexually abuse children
6 and they didn't face legal repercussions because they
7 weren't prosecuted. You understand that; right?

8 MR. O'CONNOR: Object to the form.

9 MR. COSTELLO: Same objection.

10 A. I think you're making an assertion that I
11 wouldn't make.

12 Q. What is that assertion?

13 A. That they were above the law because they were
14 never prosecuted. I don't know if that's an objective
15 assessment.

16 Q. What's wrong with that assessment?

17 A. Well, I just don't know if I -- you want me to
18 say that I agree with your conclusion, and I don't think
19 that I have enough thought that I've given to it to
20 respond right on the spot because I don't really fully
21 understand it.

22 Q. They were not prosecuted. We talked about this
23 over the last four days. There were priests who

1 sexually abused children and they were not prosecuted
2 under New York State law; right?

3 MR. O'CONNOR: Object to the form.

4 MR. COSTELLO: Object to the form.

5 A. Let me just say this. There were cases that
6 came to our attention well beyond the statute of
7 limitations and we sent it to the District Attorney and
8 they could not act. So they were not prosecuted. It
9 doesn't mean that they were above the law.

10 Q. You're talking about cases after the statute of
11 limitations, but what about the cases --

12 A. You just gave a general assessment that if
13 persons weren't prosecuted they were above the law. It
14 seems to me that's not true.

15 Q. What about the cases where they were within the
16 statute of limitations but they weren't prosecuted?

17 MR. O'CONNOR: Object to the form.

18 Q. There were those cases, too; right?

19 MR. O'CONNOR: Object to the form.

20 A. There were those cases, yes.

21 Q. And in those cases do you think the priests
22 were above the law because they weren't prosecuted?

23 MR. O'CONNOR: Object to the form.

1 MR. COSTELLO: Objection to the form.

2 A. I'm not a lawyer, so I can't respond to that.

3 Q. Okay. Over time as a bishop were there times
4 when you put the rights of privacy of priests above the
5 protection of children?

6 MR. O'CONNOR: Objection to the form.

7 A. I would say I put the rights of the due process
8 of priests but not necessarily above victims.

9 Q. Well, you're now using a lawyer term, due
10 process. But due process requires process; right? It
11 requires that they become a part of the criminal and
12 civil process; right?

13 MR. O'CONNOR: Object to the form.

14 MR. COSTELLO: This is getting to be
15 argumentative. It's not a question and answer.

16 MS. LaFAVE: Yes, it is. That is a
17 question. I'm looking for an answer.

18 MR. COSTELLO: I'm going to object. It's
19 argumentative.

20 Q. You can answer it.

21 A. I'm so confused now between the objections, and
22 so forth. Would you repeat the question, please?

23 (The reporter read back the previous

1 question.)

2 MR. O'CONNOR: Object to the form. You
3 can answer if you can. I object to the form.

4 A. I don't know how to respond.

5 MR. O'CONNOR: All right.

6 Q. Do you understand that when these priests were
7 not prosecuted that affected the trust and confidence
8 and the ability of these children to have normal
9 childhoods?

10 MR. O'CONNOR: Object to the form.

11 MR. COSTELLO: Objection.

12 A. I could understand that that might have been
13 the case for them, yes.

14 Q. And do you believe that these children now
15 deserve justice?

16 MR. O'CONNOR: Object to the form. That's
17 not a proper question, Cynthia.

18 Q. You can answer it.

19 MS. LaFAVE: You can take it to the Judge.

20 MR. O'CONNOR: I will.

21 MR. COSTELLO: Objection.

22 MR. O'CONNOR: This is getting crazy.

23 A. I would say that anything that would bring

1 greater healing to a victim is what should be done.

2 MS. LaFAVE: Thank you, Bishop. I have no
3 further questions.

4 THE WITNESS: Thank you.

5 MR. WILLIAMS: Cynthia, I think I'm up at
6 this point.

7 MR. O'CONNOR: Hi, Jerry.

8 MR. WILLIAMS: Hello, Terry.

9 EXAMINATION BY MR. WILLIAMS:

10 Q. Good afternoon, Bishop. As you know by now, I
11 represent [REDACTED] and my co-counsel and I represent
12 him in a case against you personally and the Diocese of
13 Albany, as well as several other plaintiffs who have
14 filed suit against the Diocese of Albany and some
15 related entities.

16 So in your direct testimony with
17 Mr. O'Connor you talked about some of the allegations in
18 the [REDACTED] complaint. Do you remember that?

19 A. Yes.

20 Q. And you also gave him in your testimony some
21 general information about your background and early
22 ministry that is applicable to all the cases. But do
23 you recall testifying to your background and education

1 and early ministry?

2 A. Yes, I do.

3 Q. And you also recall from the other day that in
4 addition to alleging that you directly abused [REDACTED],
5 [REDACTED] also alleged that a now deceased priest, Cabell
6 Marbury, abused him. Do you recall that?

7 A. Yes.

8 Q. So let me first ask you about the circumstances
9 relevant to the allegations by [REDACTED] against you
10 directly. And I'm going to limit it to a timeframe
11 because that's what would coincide with the allegations
12 that [REDACTED] made. And the timeframe I'm going to use
13 for this set of questions is basically from 1974 through
14 the late spring or early summer of 1976, when you were
15 appointed vicar priest. Okay?

16 A. I was appointed vicar priest I think in '73.

17 Q. '73 you were vicar priest? When were you vicar
18 general?

19 A. '76.

20 Q. Okay. That's my mistake, and that's what I'm
21 talking about, the time period up until you were
22 appointed vicar general. Okay?

23 A. Yes.

1 Q. And we can agree, can't we, that for that
2 period of time, you haven't produced any calendars
3 showing your activities for that period of time? Do we
4 agree with that?

5 A. Correct.

6 Q. And that covers all the exhibits that you
7 looked at earlier this afternoon, 4, 5 and 6, the one
8 handwritten calendar as well as the typewritten
9 summaries of information on calendars; correct?

10 A. Correct.

11 Q. And can we agree that for the period of time
12 I'm talking about, '74 until the early summer of '76,
13 you have retained no personal calendars?

14 A. That's correct.

15 Q. Fair enough. Now, this was the period of time
16 during which you were involved with -- covered part of
17 the time that you've been involved with Hope House and
18 Providence House; correct?

19 A. Correct.

20 Q. And a lot of community service during that
21 time. I think earlier you testified that some people
22 referred to you as the street priest during that period
23 of time because of that community activity; correct?

1 A. No.

2 Q. No? Okay. Well, however they referred --

3 A. I said that somebody would refer to me as the
4 street priest. Somebody who was opposing me said that.
5 I didn't say that.

6 Q. That's fair. Regardless, this was a time when
7 you were involved with those activities in the community
8 and you were for at least part of that time residing at
9 St. John the Baptist rectory, as I recall. Is that
10 accurate?

11 A. That's accurate.

12 Q. And we've agreed that the parish right next to
13 St. John the Baptist or the next parish was a parish
14 that was then known as St. James; is that correct?

15 A. I testified that the nearest parish was the
16 Cathedral.

17 Q. Right. And next to --

18 A. The next nearest parish would be St. Anne's,
19 which is now affiliated with St. James.

20 Q. Right. Okay. But the parish that was then
21 known as St. James was within a mile of St. John the
22 Baptist rectory; correct? Isn't that what you
23 testified?

1 A. Around a mile. It might be longer.

2 Q. That's fair enough. Now, do you deny that
3 during this time, this timeframe, you never had any
4 dinners with lay parishioners of St. James in order to
5 discuss your various community projects?

6 A. I never had dinner?

7 Q. Yes. Did you ever go to a layperson's house
8 for dinner in which you discussed your projects?

9 A. I don't know. I can't think of anything
10 specific like that, but I'm not saying it never
11 happened. I have no recollection of that.

12 Q. That's fine. And I'm including any dinners
13 where fundraising might be involved. My question is,
14 can you tell me categorically that you never had such
15 meetings with laypeople in the parish of St. James?

16 A. I can't say one way or another. I don't
17 recall.

18 Q. That's fine. Now, I think you testified that
19 you don't remember a woman named [REDACTED], who
20 has been identified as [REDACTED];
21 correct?

22 A. Yes. That's right.

23 Q. But you're not telling us that you know for

1 certain you never met such a woman; correct?

2 A. No. I probably met 150-, 200,000 people during
3 my career as a bishop. And so I can't say I never met
4 anybody. I might have shaken her hand at the end of a
5 service or something. Somebody would say, "Well, I met
6 the bishop." But, you know, to think that I would walk
7 away from a service like that and say I remember
8 everybody who shook my hand and we have a deep personal
9 relationship, that's not the case.

10 Q. I understand. And I only have a short amount
11 of time with you this afternoon, Bishop. I'm not trying
12 to interrupt you and I understand what you're saying,
13 but [REDACTED] said you came to [REDACTED]
14 for dinners on occasion. And my question is, can you
15 deny categorically that you ever did so?

16 A. I have no recollection of ever going to such a
17 home.

18 Q. Fair answer.

19 MR. O'CONNOR: Jerry, you're in a hurry a
20 little bit. You're cutting him off slightly.
21 And you don't mean it. I know that. Just be
22 careful of that. Sorry.

23 MR. WILLIAMS: Yes. Thank you, Terry.

1 But I think the bishop's answer got recorded
2 properly.

3 Q. Now, as I just mentioned, Bishop, you're aware
4 that [REDACTED] alleges that in the same time period he was
5 also abused by Cabell Marbury, who was then a priest;
6 correct?

7 A. Yes.

8 Q. And we agree, don't we, that Cabell Marbury was
9 always a diocesan priest up until the day he died in
10 2014, meaning within the Diocese of Albany; correct?

11 A. Correct.

12 Q. And during your episcopacy from 1977 through
13 2014 he was under your supervision; is that a fair
14 statement?

15 A. He was an incardinated priest in the diocese
16 that would be accountable to me, yes.

17 Q. Understood. And we talked about the fact that
18 he was placed on the publicly issued list of credibly
19 accused clerics by the Diocese of Albany in 2020. Do
20 you recall that testimony?

21 A. Yes.

22 MS. LaFAVE: Jerry, one minute.

23 Q. And you agree that you don't know what the

1 diocesan review board looked at to make that
2 determination, do you?

3 A. No, I don't. If it was after April of 2014 I
4 would not be aware of anything that the diocese would
5 do.

6 Q. Are you aware that there were complaints of
7 childhood sex abuse brought against Marbury in 1993 and
8 2003 during the time that you were ordinary?

9 A. I don't recall off the top of my head. I could
10 check the file to find that out, but I don't recall off
11 the top of my head.

12 Q. Do you recall confronting Marbury about these
13 accusations in keeping with what you said was your
14 ordinary practice?

15 MR. O'CONNOR: Object to the form. At
16 what point in time are we talking, Jerry?

17 MR. WILLIAMS: 1993 or 2003, when the
18 diocesan review board reviewed complaints about
19 Marbury.

20 MR. COSTELLO: Object to the form. You
21 may answer.

22 MR. O'CONNOR: I object to the form, also.

23 A. I don't have a recollection of that, but I'm

1 not saying that it didn't take place.

2 MR. WILLIAMS: All right. Well, I guess
3 I'm out of time. I have a few more questions,
4 but I don't want to infringe on the time of my
5 colleagues so I will excuse myself for now,
6 Bishop. Thank you.

7 THE WITNESS: Thank you.

8 MR. COSTELLO: Thanks, Jerry.

9 EXAMINATION BY MS. ALLEN:

10 Q. Hi, Bishop. I'll be asking questions of you
11 next. My name is Mallory Allen. Along with co-counsel,
12 our firms represent ██████ We met briefly last week at
13 his deposition, you may recall.

14 A. Yes.

15 Q. So I'm going to hop around a little bit, but
16 that's because kind of everyone gets five minutes for
17 cleanup. So with me as I jump around a little bit here.

18 When you were being asked questions by
19 Mr. Costello about the ██████ case you indicated that you
20 had reviewed your calendars from the 1990s; is that
21 correct?

22 A. I'm sorry. About the ██████ case I reviewed my
23 calendars?

1 Q. You indicated you had reviewed your calendars
2 from the 1990s; is that correct?

3 A. No, I haven't.

4 Q. Okay. I wanted to make sure that was clear.
5 So you have not seen any calendar entries from the
6 1990s?

7 A. No. I'm not saying they don't exist, but I
8 haven't reviewed them.

9 Q. Understood. You testified and obviously have
10 multiple times over the last several days that you have
11 never had inappropriate contact whatsoever with
12 children. Have you ever spoken in a sexual manner
13 towards children?

14 A. No.

15 Q. Okay. Do you deny ever saying to a girl,
16 asking her where she got her water because it must be a
17 magic fountain to produce a beauty like you?

18 A. I'm not aware of making any such statement.

19 Q. Do you believe that's an inappropriate comment?

20 MR. COSTELLO: Objection.

21 A. I would have to see the context.

22 Q. Do you believe it's inappropriate to say that
23 to a 16-year-old girl at her confirmation?

1 MR. COSTELLO: Objection.

2 A. I would have to see what the context was before
3 and after.

4 Q. Okay. Do you believe that comment is sexually
5 suggestive?

6 MR. COSTELLO: Objection.

7 A. I suppose it depends on the interpretation of
8 the person who heard it.

9 Q. Do you believe there's a circumstance in which
10 it would be appropriate to do that? You said you would
11 need to know the context. I'm curious in what context
12 that would be appropriate to say that to a 15- or
13 16-year-old girl?

14 MR. O'CONNOR: Object to the form.

15 MR. COSTELLO: Object to the form.

16 A. I would have to understand the context.

17 Q. How about a comment -- well, let me ask this.
18 Do you deny stating to a girl of about the same age that
19 she has the "body of a stewardess"?

20 A. No.

21 MR. COSTELLO: Object to form. Do we have
22 a date or anything?

23 MS. ALLEN: I'm asking whether he has ever

1 said that to anyone.

2 MR. O'CONNOR: Yes, but you have to give
3 some context, I think, Mallory.

4 A. No.

5 MR. O'CONNOR: Who did he say this to?

6 MS. ALLEN: Is there an objection? You
7 can say that there's a form objection.

8 MR. O'CONNOR: I object to it. There has
9 to be some foundation for questions. You can't
10 just make things up out of thin air.

11 MS. ALLEN: Okay. So your objection is
12 foundation. I hear it.

13 Q. I'm asking you whether at any point, Bishop
14 Hubbard, you made a comment to a girl of about the age
15 of 15 or 16 that she had the body of a stewardess?

16 MR. O'CONNOR: Object to the form.

17 A. I deny that I ever said that to anyone.

18 Q. Do you agree that that is a sexually suggestive
19 comment?

20 A. I would agree that it is, yes.

21 Q. Switching gears a little bit, if I can, to the
22 Mary Jo White report. I think everyone has kind of
23 called this something different, but we're talking about

1 the same thing. That's Exhibit P-10. Do you understand
2 what I'm referring to?

3 A. I do.

4 Q. The report references more than 100 exhibits
5 that were included with it. Have you ever seen those
6 exhibits?

7 A. Exhibits of the Mary Jo White report?

8 Q. Correct.

9 A. No.

10 Q. Okay. Do you know if those exhibits were
11 turned over to the diocese?

12 A. I don't know.

13 Q. And you don't recall ever reviewing a version
14 of that report that had over 100 exhibits attached to
15 it?

16 A. I do not recall that, no.

17 Q. At one point in the report they reached the
18 conclusion that you may have been misidentified because
19 there were other priests, both former diocesan priests
20 and current diocesan priests, who were engaging in
21 homosexual activity in Washington Park and elsewhere.
22 Do you recall that?

23 A. I don't recall that specifically. If it's in

1 the report, then I probably read it, but I can't
2 remember it right now.

3 Q. Okay. Do you recall that the report concluded
4 that the activities of these other priests is what
5 likely led to rumors about the accusations that are
6 contained in that report?

7 MR. COSTELLO: Objection to form.

8 A. If that's what the report says. If it was in
9 the report that was released to the diocese I probably
10 read it, but I know I didn't read the exhibits to the
11 report.

12 Q. Okay. I was curious if you know who those
13 priests were, the priests that the report concluded were
14 likely misidentified as you.

15 A. No, I don't know who they were.

16 Q. Do you remember ever asking follow-up questions
17 about who those priests that had been misidentified as
18 you were?

19 A. No.

20 Q. There was one priest who was identified as
21 someone who bore a resemblance to you, often called
22 himself bishop when he went to the bars, and had his
23 hair dyed blonde. Do you know who that is?

1 A. I do know who that is, yes.

2 Q. Who is that?

3 A. Patrick Ryan, R-y-a-n.

4 Q. R-y -- I'm sorry.

5 A. R-y-a-n.

6 MS. ALLEN: That's all I have, Bishop.

7 Thank you very much.

8 THE WITNESS: Thank you.

9 MR. O'CONNOR: Thank you, Mallory.

10 MR. SMALLINE: Yes. I believe I'm next;
11 is that correct, Cynthia? This is Martin
12 Smalline.

13 MR. SANDLER: I'm sorry, Martin.

14 MR. SMALLINE: Okay. Jason, you are next.

15 MR. SANDLER: Yes, I think I'm next. I'll
16 be brief.

17 EXAMINATION BY MR. SANDLER:

18 Q. Hi, Bishop. This is Jason Sandler from Herman
19 Law. I represent [REDACTED] You testified previously that
20 you regularly visited parishes throughout the diocese
21 after becoming bishop; is that right?

22 A. Correct.

23 Q. And throughout the duration of your time as

1 bishop you've visited St. Edward the Confessor in
2 Clifton Park?

3 A. That I did visit that parish during my
4 bishopric?

5 Q. Yes.

6 A. Yes, I did.

7 Q. And the purposes of these visits was to get to
8 know the parishioners and to I guess mingle with the
9 faithful; is that right?

10 A. No, not necessarily. I was usually -- most of
11 the times I went to a parish it was to celebrate a
12 liturgy of one form or another, a confirmation, an
13 anniversary. And also sometimes I would have an open
14 house where people could come and meet the bishop and
15 ask any questions they would like. But there was a
16 formal context to my visit.

17 Q. Prior to becoming bishop would you regularly
18 visit parishes throughout the diocese?

19 A. No. I would have no interest, quite frankly,
20 to be visiting parishes. I had enough to do in my own
21 realm. And I think people would ask, by what authority
22 is he here? I didn't have any authority to be visiting
23 parishes.

1 Q. Would it be unusual for you, Bishop, after
2 becoming bishop to attend a carnival or festival or
3 bazaar at a parish?

4 A. It would be unusual.

5 Q. But it may have happened; is that right? You
6 may have --

7 A. It may have happened but --

8 Q. You may have attended those festivals?

9 MR. O'CONNOR: Object to the form.

10 A. It may have happened, but I have no
11 recollection of it.

12 Q. As we sit here today you can't say with
13 certainty that you did not visit St. Edward the
14 Confessor in the summer of 1977; correct?

15 A. No, I can't.

16 Q. As we sit here today you cannot say with
17 certainty that you did not visit St. Edward the
18 Confessor in the summer of 1976; correct?

19 A. I have no recollection of visiting there in the
20 summer of 1977. That's all I can say with certitude.

21 Q. And as we sit here today you cannot say with
22 certainty that you never met [REDACTED]; is that correct?

23 A. As I testified before, I've met hundreds of

1 thousands of people. And to say that I never had an
2 interaction at a confirmation or at a mass, I can't say
3 that. But I could not pick ██████ out of a lineup, I'll
4 tell you that.

5 Q. Your attorney last night produced some
6 calendars and for the year of 1977 there are I believe
7 11 calendars, from February to December; is that right?

8 A. I don't know what the number is, but whatever
9 he produced.

10 Q. Okay.

11 MR. O'CONNOR: You mean months, Jason?

12 MR. SANDLER: Yes.

13 MR. O'CONNOR: I think you said calendars.

14 MR. SANDLER: Apologies.

15 MR. O'CONNOR: No problem.

16 BY MR. SANDLER:

17 Q. Bishop, did you create these calendars for
18 1977?

19 A. No, I did not.

20 Q. Someone created them on your behalf?

21 A. My secretary at the time, yes.

22 Q. Is it fair to say that these calendars don't
23 accurately reflect every event that you attended in the

1 year 1977?

2 A. Yes, I think that's true.

3 MR. SANDLER: I do not have anything
4 further. Thank you, Bishop.

5 THE WITNESS: Thank you.

6 EXAMINATION BY MR. SMALLINE:

7 Q. Bishop, this is Martin Smalline. And I'm
8 involved, as you know, with the case of [REDACTED] that
9 involves the years 1977 through 1979. And your attorney
10 produced some calendars. I believe you testified
11 earlier that you would write up certain entries and then
12 your secretary would type them up. I specifically heard
13 you use the word type; is that correct?

14 MR. O'CONNOR: Object to the form.

15 A. Yes. She would record the commitments that she
16 was aware of that I had made and what my daily schedule
17 would be and then she would put that in the calendar.
18 But then she would type that up for me and give it to me
19 so that I would know where I was supposed to be during
20 the course of a week.

21 Q. Okay. So that answers that question. So where
22 are the typed versions that you actually used with the
23 week that you were handling? I see no typed versions.

1 All I see are typed summaries of Fridays and Saturdays
2 apparently done by your law firm or you just recently.
3 So the question is: Where are the typed versions that
4 you used back then that your secretary typed up?

5 A. I have no idea.

6 Q. Would they be with the diocese?

7 A. I have no idea.

8 Q. These calendars that are handwritten that were
9 given to us, were they with the diocese?

10 A. They were with the diocese, yes.

11 MR. SMALLINE: I would make a request from
12 the diocese to produce any typewritten
13 calendars that were contemporaneous with these
14 handwritten ones.

15 MR. COSTELLO: If you want to put that in
16 writing, we'll take it under advisement.

17 MR. SMALLINE: Thank you, Mike.

18 Q. I want to go over the chronology that [REDACTED]
19 [REDACTED] had given when she testified. And I believe that
20 may have been misstated by your attorney today. And
21 I'll ask you a few questions. Do you recall [REDACTED]
22 testifying that [REDACTED] in the
23 spring of 1977?

1 MR. O'CONNOR: Object to the form.

2 A. [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 Q. Correct, but she testified -- I'll represent

6 now she testified that [REDACTED]

7 [REDACTED] in the spring of 1977. Would you have
8 any reason to disagree with that?

9 A. No.

10 Q. Okay. And [REDACTED] also testified that she
11 had been subject to the abuse of Father Melfe and Father
12 DelVecchiho before she first encountered you at all at
13 the rectory; is that correct?

14 MR. O'CONNOR: Object to the form.

15 A. If I recall, at least in the lawsuit that was
16 submitted, Father DelVecchiho was alleged to have abused
17 her a couple years into my so-called visits.

18 Q. Well, that was actually the rape by Father
19 DelVecchiho, but there are other instances of abuse
20 before you were involved. But the record will speak for
21 itself. Unfortunately, we don't have that transcript to
22 read into the record. Do you recall that she testified
23 that she allegedly first encountered you at the rectory

1 when the weather turned cold, toward the end of 1977?

2 MR. O'CONNOR: Object to the form. That's
3 not what she said.

4 A. I don't recall that specifically. I don't say
5 that she didn't. I just don't recall it.

6 Q. Well, I'll represent that is what the testimony
7 will show once we have the transcript. And can we agree
8 that toward the winter or the cold months of any given
9 year here in Albany would probably be around, say,
10 November? November, December? Is that a fair
11 statement?

12 MR. COSTELLO: Objection.

13 A. I'm not a meteorologist so I can't comment on
14 that.

15 Q. That's fair. She also testified she alleges
16 that the abuse by you started five or six weeks after
17 her first encounter with you at the rectory and that the
18 occurrences happened on Fridays, sometimes Saturdays,
19 and it occurred approximately three times per month. So
20 I represent to you now that when Mr. O'Connor suggested
21 that she alleged that it was every Friday and Saturday,
22 every weekend of the month, that the record will not
23 reflect that. But my question to you is --

1 MR. O'CONNOR: Excuse me, Marty. Your
2 bill of particulars says that. It's in
3 writing. I didn't make this up. Your sworn
4 bill of particulars states that.

5 MR. SMALLINE: I have limited time. State
6 your --

7 MR. O'CONNOR: I know, but don't be
8 putting this drivel on the record, counselor.

9 MR. SMALLINE: She didn't say that it was
10 every weekend. She says approximately three
11 times a month with Bishop Hubbard. If you want
12 to handle [REDACTED] and the other, there are
13 various allegations. You objected to form and
14 we're going to continue.

15 MR. O'CONNOR: Yes, but you're stating
16 that I'm misstating the facts.

17 MR. SMALLINE: State your objection. Your
18 statement is on the record.

19 MR. O'CONNOR: It's inappropriate. I was
20 reading from your bill of particulars,
21 counselor. You would think I could rely upon
22 it. It's a sworn document.

23 MR. SMALLINE: You didn't quote it. You

1 summarized. But the record will reflect it
2 when we get this transcript.

3 MR. O'CONNOR: Don't be saying that drivel
4 about me misstating things.

5 MS. LaFAVE: We're going to add two
6 minutes back to our time on that.

7 MR. SMALLINE: Thank you. The objection
8 is to form. There are no speaking objections.
9 You held me on the speaking objections before
10 and I stopped.

11 MR. O'CONNOR: You're putting on the
12 record about me misrepresenting. I'm offended
13 by that, Marty.

14 MR. SMALLINE: Well, we'll read your
15 testimony and we can straighten it out. If I
16 stand corrected I will certainly apologize. We
17 don't have the benefit of reading the record
18 back at this time.

19 MR. O'CONNOR: It's in your bill of
20 particulars. Read your bill of particulars.

21 MR. SMALLINE: We heard. You want to run
22 the clock down? You can put another two
23 minutes on. We're adding four minutes at this

1 point.

2 MR. O'CONNOR: No, you aren't.

3 MR. SMALLINE: Okay, buddy.

4 Q. Bishop Hubbard, the question that stands at
5 this point in time, when you have an entry on your
6 calendar, for instance, mass at 5:15 on a given Friday
7 or Saturday, could it be possible that you might leave
8 the church by 6:30 or 7:00?

9 MR. COSTELLO: Object to the form.

10 A. Could be possible. It could be that I would
11 stay for dinner after the mass and leave at 8:30 or
12 9:00.

13 Q. But your calendar doesn't reflect what time you
14 leave events, does it?

15 A. No, but the calendar doesn't reflect all of my
16 activities either.

17 Q. That's understood. I'm going to call your
18 attention to what has been marked by your attorney as
19 Exhibit 4. I'm going to take you to November of 1977.
20 And I'm only going to do November and December. The
21 record stands for itself. I'm not going to go through
22 all these. In November of '77 can you find three
23 Fridays or Saturdays, it doesn't matter which one, when

1 you're completely free? And I'll direct your attention
2 to Friday, November 4. There doesn't appear to be any
3 entry; correct?

4 A. I'm trying to get to it.

5 Q. November 1977.

6 MR. COSTELLO: Are we putting the exhibit
7 up?

8 MS. SILVER: Yes. I just don't have
9 sharing access right now for some reason.

10 A. I've got it now.

11 Q. So Friday, November 4, there is no event;
12 correct?

13 A. Correct.

14 Q. Friday, November 11, there's dinner but there's
15 a question mark; correct?

16 A. Correct.

17 Q. And it doesn't have --

18 A. That may mean that I or my secretary presently
19 have had difficulty reading the written account that was
20 available at the chancery.

21 Q. Understood. Also, there is nothing on calendar
22 for Friday, November 25; correct?

23 A. Yes.

1 Q. Nothing on Saturday, November 26; correct?

2 A. Correct.

3 Q. So even if we don't count that dinner with the
4 question mark, there are three free either Fridays or
5 Saturdays in the November 1977 calendar; correct?

6 A. Correct.

7 Q. And I just turned to one more month. And the
8 record will reflect itself after that. I'm not going to
9 belabor that. December 1977. Friday, December 9,
10 there's no entry; correct?

11 A. Correct.

12 Q. Saturday, December 17, there's no entry;
13 correct?

14 A. Correct.

15 Q. Friday, December 23, there's nothing on the
16 calendar; correct?

17 A. Correct.

18 Q. Friday, December 30, there's nothing; correct?

19 A. Correct.

20 Q. Saturday, December 31, there's nothing on the
21 calendar; correct?

22 A. Correct.

23 Q. So is it fair to say you had at least three

1 Friday or Saturday evenings, regardless of whether it's
2 Friday or Saturday, free in the month of December 1977;
3 is that correct?

4 MR. O'CONNOR: Object to the form.

5 A. It's not fair to say that. You're --

6 Q. Well, on the calendar you have at least three
7 free nights; correct?

8 MR. O'CONNOR: Would you let him answer
9 the question?

10 A. That's right, but this calendar is not a
11 complete documentation of my activities during these
12 days and months.

13 Q. Well, I understand that you can't produce them
14 and you don't have them, so we're talking about the
15 exhibit that's in front of us. You can certainly --

16 A. I've already acknowledged that your reading of
17 this calendar is correct.

18 Q. Very good.

19 A. But I'm saying that to say that I didn't have
20 anything that I had to do in my responsibility as bishop
21 on those days when there's nothing on the calendar is
22 not a fair statement.

23 Q. Fair enough.

1 MS. LaFAVE: Marty, two-minute warning.

2 MR. SMALLINE: Thank you.

3 Q. When you have a dinner scheduled on your
4 calendar for 5 o'clock, did you ever make a showing?
5 And I call that that when I go to a dinner and introduce
6 myself to people I need to be introduced to, possibly
7 stay for dinner and then leave by 6:30 or 7:00. Have
8 you ever done that or do you stay until the last guest
9 leaves?

10 A. There probably have been times that I've done
11 that, but that would not be the ordinary format that I
12 would follow.

13 Q. Understood. And when you have an event on your
14 calendar, whether it's a fundraiser or a birthday party
15 or whatever it may be, and it says all day on the
16 calendar, would that necessarily go past 5 o'clock in
17 the evening or could all day mean from 8:00 or 9:00 a.m.
18 until 5:00 or 6:00?

19 A. Well, you would have to point me to the
20 particular reference and I could tell you what it
21 probably meant.

22 Q. Well, we won't belabor that at this point.

23 MR. SMALLINE: I have no further questions

1 at this time. The record speaks for itself. I
2 would like to point out that I may be moving
3 the Court for additional time to question
4 Bishop Hubbard after production of the original
5 calendars, given the untimely production last
6 night of what are illegible except for those
7 portions that were retyped by a secretary for
8 purposes of litigation. Thank you, Bishop.

9 MR. O'CONNOR: Thank you, Marty. I
10 appreciate the courtesy.

11 THE WITNESS: Thank you.

12 MR. O'CONNOR: Hi, Peter.

13 MR. SAGHIR: Hi.

14 EXAMINATION BY MR. SAGHIR:

15 Q. Bishop Hubbard, Mr. O'Connor was just asking
16 you questions about your calendar; correct?

17 A. Correct.

18 Q. To be clear, you were not reading from the
19 actual copy of the calendar; true?

20 A. In my testimony this morning?

21 Q. Correct.

22 A. Or earlier today?

23 Q. Correct.

1 A. No. I was reading from what the secretary and
2 I were able to gain from reading the handwritten
3 calendars that were available to us.

4 Q. And I want to show that to you. That's
5 Exhibit 8. If I could please put that up on the screen.
6 And when you take a look at the top of Exhibit 8 it
7 actually says "calendar of Bishop Emeritus Howard J.
8 Hubbard"; correct?

9 A. That's what it says, yes.

10 Q. So there's no question that this was created
11 after 1987; true?

12 A. This typewritten version was created within the
13 past month.

14 Q. When specifically was it created?

15 A. I don't have the exact date, but it was
16 sometime within the past several weeks.

17 Q. Who typed it up?

18 A. My secretary, Ginny Dailey.

19 Q. And who is Ginny Dailey? Is she your current
20 secretary?

21 A. No. She was my secretary probably for the last
22 ten years of my service as the ordinary in the Diocese
23 of Albany and she also then served as a secretary for a

1 year or two with my successor, Bishop Scharfenberger.
2 And then she retired and she became my secretary in
3 retirement to handle my correspondence that I receive on
4 a regular basis.

5 Q. Who was your secretary in November 1987?

6 A. November 1987? I think it was the same one
7 that was my secretary in 1977, a woman by the name of
8 Onna Pollock, who is deceased.

9 Q. When this Exhibit Number 8 was typed up, who
10 was reading the entries from the actual calendar?

11 A. I would think that that would have been my
12 secretary presently, Ginny Dailey. I think that's who.
13 Or myself. It was either one or the other.

14 Q. Who else was present when this calendar marked
15 as Exhibit 8 was being typed up?

16 A. Well, when it was typed up my secretary did it
17 from our ability to put this calendar together.

18 Q. My question is: Who was in the room when this
19 was being typed up?

20 A. As far as I know, nobody was in the room except
21 my secretary in her residence. I meet with her in her
22 residence.

23 Q. Okay. I'm going to direct your attention now

1 to Exhibit 7. Now, this is the actual calendar;
2 correct?

3 A. November 1987. Yes, this is the calendar from
4 which the typed notes were made.

5 Q. And it's a copy of the calendar; true?

6 A. True.

7 Q. Where is the original calendar?

8 A. It's someplace at the pastoral center. I don't
9 know.

10 Q. But the document marked here as Exhibit 7, the
11 actual calendar from November of 1987, was that
12 maintained and kept with the diocese?

13 A. Yes.

14 Q. Did you ever keep that in your personal
15 possession after you retired?

16 A. No.

17 Q. Directing your attention to November 29, 1987,
18 on this Exhibit 7. Do you see that?

19 A. November 29?

20 MR. COSTELLO: November or December?

21 MR. SAGHIR: This is November 29, 1987.

22 MR. O'CONNOR: Got you.

23 Q. It says "advent"; correct?

1 A. Yes.

2 Q. Please read the rest of the entries.

3 A. I'm having trouble reading them. I could read
4 it from the typewritten version, but I can't read them
5 here at this moment.

6 Q. Were the entries on this calendar made in ink
7 and pencil or just pencil?

8 A. I have no idea.

9 Q. Have you ever seen the original of this
10 calendar marked as Exhibit 7?

11 A. No. I mean, I've seen it before today, but I
12 hadn't seen it until a couple weeks ago.

13 Q. Taking a look at Thursday, December 17.

14 A. Yes.

15 Q. Read us the entries.

16 A. The 17th of November. Are you talking about
17 November or December?

18 Q. To be clear, please read us the entries for
19 December 17, 1987, which is marked as Exhibit 7.

20 A. It says "call was" -- and I can't read the rest
21 of it. Right now I can't read the 12:30. After that it
22 says "support group." And after that "Ironweed dinner
23 at the Palace Theater."

1 Q. And are you reading, sir, from Exhibit 7, the
2 calendar, or are you reading from the typed-up version?

3 A. I'm reading from the original version.

4 MR. O'CONNOR: You can show him. Peter,
5 do you want to look at it?

6 MR. SAGHIR: Yes. I have it up on the
7 screen. He's looking down, so I'm not sure
8 what he's looking at.

9 Q. And directing your attention, Bishop Hubbard,
10 if we could scroll to December 19, 1987.

11 A. Right.

12 Q. And looking at the calendar, read all the
13 entries there, please.

14 A. December 19, Saturday?

15 Q. Correct.

16 A. It says "11 o'clock liturgy." It says
17 "Rochester." And I can't read the last item on the
18 calendar.

19 Q. Taking a look at the calendars dated November
20 and December of 1987, does anyone's handwriting appear
21 on those calendars other than your secretary, Anna?

22 A. Onna, O-n-n-a. Not as far as I know.

23 Q. So to be clear, she's the one who made all of

1 these entries; true?

2 A. As far as I know.

3 Q. And she's deceased?

4 A. She is deceased, yes.

5 Q. When did she pass away?

6 A. Probably 15, 20 years ago.

7 MR. SAGHIR: You can take down the
8 exhibit. Thank you.

9 Q. You testified in response to a question by
10 Mr. O'Connor about complaints that you had received
11 about Mr. Kampfer. And you told us about him
12 rescheduling Ash Wednesday to a Monday to accommodate a
13 dog show and also about a parishioner who complained
14 that he was not being pastorally sensitive. Do you
15 recall that?

16 A. I do.

17 Q. But when I was questioning you a few days ago
18 you also told us that you had complaints of Gerald
19 Kampfer complaining about -- I'm sorry. You had
20 complaints about parishioners complaining about Gerald
21 Kampfer drinking to excess; true?

22 MR. O'CONNOR: Object to the form.

23 A. I know that he had issues with drinking. I

1 don't remember if I directly received complaints from
2 parishioners.

3 Q. But that was another complaint that you
4 received about Father Kampfer; true?

5 MR. O'CONNOR: Object to the form.

6 A. No. I'm not saying I received a complaint. It
7 came to my attention that he had a drinking problem. I
8 can't say I was informed of a complaint or from who it
9 originally came. All I can say is I was aware of the
10 fact that he was drinking to excess, and my
11 understanding is that he became part of the AA program.

12 Q. One of the things you've been testifying to is
13 that these calendars do not reflect all of the time that
14 you spent throughout your day; true?

15 A. Correct.

16 Q. There's a lot of unaccounted time; correct?

17 A. Yes. For example, that calendar would be given
18 to me at the beginning of the week. On Monday the
19 secretary may have received four calls for an
20 appointment that week, and that wouldn't be recorded in
21 this calendar.

22 Q. When you say you received a calendar at the
23 beginning of the week, what do you mean? What kind of

1 calendar?

2 A. She would type up a legible accounting of what
3 we see in the written form here.

4 Q. So to be clear, there's a whole set of
5 calendars that you were given during this time, back in
6 November and December of '87, that we don't even have
7 access to today; is that true?

8 MR. O'CONNOR: Object to the form.

9 A. That's true.

10 Q. Can we agree, sir, that to the extent you were
11 going to commit a crime such as sexually abusing a
12 child, that's not something you would put in your
13 calendar?

14 MR. O'CONNOR: Object to the form. Don't
15 answer that. I need a ruling on that, Peter.

16 BY MR. SAGHIR:

17 Q. Your personal appointments are certainly not
18 reflected in these calendars; correct?

19 A. Correct.

20 Q. Take a look real quick at Exhibit 8, please,
21 the typed-up version, to make it easier for everyone.

22 MR. SAGHIR: That's Exhibit 8. Thank you.

23 Q. And taking a look, if we scroll down to

1 December 10, it says "Thursday, December 10, 1987.
2 Public policy meeting all day." Do you see that?

3 A. Yes.

4 Q. What time did that meeting end?

5 A. Well, if I was going to a Siena game, it must
6 have ended before that.

7 Q. For clarity, I'm talking about Thursday,
8 December 10, 1987.

9 A. I'm sorry. Yes. I was looking at the previous
10 day. Excuse me.

11 Q. That's all right. What time did that meeting
12 end, that public policy meeting?

13 A. Usually around 3 o'clock.

14 Q. So assuming it was 3 o'clock, what did you do
15 that night?

16 A. I have no idea.

17 Q. Directing your attention to December 14.
18 Monday, December 14, 2:00 p.m. It says "Father Jude
19 Meade, office." Do you see that?

20 A. Yes.

21 Q. What time did that meeting end?

22 A. I would say probably 3:00, 3:30.

23 Q. Assuming that's true, what did you do that

1 night of December 14?

2 A. I have no idea.

3 Q. And directing your attention to December 17.

4 It reads, "At 1:00 p.m., support group Albany. At 6:30
5 p.m., Ironweed premier, Palace, Albany." Do you see
6 that?

7 A. Yes.

8 Q. With respect to that "Ironweed premier, Palace,
9 Albany," what time did that end?

10 A. I don't know what time it ended. I assume that
11 I stayed for the show, but that's an assumption. I
12 don't know what time it ended.

13 Q. Are you guessing when you say you stayed for
14 the show?

15 A. I assume that I stayed for the show, but yes,
16 I'm guessing.

17 Q. I don't want you to guess. So tell us, what
18 did you do that night, Thursday, December 17, after that
19 Ironweed premier?

20 A. I have no idea.

21 MR. SAGHIR: I have no further questions
22 at this time. Thank you.

23 MR. O'CONNOR: Cynthia, we're done? We're

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all done?

MS. LaFAVE: Well, you know, we're thinking we should do another couple of hours.

MR. O'CONNOR: Goodbye. Have a great weekend, everybody.

MR. SHERECK: Going off the record at 4:20.

(The proceedings in the above-entitled matter were concluded.)

1 STATE OF)

2 COUNTY OF) ss.:

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4

5 I have (heard) read the foregoing record
6 of my testimony taken at the time and place noted in the
7 heading thereof and do hereby acknowledge it to be a
8 true and correct transcript of the same.

9

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11

HOWARD J. HUBBARD

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13

14 Sworn to before me this

15 ____ day of _____, 2021

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Notary Public

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C E R T I F I C A T E

I, David Mayo, a court reporter and notary public, do hereby certify that the foregoing is a true and accurate transcript of the proceedings reported stenographically by me in the above matter.

Dated: 5-17-21

David Mayo

1 I, _____, have read the transcript of
2 my testimony and would like the following changes:

3	PAGE	*	LINE	*	CHANGE FROM	*	CHANGE TO
4	-----	*	-----	*	-----	*	-----
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20 Subscribed to and sworn to before me
21 this ___ day of _____ 2021

22 _____

23 Notary Public

Signature