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R. SETH WILLIAMS
District Attorney

February 27, 2012

The Honorable M. Teresa Sarmina
258 City Hall
Philadelphia, PA 19107

Re: Commonwealth v. Edward Avery, CP-51-CR-0003527-2011
Commonwealth v. James Brennan, CP-51-CR-0003528-2011
Commonwealth v. William Lynn, CP-51-CR-0003530-2011

Dear Judge Sarmina:

Enclosed is the Commonwealth's Response to Defendant William Lynn's Motion to Dismiss, which was filed today.

Respectfully yours,

Mariana C. Sorensen

Mariana C. Sorensen
Assistant District Attorney
215-686-8754

cc: Michael Wallace, Esquire
William Brennan, Esquire
Thomas Bergstrom, Esquire
Jeffery Lindy, Esquire

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
TRIAL DIVISION - CRIMINAL SECTION

COMMONWEALTH OF PENNSYLVANIA	:	
v.	:	**CP-51-CR-0003527-2011**
EDWARD V. AVERY	:	
COMMONWEALTH OF PENNSYLVANIA	:	
v.	:	**CP-51-CR-0003528-2011**
JAMES BRENNAN	:	
COMMONWEALTH OF PENNSYLVANIA	:	
v.	:	**CP-51-CR-0003530-2011**
WILLIAM J. LYNN	:	

COMMONWEALTH RESPONSE TO DEFENDANT WILLIAM LYNN'S MOTION TO DISMISS

R. SETH WILLIAMS, District Attorney, through his undersigned assistants, Chief of Special Investigations PATRICK BLESSINGTON and MARIANA SORENSEN, respectfully responds to defendant William Lynn's Motion to Dismiss.

Introduction

In the middle of jury selection, Defendant Lynn has filed what he calls a "Motion to Dismiss." The filing, which might more appropriately be entitled a press release, in fact presents no legal basis for relief, but spews false information that serves no purpose other than to pollute the pool of jurors. Defendant has used the Philadelphia

Archdiocese's recent, belated production of documents as an excuse to present to the public and to potential jurors his newly fashioned defense – a combination of the dead-guys-did-it and the I-was-only-following-orders defenses – without having to present evidence or be subject to perjury sanctions.

The newly turned-over documents, which were found in a safe in the Office of Clergy after Lynn left that office, are in fact the equivalent of a smoking gun for the prosecution case against Lynn. They demonstrate that Lynn had determined in early 1994 that co-defendant Edward Avery was "guilty" of sexually abusing a child, but still chose to enable his continued ministry to children. They show Lynn to be *the* most active participant in a well-orchestrated conspiracy among Archdiocese officials to cover up the sexual crimes of priests and to keep known child molesters in active ministry. They provide strong evidence that Lynn obstructed justice and committed perjury before the Grand Jury in 2004.

The recent disclosure of these documents has forced Lynn to abruptly change strategy. He now agrees with the Commonwealth about the existence of a conspiracy, writing: "As the newfound memorandum proves, the District Attorney's Office is entirely correct in its belief and assertion that an overarching Archdiocesan conspiracy existed in Philadelphia in the 1990s." He names as conspirators the officials he worked with over his 12-year tenure as Secretary for Clergy – Cardinal Anthony Bevilacqua, Bishop Edward Cullen, Bishop Joseph Cistone, and Monsignor James Molloy. (Cardinal Bevilacqua and Msgr. Molloy are, of course, dead.) Lynn's defense is now that he was not a party to their conspiracy. But that defense is built on false factual representations made in the face of overwhelming documentary evidence to the contrary.

Given that defendant's alleged motion for dismissal is based on fabricated evidence that is not of record, this Court should demand that counsel, or someone with knowledge of the facts, sign a verification statement pursuant to Pennsylvania Rule of Criminal Procedure 575(A)(2)(g)[1] before considering the motion.

Defendant has offered no grounds upon which a dismissal could be warranted. Indeed, his accusations against his former colleagues and superiors have done nothing but bolster the Commonwealth's case by nullifying possible defenses and excuses he has proffered up until now. Clearly defendant has abandoned any claim that facilitating his co-defendants' access to victims resulted from an innocent error or aberrational lapse rather than from deliberate policies that knowingly endangered children. A list of abusive priests that Cardinal Bevilacqua in 1994 ordered shredded evinces the guilty knowledge of the danger to minors that Lynn himself catalogued and shared with his colleagues. Defendant has also obviously abandoned any claim that his oath of obedience and loyalty to his Bishop, or even church law, required him to protect the good name of his fellow priests no matter what horrendous things they had done. Now that it is defendant's own interests on the line, rather than the welfare of the children he put at risk, that oath of obedience and those canon laws are all of a sudden not so immutable.

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[1] Pa. R. Crim. P. 575 (A)(2) states:

> (g) If the motion sets forth facts that do not already appear of record in the case, the motion shall be verified by the sworn affidavit of some person having knowledge of the facts or by the unsworn written statement of such a person that the facts are verified subject to the penalties for unsworn falsification to authorities under the Crimes Code § 4904, 18 Pa.C.S. § 4904.

The most incriminating newly discovered evidence was found in a safe controlled by defendant Lynn.

Defendant's recitation of the "facts" highlights the alarming memo that ordered the shredding of an incriminating list of priests, but it glosses over the import of documents found hidden in a safe in the Office of Clergy's file room, which was under defendant's control throughout Grand Jury I's investigation. According to statements given by the staff of the Clergy Office and by Lynn's successor as Secretary for Clergy, now-Bishop Timothy Senior, the safe in the 10th-floor file room was under the auspices of the Secretary for Clergy during Lynn's tenure and the first year of Bishop Senior's tenure. It was not opened by anyone after Lynn left the office in June 2004, because no one knew the combination or had a key. Senior said that he did not even notice the safe, and the other staff said that they believed it was empty. In early 2006, as part of an effort to straighten up the file room, the office manager for the Office for Clergy, Louise Sullivan, asked Senior's permission to get a locksmith to open the safe so they could check for contents before throwing the safe out. In February 2006, the safe was broken open. According to the testimony of Archdiocese General Counsel Timothy Coyne before this Court on February 16, 2012, and the statement of Senior, a gray folder containing documents was found inside the safe.

All of the documents in the gray folder dated to 1994 or earlier. One of the documents harbored in the 10th-floor safe was the list of accused priests prepared by Lynn, along with his assistant, now-Monsignor James Beisel. The safe contained handwritten and typed versions of this list, both prepared in February 1994, based on a review of all of the secret archive files (also referred to as "file 3's") of priests in the Philadelphia Archdiocese. The list divided accused priests into three categories, finding:

(1) three "diagnosed pedophiles;" (2) twelve "Guilty of Sexual Misconduct with Minors;" and (3) nineteen with "Allegations of Sexual Misconduct with Minors with no Conclusive Evidence." [The typed list of Archdiocesan priests and the February 18, 1994, cover memo are attached as Exhibit 1.]

The document confirms that Lynn had thoroughly reviewed the secret archives and was intimately acquainted with priests' records of sexual misconduct allegations before he accommodated or recommended assignments that kept predators in trusted positions with access to minors. The list of the "guilty" included priests who were still pastors, associate pastors, and otherwise active priests. On this very document, Lynn himself in 1994 categorized defendant Avery as "Guilty of Sexual Misconduct with Minors."

Defendant Lynn's "motion" is replete with false representations. The new evidence clearly demonstrates that:

1. Lynn did not create the incriminating list in order to help root out predator priests; he did it in the course of helping to devise the Archdiocese's policies for defeating potential lawsuits brought by victims.

Ignoring the highly incriminating nature of the list prepared by Lynn and the fact that it demonstrates Lynn's knowledge of Avery's dangerous propensities, defendant asserts in his motion:

> He undertook this project [inventorying the secret archives] on his own for the benefit of the faithful. The case of Father Dux spurred Monsignor Lynn to action. When allegations against Father Dux were brought to Monsignor Lynn's attention, he cross-referenced Dux's name with the secret archives and learned that Dux had a history of abuse. Concerned that the secret archives contained information about numerous other priests in ministry, Monsignor Lynn wanted to do more. Though never directed by Cardinal

> Bevilacqua to go through the entire secret archives, Monsignor Lynn felt it was the right thing to do. He wanted the Archbishop of Philadelphia to know about his findings and mandate follow-up actions. (Motion at p. 2.)

Lynn's assertion of such noble motives is contradicted by his prior actions, by the other documents found along with the list in the safe, by Lynn's actions after preparing the list, and by his former assistant Beisel, who told a detective from the District Attorney's office that he and Lynn were "directed" to make the list.

With respect to his prior actions, Lynn had been Secretary for Clergy for a year and a half by February 1994. For a year before that, he had assisted Msgr. Molloy in handling sexual abuse allegations. During those two and a half years, he had fielded complaints against Fathers Nicholas Cudemo, Stanley Gana, Robert Brennan, John Cannon, Peter Dunne, and Joseph Gausch, among others. All of those priests, like Dux, had already-existing secret archive files, yet fresh complaints about them never spurred Lynn to inventory the secret archives "for the benefit of the faithful."

The statement of facts proffered in defendant's motion and in his grand jury testimony is also contradicted by recently produced documents. It is clear from these documents, which were found in the secret archives by the paralegal of the Archdiocese's current counsel, that in early September 1993 Cardinal Bevilacqua "approved that high priority now be given to a comprehensive and integrated development of all issues related to file 3 concerns." He charged Lynn and Molloy with developing a policy "to govern the location, storage, classification, and security of the physical and electronic files for these matters." [Exhibit 2.] A memorandum from the executive director of the Pennsylvania Catholic Conference in March 2002 spelled out the intent behind the "File 3" project assigned to Lynn:

> In 1994, at the direction of Cardinal Bevilacqua and other Pennsylvania Bishops, an ad hoc committee of canonists was formed to examine how the dioceses of Pennsylvania can better protect their secret archives from civil law discovery. [Exhibit 3.]

That Lynn's real motivation in reviewing the secret archives in 1994 was to further Bevilacqua's goal of protecting the Archdiocese from civil liability is evidenced by the other documents found in the Clergy Office safe. In the same thin, gray folder that held the list of 35 "guilty" and accused abusive clerics was a January 10, 1994, letter addressed to the Archdiocese from a reporter for Time magazine. The letter posed questions about the scandal of pedophile priests within the Catholic Church. At the bottom of the first page (which is partially cut off), the letter references "Attorney Stephen Rubino," who had recently been retained by one of Fr. Peter Dunne's victims. [Exhibit 4.] The next day, on January 11, *The Philadelphia Inquirer* ran a story about the Diocese of Camden, New Jersey, entitled: "Sources: Diocese Paid $3.2 Million to Settle Sex Suits / The Abuse, said the South Jersey Accusers, was Unspeakable, Fifteen were Told to Keep it That Way. [Exhibit 5.] The article reported:

> The settlements in Camden are part of a growing pattern of payouts by Roman Catholic dioceses throughout the nation. Stephen C. Rubino, a lawyer who represented many of the complainants in the Camden case, estimates that as much as $500 million has been spent to settle sexual abuse cases across the country. Rubino is chairman of the sexual abuse litigation unit of the Association of Trial Lawyers of America.

The *Inquirer* article was not in the gray folder, but notes about Rubino and his lawsuits were. Beisel, Lynn's assistant in the Clergy Office in 1994, identified his (Beisel's) handwriting on those notes, dated "1/18/94," a week after the *Inquirer* article was published.

The notes [attached as Exhibit 6] appear to record a meeting convened to map out a strategy for dealing with lawsuits brought by victims of sexual assaults by Archdiocese priests. The notes list the features of "class action" suits for "negligence" and "personal injury claims": "commonality ... common ? of law/fact ... numeracity ... typicality... superior vehicle." They record a discussion about Rubino, describing him as "tenacious" but disparaging his legal strategy and abilities. Beisel recorded: "He has an agenda, anti-institutional, authoritarian" and "intent on trying case in press/not court." Lynn's assistant wrote: "research travel" and noted the attorney's "bad divorce." He recorded someone at the meeting calling the attorney a "legal lightweight."

Ways the Archdiocese could "Respond" were mapped out under headings labeled "P.R." and "legal." Under legal, Beisel wrote "file." Under P.R. was: "Go to Media." Beisel then wrote "(7 priests)" and under "strategy" he listed:

position Church open

demonstrate to parents new procedures/policies
unlikelihood

statistics re: boy scouts
teachers

discredit Rubino
filing/counter filing

Way to speed up guidelines
Announce policies

Found along with Beisel's notes in the gray folder was an article about Rubino, with "Recon" written by Beisel at the top – presumably referring to the practice of digging up information on an opponent.

One day after the meeting recorded in Beisel's notes, the list of 323 secret archive files was printed out. The printout, dated 1/19/94, was marked up with circles, checks, and other notations Beisel identified as Lynn's. The printout was found in the folder, along with Lynn's list of 35 accused and "guilty" priests and Beisel's notes regarding strategies for dealing with lawsuits. Nowhere in the folder – or elsewhere – are there any memos, recommendations, or notes to support Lynn's assertion that his intent was to root out the abusers.

To the contrary, documents turned over recently by the Archdiocese show that the actions Lynn took after compiling his list were hardly consistent with the motion's portrayal of him as an intrepid protector of children. Two of the projects Lynn undertook at the behest of his superiors in February and March 1994 were to devise a plan for "destruction of records" and a policy regarding payments for "counseling assistance" for victims. Lynn's recommendation for destruction of priest files, including secret archive documents, was to destroy them – one year after a priest died. The counseling assistance plan that Lynn devised, with the help of legal counsel, recommended calibrating the level of payments on various factors – including whether the offense took place more than five years before it was reported. Five years was the statute of limitation for rape. In the margin of the draft proposal someone noted that the Archdiocese should make victims sign an "agreement" before receiving counseling assistance. [Exhibit 7.]

Following the January 18, 1994, strategy meeting recorded in Beisel's notes, Lynn also worked on revising a "Draft Policy Regarding Alleged Sexual Misconduct by Clerics Involving Minors" – clearly in accordance with the stated public relations strategy to "speed up guidelines" and "announce policies." But glaringly absent – after Lynn

documented that many accused and "guilty" sexual offenders were in active ministry – was any movement of priests out of assignments where they had access to children. Lynn acknowledged in his testimony before the Grand Jury in February 2004 that he did not remember taking any action or making any recommendations to change any of the priests' assignments after cataloguing their offenses (NT 2/27/04 at 57-58). [Exhibit 8.]

In all of these projects, Lynn worked closely with the men he now concedes conspired to cover up sexual abuse of minors by Archdiocese clergy – Cardinal Bevilacqua, Msgr. Molloy, Bishop Cullen, and Bishop Cistone. Lynn was not a low-level or peripheral player. As Secretary for Clergy, not only did he make recommendations for priest assignments that were almost uniformly approved, he was also involved in every high-level policy decision about how to handle the Archdiocese's predator-priest problem. The documentary evidence confirms, moreover, that Lynn like his colleagues viewed this "problem" as a question of how to protect the church from unwelcome publicity and legal liability, not how to protect children.

2. Lynn did not "alert" the grand jury to the list of predators that he created; it was hidden in a safe in the Office of Clergy's file room when Lynn testified that he could not find it.

As part of his re-invention as champion of exposing predators and protecting innocents, defendant claims that he "alerted" the grand jury to the existence of the list of 35 abusive priests (Motion at p. 2). This is a huge stretch. The list was mentioned in a single document in one priest's secret archive file. That this file was turned over to the grand jury in response to a subpoena hardly constitutes "alerting." It is likely that no one at the Archdiocese remembered the reference to the list that was hidden deep in Fr. Dux's file. It was the grand jury that noticed the reference to the list – and that it was not

attached to the document as it should have been. Defendant conceded as much in his Grand Jury testimony:

> Q. So do you recall what it was that was so significant about the Dux case?
>
> A. Well, what I recall about - the reason I recall I connect this with Dux going through the files is because actually there was a document that you had asked for or the district attorney's office asked for, and I looked for that document and I can't find it. But obviously I went through the files at that time so I connected it with Dux. (NT 2/27/04 at p. 53)

Lynn cannot seriously claim that he helped the grand jury discover the list. In fact, he told the grand jury, under oath, that he could not find the list. The evidence produced recently by the Archdiocese indicates that, at the time Lynn testified, the list was in a safe under his control in the Office for Clergy's file room. By process of elimination (the Clergy Office staff, Msgr. Beisel, and Bishop Senior have all said that they did not have access to the safe), the evidence points to Lynn as the person who placed the list in the safe and then claimed he could not find it.

Lynn now faults other Archdiocese officials for not volunteering what they knew about the shredding of the list in 1994 when they were asked about a statement, issued by the Archdiocese in 2002, that referred to 35 accused priests. But Lynn was asked repeatedly for the list itself and testified that he could not find it. That testimony is highly suspect now that the list has been found in a safe under Lynn's control.

3. The Commonwealth has never accused defendant of failing to pass the list to his superiors.

Defendant asserts: "Monsignor Lynn has been accused by the Commonwealth for failing to send his list up the chain of command and misleading the Commonwealth about

its existence and whereabouts." (Motion at pp. 2-3) This is an absurd statement. A memo that Lynn wrote on February 18, 1994, to which he attached the list, was addressed to Molloy and approved by Bevilacqua. It has always been the Commonwealth's contention that all of Lynn's superiors – and Beisel – saw the list.

4. Molloy did not shred all known copies of defendant's list of 35 predators; he specifically noted that a copy would be retained by the Office for Clergy.

Defendant asserts: "It now comes to light that, on Cardinal Bevilacqua's direction, Monsignor Molloy shredded all known copies of the list of 35 on March 22, 1994." (Motion at p. 3.) This assertion is refuted not only by the existence of the list, but also by Molloy's note:

> The action was taken on the basis of a directive I received from Cardinal Bevilacqua at the Issues Meeting of 3-15-94 (excerpt attached) and with the understanding that, as a result, the information will not be housed in the Office of the Vicar for Administration but could be obtained, if needed, from the Office for Clergy.

(Exhibit B to Defendant's Motion.)

In the face of Molloy's clear record that a copy of the list would not be "housed in the Office of the Vicar for Administration," but that the Office for Clergy's copy of the document would be retained, defendant writes: "Furthermore, no copy of this document was to be housed anywhere in the Archdiocese, including the Office for the Clergy." Defendant attempts to explain this blatant contradiction by insisting that what Molloy meant was that Lynn could re-create the list from information in the Office for Clergy – even though the information contained in the list was housed in the secret archives – on the 12th floor, where the Vicar's Office was.

Molloy clearly listed the copies that were shredded: (1) the original sent to him for the file of the Office of the Vicar for Administration; (2) a copy Molloy made for himself for discussion at the Issues meeting; (3) Cardinal Bevilacqua's copy; (4) Bishop Cullen's copy. Obviously missing from this shred list is the copy that Lynn would have kept for the Office for Clergy. That is why Molloy noted that one copy remained in the Office for Clergy.

5. Lynn could not have been unaware if his co-conspirators attempted to obstruct justice by shredding their copies of Lynn's list and hiding his.

Defendant asserts: "It is beyond doubt that Monsignor Lynn was completely unaware of this act of obstruction." In support of this claim, defendant's counsel attempt to testify for him – with no supporting evidence, no verification of truthfulness, no cross-examination, and no penalty for lying. Faced with documentary evidence that Lynn attended the Issues meeting of March 15, 1994 – at which Bevilacqua ordered the shredding – the attorneys say that defendant merely brought some case files, provided some background, answered some questions, and left. They say that it was after defendant delivered the files and left that the shredding order was issued. How they – or even Lynn – would know when in the meeting the shredding directive was issued is not explained.

The documents indicate that defendant's version of his participation in the March 15 Issues meeting is understated. The number one agenda item at the March 8, 1994, Issues meeting had been: "Set a date to meet with Father Lynn re: Material in the secret archives." Notes from the March 8 meeting record that Bevilacqua arranged to meet with Lynn as part of the March 15 Issues meeting. He ordered that the meeting be relocated

from the Archbishop's residence to his office at the Archdiocese's Office Center in order to accommodate Lynn's attendance. Molloy was instructed to tell Lynn to join the meeting at 1:00. Those arrangements do not support Lynn's contention that he and his report were merely incidental to the meeting. The excerpt from the March 15 Issues meeting, under the heading "Review with Father Lynn: Material in secret archives," records that Bevilacqua and Cullen gave their copies of the list to Molloy to shred. There is no mention that Lynn was not present when this took place. [Exhibit 9.]

Defendant would have us (or potential jurors who learn about his motion from news accounts) believe that he kept no official copy for Office for Clergy files of the list of abusive priests that he himself prepared, and no copy to bring with him to his meeting with the Cardinal to discuss the list. Further, we are to believe that Molloy would feel confident that Lynn had no remaining copies of the list without even consulting him or asking for his copies so they could be destroyed.

In fact, the Office for Clergy's copy of the list was not destroyed. It was secreted in a safe in the Office for Clergy, along with Lynn's and Beisel's handwritten notes. Defendant's attorneys assert, either with knowledge that could come only from their client or with no knowledge at all, that Molloy hid the documents in the Clergy Office's safe. But to do so, Molloy would have had to ask Lynn and Beisel for all of their handwritten notes, and for Beisel's notes from the January 18, 1994, strategy meeting, and for other Clergy Office documents that were in the safe. It is not possible that Molloy could gather up and hide – in the Clergy Office's own safe – all of the Clergy Office's copies of the list without Lynn's assistance.

There is convincing evidence in any case that Molloy did not do this. Molloy, who was a meticulous record-keeper (as evidenced by his *witnessed* shredding memo), wrote detailed exit memos to Bishops Cullen and Cistone. In them he thoroughly documented every safe and filing cabinet in which "file 3" materials were kept [Exhibit 10]. If Molloy had left any documents behind in a safe, they would have been included in these memos.

Finally, Lynn's own words – in his February 18, 1994, cover memo to the list – demonstrate that he was fully cognizant that he and his superiors were trying not to create a paper trail as they discussed pedophile priests being kept in active ministry. Lynn explained in his memo: "Only basic information is contained in this report so as not to have too much in writing on this matter." [Exhibit 1] This statement is fully consistent with subsequent efforts to shred and hide copies of the document that showed these Archdiocese leaders – Bevilacqua, Cullen, Molloy, and Lynn – intentionally choosing to leave known predators in active ministry and then strategizing about how to avoid legal fallout when the predators foreseeably harmed children.

6. Molloy did not commit perjury when he testified that he did not shred documents for the purpose of obstructing justice; justice was obstructed when the copy of the list that was not destroyed was secreted in a safe and not turned over to the Grand Jury.

Molloy testified before Grand Jury I that he did not "shred any secret archive documents for the purpose of obstructing justice." While that answer could certainly be construed as misleading, it is not technically a lie. And Lynn knows well that Molloy spoke very carefully. Lynn's notes of interviews that he conducted with Molloy are filled with Molloy's legalistic parsing of words to create a misimpression while not technically

lying. Anyone who regularly uses the phrase "not diagnosed a pedophile" understands Molloy's language. Molloy himself admitted during his testimony that the Archdiocese officials all spoke what he called "meta-language" – meaning one thing while saying something else.

Parsed in this way, there are loopholes that make Molloy's testimony not a lie. First, the list of accused and "guilty" priests was not technically a secret archive document, since it was never housed in the secret archives. More fundamentally, the fact that Molloy made sure one copy was retained supports his assertion that he did not intend to obstruct justice by shredding the extras.

What would constitute obstruction – and possible perjury – would be Lynn, for example, testifying that he had looked everywhere for a document being requested by the grand jury but had been unable to find it – knowing all the while that it was locked in a safe in his file room. The newly discovered evidence certainly supports such a factual finding. It is also significant that Lynn's purported search for the document did not, as he acknowledged to the Grand Jury, include asking Molloy, Cullen, or Bevilacqua whether any of them they still had their copies (N.T. 2/27/04, pp. 60,69). That he did not even ask them means either that he was not trying to find the document or that he knew their copies had been destroyed.

The most recent production of documents – received last week – further bolsters a charge that Lynn obstructed justice. A paralegal for the Archdiocese's new outside counsel found, in an unlocked drawer in the Clergy Office file room, a number of diskettes. They contained several memos relating to various predator priests – and one contained an electronic version of Lynn's typed list of abusive priests. Unless defendant

was completely sloppy and haphazard in his handling of confidential secret archive materials, he had to know that the list was preserved on a diskette in his office, and perhaps even on his computer.

7. The Commonwealth never granted immunity to Molloy or Cullen.

Perhaps the most irresponsible of defendant's falsehoods is the bald, and completely untrue, assertion that the Commonwealth granted immunity to Cullen and Molloy (Motion at p. 12). Had these witnesses before the Grand Jury been granted immunity, it would have been part of the record of their testimony. Molloy did not even bring an attorney with him when he testified three times. Neither witness was granted immunity.

Defendant's pretense of a legal argument underscores the mendacity of the motion to dismiss.

Defendant's citation to a single, inapposite case to support his motion is further evidence, if any is needed, that this motion is not a serious legal document. It reflects a transparent attempt to circumvent the Court's gag order to broadcast false information. The one case cited, *In re Investigating Grand Jury, Appeal of Krakower*, 459 A.2d 304 (Pa. 1983), dealt with an attempt by the Commonwealth to use a grand jury for the sole purpose of issuing a presentment without needing or using any of the grand jury's powers. That the presentment of a prior grand jury had been quashed because it was based on inaccurate information was incidental to the holding and not at issue in the case.

Defendant's inability to find any relevant case law is not surprising. His "argument" that charges should be dismissed because new evidence – evidence that

bolsters the case against him – was unavailable to the Grand Jury at the time that it issued its presentment is ridiculous, and he knows it. At least his lawyers do.

Much of defendant's motion is spent accusing others – Bevilacaqua, Cullen, Cistone, and Molloy – of crimes including obstruction and perjury. It is possible that the new evidence could lead to new charges – including new charges against defendant. But whether others are charged now or in the future is irrelevant to the charges for which defendant is now on trial.

Defendant has used this phony legal motion to falsely paint himself in a sympathetic light – as the innocent pawn of a conspiratorial clique that did not include him. He has thereby unfairly taken advantage of rules that prohibit the Commonwealth from fairly responding.

WHEREFORE, the Commonwealth respectfully requests this Court to deny defendant Lynn's Motion to Dismiss.

Respectfully Submitted,

R. SETH WILLIAMS

BY: Mariana Sorensen
Mariana Sorensen
Assistant District Attorney

Patrick Blessington
Chief, Special Investigations

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

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WILLIAM J. LYNN	:	

VERIFICATION

The undersigned hereby verifies that the facts set forth in the foregoing motion are true and correct to the best of my knowledge, information, and belief. This verification is made subject to the penalties for unsworn falsification to authorities under 18 Pa.C.S. § 4904.

Mariana Sorensen

Mariana Sorensen
Assistant District Attorney
Special Investigations Unit
(215) 686-8754

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WILLIAM J. LYNN	:	

CERTIFICATION OF SERVICE

I, Mariana Sorensen, Assistant District Attorney, hereby certify that on February27, 2012, I mailed, faxed, and/or emailed a copy of the foregoing motion to:

For William Lynn

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Mariana Sorensen

Mariana Sorensen
Assistant District Attorney
Special Investigations Unit
(215) 686-8754

EXHIBIT 1

CONFIDENTIAL

OFFICE OF THE SECRETARY FOR CLERGY

FROM THE DESK OF: Reverend William J. Lynn

TO: Reverend Monsignor James E. Molloy
Assistant Vicar for Administration

DATE: February 18, 1994

RE: Materials in Secret Archives

Father Beisel and I reviewed the 323 files that are presently stored in the Secret Archives. Attached is a list of priests who have been guilty of or accused of sexual misconduct with a minor according to the file material. We were very literal in our reading of the files in order to be as accurate as possible with this list.

From our review: a) three priests have been diagnosed as pedophiles; b) twelve priests have been either found guilty or admitted guilt of sexual misconduct with a minor; c) twenty priests have had allegations of sexual misconduct with minors made against them with no conclusive evidence to prove guilt. Only basic information is contained in this report so as not to have too much in writing on this matter. Also attached is a listing of extern priests who fit these categories and whom the Archdiocese has some awareness. The list of externs is provided to complete the picture.

Under separate cover, I will be making recommendations about the other files presently stored in the secret archives. Most have to do with alcoholics or priests who left the priesthood.

Of those listed on the attached sheets, my immediate concern is Father James Dux. Recently, I had a telephone call where the caller said that he had allegations to make against Father Dux which dated back some twenty years. I offered to meet with him. The caller said he was not sure of his schedule and would get back to me. To date, I have not heard from him. Father Dux will be seventy-two years old in November, 1994 and could be offered retirement.

RECOMMENDATION:

1. That the Secretary for Clergy meet with Father Dux, explain to him the atmosphere of our times regarding these matters,and offer him retirement at Villa Saint Joseph in Darby at the next available opening.

Approved
2/24/94

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FILE COPY

REPORT FROM THE SECRETARIAT FOR CLERGY

DIAGNOSED PEDOPHILE

1. **REVEREND JAMES J. BRYSKI** (1977) EXIIT IN 1985

   - activity occurred more than five years ago

2. **REVEREND NICHOLAS V. CUDEMO** (1963) RESTRICTED FACULTIES
   LIVING WITH RELATIVES

3. **REVEREND PETER J. DUNNE** (1954) NO OFFICIAL ASSIGNMENT

   - activity occurred more than five years ago
   - encouraged to seek laicization
   - no response to the request for laicization at this time
   - living on his own in his private residence

February 18, 1994

CONFIDENTIAL

FILE COPY

REPORT FROM THE SECRETARIAT FOR CLERGY

GUILTY OF SEXUAL MISCONDUCT WITH MINORS

1. **REVEREND EDWARD V. AVERY** (1970) CHAPLAIN, NAZARETH HOSPITAL
RESIDENT, ST. JEROME

- alcholism and action with same minor three times
- action occurred more than five years ago

2. **REVEREND PASQUALE R. CATULLO** (1963) PASTOR
ANNUNCIATION B.V.M.

- sexual relationship with a high school junior (1968-69)
- self reported, no complaint issued, requested transfer

3. **REVEREND JAMES M. DUX** (1948) ASSOCIATE PASTOR
SAINT JOHN THE BAPTIST

- diagnosed in 1965 as sexually deviated and this problem is deep-rooted and of chronic duration.
- sexual advances (kissing) teenage boys reported
- pornography
- action occurred more than five years ago

4. **REVEREND FRANCIS J. GALLAGHER** (1973) ASSOCIATE PASTOR
IMMACULATECONCEPTION,
JENKINTOWN

- alcoholism and solicitation of adult males
- in psychological evaluation, self disclosure of mutual masturbation with two adolescent boys with whose family Father had a personal friendship
- no complaints ever filed.

5. **REVEREND JOSEPH GAUSCH** (1945) RETIRED
LIVING IN CAPE MAY, NJ

- sexual activity with young men
- actions occurred more than five years ago

6. **REVEREND RICHARD JONES** (1963) INACTIVE
ENCOURAGED TO SEEK LAICIZATION
LIVING IN FLORIDA

- files indicate actions with one minor (17 years of age) and adult males.
- actions occurred more than five years ago

7. **REVEREND RAYMOND O. LENEWEAVER** (1962) EXIIT IN 1980

- in 1968 admitted sexual acts with high school boys
- actions occurred more than five years ago.

8. **REVEREND JOHN J. MURRAY** (1947) RETIRED

- in 1992, fondled a teenage girl while under the influence of alcohol

9. **MONSIGNOR RICHARD T. POWERS** (1963) PASTOR
INCARNATION OF OUR LORD

- had a sexual relationship with a seventeen year old girl in Caracas, Venezuela while with the Society of St. James
- actions occurred more than five years ago

10. **REVEREND MARTIN J. SATCHELL** (1993) HEALTH LEAVE
VILLA ST. JOHN VIANNEY,
DOWNINGTOWN

- self-reported sexual contact with teenage boys

11. **REVEREND CHARLES SIEGLE** (1953) DECEASED

- sexual contact with boys
- actions occurred more than five years ago

12. **REVEREND ALOYSIUS H. VATH** (1940) DECEASED

- sexual acts with young boys over a period of eighteen years
- actions occurred more than five years ago

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13. **REVEREND THOMAS J. WISNIEWSKI**	(1974)	STAFF, TRIBUNAL RESIDENT, ST JUSTIN NARBERTH

- sexual contact with a teenage boy over the period of three years (1984-1987)

02-18-94

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REPORT FROM THE SECRETARIAT FOR CLERGY

ALLEGATIONS OF SEXUAL MISCONDUCT WITH MINORS
WITH NO CONCLUSIVE EVIDENCE

1. REVEREND MICHAEL C. BOLESTA	(1989)	ASSOCIATE PASTOR ST. AGATHA/ST. JAMES
2. REVEREND ROBERT L. BRENNAN	(1964)	ASSOCIATE PASTOR RESURRECTION OF OUR LORD
3. REVEREND RAYMOND CAHILL *	(1947)	DECEASED
4. REVEREND JOHN A. CANNON *	(1948)	CHAPLAIN SAINT JOSEPH HOME HOLLAND
5. REVEREND RICHARD D. DOLAN *	(1962)	EXIIT
6. REVEREND JOHN C. DOUGHERTY *	(1945)	ASSOCIATE PASTOR ST. BARTHOLOMEW
7. REVEREND STANLEY M. GANA * +	(1970)	PASTOR OUR MOTHER OF SORROWS BRIDGEPORT
8. MONSIGNOR JOHN E. GILLESPIE *	(1953)	PASTOR OUR LADY OF CALVARY
9. REVEREND JAMES T. HENRY *	(1964)	ASSOCIATE PASTOR SAINT PATRICK, NORRISTOWN
10. REVEREND DEXTER A. LANCTOT +	(1976)	FACULTIES RESTRICTED RESIDENT SAINT CATHERINE OF SIENA, HORSHAM
11. REVEREND JOSEPH F. McCAFFERTY	(1961)	CHAPLAIN SAINT MARY'S MANOR LANSDALE

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12.	REVEREND JAMES J. McGINNIS	(1978)	ASSOCIATE PASTOR SAINT JOSEPH COLLINGDALE
13.	REVEREND JAMES E. McGUIRE *	(1970)	ASSOCIATE PASTOR ST. IGNATIUS YARDLEY
14.	REVEREND RICHARD J. McLOUGHLIN * +	(1969)	ASSOCIATE PASTOR SAINT BEDE HOLLAND
15.	REVEREND JOSEPH M. McKENZIE *	(1951)	DECEASED
16.	REVEREND JOHN H. MULHOLLAND *	(1965)	ASSOCIATE PASTOR SAINT FRANCIS OF ASSISI, NORRISTOWN
17.	REVEREND JOHN D. REARDON * +	(1973)	RESIDENT PRESENTATION B.V.M. WYNNEWOOD
18.	MONSIGNOR CHARLES J. SCHAEFLEIN *	(1949)	CHAPLAIN MOUNT NAZARETH
19.	REVEREND DAVID C. SICOLI	(1975)	PASTOR OUR LADY OF HOPE
20.	REVEREND JOSEPH W. THOMAS *	(1955)	RESIDENT ARCHDIOCESE OF SAN FRANCISCO
21.	REVEREND FRANCIS X. TRAUGER	(1972)	ASSOCIATE PASTOR SAINT MICHAEL THE ARCHANGEL LEVITTOWN

*** indicates alleged action took place over five years ago**

+ indicates inquiry is still ongoing

February 18, 1994

EXHIBIT 2

FILE COPY

OFFICE OF THE VICAR FOR ADMINISTRATION

FROM THE DESK OF:

REVEREND MONSIGNOR JAMES E. MOLLOY

TO: Reverend William J. Lynn
Secretary for Clergy

DATE: 04 October 1993

ITEM: Excerpt from Minutes of the Issues meeting held 09 September 1993

RE: Issue #8 - "File 3 items"

The attached excerpt was forwarded to you previously in accord with the usual process. Subsequently, I have been asked to ensure that the aspect of "policy to govern location, storage, classification and security of the physical and electronic files ..." be made inclusive of cases involving requests for laicization in addition to other "file 3" matters. In light of this, you are asked to arrange a meeting to discuss this dimension of the proposal which you must draft. The meeting would include you, Father Harris, Father Cistone and me. I presume that we would need only forty-five minutes or so for such a preliminary discussion, after which we could re-convene, if needed, at another time.

Thank you for your help with this.

Attachment

cc: Reverend Joseph R. Cistone
Reverend Steven J. Harris

Vicar for Administration

EXCERPT

Anthony Cardinal Bevilacqua
Monsignor Edward P. Cullen
September 23, 1993
Issues discussed, September 9, 1993

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8. **File 3 items**

Cardinal Bevilacqua approved that high priority now be given to a comprehensive and integrated development of all issues related to File 3 concerns. In particular, a proposal is to be developed concerning the policy to govern location, storage, classification and security of the physical and electronic files for these matters. Policy should include attention to retention or disposal of anonymous letters. The establishment of a special committee which would be charged with the handling of allegations of sexual misconduct with minors on the part of clerics is to be studied in conjunction with the review now in progress by Mr. John O'Dea concerning practices established by other dioceses. Also, His Eminence approved that Father James Beisel serve as the assistant to Father Lynn in the interviewing and oversight of such cases. Father Cistone may continue to be available for such work in the capacity of backup personnel. **(Monsignor Molloy)**

ARCHDIOCESE OF PHILADELPHIA

Office of: Vicar for Administration

TO: Anthony Cardinal Bevilacqua
FROM: Monsignor James E. Molloy
DATE: 08 October 1993
RE: Procedure for handling testimony of complainants

Attached, for your review, is a memorandum of 06 October 1993 from Reverend William J. Lynn to my attention, with enclosures. This material is provided in anticipation of discussion/direction to be had at the Issues meeting scheduled for 12 October.

dds

Attachment(s)

cc: Reverend Monsignor Edward P. Cullen (w/a)

FILE COPY

OFFICE OF THE VICAR FOR ADMINISTRATION

FROM THE DESK OF:

REVEREND MONSIGNOR JAMES E. MOLLOY

TO: Reverend William J. Lynn
Secretary for Clergy

DATE: 20 October 1993

ITEM: Your memorandum of 18 October 1993 to my attention

RE: Request for Criminal Record Check

In light of your request for comment on this issue, I suggest that this item be evaluated as part of your current project of comprehensive review of "file 3" issues. In particular, it would be helpful to know what value use of this check might have in the opinion of legal counsel.

EXHIBIT 3

ARCHDIOCESE OF PHILADELPHIA

222 North Seventeenth Street • Philadelphia, Pennsylvania 19103-1299
Telephone (215) 587-4507 • Fax (215) 587-4545

OFFICE of the VICAR FOR ADMINISTRATION

MEMORANDUM

TO: Reverend Monsignor William J. Lynn
Secretary for Clergy

FROM: Reverend Monsignor Joseph R. Cistone
Vicar for Administration

DATE: March 12, 2002

ITEM: Memorandum dated March 8, 2002 from Dr. Robert J. O'Hara to PCC Executive Committee

RE: Secret Archives Records

Attached, please find the above referenced memorandum and attachments. As the memorandum indicates, the PCC Executive Committee will be discussing this item at our next meeting scheduled for Wednesday, April 10.

This matter related to "secret archives" is distinct from the issue of upcoming legislation regarding the "statute of limitation" and was raised even before the recent concerns about forthcoming legislation. I expect additional legal information to be forthcoming for preparation of our conference call on March 18, of which you will be a part.

I would appreciate any comments or observations, in bullet form if more convenient, which you could offer regarding the attached material and the topic of "secret archives."

attachment(s)

cc: Reverend Monsignor Michael T. McCulken (w/a)

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PENNSYLVANIA CATHOLIC CONFERENCE
223 North Street • Box 2835 • Harrisburg, PA 17105 • (717) 238-9813 • FAX (717) 238-1473

MEMO

TO: PCC Executive Committee **DATE:** March 8, 2002
FROM: Robert J. O'Hara, Jr.
SUBJECT: Ad Hoc Committee on Secret Archive Records

At the January 16, 2002 Executive Committee Meeting, it was suggested that PCC investigate the study done, a few years ago, by an *ad hoc* committee on secret archives. Mr. Philip Murren would gather information they had on the committee. (Ms. Maura Quinlan served as counsel to the committee.) Dr. O'Hara would forward information to the Executive committee and schedule the topic on the agenda for the April 10 Executive Committee Meeting.

In 1994, at the direction of Cardinal Bevilacqua and the other Pennsylvania Bishops, an *ad hoc* committee of canonists was formed to examine how the dioceses of Pennsylvania can better protect their secret archives from civil law discovery. Father Michael J. Fitzgerald, Director of the Office for Legal Service for the Archdiocese of Philadelphia, was appointed committee chair.

Attached are three documents related to the Ad Hoc Committee's work.

Attachment I is a letter from the chairman of the committee, Father Michael Fitzgerald, calling for the first meeting and listing the participants.

Attachment II is a committee report summarizing the conclusions and recommendations of the committee. Please note a request from Father Fitzgerald (page 6) for further analysis of a potential conflict between canon law and civil law in the implementation of "V. Annual Review of Secret Archives Material" particularly as it relates to the destruction of specific materials.

Attachment III is Ms. Quinlan's analysis of the legal requirements related to the destruction of documents.

With this material as background, we will schedule a discussion of secret archives records for the next Executive Committee Meeting. It would seem advisable to have someone from Ball, Murren & Connell available for our discussion.

If you have any questions please do not hesitate to contact Ms. Quinlan or me.

PENNSYLVANIA CATHOLIC CONFERENCE
BY:

Robert J. O'Hara, Jr.
Executive Director

RJO/klm
1468

EXHIBIT 4

1536 Pine St.
Philadelphia, PA 19102
January 10, 1994

Jay Divine
Archdiocese of Philadelphia

Dear Mr. Divine:

First of all, I hope I spelled your name correctly. Please excuse me if I did not.

As I mentioned on the phone, TIME magazine is doing a feature on how allegations of sexual abuse by some priests across the country is affecting the Church. Philadelphia, of course, is particularly important because of the accusations made by Steven Cook against Cardinal Bernadin of Chicago.

There are probably several leaders in the Archdiocese could best address the different areas, so let me just give you a broad idea of the type of questions and issues I will need to cover:

→ Your opinion

How seriously have the scandals, and publicity over them, hurt the Church? What has been the harm in terms of morale to both priests and worshippers in the parishes, to recruitment of clergy, to church prestige?

Are things getting better, worse? What do church leaders do with priests who are accused? What is the internal church process for following up on abuse charges? If those are found to be substantiated, what does the church do with the priests? What does the church do if a priest is actually convicted in court?

→ If a priest is relocated, does the church have a duty to keep the priests' past confidential, or a duty to make the priests background known to parishoners?--I understand this practice, as well as many others, varies from location to location, so I am really interested, in all these questions, as to how the Archdiocese of Philadelphia handles the situations?

Also, how has the recent controversy in the Archdiocese of Camden, with numerous allegations of sexual abuse, affected Philadelphia? How is the Steven Cook allegations affecting Philadelphia?

Attorney Steven Rubino who also happens to be [illegible]

What is the reaction to Rubino's upcoming suit, and how might it hurt the Church?

What can/should/is being done for effective clean-up, restitution to victims, preventing of future abuse? How effective are "treatment centers"?

How are priests now selected and assigned duties? Are there any changes\additions in the screening, educating process that might protect both the Church and its worshippers from potentially abusive priests? i.e. better or different psychological tests, improved screening process, etc.?

You hear more about about abuse by Catholic priests than Protestants. This has lead some to wonder if the celibacy rule is at least partially to blame. Opinion?

There is also concern that this may be Catholic-bashing. Is there any feeling inside the Church that it's being persecuted, treated unfairly? There is also concern by many that some allegations may be opportunism, or fueled by ambulance-chasing lawyers--your feelings here.

Also, if there are contacts outside the Archdiocese-- theologians, ethicists, religious academics, so on, that you think I might talk to, I would appreciate your suggestions.

This has gotten to be lengthy, but I thought you could best respond if you know the full scope of the story. Unfortunately, I need to talk with everyone by Friday. I would also like to make a strong plea to interview the Cardinal when he returns next Monday, especially in light of how the Steven Cook allegations have thrown Philadelphia into the national spotlight. It could be a phone interview if that is easiest, and I would not take up more than 15 minutes of the Cardinal's time, but I think it is important to get his feelings and response to this national situation.

Thanks for your help. I look forward to hearing from you for your thoughts and contacts.

EXHIBIT 5

SOURCES: DIOCESE PAID $3.2 MILLION TO SETTLE SEX SUITS / THE ABUSE, SAID THE SOUTH JERSEY ACCUSERS, WAS UNSPEAKABLE. FIFTEEN WERE TOLD TO KEEP IT THAT WAY. The Philadelphia Inquirer January 11, 1994 Tuesday FINAL EDITION

The Philadelphia Inquirer

Found on Philly.com

The Philadelphia Inquirer

January 11, 1994 Tuesday FINAL EDITION

SECTION: LOCAL; Pg. A01

LENGTH: 3337 words

HEADLINE: SOURCES: DIOCESE PAID $3.2 MILLION TO SETTLE SEX SUITS / THE ABUSE, SAID THE SOUTH JERSEY ACCUSERS, WAS UNSPEAKABLE. FIFTEEN WERE TOLD TO KEEP IT THAT WAY.

BYLINE: Maureen Graham, INQUIRER STAFF WRITER

BODY:
Stephen Palo, 31, hesitated before opening the folder that held copies of $50,000 in checks from the Catholic Diocese of **Camden**.

He was faced with a trying decision. For more than a decade, he had been suffering in what he called a "living hell" that began when he was a youth and a **priest** performed oral sex on him. He said the sexual relationship had continued for 15 years.

In October the church had given Palo's family $50,000 to settle their claim against the **priest**. Still, Palo was torn. In accepting the money, he had signed an agreement barring him from ever talking about his case. If he talked, he'd have to return the money.

What angered him, Palo said, was what he saw as the church's desire to silence him - and others like him.

Palo is breaking the secrecy agreement.

"No matter how much money I get, no matter how much money the other victims get, the church is continually allowing the abuse to go on because they are paying us to be quiet," said Palo, wiping beads of perspiration from his forehead. "I don't want an innocent child to go through 20 years of hell like I did. Why doesn't the church put a stop to it?"

Palo was one of 15 people involved in a settlement with the **Camden** Diocese in October. There was little publicity about the settlement - and what information did emerge was incomplete or, worse, wrong. The court record was so ambiguous that some news accounts made it appear that one of the cases against the diocese had been dropped. Other accounts said three individuals had settled lawsuits against the church, for an undisclosed amount.

In fact, Palo and the 14 other complainants were paid a total of $1.8 million.

According to sources familiar with church bank records, the **Camden** Diocese has paid at least $3.2 million to 19 men and women since 1990. The church paid the money after hearing detailed complaints of sexual abuse against nine **priests**.

In the settlements totaling $1.8 million, the church agreed to pay only if no one involved talked publicly about the cases.

At the time, diocesan lawyer Martin McKernan would say only that "all differences have been resolved." He would not comment on any other cases, and would not discuss how much money, in all, the diocese had paid.

"What is a confidentiality agreement if someone talks?" the Rev. Carl J. Marucci, spokesman for the **Camden** Diocese, said in a recent interview. He said the diocese would have no further comment.

The two-page secrecy agreement in the October settlement was specific. It said that for anyone involved who was questioned, the only acceptable answer was: "Such differences as might have existed . . . have been resolved."

Bishop James McHugh of **Camden** declined to be interviewed for this article. Other **Camden** Diocese officials did not return phone calls to their offices.

According to the confidentiality agreement, the settlement is not intended "to be an admission of any liability of any kind."

The settlements in **Camden** are part of a growing pattern of payouts by Roman Catholic dioceses throughout the nation. Stephen C. **Rubino,** a lawyer who represented many of the complainants in the **Camden** case, estimates that as much as $500 million has been spent to settle sexual abuse cases across the country. **Rubino** is chairman of the sexual abuse litigation unit of the Association of Trial Lawyers of America. He declined to discuss the details of any individual case.

For some families, the settlements were not the end of the matter.

"To this day I cannot attend a Catholic service and see the **priests** without getting upset," said Mary McCracken, whose parish **priest** was convicted and jailed for sexually abusing her 12-year-old son. Her family was one of the 19 that received money from the diocese.

Lucy Palo said her son's sexual experiences with a **priest** changed the way she worships. "I don't listen to the hype - the 'do as I say, not as I do' stuff. I worship my God my own way," she said. "I don't even look at the **priest**."

According to sources familiar with the October settlements, the diocese agreed to the $1.8 million in payouts after reviewing the cases individually.

The church issued checks drawn on the "Bishop's Resource Account," held at MidAtlantic Bank in Collingswood. The checks, numbered 158 through 174, were handwritten and signed by William Murray. The checks were in amounts ranging from $10,000 to $513,000. Two other checks, totaling $400,000, were drawn from the church's revolving fund at First Fidelity Bank.

Murray, a member of the Diocesan Finance Committee, did not return phone calls.

One of the settled cases involved the Rev. Gary Hayes, who along with two others sued the **Camden** Diocese in 1993, claiming the Rev. Joseph McGarvey has

sexually abused them. Father Hayes, Steven M. Stolar and Terrence Smith were paid a total of $374,000 by the diocese. Father McGarvey, who is on a leave of absence, declined to comment.

The Diocese of **Camden** paid about $20,000 for psychological counseling for sex abuse complainants last year. Amber Samaroo, the psychologist who did most of the counseling, said in an interview that those victimized by a **priest** have a harder time understanding the sexual abuse than other victims do.

"To them, it is as if they were having sex with God," Samaroo said. "It's a feeling these kids talk about all the time. To them, it's a tremendous sense of privilege, and they buy into that. Then, somewhere along the line they realize it's twisted."

Coming forward with details of abuse is difficult for many victims, Samaroo said, primarily because they often feel they are betraying their **priest**.

"There is guilt for turning in the **priest**," he said. "After all, they tell me, this person has been very good to him. This is the guy who took them camping, who taught them boating, who has been good to them for all these years."

Samaroo said he had not counseled any **priests** in New Jersey. He said he had counseled **priests** in Philadelphia.

Samaroo said sexual aberrations he had seen in **priests** generally were "not something that started when they entered the priesthood." Instead, Samaroo said, he believes that many of his clients "sought the priesthood to escape their own sexual inadequacy."

Samaroo said that in most cases, a **priest** will search for a "very Catholic" young person whose parents are particularly dedicated to the church. A **priest** will look for a family that "is willing to abdicate much of its responsibility of parenting to the church," he said.

Based on interviews, depositions and court records, what follows are accounts of three of the people who received money in settlements with the **Camden** Diocese:

*

Stephen Palo said he cannot erase the image of his first sexual experience from his memory:

Awakening from a sound sleep in the bedroom of his Blackwood home, 12-year- old Stephen Palo looks down and finds his parish **priest** massaging his genitals. Soon the **priest** begins oral sex.

"I pushed away," Palo, now 31, said in a recent interview. "I pulled the covers up to my neck. I felt like I was in the corner of the wall, apart from myself, just looking at it."

Thus began what Palo said was a 15-year relationship of routine sexual contact between Palo, an altar boy, and the Rev. Joseph Shannon, who directed the altar boy group at St. Anthony of Padua Roman Catholic Church in **Camden**.

Father Shannon - currently on a leave of absence - acknowledged in a sworn deposition that he had sex with Palo.

In the deposition, Father Shannon was asked: "Weren't you supposed to conduct yourself as a **priest** even when you're in the Palo residence?"

"Yes," Father Shannon said.

"Did you?" the lawyer asked.

"Except in the middle of the night, yes," Father Shannon responded.

He said he was "certainly not the ideal **priest**, that's for sure."

In the deposition, the **priest** disputed Palo's account of their relationship to this extent: Father Shannon said Palo had initiated the affair, and he said Palo was 18 at the time. Father Shannon's testimony contained graphic descriptions of some of his sexual relations with Palo.

Palo, who is in counseling, said he is struggling to understand how and why 20 years of his life centered on an intense relationship with a **priest.**

The priest had a close relationship with Palo's parents. Palo's father, who is now deceased, taught in the local elementary school. His mother described Father Shannon as outgoing and friendly.

The Palos would invite the **priest** to their home. They fed him. They opened the family liquor closet to him.

"He would drink scotch and talk to my parents," Palo said. "When he had a little too much to drink, my parents would tell him he could sleep over."

He slept in Stephen's room.

Father Shannon would counsel the family, especially Stephen and his older brother. When problems arose, it was the **priest**, not Stephen's father, who would talk to the boys and guide them, Palo said.

When they did something out of line, Father Shannon always understood, Palo said.

"He would say, 'God understands your weaknesses. Don't worry.' And everybody would feel better," Palo said.

Throughout Palo's younger days, Father Shannon would wrestle with him and tickle him, Palo said. He would visit the family sometimes up to four times a week.

"We were living in Blackwood," Palo said in a legal deposition. "We had just moved in a new house and I was sleeping in my bedroom, and Father Shannon had come into my room and started massaging my body."

Q. "Did these experiences continue on any regular basis?"

A. "I'd say like every - about twice a month. Father Shannon was over the house a lot. He didn't sleep over all the time, but when he did, things would happen."

The attorney asked Palo to describe what happened. Palo said Father Shannon, during sex, would always reassure him, much like he did during his early childhood, saying:

"It's OK, Steve. Don't worry. God understands this is a weakness. Don't worry about it. You'll be OK. You're not going to go to hell for this. This is fine. God understands weaknesses, and this is a weakness and He understands."

Q. "Whose weakness? His or yours? Did he say?"

"No," answered Palo. "He just - those were his words."

In an interview, Palo said that he had never told his parents about the relationship with Father Shannon, and that his family had never suspected.

Palo said that when he was older and dated women, he continued having sex with Father Shannon, and that at least once he went to the rectory and solicited sex from the **priest**.

"Father Shannon created a security for me. He made believe that he could take care of all my wrongs and all my hurt," Palo said in the deposition.

When Palo was 27, Father Shannon said he would no longer continue the relationship, Palo said.

Palo said he had two reactions: Confusion. And relief.

"When he finally left," Palo said, "I moved my bed so that it faced the doorway. That way, I would see who was coming into my room."

In 1990, a year after Father Shannon terminated the relationship, Palo began a relationship with a woman, and for the first time talked openly about his experiences with the **priest**.

He then filed a lawsuit.

In 1992, Judge John A. Fratto of **Camden** County Superior Court ruled that Palo could not collect money from the church because of a legal rule known as "charitable immunity," which prevents anyone who receives benefits from a nonprofit organization from suing it.

In addition, his case was barred by the statute of limitations, which requires a victim to file a lawsuit within two years of recalling what happened.

Palo threatened to appeal. The diocese settled the case with two checks totaling $50,000.

*

Mary McCracken, the mother of six, said she was elated when John McElroy, filled with youthful exuberance, drove into the Haddon Heights parish on his motorcycle in 1986. The young seminarian, whose priestly ordination she later attended, was attentive and thoughtful toward her children, especially her three boys, she said.

She was widowed and recently remarried, and was grateful that a man of the cloth had taken an interest in her sons. That, she said in a recent interview, seemed like an answer to her prayers.

The McCracken sons, ages 11 through 15, were drawn to the newly ordained **priest**.

Through the next three years, "Father Jack," as the family came to call him, was present at most family functions and was chosen to baptize the youngest child when she was born in 1987.

Father McElroy was transferred to St. Francis de Sales parish in Barrington.

One day in 1988, McCracken's 12-year-old came home from school and told her he had developed a serious drug problem. Shocked and confused, McCracken enrolled him in a six-week rehabilitation

program.

On a Mother's Day she said she will never forget, she got a telephone call asking her to come immediately to the Bowling Green Adolescent Center in **Camden** County.

"You have to tell your mother," she recalls a counselor telling her son. "I can't do it for you."

Pale and shaken, the youth began an explanation:

"It wasn't drugs at all," she recalls her son telling her.

"McElroy was sexually abusing him," she said. "He fondled him and touched him at least five or six times."

McCracken said that according to her son, one of the first instances of sexual abuse happened in the shower stall at St. Francis de Sales Rectory in Barrington.

On the witness stand at the 1989 criminal trial of McElroy in **Camden** County Superior Court, the youth told his story in detail.

"Father Jack was doing things to me and touching me in places where he shouldn't," he testified.

The former **priest** admitted the sex abuse when questioned by Barrington police after a counselor reported the problem. In a taped statement, McElroy explained that he was giving the boy a shower when he touched the boy's penis "for maybe a minute or so."

McElroy also told police that a few weeks later he spent the night with the boy, and that they had sex.

"I knew it was wrong," the **priest**, then 30, said of the incidents.

Later, McElroy recanted his statements, saying they were taken under duress because he was denied immediate access to a lawyer. At McElroy's trial, Judge D. Donald Palese ruled that the statement was legally obtained, and it was used as evidence in front of the jury.

McElroy was convicted of two counts of sexually abusing a teenage boy. Now 34 and married, McElroy is serving a five-year prison term.

The diocese, in 1990, awarded the McCracken family a $700,000 annuity in an out-of-court settlement.

Mary McCracken said she was relieved when the jury convicted McElroy, in part because she felt many of her neighbors, some of her friends - even her pastor - did not believe what her son was saying. She said her pastor, Msgr. Richard J. Callahan, told her he could not offer her support.

In an interview, Msgr. Callahan said that "the community was split" on this issue, and that he didn't take sides. "All I knew was what I read in the papers," he said. "I wanted to be able to help all of them."

McCracken later wrote in a diary: "I was left to deal with the issues and problems that accompany sexual abuse, alone and abandoned."

The incidents left her feeling abandoned by an institution central to her life.

"I am from a hard-working, middle-class family who depended on the church for support and

understanding," she wrote in the diary.

"We volunteered our time and money to help spread our Christian beliefs within our community. We trusted our parish **priests** and sometimes thought of them as family."

She said she no longer trusts the church.

*

John Moken 2d, dressed in denim cutoffs, slouched in an overstuffed chair, his muscular, tanned legs stretched in front of him. He ran his hands nervously through spiked blonde hair.

"I'm a tough guy," said the South Jersey landscaper and father of two. "I don't want anybody to think I'm (homosexual)."

Moken, 34, eyes cast downward, haltingly gave intimate details of what he said had been his introduction to sex.

When he was 10, he said, a **priest** performed oral sex on him, in a rectory.

"My wife keeps telling me I don't have to prove I am a man," he said. "But it's still there. I wonder if it ever goes away."

For seven years, Moken said, he and several friends were repeatedly abused by **priests from the Camden** Diocese.

In interviews and a sworn statement to St. Gregory's parish in Magnolia, Moken described sexual contact by several **priests**, including the Rev. John Kelly of St. Gregory's, now dead.

In a 1992 statement Moken gave to Msgr. Edward L. Korda of St. Gregory's, he spoke about what happened to him and one other boy:

"We came to know Father John Kelly as grammar school students at St. Gregory at ages of 9 to 12. We were altar boys. He selected us as special friends, telling us that he checked our school records, that he liked us and wanted to help us. Father Kelly took us on trips, vacations, bought us gifts, a TV for the family and a motorcycle. Our association with Kelly and the accompanying sexual activity lasted for about six years."

"While at the St. Gregory rectory one evening, Father Kelly gave me some beers and got me a little drunk," Moken said in the statement. "It was at that time that he began to rub me. He told me that it was all right; he started to rub my back, then my legs, and shortly thereafter had me take off all of my clothes and he began to rub my penis."

In another statement, Moken described later events:

"Father Kelly began to invite us into his rectory rooms and brought us there many, many times. He gave us whatever alcoholic drink we wanted and proceeded to get drunk himself. All this seemed to be new and special. He showed us Playboy and Penthouse magazines, a variety of nude photos, wrestled with us and took off our clothes, showered with us . . ." The statement went on to give graphic descriptions of sex acts.

"They had a little clique," Moken said of the **priests**. "You went to confession to them, and they told you everything was all right."

Over a period of six years, the **priests** took Moken and some of the other boys to Fort Lauderdale, Fla., and Long Beach Island, Moken said.

"They would take us to a gay bar on Long Beach Island and sneak us drinks," he said. "You could get Rob Roys, martinis, anything you wanted."

The **priests** and boys would stay overnight at the home of a judge who believed he was turning his house over to the **priests** so they could take underprivileged children for a weekend at the beach, Moken said.

Father Kelly and some of the other **priests** warned the boys not to speak about the relationship to their parents, Moken said, and told them to stay away from women.

"Men do it together all over the world," Moken said he was taught.

As the relationship with the **priests** continued, Moken said, he grew increasingly confused.

He said he woke up one morning asking himself: "Who am I?"

Moken never considered telling his mother, and he kept the secret into his adulthood.

He said he had gone through a period of aggressive behavior and sometimes violent outbursts, working as a bouncer in South Jersey bars.

Six years ago he married. He and his wife are raising two sons, ages 5 and 5 months.

In the statement to Msgr. Korda, Moken talked about the effect the **priests** had on him.

"All the events that took place over the years left us embarrassed and ashamed," he said.

"But Father Kelly assured us that God understood his need for gratification, and that as a **priest** he was entitled to this satisfaction. He said that God loved him and us.

"We were afraid, and at the same time we listened to him because he was a **priest**."

In his statement, Moken said that for both him and his family, the experience eroded their Catholic faith.

"Over the years, our trust in and of **priests** has been destroyed. We pray to God - but not really as Catholics."

GRAPHIC: PHOTO;

PHOTO (4)
1. Stephen Palo says his 15-year relationship with the Rev. Joseph Shannon started when he was 12 and Father Shannon fondled him during an overnight stay. Palo, who grew up in Blackwood, received a $50,000 settlement from the **Camden** Diocese. (The Philadelphia Inquirer, JOHN COSTELLO)
2-3. John Moken 2d was 10, he says, when **priests** in his Magnolia parish began abusing him and several friends; at left is his Communion picture. Now 34, he says his faith in the church has been eroded. (The Philadelphia Inquirer , JOHN COSTELLO)

4. Father Shannon was a frequent guest in the Palo home; at a 1973 Easter party, he stood behind Lucy Palo, Stephen's mother. The **priest** directed the altar boys at St. Anthony of Padua in **Camden.**

LOAD-DATE: October 21, 2002

Source: **News & Business > Individual Publications > P > The Philadelphia Inquirer**
Terms: **rubino and camden and priest** (Suggest Terms for My Search)
View: Full
Date/Time: Saturday, February 25, 2012 - 7:27 AM EST

EXHIBIT 6

1/18/94

Class Action — Commonality
negligence — Comma ? of law/fact
Numerosity
typicality
Imperial v chile

personal injury claims

© Rubins (tenacious) research trained
legal ability – reads head notes
not a lawyers Lawyer

He has an agenda anti institutional
authoritarian
Head of sex division Comer Trial Lawyer Ass.

never had a clean claim

intends to try case in press/not court

keeps clients at bay
for highly visible charge

Florida
Catholic bad divorce
appearance

Everyone had bad shadow
statute of limitation
Charitable immunity

Legal Lightweight

Volume

Rubino

Stephen Rubino

Rubino, 44, a solo attorney based in Ventnor, is the first to file a suit using the Racketeering Influenced and Corrupt Organizations Act—originally designed for mobsters—against the hierarchy of the U.S. Catholic Church. His clients, who maintain that they were molested by priests, allege that church officials conspired to hide the abuse and thus engaged in a "pattern" of criminal conduct. His first complaint named the Jersey diocese; his second, soon to be filed, names Philadelphia's.

Mary Mannix Meister

Meister, 39, is the founder of the National Coalition of Working Parents, a grass-roots movement blossoming into a nationally recognized lobbying group for social, industrial and legislative changes that will support the needs and concerns of those trying to balance a career with child-raising.

Barry Diller

From QVC's modest headquarters in West Chester, the 51 year-old legendary former programming genius for ABC, Paramount and Fox TV is building a multimedia empire that promises to change the way we get information, entertainment and goods and services. His hostile bid for Paramount Communications, as well as the mind-boggling growth of his once-schlocky home-shopping network, has placed him at the forefront of the high-tech revolution.

William N. Davis, Ph.D.

The clinical director of the Renfrew Center and founder of the Center for the Study of Anorexia and Bulimia, Davis, 51, is nationally renowned for his research into the causes and treatments of eating disorders. He has pioneered the intensive outpatient model—as an alternative to more traditional 28-day inpatient care—which is becoming the status quo for eating disorder treatment nationwide.

Bert Wylen

Wylen, 39, host of WXPN's *Gaydreams*, is regarded as having brought the issue of gays in the military to the forefront with his May 1991 public-radio documentary *Unfriendly Fire*. Since then, he's led the pack in producing and distributing gay-oriented documentaries to

Rubino is using federal anti-mob statutes to sue the U.S. Catholic Church for conspiring to hide abuse by priests.

PERISH THE THOUGHT

Mortimer Labes, Chemistry Professor

MORTIMER LABES SAYS IT happens too often. You go shopping, get home, heat up those fish fillets for dinner, take a bite—and spit it out. Though you just bought the food, it has already gone bad.

"Until now, no one could really judge if a package of food had been left out on a loading dock in 100-degree weather for too long, unless it was so obviously spoiled that it smelled or felt funny," says Labes, a professor of chemistry at Temple University and inventor of the Time/Temperature Integrator, a groundbreaking device that uses liquid crystals to track the shelf life of perishable items, from fish to popsicles to blood plasma. "Expiration dates are a crude and often unreliable indicator. We've made it possible for consumers and supermarkets to know how fresh their products are *before* purchasing them."

Much like a mood ring, Labes' invention—in the form of a tiny liquid crystal patch attached to individual products—works like a gauge, changing colors in response to temperature and time changes. "The unique capability of this is that it integrates both temperature and time," the 64-year-old Labes explains. "If a package of food is left on a loading dock in 100-degree heat for two minutes, it doesn't matter. But if it's left there for six hours, the TTI will change color and signal us that the product has begun to turn."

Labes' background in both industry and academia has enabled him to apply his research commercially. Before joining the Temple faculty in 1970, he served for ten years as the chemistry-division director of the now-defunct Franklin Institute Research Laboratories, after working on semiconductor technology at Sprague Electric Co. in Massachusetts.

"Today's students must be made more aware of the technological and practical implications of their fundamental scientific knowledge," he says. "The crossover between industry and academia that has made my work possible is something the Japanese do very well. So characters like me, with experience in both, can be potentially very useful in terms of global scientific *and* economic competition."

Through its Technology Transfer Operation, Temple has patented Labes' invention, and two companies are already vying for the right to market it. Meantime, he's working on other developments that could have similarly practical commercial uses. He is developing an innovative process for creating large, flexible graphite flakes—a lightweight conductive material that could be used to protect aircraft from lightning or add luster to car paints.

Regardless of the specific material Labes is researching, he says his underlying principle remains unchanged. "It's not enough to conduct research for the sake of research," he says. "Science should make a difference in people's lives."

—*Larry Platt*

Rubino

Response — P.R. — legal

file

Go to Media

(7 points) — national Counselor

Strategy

pro-life Church open

demonstrate to parents new procedures/policies
unlikelihood

statistics re: boy scout leaders
teachers

discredit Rubino

filing/counter filing

Way to speed up Guidelines

announce policies

EXHIBIT 7

[redacted] CLERGY OFFICE

— FILES - DESTRUCTION OF RECORDS—

FROM THE DESK OF: Reverend William J. Lynn

TO: Reverend Monsignor James E. Molloy

DATE: April 22, 1994

ITEM: Excerpt of Minutes, March 29, 1994 Issues Meeting

RE: Sexual Misconduct by Clerics:
Counseling Assistance and Destruction of Records

- ☐ For Cardinal Bevilacqua's signature
- ☐ For Cardinal Bevilacqua's information
- ☐ For Bishop-Elect Cullen's information
- ☐ For your information
- ☐ Please handle
- ☐ Reaction requested
- ☐ Please forward as appropriate
- ☐ **Prioritized attention required!**
- ☒

As requested in the above-referenced Issues minutes (copy attached for convenient reference), attached is a draft policy proposal outlining limitations and conditions on offering of assistance with counseling expenses in cases where a cleric is accused of sexual misconduct with minors. This proposal has been developed in consultation with Mr. O'Dea.

Also attached is Father Palmieri's April 8, 1994 memorandum providing canonical opinion retention/destruction of records of clerics who are deceased, as requested in the final sentence of the same Issues excerpt.

PROPOSAL FOR COUNSELING ASSISTANCE IN CASES REGARDING SEXUAL MISCONDUCT BY CLERICS INVOLVING MINORS

DRAFT

CASE DISPOSITION	ARCHDIOCESAN RESPONSE
A. FOUNDED	Out of charitable concern: 1. assistance with past therapy which can be legitimately determined. 2. assistance in present therapy with reports submitted annually by therapist to the Secretary for Clergy.
B. NOT FOUNDED	1. no assistance offered
C. INCONCLUSIVE:	
Unlikely or Improbable, allegations not of recent occurance (more than 5 years)	1. no assistance offered
Unlikely or Improbable, allegations current	1. no assistance offered
Likely or Probable, allegations not of recent occurance (more than 5 years)	out of charitable concern: 1. assistance with past therapy which can be legitimately determined. 2. assistance in present therapy with reports submitted annually by therapist to the Secretary for Clergy.
Likely or Probable, allegations current	1. out of charitable concern, assistance with needed therapy.
D. PENDING:	
Unlikely or Improbable	1. no assistance offered; offer to investigate further.
Likely or Probable	1. out of charitable concern, until a determination can be made, offer assistance with therapy.

we should use a signed agreement.

Bp. Kinney's Committee has a rec. directive [illegible] could be called.

what is the cap (amount) per year, per person?
what are other dioceses paying?

AOPWR033787

ARCHDIOCESE OF PHILADELPHIA

APR 25 1994

Office of: Vicar for Administration

Issues

TO: Anthony Cardinal Bevilacqua
FROM: Monsignor James E. Molloy
DATE: 25 April 1994
RE: Counseling Assistance and Retention/Destruction of Records (File 3)

The attached documents are forwarded for your review in anticipation of discussion to be held at the Issues meeting scheduled for tomorrow.

Attachments:

1. Excerpt from Issues Meeting Minutes of 29 March 1994.
2. Memorandum of 08 April 1994 from Reverend Alexander J. Palmieri to Reverend William J. Lynn re: retention and/or destruction of records.
3. Memorandum of 22 April 1994 from Reverend William J. Lynn to Monsignor Molloy re: Proposal for counseling assistance.

cc: Most Reverend Edward P. Cullen (w/a)

Vicar for Administration

EXCERPT

Anthony Cardinal Bevilacqua
Most Reverend Edward P. Cullen
April 28, 1994
Issues discussed, April 26, 1994

---

4. **Memorandum of April 22, 1994 from Reverend William J. Lynn to Monsignor Molloy re: Sexual Misconduct by clerics: Counseling Assistance and Destruction of Records**

Cardinal Bevilacqua reviewed the materials submitted on this topic by Father Lynn. It was determined that discussion of the policy concerning destruction of records would be deferred until the next Issues Meeting. Given the pending request for assistance received from Mr. [redacted], Cardinal Bevilacqua accepted, provisionally, the proposal for counseling assistance. In light of that proposal, Father Lynn should submit a recommendation concerning the disposition of the request from Mr. [redacted]. Subsequently, Father Lynn should contact either a central source (such as the Executive Director on the Committee headed by Bishop Kinney) or a few large dioceses in order to gather information concerning their procedures for handling such assistance payments. For example, should there be included in the policy some pre-determined cap amount of assistance offered or some formula used to determine funding on a percentage basis? Monsignor Molloy will convey to Father Lynn additional details concerning the information to be gathered. Additionally, the value of using signed agreements should be investigated. **(Monsignor Molloy)**

ARCHDIOCESE OF PHILADELPHIA

222 North Seventeenth Street • Philadelphia, Pennsylvania 19103-1299
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OFFICE of the VICAR FOR ADMINISTRATION

MEMORANDUM

TO: Reverend William J. Lynn
Secretary for Clergy

FROM: Reverend Joseph R. Cistone
Assistant Vicar for Administration

DATE: August 14, 1996

ITEM: Memorandum dated April 28, 1994 from Monsignor James E. Molloy to Reverend William J. Lynn

RE: Sexual Misconduct by clerics: Counseling Assistance and Destruction of Records

---

Attached is the material related to the pending item which I discussed with you on the telephone today. It is listed on your pending list under **April 22, 1994.**

As I indicated to you, there are two issues involved in this item:

1. Destruction of Records

2. Counseling Assistance

I would appreciate your direction regarding how to proceed with these two issues. I am available to discuss this with you once you have had an opportunity to review this matter.

attachment(s)

FILE COPY

OFFICE FOR CLERGY

FROM THE DESK OF: Reverend William J. Lynn

TO: Reverend Joseph R. Cistone
Assistant Vicar for Administration

DATE: August 14, 1995

ITEM: Attached Draft concerning Priest Personnel Files

RE: DRAFT FILE CLASSIFICATIONS

We are attempting an effort to better coordinate the files of the Priest Personnel of the Archdiocese. In the past, it appears that everything was filed in the priest's personnel file except for sexual misconduct material. There is a need to establish a "level two" file which would filter out from the regular personnel file sensitive material as noted on the attached draft.

It is also noted that this need is greater with the publication of the Priest Personnel Manual which states under Item: 3-1 that the priest has access to his personnel file. Father Palmieri has reviewed this draft for canonical considerations and has no objections. He noted canon 489 which refers to a secret archive only.

At this time I seek approval to begin the process of separating the Priest Personnel files according to the attached draft file classifications. Your assistance in forwarding this material for approval is sought. I remain available for any further discussion as necessary.

Vicar for Administration

Anthony Cardinal Bevilacqua
Most Reverend Edward P. Cullen
October 2, 1995
Issues discussed, September 25 and 28, 1995

This memorandum will serve as a record of the action taken in our discussion on Monday, September 25, and Thursday, September 28, 1995:

10. **Memorandum dated August 14, 1995 from Reverend William J. Lynn to Reverend Joseph R. Cistone re: Draft File Classifications**

Cardinal Bevilacqua approved the request to begin a process of separating the Priest Personnel files. However, with reference to the draft file classifications submitted with the above referenced memorandum, His Eminence noted that the distinction between File 2 and File 3 is blurred. Also, while it appears that an attempt is made to present "taxative" lists for File 2 and File 3, there are categories of materials not included. A suggestion would be to clearly identify the categories under File 3 and indicate that File 2 includes all confidential/sensitive material not applicable to File 3. Under File 2, the abbreviation "etc." should be added after "mental illness", since the list is not exhaustive. Under File 3, the abbreviation "etc." should be added after "embezzlement", since the list is not exhaustive.

Fr. Cistone noted that the special committee of representatives from the Dioceses of Pennsylvania, chaired by Father Michael Fitzgerald, are also developing similar categories; however, to proceed with the categories as recommended by Father Lynn would be a beneficial first step.

On a related issue, Bishop Cullen raised the question of guidelines for the destruction of a priest's personal file following the priest's death. There should be a time limit to the retention of a priest's files after his death or after a determined period of time, with the exception of maintaining an outline of essential data. Cardinal Bevilacqua directed that Father Lynn is to immediately consult with Father Palmieri (Canon Law) and Stradley, Ronon (Civil Law) to report on the canonical and civil issues regarding the destruction of personal records immediately following the death of a priest.

(Fr. Cistone)

FILE COPY

OFFICE FOR CLERGY

FROM THE DESK OF: Reverend Michael T. McCulken

TO: Reverend Alexander J. Palmieri, JCL

DATE: August 1, 1995

ITEM: Attached Draft concerning Priest Personnel Files

RE: Draft File Classifications

Your canonical review is sought concerning the attached draft File Classifications of priest personnel files. The citing of any pertinent canons concerning this topic will be appreciated as well.

PRIEST PERSONNEL FILES

DRAFT FILE CLASSIFICATIONS

FILE 1 [regular or standard material]

Basic Personnel Files

Record of Priest form
Picture/Information from Seminary
any Clergy/Minsitry Preference Forms
Letters from /to Priest directly
Letters of Appointment/Residence
Pastor letters of appointment/residence
File memos re: interviews/contacts
Letters of commendation
Letters of complaint, not involving addiction/abuse
Review Instruments

FILE 2 [confidential/sensitive material]

File memoranda from Archbishop
Information/memoranda/letters/reports/psychological reports re:
Addictions, mental illness
Any legal procedures incurred except re: abuse

FILE 3 [secret archive material] c.489

Information/memoranda/letters/reports/psychological reports re:
sexual abuse, misconduct, canonical trials,
embezzlement

ppb-file.cls 8/1/95

EXCERPT

Anthony Cardinal Bevilacqua
Bishop-elect Edward P. Cullen

Issues discussed, March 29, 1994

---

9. **Memorandum of March 28, 1994 from Reverend William J. Lynn to Cardinal Bevilacqua re: Mr. [redacted]**

Cardinal Bevilacqua did not act on the recommendations as submitted. Rather, His Eminence directed that the Secretary for Clergy notify Mr. J[redacted] that his request is being reviewed and that further communication will be forthcoming. Concomitantly, Father Lynn, in consultation with Mr. John P. O'Dea, is to formulate a policy proposal which would recommend whatever limits ought to be considered for the offering of counseling assistance and a classification scheme indicating the circumstances under which such limits would apply. Attention should be given to dimensions including, but not necessarily limited to, the amount and duration of assistance; the present, future, or retrospective application of the assistance; the status of the allegation's investigation (e.g., founded, unfounded, possible, pending, etc.). It may be helpful also to consider whether or not assistance which is authorized ought to be available on a graduated basis. Father Alexander Palmieri is to be contacted by Father Lynn with the request that Father Palmieri investigate prescriptions of the Code of Canon Law concerning the retention and/or destruction of records of clerical personnel who are deceased.

(Monsignor Molloy)

Perm

— Briefing book – informal possibility
— No — however,

wh no paper – plz re limits on parts of offi... conf. —
— rule abt ...
— ... , ...

Classification policy →

REDACTED

Jurlest
— prior request – reply
— policy

Alif to look in code to see what code says abt ... offers.

Counsel[illegible].

1) During course of psychotherapy – offer session with past therapy ?

2) Cases - guilt - 1) bad therapy
2) present - period anxiety
progress past due therapist } OTT weekly

3) Case – proven – w/o payment

4) Case - guilt not proven but seems likely
– past therapy
period [illegible]

– all past cases – Status quo

COPY

ARCHDIOCESE OF PHILADELPHIA

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OFFICE of the VICAR FOR ADMINISTRATION

JAN 7 1997

MEMORANDUM

TO: Reverend William J. Lynn
Secretary for Clergy

FROM: Reverend Joseph R. Cistone
Assistant Vicar for Administration

DATE: January 6, 1997

ITEM: Excerpt from Minutes of Issues Meeting of December 20, 1996

RE: Your memorandum to me dated October 31, 1996 - Priest Files, Destruction of Records

---

Please note that Cardinal Bevilacqua approved the recommendation contained in the above referenced memorandum. You are asked to proceed in accord with the attached excerpt.

I call your attention to the stipulation added by His Eminence, that is, that notice be given to the Executor in sufficient time prior to the destruction of records. This courtesy may be of benefit to those handling estates and safeguard against any premature destruction of records.

Attachment(s)

EXCERPT

Vicar for Administration

Anthony Cardinal Bevilacqua
Most Reverend Edward P. Cullen
December 30, 1996
Issues discussed, December 20, 1996

This memorandum will serve as a record of the action taken in our discussion on Friday, December 20, 1996:

5. Memorandum dated October 31, 1996 from Reverend William J. Lynn to Reverend Joseph R. Cistone re: Priest Files, Destruction of Records

Cardinal Bevilacqua reviewed the above referenced memorandum and approved Father Lynn's recommendation, namely, that a priest's personnel and personal file, including files 2 and 3, be destroyed one year after death, except for the following: historical data (curriculum vitae and letters of appointment), date of birth, social security number and amount of stipend. His Eminence added the stipulation that, when the year has elapsed, the Secretary for Clergy is to write to the Executor of the Will to notify the Executor that the file will be destroyed on the specified date and, if the Executor has not completed all necessary tasks and/or has any reason to delay the destruction of files, the Executor is to notify the Secretary for Clergy prior to the stated date.

(Father Cistone)

10-31-96

OFFICE OF THE SECRETARY FOR CLERGY

COPY

FROM THE DESK OF: Reverend William J. Lynn

TO: Reverend Joseph R. Cistone
Assistant Vicar for Administration

DATE: October 31, 1996

ITEM: Your Memorandum to me dated October 10, 1995
and
Your Memorandum to me dated August 14, 1996

RE: Draft File Classifications - A related question from Excerpt dated October 2, 1995 of Issues Meetings
and
Sexual Misconduct by clerics: Counseling Assistance and Destruction of Records

Attached to the above referenced Memorandum dated October 10, 1995 is an Excerpt dated October 2, 1995 from Issues Meetings of September 25 & 28, 1995 [copies attached for convenience]. In this excerpt Bishop Cullen asked a question about guidelines for the destruction of a priest's personal file following death. I was directed to consult with Father Palmieri and Stradley, Ronon concerning both canonical and civil issues regarding this question.

I wrote to both Father Palmieri and Mr. John O'Dea concerning this matter. Father Palmieri's memorandum to me dated October 25, 1995 is attached. Mr. O'Dea's letter to me dated October 18, 1996 is also attached. Evidently the letter to Mr. O'Dea was lost and upon inquiry from me in July, 1996 research on this topic commenced. Mr. O'Dea's letter give a summary of their research.

Redacted

This information also applies to the same question raised in your above referenced memorandum to me dated August 14, 1996 in reference to Sexual Misconduct by clerics: Counseling Assistance and Destruction of Records. Copy attached for convenience.

In light of the above information, I recommend that a priest's

personnel and personal file [including files 2 and 3] be destroyed one year after death except for the following: historical data [curriculum vitae and letters of appointment], date of birth, social security number and amount of stipend. The reason to wait the one year is to provide time for the estate of the priest to be settled.

Your assistance is requested in forwarding this information as appropriate for review and approval.

EXHIBIT 8

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CRIMINAL TRIAL DIVISION

- - -

IN RE:	:	MISC. NO. 0300-239
	:	
	:	
	:	
COUNTY INVESTIGATING GRAND JURY XIX	:	NO. C-1

- - -

FRIDAY, February 27, 2004

- - -

ROOM 18013
One Parkway
1515 Arch Street
PHILADELPHIA, PENNSYLVANIA

- - -

TESTIMONY OF MONSIGNOR WILLIAM J. LYNN

- - -

APPEARANCES:

CHARLES F. GALLAGHER, ESQUIRE
Assistant District Attorney

MAUREEN McCARTNEY, ESQUIRE
Assistant District Attorney
Counsel for the Commonwealth

Also Present:

CLARK C. HODGSON, JR., ESQUIRE
Stradley, Ronon, Stevens & Young
For the Witness Monsignor William Lynn

Reported by: John J. Kurz, RPR,
Official Court Reporter

Molloy ever doing any of those things?

A. No, I don't.

Q. Well, what skills did you have that you believed you had to allow you to conduct an investigation of sexual abuse?

A. What skills? I mean, I could read people pretty well, and I could tell -- I was pretty good at telling if they were telling me the truth or not. Not infallible of course, but I could go that way. I didn't have any specific skills for that kind of work.

Q. Okay. Let's go to the time now where you're Secretary of Clergy, did you do any coordination with Monsignor Jagodzinski prior to taking over that job with regard to what knowledge he had about various priests in the Archdiocese that may or may not have been accused of sexual abuse of minors?

A. I don't believe so.

Q. And you said that it was a couple years before you personally went through any of the secret archive files in terms of going through them as a collection of documents; is that correct?

A. That's right.

Q. And do you know what it was that prompted you

to do that?

A. You know, I do. It was the Father Dux case.

Q. The Father Dux case?

A. That's right.

Q. And what was it about that case that necessitated you going through all of the files?

A. Because he was accused of -- the pastor reported that he was being inappropriate with some of the altar servers and the eighth grade students. And when I looked back, I believe I found, you know, other inappropriate behavior on his part, so that's why I looked.

Q. I don't mean to -- I'm just having a little bit of trouble understanding, and I'm sure it's my fault.

There's an allegation that comes in about Father Dux, you went to the file cabinets where the secret archive files are located, you looked to see whether or not a file existed on Father Dux?

A. That's right.

Q. And you found that one in fact did?

A. Uh-huh.

Q. And I don't understand how that -- so what was

it about that that prompted you to go through all the files?

A. Can I talk to my lawyer?

Q. Sure.

(Whereupon a discussion was held off the record by and between counsel and the witness.)

THE WITNESS: Okay. I'm sorry.

BY MS. McCARTNEY:

Q. Did you have the chance to consult with your attorney?

A. I did.

Q. And I believe that prior to doing so, I had asked you the question: What was it about that finding that there had been previous allegations about Father Dux that prompted you to go through all the files?

A. Well, because he was a priest in active ministry, and I was concerned that there could be other priests in active ministry that had previous complaints.

Q. Let me ask you this then, Monsignor, from 1991 when you first started in this job, you said that when an allegation would come in or when you

started assisting, an allegation would come in, one of the things that you did as a matter of course, either you or Monsignor Molloy would go and you would check the secret archive files on a need be basis, correct?

A. I believe so.

Q. Okay. And then you would conduct whatever investigation it was that was conducted; is that right?

A. That's right.

Q. Are you saying, and if I'm wrong, please tell me, are you saying that from 1991 until approximately 1994 when the Dux file came about, that there was never a situation that occurred where a priest that had been accused of sexual abuse, that you had gone and looked for a secret archive file and one existed?

A. No, I'm not saying that.

Q. Well, then what about the Dux case was it that prompted you to be concerned enough to go through the files?

A. Can I talk to my lawyer again?

Q. Sure, absolutely.

(Whereupon a discussion was held off

the record by and between the witness and his counsel.)

THE WITNESS: Okay.

BY MS. McCARTNEY:

Q. I'm sorry, did you have the chance to talk to your attorney?

A. (Witness nods head.)

Q. Do you recall the question?

A. No, I don't, sorry.

Q. Basically the question was, Monsignor, from 1991 to 1994, when allegations would come in, you would go and look on a need be basis to see whether a secret archive file existed on someone against whom an allegation had been made; is that right?

A. I would -- yes.

Q. And are you saying that you would have occasion from 1991 to 1994 when an allegation would come in to find that that priest already had a secret archive file; is that right?

A. That's right.

Q. What about the Dux case was so different that prompted you to go through each and every secret archive file at that point?

A. I believe because he was in active ministry

and I wanted to make sure that there wasn't anybody else in active ministry.

Q. But certainly, Monsignor, from 1991 to 1994 there had been allegations made against priests that were in active ministry and who had a secret archive file; is that right?

A. I don't know. There may have been.

Q. Well, I mean, would you accept my representation that there were?

A. Sure, yeah. I just don't remember sitting here.

Q. So do you recall what it was that was so significant about the Dux case?

A. Well, what I recall about -- the reason I recall I connect this with Dux going through the files is because actually there was a document that you had asked for or the district attorney's office asked for, and I looked for that document and I can't find it. But obviously I went through the files at that time so I connected it with Dux.

Q. And the document that you're referring to is the document -- well, I guess I'll show it to you.

And this will be marked Grand Jury Exhibit 1313.

(Whereupon Grand Jury Exhibit 1313 was marked for identification.)

BY MS. McCARTNEY:

Q. Is that the document that you're referring to?

A. That's right.

Q. And the date of that document is February 1994; is that right?

A. That's right.

MR. HODGSON: Do you have another copy?

MS. McCARTNEY: You want to share?

MR. HODGSON: No, that's all right.

MS. McCARTNEY: I can give you another one, here.

MR. HODGSON: Okay. Thanks.

BY MS. McCARTNEY:

Q. Have you had the opportunity to review that?

A. I have.

Q. Okay. And this is a document that you were referring to; is that right?

A. That's right.

Q. This is authored by you?

A. That's right.

Q. And it goes to Monsignor Molloy; is that

right?

A. That's right.

Q. And the date of it is February 18, 1994?

A. Right.

Q. And it's regarding materials in the secret archives?

A. That's right.

Q. And the first paragraph of this document reads: "Father Beisel and I reviewed the 323 files that are presently stored in the secret archives. Attached is a list of priests who have been guilty of or accused of sexual misconduct with a minor according to the file material. We were very literal in our reading of the files in order to be as accurate as possible with this list." Is that correct?

A. That's right.

Q. And then the last paragraph of that document actually deals with the situation about Father Dux; is that correct?

A. That's right.

Q. All right. And basically the situation as regards to Father Dux was that you had received a telephone call where the caller had made

allegations against Father Dux which dated back 20 years; is that right?

A. That's right.

Q. And the caller hadn't scheduled an appointment to meet with you, but yet you recommended to Cardinal Bevilacqua that Father Dux, given the fact he's 72, that he be offered retirement; is that right?

A. That's right.

Q. And the reason that you made that decision to offer him retirement, even though you hadn't spoken to the actual caller other than the initial phone call, was because you found that there existed a secret archive file on Father Dux?

A. That's right.

Q. And so you had an idea that the allegations against him may have been credible?

A. That's right.

Q. Well, again, what was it, do you recall -- now, do you recall preparing this memo?

A. I don't, but I did. I mean, I don't recall doing it, but I did do it, so.

Q. Well, do you remember what it was that made you -- was this something -- you directed this to

Monsignor Molloy, so is it wrong for me to assume that this was something that was coordinated between yourself and Monsignor Molloy?

A. You know, it may have been. I don't remember.

Q. If you had just done this for your own benefit as Secretary of the Clergy so that you had a working knowledge of the existence of the secret archive files, you wouldn't have felt a necessity to put it in memo form to Monsignor Molloy, would you?

A. Yeah, I would have anyway.

Q. Why? He wasn't in charge of handling these cases any longer, correct?

A. No. But the people above me should know what was going on, you know, or who was in there.

Q. And the purpose of -- well, let me ask you this question then, Monsignor: After you prepared this document, what action did you take as a result of having gone through the secret archive files? Did you make changes to anybody's assignment? Did you say hey, we better take a look at this person because you know what, I realize that this person is in assignment and they have a history? Did you do anything like that after reviewing all of the

secret archive files?

A. I -- we may have.

Q. You don't have any recollection of it?

A. I don't.

Q. And this document -- well, when you say we may have, who are you referring to?

A. Myself and Father Beisel at the time.

Q. What about Monsignor Molloy, did you have any feedback from him on this memo?

A. I don't recall.

Q. Do you think that this would be the type of memo that would have ultimately been passed on to Monsignor Cullen and then Cardinal Bevilacqua?

A. I would think because the Cardinal would -- well, the Cardinal approved it.

Q. Okay. So it did definitely. I apologize. So ultimately this memo went to Cardinal Bevilacqua?

A. Uh-huh.

Q. So he was aware of the fact that you had gone through each and every of the secret archive files?

A. Right.

Q. Explain to me, if you would, Monsignor, what you mean by we were very literal in our reading of the files.

A. I presume we were rather stringent as we went through.

Q. Stringent, I don't understand what that means, you were --

A. Well, to err on the side -- if we weren't sure, we erred on the side of -- I would think -- you know, honestly, I don't remember what my mind set was at the time. But knowing myself, if I wrote something like that, we were very literal in our reading, that it meant we were very strict in how we interpreted what was in those files.

Q. Strict towards the benefit of the priest against whom --

A. No.

Q. -- against whom allegations had been made?

A. No, strict to the detriment of the priests.

Q. And you don't recall being that strict to the detriment of the priests and this resulting in any action or any termination or anybody being put on administrative leave?

A. It may have, I just don't know.

Q. And this memo, apparently attached to it was the list of the priests; is that correct?

A. That's right.

Q. And you can't find that document?
A. I cannot.
Q. Did Monsignor Molloy, to your knowledge, ever go through all of these secret archive files? Did he have a working list of priests that had had allegations made against them, do you recall that?
A. You know, I think he may have had some kind of coded list that he had or something.
Q. Well, let me just ask you this: If that coded list existed or that he used, certainly you would have been privy to it, given the fact that you were assisting in the investigation of these cases, correct?
A. I'm sure I -- you know what, he kept a lot on his disk, and it was -- he would have all kinds of passwords and everything, I'm not sure I would have had complete access to it.
Q. So you don't recall ever him sharing that information with you, like Bill, I went through these files, let me give you what I was able to gather from them?
A. I don't, no.
BY MR. GALLAGHER:
Q. Monsignor, this memo is dated February 18,

1994; is that correct?

A. That's right.

Q. And it's from the desk of Reverend William J. Lynn, and then there's initials there, you signed that; is that correct?

A. That's right.

Q. And there's also a date stamp on this that it was received by the Office of the Vicar for Administration on that same date, February 18, 1994?

A. That's right.

Q. Now, do you recall when you gave this to -- and the memo went to Reverend Monsignor James E. Molloy, Assistant Vicar for Administration; is that correct?

A. That's right.

Q. Do you remember when you gave it to him back on February the 18th of 1994, was the list that is referred to in this memo as an attachment in fact attached?

A. I'm sure it was, if it says that, yeah.

Q. And it indicates that you and Father Beisel -- who was your assistant at that time; is that correct?

A. Right, Beisel.
Q. Beisel, sorry -- went through 323 files that were presently stored in the secret archives. And that was as of February the 18th of 1994; is that correct?
A. That's right.
Q. Do you today remember sitting down and going through all those 323 files?
A. You know, I don't.
Q. Do you remember seeing Father Beisel sitting there and going through the files?
A. No.
Q. Well, when you say --
A. I'm sure we did it. I just don't -- I can't picture us doing it.
Q. And then the next sentence says: "Attached is a list of priests who have been guilty of or accused of sexual misconduct with a minor according to the file material."

I guess you and Father Beisel were the ones that made those determinations; is that correct?
A. Yeah, I would believe we would have, yeah.
Q. And then you indicate that you were very

literal or very strict in how you were reading those files?

A. That's right.

Q. To the detriment of the accused?

A. That would have been my mode of operation, yeah.

Q. And the next sentence says: "From our review, A, three priests have been diagnosed as pedophiles," is that correct?

A. Right.

Q. And this is as of February 18th of 1994, you went through 323 files and you found three that were diagnosed as pedophiles?

A. Right.

Q. Do you know who those three priests were?

A. I'm trying to think of those that have been diagnosed that way, I think it was Dunne would be one of them, D-U-N-N-E. You know, was McCarthy one of them? I forget. I can't remember who the third one is.

Q. Well, do you know if Dunne and McCarthy were still in ministry as of February 18th of '94?

A. Dunne was not, I don't believe. I don't remember -- I don't think McCarthy was either.

Q. Okay. Then the next --
A. I'm not even sure if McCarthy was one of those diagnosed that way. But I think with him, I think it was ephebophilia.
Q. Let's say those three, do you remember doing anything additional on those three pedophiles at that time in February of '94?
A. I don't.
Q. The next subsection in that sentence is B, twelve priests have been either found guilty or admitted guilt of sexual misconduct with a minor.

Now, I know it's difficult, but do you remember any of those twelve?
A. Oh, geez. Yeah, I don't remember who's before '94 and who's after.
Q. Do you know if you have any records back in your office that would assist you in putting names to these categories?
A. Not -- not specifically to this. I would know who was -- I could look at who -- I have to go through the files to see who was diagnosed when and what I could see from there, you know, before '94.
Q. So without that attachment, it would be hard for you to reconstruct who you're referring to and

with these particular numbers?

A. Yeah, it would, yes.

Q. And then the third category is C, 20 priests have had allegations of sexual misconduct with minors made against them with no conclusive evidence to prove guilt.

Now, these three categories, three, 12 and 20, were established in 1994. How you defined those three categories, that was between you and Beisel; is that correct?

A. Right.

Q. Were you given any direction by Monsignor Molloy or Monsignor Cullen as far as determining those three categories?

A. You know, I don't think for this memo. I do remember -- I'm trying to picture Monsignor Molloy talking about -- he would use a lot of terms that I always thought were real technical, almost as if he was a policeman sometimes or something like that, you know. So I can hear credible, noncredible, things like that from him, but I don't recall like sitting down and --

Q. But I mean, what I'm trying to find out is who determined to set up these three categories, A, B

and C, you and Father Beisel, or was Monsignor Molloy involved in it or Monsignor Cullen?

A. You know, I'm not sure it was -- no, I don't think they were involved, I think we would have went through and sent it up.

Q. So this was you and Father Beisel that --

A. Right. I think I would have done it from just like what I had heard as we were looking at them before, you know, like when we were going through cases or something.

Q. Now --

A. By practice I guess that would be.

Q. Do you remember drafting this memo or did Father Beisel draft the memo?

A. Oh, I have no idea.

Q. Okay. Do you know if his recollection of this would be better than yours is now?

A. Probably be worse, but --

Q. Why do you say worse?

A. Well, because he's been -- he was only in the office a year and he hasn't been involved in any of this for a while, so.

Q. Okay. So that three, 12, and 20, in those three categories, that adds up to 35; is that

correct?

A. Yeah, it does.

Q. So 35 out of the 323 files that you looked at fell into these three categories?

A. Right.

Q. The next sentence is: "Only basic information is contained in this report so as not to have too much in writing on this matter." What did you mean by that?

A. Well, I think you don't want a bunch of names like that floating all over the place. And the Archdiocese were notorious for paper, so not to have somebody's name floating around, especially those where they may not have been guilty of it.

Q. The next sentence says: "Also attached is a listing of extern priests who fit these categories in whom the Archdiocese has some awareness. The list of externs is provided to complete the picture."

What picture were you trying to present in these lists?

A. It seems to me I was trying to give a full picture of sexual abuse here.

Q. As of February 18, 1994, correct?

A. Right.

Q. Now, when you say extern priests who fit these categories, what do you mean by extern priests?

A. Extern priests would be priests who would be from another country, different from a religious community priest, religious order priest, different from a diocesan priest -- well, not different from a diocesan. They would be like a diocesan priest of another country or another state.

Q. Do you know how many extern priests were on this list?

A. I don't.

Q. Now, down the bottom there is also a recommendation concerning Father Dux; is that correct?

A. That's right.

Q. And this was located, so you know, Monsignor, in Father Dux's file, were you aware of that?

A. Right, yes.

Q. And in the lower right-hand corner of the one that's been marked, there's a Bates number that's been added in; is that correct?

A. Yes.

Q. And what's that Bates number?

A. Bates AD 1342.

Q. And also down the bottom there, it's based on a recommendation on Father Dux, there is a signature -- or strike that, a recording there that says approved in handwriting AJB, 2/24/94; is that correct?

A. That's right.

Q. So that was a little over ten years ago, correct?

A. That's right.

Q. Now, that's Cardinal Bevilacqua's signature; is that right?

A. That's right.

Q. Now, have you checked with Cardinal Bevilacqua or Monsignor Molloy or Monsignor Cullen to find out if either of them have the list that was attached to this memo?

A. No, I haven't, no.

Q. Okay. Could you do that for us, please?

A. Sure.

BY MS. McCARTNEY:

Q. Let me just ask you a couple questions further about this memo, Monsignor.

You were given -- is it your memory

that you were given the task of going through these secret archive files by somebody higher than yourself or that this was something that you initiated on your own?

A. My -- I don't have a distinct recollection why I did it then, but I know that we are always saying some day we have to get through these things and see what's in all these cabinets.

Q. And who would say that?

A. I would say it, I think Monsignor Molloy would say it, I think -- well, at the time Father Beisel would have said it.

Q. And at some point in time, you actually I guess found the time to do that, right?

A. Yeah.

Q. Okay. And you and Father Beisel were the ones that were designated to go through all of these files?

A. I don't know whether we were designated, but we did it.

Q. Okay. And you say there was three categories that Mr. Gallagher already talked about; is that right?

A. That's right.

Q. And those three categories at some point in time in response to a question you said they would have had to go up, what did you mean by that?
A. Oh, I think anything of that magnitude or anything of this gravity would have had to be reported to my superiors.
Q. That would have been Monsignor Molloy and Bishop Cullen?
A. Uh-huh.
Q. And ultimately Cardinal Bevilacqua, correct?
A. That's right.
Q. And when you say that it would have had to have been reported, you mean -- do you have a recollection of having any type of meeting or any type of conversation wherein it was like we finally found the time, we're going to go through these files, how is it that we're supposed to analyze them, I need some direction about when I look through them what it is that I'm going to be looking for and how I'm supposed to analyze what's inside these documents?
A. No, no, I don't.
Q. Well, when you say that they went up, what was the direction that you got with regard to the

proposals that you made in terms of the categories?
A. I do not remember getting any direction.
Q. Well, what was your -- okay. So you didn't get any direction from anybody that you can recall. You're going to go through all of these files and you're going to break them down into categories, what was the criteria that you gave to yourself and that you passed on to Father Beisel with regard to looking at these allegations?
A. Well, we would have looked -- I presume we would have looked for the diagnosis, if they had been evaluated; we would have looked to see if they admitted it, you know, or somehow they were found guilty of it; and then I guess the ones where it wasn't clear, that's where we would have said it was not conclusive.
Q. Well, you're looking through these files -- and let me just give you a hypothetical, if I could.

You're looking through these files, it's 1994, there's a file that exists on somebody that's still in ministry and when you pick it up, you see that there's allegations that had been made against them in, say, '75, '76, '77, sometime

around that time frame, how would you analyze whether or not that allegation was credible? Would you go back and try to speak to the victim?

A. Geez, probably we would have gone back to the priest and spoken to him, if we did anything.

Q. And what if you didn't do anything, how would you have dealt with that?

A. Well, that's -- I don't know what we did with it.

Q. Well, did you ask for any direction with regard to those types of situations? Because what you said motivated you doing this was to make sure that you didn't have any priests in active ministry that had had a background in which a credible allegation of sexual abuse had been made against them.

A. Yeah, I'm presuming that's why I did it.

Q. Okay. Well, let's assume that your presumption is correct. If that was why you did it, how would you be able to take comfort with I don't have to worry about this guy, it was 1977, and I can say that it wasn't credible?

A. I -- my -- I don't know. My thing would be I'm sure if I thought that the people before me had

examined these things and had still left the person in ministry, that they must have had good reason to do that, and I would presume that their judgment was correct.

Q. In looking through these files, some of the allegations that occurred -- some of the allegations that occurred even if the person were asked to go to counseling or receive an evaluation, there was not always records for mental health facilities in the files, correct?

A. Probably.

Q. So there would be some files then that you looked at that you weren't able to plug into one of your criteria, which would be whether or not there was a diagnosis, because you wouldn't have that document in the file to do that, correct?

A. Right.

Q. Okay. So let me ask you this, you said that there's 323 files that are presently stored in the secret archives, according to this memo?

A. Right.

Q. We've already talked about the fact that there are secret archive files that exist for a variety of reasons, not all of them dealing with sexual

abuse of minors, correct?

A. That's right.

Q. And you were specifically looking for those files that dealt with sexual abuse of minors; is that right?

A. I presume I was.

Q. Okay. So even if there was a situation where a priest was accused of having a affair with someone of consenting age, that wouldn't have been something that you would have spent time --

A. No.

Q. -- putting into any category, correct?

A. Right.

Q. Okay. And the numbers that we've talked about with regard to the breakdown of categories that you have are 35; is that right?

A. That's right.

Q. Is it your understanding that of the 323 files only 35 of those files dealt with the issue of clergy sexual abuse?

A. Right.

Q. Yes?

A. Yes.

Q. Can you explain then how it is, Monsignor, and

I understand that there's going to be some variation of numbers because it's ten years subsequent to that, but our office in response to our subpoena have received approximately 140 files, is it your understanding that of that 140, minus 35, so 105 files have been generated from 1994 through the present day?

A. (Pause.)

Q. Do you understand my question?

A. Yeah. Can I talk to my lawyer?

Q. Sure.

(Whereupon a discussion was held off the record by and between the witness and his counsel.)

BY MS. McCARTNEY:

Q. I'm sorry, did you have the opportunity to consult with your attorney?

A. Yeah, I did.

Q. Okay.

A. When I would have been doing this, I wasn't -- like deceased priests, even religious community priests were included here and things like that, anonymous allegations, you know, those kinds of things, so I wouldn't have been -- I think this

would have been people that were still somehow or other connected to the priesthood, either I guess in retirement or administrative leave or things like that, or in ministry.

Q. When you say anonymous allegations, just let me ask you about that. If you came upon a file that inside was contained an allegation that had been either called in anonymously or a letter written anonymously with regard to sexual abuse of minors, that would have been something that you would have disregarded?

A. Most -- yes, yeah.

Q. And who gave you the direction that that was something that was appropriate to do, to disregard anonymous allegations? Did you get that direction from Cardinal Bevilacqua?

A. You know, I remember not on sexual abuse, any anonymous complaints that came in on priests, whether it was sexual abuse or any other. It was more just -- it was told to me in a general way, not sex abuse.

Q. Not with regard to specifically this issue?

A. Right.

Q. But you have a recollection of the Cardinal

basically giving you the thumbs up of ignoring any allegation that came in about a priest if the source of it was anonymous?

A. Right. I mean, I may remember -- like you would have a meeting and he specifically talked about it, but in the course of conversation, he just said we can't give into anonymous allegations or complaints.

Q. And what you believe to be that direction applied not only in your going through the preexisting secret archive files, but also if there was an allegation that occurred that you became aware of that had an anonymous source to it, when you were Secretary of the Clergy, you also would have applied that same direction; is that right?

A. Right.

Q. What about hearsay allegations, and by that I mean I call up and say that my friend is being sexually abused or my brother's friend is being sexually abused by a priest, would that have been something that you would have looked into?

A. I would have asked the person to have the person contact me.

Q. And if I said the person really doesn't feel

comfortable doing that, you would do nothing until that person themselves called and contacted you?

A. Huh?

Q. I mean, you would make the invitation?

A. I would make the invitation, right.

Q. And if they did not, then that would be as far as that investigation would go?

A. Yeah. Because at times you have people call about all kinds of things, they make all kinds of statements about people, and you know.

Q. Okay. Did you feel that you had the ability or the direction to view those allegations in that manner from a general conversation that you had with the Cardinal as well?

A. I would think it was more of the practice that I just learned, like the on-the-job thing.

Q. Okay.

MS. McCARTNEY: You know what, Monsignor, it's now 12:35. We're going to take a lunch break till 2:00, okay.

(Whereupon a lunch recess was taken.)

MS. McCARTNEY: All right. We're back on the record.

It is 2:04. Today's date is February 27th, we have?

GRAND JURY SECRETARY: Twenty regulars and eight alternates.

MS. McCARTNEY: Which constitutes a quorum. We have recalled to the stand Monsignor Lynn.

BY MS. McCARTNEY:

Q. Monsignor, again, just for the record, could you just state and spell your last name?

A. Sure. Monsignor William Lynn, L-Y-N-N.

Q. And, again, Monsignor you're represented by an attorney; is that correct?

A. That's correct.

MS. McCARTNEY: And, Counsel, again just for the record, could you state your name for the record?

MR. HODGSON: Yes. My name is Clark Hodgson. I practice with the law firm of Stradley, Ronon, Stevens & Young here in Philadelphia, and I represent Monsignor Lynn.

BY MS. McCARTNEY:

Q. Monsignor, when we broke before lunch, we were discussing the memo that you prepared back in 1994

with regard to having gone through the secret archive files; is that right?

A. That's right.

Q. Okay. And that memo was prepared by you, and you had gone through the files with yourself and Father Beisel; is that right?

A. That's right.

Q. And Father Beisel at that point in time worked for you; is that correct?

A. That's right, he was my associate.

Q. Well, let me ask you this, Monsignor, what direction did you give Father Beisel in terms of breaking down these files and making determinations as to what category to put the different allegations that may be contained in the files into?

A. I probably -- I don't know.

Q. Do you think that you did it and you just don't recall, or you didn't do it?

A. Well, I would think we probably would have got out everything that would have involved, you know, this kind of nature, and discussed together what to do with it.

Q. Okay. So you believe that what probably

happened was you went through all the secret archive files, you put to the side or put back in the cabinets those issues that dealt with alcoholism only or other misdeeds or allegations of misdeeds against priests, you're left then with a pile of files that deal specifically with the issue of clergy sexual abuse of minors, correct?

A. Well, I don't know exactly how we did it, but I'm presuming that we must have put our heads together to --

Q. So you believe that the categories that ultimately you came up with -- I mean, you've already testified that you believe that these different categories had to go up, meaning they had to get the approval that this is an appropriate way to break these things down, correct?

A. No, no, I didn't say that. That I had sent them up in order just that my superiors would know what was in the files.

Q. You mean the ultimate synthesis of the files themselves?

A. Right.

Q. Okay. But in terms of yourself and Father Beisel sitting down, you went through -- you

believe you went through each file together or you took some files and he took some files and you sort of came up with a list based upon that?

A. You know, I really don't remember how exactly we did it.

Q. Let me ask you this, Monsignor, this is 1994, now in 1992 you had already assumed the position of Secretary of Clergy, and even prior to that you had been working as an assistant on these types of cases, correct?

A. That's right.

Q. And so you would have been aware, not only based upon the national nature of it, but also because it directly impacted potentially your work that you were doing, you were aware of the Porter case in Boston; is that correct?

A. I was -- I heard the name, sure.

Q. Well, you were aware of the fact that the Porter case when it came out that he had abused a number of children; and that it was determined that he had been transferred to a number of different locations even after those allegations came back; that made national news coverage at the time, do you recall that?

A. I recall it being in the news, yes.
Q. Do you recall having any discussions with your superiors or your superiors having any discussions with you with regard to we have to make sure that we don't have any Porter situation in Philadelphia?
A. No, I don't.
Q. Do you have any recollection of anything changing with regard to the way that these cases were handled as a result of the Porter case?
A. No.
Q. Was the Porter case breaking on a national basis part of the reason that motivated the Archdiocese to put down in writing their policy with regard to sexual abuse of minors?
A. I don't -- I don't know whether that had a direct impact on it or not.
Q. So you don't recall the Porter case impacting your work in any way at all after it happened in 1992?
A. No.
Q. Now, what about -- you never had a conversation with Cardinal Bevilacqua with regard to that?
A. I don't believe so.

Q. Now, when you sat down with Father Beisel to go through these files, I just want to make sure that we're clear because I'm a little bit unclear, and I'm sure it's my fault, when you looked at a file, how was it that you came to the conclusion that an allegation that predated your time in the Secretary for Clergy's office, how was it that you came to a conclusion that the allegation would have been credible or noncredible so as to determine what category to put that priest into?

A. Well, I don't exactly -- I do not remember what I did ten years ago with these going through them, but I think if I would have had a diagnosis that said that, that would have fit the first category, and the rest I would have just done it from what I found in the file.

Q. Well, when you say what you found in the file, we've already talked about the fact that if it was an anonymous allegation, you basically gave that no weight, correct?

A. Normally that's the way I would have operated.

Q. And that was something that you believed was appropriate to operate with based upon whatever own experiences you had and also on some direction that

you believe you got from the Cardinal; is that correct?

A. Right.

Q. And you also told us that if there was an allegation that came about as a result of hearsay information, that again you would have given little or no credibility to; is that right?

A. Right.

Q. Okay. Did you at any point in time try to verify or dig into a case that was anonymous or a case that dealt with hearsay information?

A. I don't believe I did.

Q. And so basically if I'm correct about this, and if I'm not, please correct me, you looked at a file, if there was a diagnosis from some psychological report, if one was in the file that said the person is a pedophile, that was one of the criteria; if you had an admission on the part of the priest themselves when confronted with an allegation, that was another one, correct?

A. That's the way I would have operated, right.

Q. What about a situation wherein there was allegations that were made and brought to the attention of the administration prior to Cardinal

Bevilacqua's time where there were notations by the person interviewing either the victim or the priest that deemed the allegations to be credible, what would you do with them?

A. Could you ask me that again?

Q. Sure.

What if you had a situation when you were looking through a file and you were reading back, say, a complaint that occurred in 1964 and you were looking back over the paperwork and you saw that when the allegations had come to the attention of the Archdiocese and either the victims had been interviewed or the priest had been interviewed and the interviewer had determined that they were credible allegations, what would you do with that situation?

A. I presume I would have put it in the category of guilty.

Q. Okay. And if you had put it in the category of guilty, what would you have done once that person was in that column, if you found out that they were still in ministry?

A. Well, as I said, I don't remember what I did ten years ago, but I think my mode of operation

would have been to do something about him, if he was in ministry.

Q. Well, let me ask you this question specifically, and if you don't have the recollection, that's fine, what about Father Cannon? Father Cannon had allegations that were brought about against him in 1964 by a number of different individuals, I think it was eight at the time, and those individuals were interviewed, and the allegations were determined by the interviewer to be credible allegations.

There was another allegation that came forward -- well, I shouldn't say another allegation, I'm sorry, one of the same victims notified the Archdiocese in 1992 as a result of the Porter case, wrote another letter to the Archdiocese, that's 1992, and in 1994 when you went through these files, Father Cannon remained in his ministry, do you recall that?

A. I do not recall him in connection with going through these files. I do recall somebody coming in to me in '92 about him.

Q. And when somebody came in to you in '92, your mode of operation would have been to go and check

and see whether or not a secret archive file existed, correct?

A. Right.

Q. And if you had done that or when you did that, you would have determined that Father Cannon did in fact have a secret archive file, correct?

A. Right.

Q. And it was determined after an outpatient evaluation that Father Cannon needed inpatient treatment; is that right?

A. That's right.

Q. And at some point in time it came to be known that he never received that inpatient treatment; is that correct?

A. That's right.

Q. And you didn't have an explanation in the memo that you prepared as to why that was the case, correct?

A. That's right.

Q. And all the while, Father Cannon remained in ministry; is that right?

A. Right.

Q. Up until December of 2003; is that right?

A. That's right.

Q. Do you have an explanation as to how that happened if when you went through the files in 1994 your purpose in doing so was to make sure that no one with credible allegations against them were in ministry?

A. Well, my view on Father Cannon was I never had conclusive evidence that he had been guilty of misconduct.

Q. Then I'm going to ask you again, Monsignor, what type of conclusive evidence were you looking for, aside from an admission on the part of the priest?

A. Can I talk to my attorney?

Q. Sure.

(Whereupon a discussion was held off the record by and between the witness and his counsel.)

BY MS. McCARTNEY:

Q. Did you have the opportunity to consult with your attorney?

A. I did, yeah.

Q. And do you have an answer to the question?

A. Can you read it back?

(Whereupon the court reporter read

back the following testimony as follows:

"Question: Then I'm going to ask you again, Monsignor, what type of conclusive evidence were you looking for, aside from an admission on the part of the priest?")

THE WITNESS: Well, if I had an admission on the part of the priest, that would have been conclusive enough.

BY MS. McCARTNEY:

Q. I understand that. But you determined -- you determined based upon some criteria that you were using, which is I guess really what I want to know, that Father Cannon's allegations were not credible at that juncture.

I'm asking you aside from an admission on the part of a priest, what was it that would have made you believe that something was credible?

Because as I've already stated, and you've already agreed with, in the case of Father Cannon, the person who interviewed the victims when the complaint first came in had found them to be credible.

A. No, I didn't agree with you on that.

Q. You didn't, I'm sorry. Well, you take whatever -- you say whatever you want to say about that statement then.

A. Well, I never agreed -- I don't even remember seeing that someone said they were credible.

Q. Okay. So you, using your criteria, determined the allegations against Father Cannon to be noncredible, correct -- or I'm sorry, nonconclusive, I don't want to put words into your mouth; is that right?

A. I don't know what I did -- I said before, I don't know what I did in '94.

Q. Well, you've told us earlier, and if I'm wrong please correct me, you told us earlier that your purpose in going through these files two years after assuming the job as Secretary of Clergy was to make sure that nobody in active ministry had a file or had credible allegations against them; did I misinterpret that?

A. No, I told you I presume that's why I went through them.

Q. Okay. Well, what can we do besides work on your presumption? Do you have another reason for having done that?

A. No.

Q. Okay. So is it a fair assumption for us to make that the reason in 1994 that you went through those documents was to determine whether or not any of the people that had secret archive files were in ministry and if they were in ministry, whether the allegations in the secret archive files were credible?

A. Yes.

Q. Okay. So I'm going to ask you then, when you did that, when you wanted to make sure of that, and I'm sure that you wanted to make sure so that you could pass it on to the Cardinal, correct, what were your criteria? And applying the criteria you've already told us about, how did Father Cannon remain in ministry until 2003?

A. Well, if my recollection is right, with Father Cannon, I never found that there was conclusive evidence that he was guilty or not.

Q. Okay. And so I'm not trying to belabor a point, but what in your mind would give you conclusive evidence?

A. Well, a admission on his part.

Q. Okay.

A. Or a, like I said, if a report said he was diagnosed that way, had a sexual disorder, or something like that.
Q. Okay. Again, aside from a priest saying I did it, I molested these kids, or a psychiatric institution determining that someone fit within a specific criteria of pedophile or ephebophile, what else? Or if there's nothing else, then that's your answer.
A. There's nothing else.
Q. There's nothing else, just those two things?
A. As far as I can see.
Q. I'm sorry, I don't mean to cut you off.
A. I mean, as far as I can answer right now, that's what the criteria was.
Q. Okay. So unless when you were going through those files you saw one of those two things, then you would put the person in the category of not having conclusive evidence to prove guilt, correct?
A. I would presume so, that's what I did.
Q. And so if you came to that conclusion and you went through that analysis and you couldn't come up with the conclusive proof, so then I assume nothing would be done in terms of removing or limiting any

of those people's ministry, correct?

A. It may have been that way. I really don't remember.

Q. Okay. When you sent this memo to Cardinal Bevilacqua and you broke down these categories, do you recall whether he had any questions for you with regard to how did you come up with these three categories, what's the number, where did you get these numbers from, do you remember any of those kind of questions being asked?

A. I do not.

Q. Do you remember Monsignor Cullen asking you any of those kind of questions?

A. I do not.

Q. Monsignor Molloy?

A. No.

Q. Okay. Did anybody express any, you know, relief that of the 323 files there was only apparently 35 that fit into any of these three categories?

A. You know, I don't remember.

Q. And when you wrote in this memo under separate cover, I will be making recommendations about the other files presently stored in the secret

archives, what were you referring to there? You were referring to the ones that dealt with alcohol or priests that had left the priesthood?

A. I imagine, yeah.

Q. And I think I already asked you this, but I'll ask it again just for clarification, when you wrote that memo and you came up with the numbers that you did, do you recall any changes taking place in the Archdiocese of Philadelphia with regard to anybody being either removed or limited in their ministry, based upon your review of the secret archive files in 1994?

A. I don't recall right at this point.

Q. You don't recall or you don't think -- I mean, you don't recall?

A. I don't recall.

Q. Now, Monsignor, when you took over as Secretary of Clergy, you've already indicated that one of your jobs was to put forth names of priests for different assignments; is that right?

A. That's right.

Q. What about a priest that had a secret archive file, how would that person be handled at a priest personnel board meeting?

A. Sometimes the assignment wouldn't take place; wouldn't be discussed at a priest personnel board meeting.

Q. And let me just make sure I'm correct on this, part of the purpose of having a priest personnel board meeting was to get the input of the other people throughout the Archdiocese; is that right?

A. That's right.

Q. And part of the input that would be gotten by the other people on the board would be what they might know personally about a priest, what they maybe had heard about a priest; is that right?

A. That's right.

Q. And given that they could be very valuable criteria in discussing the placement of a particular priest, why was it that somebody that might have had a past not be discussed in that board meeting?

A. I believe part of it was that they all had a right to their reputation.

Q. Was there ever a point in time when there was a thought that a person who abused a child no longer had that right to their reputation?

A. Pardon me?

Q. Was there ever a discussion about that?
A. No, not that I recall.
Q. So people that were coming back for reassignment after having been removed or taken out of an assignment and sent for treatment, they wouldn't have been discussed at the priest personnel board meetings; is that right?
A. Not normally, right.
Q. Okay. That discussion -- or that would be held by -- that would be discussed only by yourself, someone within your office, maybe Monsignor Cullen and the Cardinal himself?
A. At times, or maybe just through memos.
Q. Was there ever an occasion that you can recall where you had a disagreement with -- or someone had a disagreement with a recommendation that you had made?
A. I'm sure there were times, you know, that the recommendation would have been questioned or disagreed with.
Q. How often was it that you recall, and I'm only going to ask you up until the point of time that Cardinal Bevilacqua left the Archdiocese, when you would send a memo to him about a particular priest

EXHIBIT 9

Vicar for Administration

EXCERPT

Anthony Cardinal Bevilacqua
Bishop-elect Edward P. Cullen

Issues discussed, March 15, 1994

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1. **Review with Father Lynn: Material in secret archives**

Father Lynn provided supplemental background concerning particular files for which additional information had been requested. Cardinal Bevilacqua and Bishop-elect Cullen returned to Monsignor Molloy their copies of the file listings so that the material might be shredded. **(No follow-up necessary)**

Vicar for Administration

EXCERPT

Anthony Cardinal Bevilacqua
Bishop-elect Edward P. Cullen

Issues discussed, March 8, 1994

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1. **Set date to meet with Father Lynn re: Material in the secret archives**

Cardinal Bevilacqua indicated that Father Lynn is to be asked to meet on this subject as part of the Issues meeting scheduled for March 15th. Monsignor Molloy will inform Father Burbidge that this meeting on Issues and its preceding calendar meeting will be relocated from the Archbishop's residence to the Office of the Archbishop at the Archdiocesan Office Center. Monsignor Molloy will also alert Father Lynn to plan on joining the meeting at approximately 1:00 p.m. in the Office of the Archbishop.

(Monsignor Molloy)

EXHIBIT 10

OFFICE OF THE VICAR FOR ADMINISTRATION

FROM THE DESK OF:

JUN 2 4 1994

REVEREND MONSIGNOR JAMES E. MOLLOY

TO: Most Reverend Edward P. Cullen

DATE: 24 June 1994

ITEM: Security considerations

RE: Reassignment of Monsignor Molloy

In light of my upcoming departure from the Office of the Vicar for Administration, I offer for your consideration the following:

A. For your information

1. As you know there are two file cabinets in the Records Room of the Office of the Vicar for Administration which are restricted for storage of "file 3" materials. Over the past year or so, numerous files from these two cabinets have been signed out by staff of the Office for Clergy and are, as a result, in the custody of that office on the tenth floor. Subsequently, I have stored newer material on certain individuals in folders in these cabinets marked "JEM supplemental file" if the original file has been signed out. This parallel filing will resolve itself once there is in place an approved schema for categorization and custody of the "file 3" materials.

2. The "file 3" cabinets, as you recall, are secured by locking bars with programmable combination locks. There are available in the key cabinet some pins which make it possible to release the programmed combination number of these locks for the purpose of changing the combination to a new number.

3. With the possible exception of one or two partial files now stored in the small safe in Father Cistone's office, there are no "file 3" materials stored anywhere except in the two "file 3 cabinets" or in the custody of the Office for Clergy. I have no such materials, either in original copy or in duplicate copy, in my possession or custody. I have taken care to erase all electronic files of this nature by means of the "Norton Utilities" program known as "wipefile" which overwrites existing

data. A 3-pass overwrite was performed using an overwrite character other than that suggested by the program's default configuration.

4. There may be a diskette containing some electronic versions of "file 3" information. This diskette, if it still exists, is locked in the safe.

5. There are, as of this writing, some two or three back-up tape cartridges (Maynard drive) which include a small number of electronic files containing "file 3" data. Nearly all of these files are password-protected. Nevertheless, I shall see to it personally, prior to 01 July 1994, and in the presence of Father Joseph R. Cistone, that all of these tapes be thoroughly de-gaussed.

B. I recommend (for implementation as soon as advisable following my departure on 01 July 1994):

1. Re-programming of the combination locks on the two "file 3" cabinet locking bars.

2. Re-programming of the electronic key pad to the right of the entrance door to the Records Room. (This key pad arms and disarms the entrance door alarm bell).

3. Re-program the combination lock on the entrance door to the Records Room.

4. Re-set the combination lock on the door of the large safe inside the Records Room.

5. Re-set the key operated pin lock on the door of the larger safe in the Records Room.

Some of these recommendations may be rendered moot, in time, by plans being pursued by Brother Joseph Willard for installation of a new entry system (magnetic stripe operated) for the Records Room. However, I do not know with certainty that this system will be in place prior to my departure. I believe it is important to address the professional and personal dimensions of the security issues involved when personnel changes occur. Hence, I submit the above recommendations so that you might have opportunity to implement the adjustments you consider necessary to maintain the integrity of the security mechanisms which you consider appropriate.

dds

cc: Brother Joseph J. Willard, F.S.C.
Reverend Joseph R. Cistone
Reverend William J. Lynn

MEMORANDUM

TO: Reverend Joseph R. Cistone
Associate to the Vicar for Administration

FROM: Reverend Monsignor James E. Molloy
Assistant Vicar for Administration

DATE: 01 July 1994

ITEM: Surrender of office articles

RE: Outprocessing of Monsignor Molloy for new assignment

The following items are attached so that you might take custody of them and arrange for secured storage or other appropriate disposition as needed:

1. Key (one) #GEK402 - for large key cabinet in records room.

2. Key (one) #85534 - for large safe in records room.

3. Key (one) unnumbered "Medeco" - master key for Archdiocesan Office Center.

4. Key (one) unnumbered - lobby entrance door for Archdiocesan Office Center.

5. Key (one) unnumbered - office door for Room 1210. This is a master key for "Arrow" locks and also opens telephone closet inside room 1204.

6. Parking lot access gate card. AB0031

7. One (1) American Express Corporate Credit Card #3782-636454-13020 (expires 02-96) in the name of JAMES E. MOLLOY.

8. One (1) Visa Credit Card [CoreStates] #4159-0820-0753-1014 (expires 04-95) in the name of JAMES E. MOLLOY, ARCHDIOCESE OF PHILADELPHIA.

9. One (1) U.S. Fibercom (telephone) credit card #7-506-063-8441-7255 (no expire date) in the name of MSGR. JAMES E. MOLLOY.

10. One (1) Texaco (gas) credit card #13-580-26993-65003 (expires 04-95) in the name of VICAR FOR ADMINISTRATION.

11. One (1) Sunoco (gas) corporate credit card #4015-4872325-0003 (expires 10-96) in the name of VICAR FOR ADMINISTRTN (sic).

12. One (1) Gulf (gas) credit card #095-327-060-0-00003 (expires 04-96) in the name of ARCHDIOCESE/PHILA.

13. One (1) photo ID badge - Archdiocese of Philadelphia - Office of the Vicar for Administration.

14. One (1) key for desk and lateral file in room 1210.

15. One (1) key for men's room, Archdiocesan Office Center.

I have retained, temporarily, the Hayes 9600 Baud modem which I have been using at the rectory for remote communication with the Office Center LAN. It is my plan to return this modem as soon as I can purchase a replacement for it at the seminary.

I am fairly certain that the list above is complete and accurate. Should I discover that something has been omitted from this list I shall bring it to your attention promptly. If you become aware yourself of any items which had been issued to me and are still unaccounted please feel free to bring them to my attention for clarification.

Thank you for your assistance with this.

* * *

This is to acknowledge receipt from Rev. Msgr. James E. Molloy of the items listed above in their entirety.

_____ _____

Date

Reverend Joseph R. Cistone
Associate to the Vicar for Administration

dds

cc: Most Reverend Edward P. Cullen