

1 COMMONWEALTH OF MASSACHUSETTS
2 SUFFOLK, ss SUPERIOR COURT DEPARTMENT
CA 02-04628-T1
3 (Consolidated with CA 02-1296)
4 (Originally entered in
Middlesex County as
No. 02-0822)

5
6 PAUL W. BUSA, -
Plaintiff,
7 vs.
8 BERNARD CARDINAL LAW, et al.,
Defendants.

9
10
11 THE VIDEOTAPED DEPOSITION OF CARDINAL
12 BERNARD F. LAW, a witness called by the
13 Plaintiffs, taken pursuant to the applicable
14 provisions of the Massachusetts Rules of Civil
15 Procedure, before Kathleen L. Good, (CSR
16 #112593), Registered Professional Reporter and
17 Notary Public in and for the Commonwealth of
18 Massachusetts, at the offices of Greenberg
19 Traurig, One International Place, Boston,
20 Massachusetts 02110, on Wednesday, January 22,
21 2003, commencing at 10:08 a.m.

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1 tenure -- and that's the only thing that I can 12:16:51
2 speak to -- 12:16:53
3 Q Yeah. 12:16:54
4 A -- is that as the end of a term as pastor came 12:16:56
5 up -- 12:17:01
6 Q Yeah. 12:17:01
7 A -- the pastor was invited to indicate whether or 12:17:02
8 not he would want to renew for another term. 12:17:08
9 And then the -- there was a review in terms 12:17:12
10 of the regional bishop, the chancellor, yes. 12:17:18
11 Q Yes. Ultimately, you -- were you involved in 12:17:25
12 that process of renewals? 12:17:28
13 A I was involved in the renewals, yes. 12:17:29
14 Q Looking just at what we have at page 21 of 12:17:33
15 Exhibit 5, you'll see -- 12:17:36
16 A 21? 12:17:37
17 Q Yes. The one we just went over. You'll see 12:17:38
18 that T. J. Daily -- that would be Father Daily 12:17:42
19 who was working in 1993, where, Cardinal Law? At 12:17:44
20 the Chancery? 12:17:47
21 A Father Daily was assisting the Moderator of the 12:17:49
22 Curia. 12:17:52
23 Q Right. And that would have been Bishop Hughes at 12:17:53
24 that time; is that correct? 12:17:56

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1 A I'm sorry. 12:17:59
2 Q That's okay. 12:18:00
3 A In '93, I'm not sure. 12:18:01
4 Q Bishop Banks had left? 12:18:02
5 A It was Bishop Hughes or it was Bishop Murphy, I 12:18:05
6 don't know. 12:18:08
7 Q One of the two. You'll see, he uses the word 12:18:08
8 "lend lease to Calgary, Alberta." 12:18:11
9 Had you ever seen that term before? 12:18:13
10 A First of all, I have not -- 12:18:15
11 Q Right. 12:18:16
12 A -- to my recollection, I have not seen this memo 12:18:17
13 before. 12:18:19
14 Q I know. 12:18:19
15 A And I would not -- that would not be a term with 12:18:21
16 which I am familiar in this context. 12:18:26
17 Q Okay. All right. 12:18:28
18 Going to page 28, you want to take a moment 12:18:30
19 and first tell me whether you recognize the 12:18:39
20 handwriting on that document, No. 28. 12:18:40
21 A I think this may be Father McCormack or Bishop 12:18:49
22 McCormack's handwriting. 12:18:53
23 Q I agree. 12:18:54
24 A I'm not sure. 12:18:55

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1 Q I think that's who it is. I think that's made 12:18:56
2 clear by subsequent documents. But you'll see 12:18:59
3 your initials are at the top and it's actually in 12:19:01
4 your calendar, which I can get for you if you 12:19:03
5 need, but there was a meeting with Father Foley 12:19:06
6 that you had on December 23, 1993, or at least 12:19:08
7 it's listed in your calendar, in your appointment 12:19:13
8 calendar, and it's referenced in this memorandum. 12:19:15
9 Do you generally have a recollection of 12:19:19
10 meeting at some point with Father James D. Foley? 12:19:20
11 A I do. 12:19:22
12 Q And do you remember learning from Father Foley 12:19:23
13 that he had been involved with a woman from 12:19:28
14 Needham for some period of time and asserted that 12:19:31
15 he had had two children with this woman? 12:19:35
16 Does that sound familiar to you, Cardinal? 12:19:41
17 A Yes. 12:19:42
18 Q And do you remember that Bishop McCormack was at 12:19:43
19 this first meeting that you had with Father 12:19:47
20 Foley? 12:19:49
21 A I am not sure of that. 12:19:49
22 Q Okay. Well, you'll see here notes of a meeting, 12:19:51
23 and why don't you take a moment -- I think the 12:19:57
24 handwriting is fairly legible if you want to take 12:20:00

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1 a moment and familiarize yourself with pages 28 12:20:02
2 and 29. 12:20:05
3 A Yes. 12:20:37
4 Q Do you remember becoming generally familiar in 12:20:38
5 1993 that Father Foley had had a relationship 12:20:40
6 with a woman who ultimately had a lobotomy and 12:20:44
7 that he claimed to have had two children with 12:20:47
8 this woman? 12:20:50
9 A I'm not aware of the -- I don't recollect 12:20:51
10 anything about a lobotomy, but I do recollect 12:20:54
11 hearing -- having -- being told about the 12:21:01
12 paternity and this relationship. 12:21:06
13 Q And you were outraged by it; is that correct? 12:21:08
14 A Terribly outraged. 12:21:10
15 Q In fact, your initial reaction was this man 12:21:12
16 should be sent to a monastery for the rest of his 12:21:13
17 life to do penance? 12:21:17
18 A That's correct. 12:21:18
19 Q Father Foley told you something about the death 12:21:19
20 of this woman, did he not? 12:21:21
21 A He told me something about the death of this 12:21:23
22 woman. 12:21:25
23 Q He told you in 1993 that the woman, who was 12:21:25
24 married, was overdosed while he was present; that 12:21:30

1 she started to faint, he clothed, put his clothes 12:21:37
2 on, left, came back, called 911, she died, a 12:21:45
3 sister knows. 12:21:45
4 Did he tell you that? 12:21:46
5 A I have a recollection of basically that 12:21:48
6 information, yes. 12:21:51
7 Q And this was certainly shocking information to 12:21:52
8 you? 12:21:54
9 A Absolutely. And I might say nothing like that 12:21:55
10 have -- had I ever heard or imagined before or 12:22:01
11 since. 12:22:06
12 Q Right. And when Father Foley told you the 12:22:06
13 sequence of events, did that raise any concern on 12:22:11
14 your part that he might have done something or 12:22:15
15 that he could have done something to help save 12:22:18
16 this woman's life? 12:22:21
17 You'll see the notes of Bishop McCormack and 12:22:25
18 what -- that are quite specific. "Overdosed 12:22:29
19 while he was present, started to faint, he 12:22:31
20 clothed," meaning putting -- I assume -- "he 12:22:34
21 clothed, left, came back, called 911, she died, a 12:22:39
22 sister knows." 12:22:43
23 The second page of the note, it says, under 12:22:44
24 No. 1: 12:22:47

1 "Criminal activity, question mark. 12:22:48
2 Overdosed, later called." 12:22:50
3 You see that? 12:22:54
4 A Yes. 12:22:54
5 Q That's Bishop McCormack's handwriting as well; is 12:22:55
6 that correct? 12:22:57
7 A Yes, yes, yes. 12:22:57
8 Q And so my question is: Do you remember the 12:22:58
9 sequence of events as they were described to you 12:23:02
10 by Father Foley that he -- after she overdosed 12:23:05
11 and fainted, he left the scene and came back and 12:23:09
12 then he called 911 and the woman died? 12:23:11
13 A I really do not remember the sequence of events. 12:23:13
14 I just -- I remember the bare facts and I was 12:23:18
15 shocked. 12:23:24
16 Q You remember that he not only claimed to have had 12:23:24
17 children with this woman, but was present when 12:23:27
18 she overdosed and ultimately died. 12:23:29
19 Would that be a fair statement? 12:23:31
20 A Yes. 12:23:32
21 Q And you felt that there were three things that 12:23:33
22 needed to be addressed. And the first issue was 12:23:37
23 the scandal issue? 12:23:40
24 A I'm not sure that -- I'm not sure that these 12:23:42

1 three points are my points or whether these 12:23:45
2 are -- or whether these are Father McCormack's 12:23:50
3 points. 12:23:58
4 You know, I don't know how this memo relates 12:23:58
5 to my meeting with Father Foley. 12:24:02
6 Q Okay. 12:24:05
7 A You know. 12:24:06
8 Q Well, let's go to page -- turn back, if you 12:24:07
9 would, please, Cardinal, to page 25. These are 12:24:10
10 notes of Bishop McCormack. You'll see this is a 12:24:20
11 month later, 1/23/94. 12:24:23
12 A Yes. 12:24:25
13 Q It states: 12:24:26
14 "Reviewed three points of BCL: Scandal, 12:24:28
15 spirituality, emotional and psychological 12:24:32
16 health." 12:24:34
17 Do you see that? 12:24:38
18 A Yes. 12:24:38
19 Q Looking at these notes of Cardinal Law, sorry, of 12:24:39
20 Bishop McCormack, does that help to refresh your 12:24:39
21 recollection that you made three points at the 12:24:40
22 meeting you had with Father Foley? 12:24:43
23 A Yes. 12:24:45
24 Q So the first one was the scandal issue? 12:24:46

1 A Yeah. I have to say that I don't recall the 12:24:48
2 details of the meeting but I would follow this as 12:24:51
3 an accurate reflection of that. 12:24:55
4 Q You felt that if this information about Father 12:24:57
5 Foley were to become public, that it could create 12:25:00
6 a scandal? 12:25:03
7 A Well, I felt that the scandal in this case was so 12:25:03
8 pervasive, I mean, the possibility was so 12:25:18
9 pervasive, the harm that would be done to 12:25:21
10 children -- 12:25:22
11 Q Right.
12 A -- to a husband -- 12:25:23
13 Q Right. 12:25:24
14 A -- to a family. 12:25:25
15 Q Right. 12:25:26
16 A You know, and the question, you know, how, after 12:25:26
17 the fact, years after the fact, how do you deal 12:25:31
18 with that in a way that's going to be just and 12:25:34
19 equitable to all those folk. This is -- I mean 12:25:40
20 the note here is -- his meeting is the 23rd -- 12:25:46
21 Q Of January. 12:25:49
22 A -- of January. 12:25:50
23 Q '94. 12:25:51
24 A When was my meeting? 12:25:52

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1 Q Your meeting was December of '93, December 23, 12:25:54
 2 '93. 12:25:57
 3 A Okay. December 23. 12:25:58
 4 Q A month earlier. 12:25:59
 5 A This -- and my reflection is just in the moment 12:26:01
 6 of hearing about it. I mean, these are the 12:26:04
 7 issues that we're going to have to look at here. 12:26:06
 8 Q Right. And you see also the question mark of 12:26:09
 9 Bishop McCormack, criminal activity, whether 12:26:14
 10 there could have been some criminal activity, 12:26:16
 11 overdosed, and then says later called, and that's 12:26:19
 12 underlined twice. 12:26:22
 13 A Right. 12:26:22
 14 Q Then you see: 12:26:23
 15 "Should he be assigned as a pastor? Justice 12:26:23
 16 issue toward children, lack of integrity, 12:26:28
 17 scandal." 12:26:31
 18 A Justice issue towards the children. 12:26:31
 19 Q Right. 12:26:33
 20 A It's the children of his -- his own children. 12:26:34
 21 Q Biological. 12:26:37
 22 A The justice issue. 12:26:37
 23 Q Right. 12:26:39
 24 A What are his responsibilities for those children? 12:26:39

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1 Q Right. 12:26:43
 2 A As I recall -- and I am not sure, but I believe 12:26:43
 3 that, at least I believe I was told at that 12:26:49
 4 point, because that would have been my concern, 12:26:51
 5 that these were grown at that point. 12:26:55
 6 Q Right. And so -- but there was also an issue of 12:26:57
 7 criminal activity about whether this man had left 12:27:02
 8 the scene where a woman was dying? 12:27:04
 9 A That's right. 12:27:05
 10 Q Whether he did enough. Do you see that? 12:27:07
 11 A That's right. 12:27:08
 12 Q And, in fact, if you take a look at -- well, it 12:27:09
 13 says -- let me just withdraw that question. 12:27:18
 14 So with respect to the issue of criminal 12:27:18
 15 activity, whether this man, Father Foley, had 12:27:20
 16 engaged in some criminal activity, is it fair to 12:27:22
 17 state that as of December 23, 1993, that was a 12:27:25
 18 question in your mind as to whether or not this 12:27:28
 19 man had engaged in a crime? 12:27:29
 20 A It certainly was something that -- yes. I'm not 12:27:34
 21 a lawyer. I'm not a policeman. 12:27:38
 22 Q I understand. 12:27:41
 23 A But it was a question in my mind and it was a 12:27:41
 24 question that I would presume would be looked at. 12:27:48

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1 Q Do you know whether it was looked at? 12:27:51
 2 A I do not know that. 12:27:55
 3 Q Do you know whether any information was shared -- 12:27:57
 4 I understand this was 20 years later. The woman 12:28:00
 5 died in 1973. 12:28:02
 6 A That's correct. 12:28:03
 7 Q Do you know whether there was any follow-up that 12:28:04
 8 was done to determine whether Father Foley should 12:28:06
 9 be reported to the Needham police department or 12:28:08
 10 the appropriate law enforcement? 12:28:11
 11 A I do not know that. I would -- here I would have 12:28:13
 12 relied on the Delegate. And as I think is 12:28:16
 13 reflected here, the very fact that he came to me 12:28:20
 14 and I referred the matter to Father McCormack so 12:28:24
 15 that it could be followed up on. 12:28:27
 16 Q But you don't recall you doing anything to 12:28:29
 17 follow-up on this story that you heard about 12:28:32
 18 Father -- 12:28:35
 19 A My follow -- 12:28:35
 20 Q Excuse me. 12:28:36
 21 -- about Father Foley potentially being 12:28:37
 22 involved in criminal activity? 12:28:38
 23 MR. CRAWFORD: Other than delegating? 12:28:40
 24 Q Apart from delegating? 12:28:41

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1 A Apart --
 2 Q Your personal -- what you personally did to 12:28:43
 3 satisfy yourself that this man should not be 12:28:46
 4 reported to the police or appropriate law 12:28:48
 5 enforcement? 12:28:53
 6 A I raised the issue with the person who was 12:28:53
 7 delegated for following through on this. 12:28:58
 8 Q Was this perhaps the most serious matter 12:28:59
 9 involving a priest of the Archdiocese that you 12:29:01
 10 recall dealing with, Cardinal, in your tenure 12:29:03
 11 here in Boston? 12:29:06
 12 MR. CRAWFORD: Objection to the form. 12:29:07
 13 You may answer. 12:29:08
 14 A How do you -- you know, how do you -- how do 12:29:11
 15 you -- 12:29:18
 16 Q I withdraw it. 12:29:18
 17 A How do you judge these things? 12:29:19
 18 Q Right. 12:29:21
 19 A This is absolutely unique. There's no parallel 12:29:22
 20 to this -- 12:29:26
 21 Q It's very serious? 12:29:26
 22 A -- of anything I have ever handled. In terms of 12:29:27
 23 harm inflicted, in a sense -- I don't know how 12:29:34
 24 you -- it's vain to try -- I mean, it's foolish 12:29:40

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1 to try to weigh what is worse. 12:29:44
2 Q I understand. 12:29:45
3 A I mean, it's a terrible thing to take an innocent 12:29:46
4 child -- 12:29:49
5 Q You're right. 12:29:54
6 A -- and to abuse that innocent child. It's a 12:29:54
7 terrible thing for two adults to engage in 12:29:56
8 behavior that is immoral and inappropriate and 12:30:00
9 has terrible consequences, as this does. 12:30:05
10 Q And you'll see actually in Bishop, in other parts 12:30:08
11 of the record that you'll see on page 25, Bishop 12:30:13
12 McCormack's notes, you'll see halfway down, in 12:30:18
13 Needham, you'll see -- this is the reference to 12:30:22
14 the woman from Needham. It says: 12:30:27
15 Two children born, one purposefully." 12:30:29
16 Second -- "The second was not planned. Sister of 12:30:31
17 woman knows of his ties to children." So think 12:30:34
18 that she -- "So think she knew he was involved. 12:30:37
19 Woman seduced him. She had a lobotomy. He has 12:30:40
20 never seen children since time of her death. 12:30:44
21 Sister threatened him that if he bothered the 12:30:47
22 family, she would reopen the case about the cause 12:30:49
23 of her death and who called 911." 12:30:52
24 Do you see that? 12:30:56

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1 A Yes. 12:30:56
2 Q Did Bishop McCormack ever tell you that the 12:30:57
3 Needham police were not clear who had called 911 12:30:59
4 on the day this woman died? 12:31:02
5 A I don't recall hearing that information. 12:31:04
6 Q Okay. Is that the type of information that you 12:31:07
7 believe should have been brought to your 12:31:09
8 attention, that the Needham police might not have 12:31:11
9 known it was Father Foley who had called 911? 12:31:14
10 A You know, I really delegate with confidence here 12:31:20
11 and I can't read back into what I should have 12:31:28
12 thought or would have thought. 12:31:34
13 Q But there's a question here, Cardinal Law, again, 12:31:38
14 when you read the notes of Bishop McCormack, as 12:31:41
15 to whether there was some issue about whether 12:31:44
16 Father Foley had moral or legal responsibility 12:31:49
17 for the death of a female parishioner that he was 12:31:53
18 sexually involved with. Is that correct? 12:31:57
19 A Well, what I'm reading here, Mr. MacLeish, as I 12:31:59
20 understand it, is a note that Father McCormack 12:32:03
21 has written concerning what Father Foley himself 12:32:08
22 records -- 12:32:11
23 Q Right. 12:32:12
24 A -- about a conversation he had had 20 years 12:32:12

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1 before with the sister of the mother of his 12:32:16
2 children. 12:32:19
3 Q That's correct. 12:32:19
4 A And that's what I see here. 12:32:21
5 Q And you would agree with me, would you not, 12:32:23
6 Cardinal Law, that Bishop McCormack's notes raise 12:32:26
7 questions as to whether or not the actual cause 12:32:29
8 of this woman's death was thoroughly investigated 12:32:33
9 and raised questions about who in fact called the 12:32:36
10 police, 911, and raised questions about whether 12:32:40
11 the Needham police even knew that it was Father 12:32:43
12 Foley who had made that call. Is that correct? 12:32:46
13 A I think those kinds of questions would need to be 12:32:51
14 put to Father McCormack who heard what Father 12:32:51
15 Foley had to say on this issue. I did not hear 12:32:54
16 that so I can't comment on that. 12:32:57
17 Q You didn't get that information relayed back to 12:32:59
18 you? 12:33:02
19 A I do not recall that information being relayed to 12:33:02
20 me. 12:33:04
21 Q All right. So we at least know that there is -- 12:33:04
22 that you were concerned about scandal when you 12:33:07
23 met with Father Foley; is that correct? 12:33:09
24 A Yes, obviously. 12:33:12

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1 Q And that's scandal to the Church? 12:33:13
2 A Oh, scandal all the way. The scandal of young -- 12:33:15
3 of children not knowing -- of thinking their 12:33:22
4 father is one person and possibly their father is 12:33:28
5 somebody else. 12:33:30
6 Q Right. 12:33:31
7 A And I can't say that with absolute certainty, but 12:33:31
8 my presumption, just basing on what I've heard. 12:33:34
9 Q Well, that would perhaps be devastating 12:33:37
10 information to those children? 12:33:40
11 A Absolutely. And that's scandal. 12:33:41
12 Q Well, okay. Well -- but also if this information 12:33:42
13 came out, apart from scandal to the children -- 12:33:45
14 A It would be scandal obviously to the Church. 12:33:48
15 Q To the Church? 12:33:51
16 A Here you had a priest who was, to all intents and 12:33:52
17 purposes, a very effective pastor, and I think 12:33:55
18 people in his parishes would attest to that fact. 12:33:58
19 Q That's correct. 12:34:01
20 A Who had even been a vicar. And to have that kind 12:34:01
21 of information come out against such a person is 12:34:08
22 a scandal. 12:34:12
23 Q And this was -- do you remember doing anything, 12:34:13
24 Cardinal Law, to find out about the personal 12:34:17

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1 circumstances of the children of Father Foley to 12:34:22
2 see whether he had any moral or legal 12:34:24
3 responsibility, even though they were now adults, 12:34:27
4 to those children? Did you do anything yourself? 12:34:29
5 A First of all, as I've indicated in other cases, 12:34:36
6 Mr. MacLeish, in these issues, I functioned 12:34:39
7 through those delegated to follow through. 12:34:43
8 That's why they were there, to do that. If you 12:34:45
9 look at the calendar, you'll see that there are 12:34:48
10 an awful lot of things that come across the desk 12:34:52
11 on any one day. 12:34:56
12 However important one issue is -- and 12:34:57
13 certainly this is a case all in its own 12:35:03
14 category -- it's precisely because of the 12:35:09
15 importance of that, that it's important that 12:35:11
16 someone is going to be responsible to follow 12:35:13
17 through on that and it's not going to be put 12:35:16
18 aside for something else that immediately is very 12:35:18
19 pressing. So I handled this in a delegated way. 12:35:21
20 My own immediate response to this was my 12:35:26
21 fear was allayed by the fact that -- with the 12:35:32
22 knowledge that these were adults. And had they 12:35:37
23 not been adults, it would have been an entirely 12:35:41
24 different kind of a situation in terms of the 12:35:44

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1 demands of justice upon the father. 12:35:48
2 It doesn't mitigate in any sense the 12:35:51
3 enormity of this act. But it certainly does say 12:35:56
4 that in that particular moment in which I first 12:36:01
5 found out about this, which is some 20 years 12:36:04
6 later, that the fact that they were adults made 12:36:09
7 it different in terms of what my response would 12:36:15
8 be vis-a-vis the justice demands for those 12:36:17
9 children than the fact that they were -- than if 12:36:21
10 they had been minors. 12:36:25
11 Q I understand that, Cardinal. My question -- my 12:36:26
12 question is: Did you do anything -- let me 12:36:29
13 just -- before that. 12:36:33
14 Under the policy of delegation, wouldn't 12:36:35
15 that policy of delegation also encompass 12:36:37
16 follow-up with you on matters that were as 12:36:40
17 serious as this one? In other words, Bishop 12:36:43
18 McCormack would gather the basic facts and then 12:36:45
19 come back to you. Or was the policy of 12:36:47
20 delegation simply mean that it doesn't come back 12:36:49
21 to you; that it's handled independently by Bishop 12:36:52
22 McCormack? 12:36:55
23 A It means that he follows up and he comes to me 12:36:55
24 where he deems it appropriate and I respect that 12:36:58

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1 judgment as it goes forward. 12:37:03
2 Q Do you recall him coming back to you on the Foley 12:37:05
3 matter? 12:37:07
4 A I'm sure that he came back to me on the Foley 12:37:10
5 matter, but I cannot tell you when, where. Maybe 12:37:13
6 if you have a memo to show me. 12:37:16
7 Q I don't, I don't. 12:37:18
8 A But I certainly had to make a decision as to 12:37:20
9 where he went, and that would have -- that would 12:37:23
10 have come back to me. 12:37:27
11 Q Right. He went to Southdown. All right. 12:37:28
12 Let's turn, if we could, to Foley page 69. 12:37:32
13 A 69? 12:37:35
14 Q Yes. 12:37:37
15 A Yes. 12:37:38
16 Q This is a memo from Father McCormack to 12:37:40
17 Dr. Cassem. You might recall that we had some 12:37:45
18 extensive questioning earlier about Father Cassem 12:37:49
19 and his involvement with the Paul Shanley case. 12:37:51
20 Do you recall that testimony? 12:37:54
21 A Yeah. I don't immediately but I'm sure that -- 12:37:56
22 Q You know who Father Cassem is? 12:38:01
23 A I do, I do. Yes, indeed. 12:38:03
24 Q Jesuit priest who was at some period of time 12:38:04

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1 chief of psychiatry at Mass General Hospital? 12:38:07
2 A Yes. 12:38:10
3 Q Is that correct? 12:38:10
4 He was also brought in on the Michael Foster 12:38:11
5 case, was he not? 12:38:13
6 A You know, I can't -- I believe so. 12:38:14
7 Q Okay. That's fine. Well, you'll see here -- 12:38:16
8 this is from Bishop McCormack -- you'll see the 12:38:21
9 second paragraph: 12:38:22
10 "Cardinal Law thinks that this man should 12:38:23
11 not be in pastoral ministry due to potential 12:38:25
12 scandal." 12:38:28
13 Do you see that? 12:38:29
14 A Yes. 12:38:29
15 Q Was that a correct statement as of July 15, 1994? 12:38:32
16 Is that an accurate reflection of what your 12:38:37
17 position was vis-a-vis Father Foley? 12:38:40
18 A I felt this, and the next sentence is that his 12:38:43
19 remark is that this man should spend his life in 12:38:46
20 a monastery doing penance. 12:38:50
21 Q Right. We're going to get to that. 12:38:52
22 A I just felt that the enormity of this act was 12:38:53
23 such, and the ram -- the very strange 12:38:56
24 ramifications of it were such that it just was 12:39:00

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1 inappropriate for him. That was my initial 12:39:03
2 feeling. 12:39:05
3 Q You see the word "scandal" mentioned there, 12:39:05
4 Cardinal? 12:39:08
5 A Yes. 12:39:08
6 Q Did you believe that he should not be in pastoral 12:39:08
7 ministry due to potential scandal, as Bishop 12:39:12
8 McCormack writes to Father Cassem, Dr. Cassem, on 12:39:16
9 July 15, 1994? 12:39:20
10 A Well, you know, that -- I cannot recollect what 12:39:24
11 my state of mind was and the specification of my 12:39:30
12 judgment in '94 on this case. Certainly scandal 12:39:34
13 was among the things that I was concerned with. 12:39:39
14 And as I indicated to you, it's because of the 12:39:43
15 nature of the act. 12:39:46
16 Q Right. You were referring to -- as of July 1994, 12:39:48
17 the reference is that the man should not be in 12:39:53
18 pastoral ministry due to potential scandal. 12:39:56
19 Is it fair to state that you were concerned 12:40:00
20 in 1994, July of 1994, not about scandal with 12:40:02
21 respect to the children, but scandal with respect 12:40:06
22 to potential publicity in the event that the 12:40:09
23 information on Father Foley came out? 12:40:12
24 A I think it would be both. 12:40:14

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1 Q Okay. 12:40:16
2 A I think it would be both because I -- I was very 12:40:16
3 concerned with the impact on the family. I was 12:40:20
4 very concerned with the impact on the children. 12:40:23
5 Q Well, did you get some expert consultation to see 12:40:25
6 whether or not, that you can recall -- did you 12:40:29
7 or, to your knowledge, Bishop McCormack, get any 12:40:33
8 type of expert consultation from psychologists or 12:40:35
9 people who were experts in the field as to what 12:40:39
10 should be done with respect to the children that 12:40:42
11 Father Foley claimed that he was the biological 12:40:45
12 father of? 12:40:48
13 A Well, first of all, I did not. 12:40:49
14 Q Yeah. 12:40:51
15 A But I don't think that that would prove anything 12:40:52
16 because I did not -- I wouldn't have been the one 12:40:56
17 to have done that. 12:41:04
18 Q Why not? Given the enormity of this matter? 12:41:04
19 A Because I had someone delegated to do that. That 12:41:06
20 was their responsibility. The fact of the matter 12:41:09
21 is the case was referred, as you see, to 12:41:14
22 Dr. Cassem, and, as you indicated, he's someone 12:41:17
23 of some reputation. 12:41:23
24 Q There's nothing in here about the children. 12:41:25

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1 A No. But there would be nothing hidden from him, 12:41:27
2 to him about the case. He would have been aware 12:41:32
3 about the full dimensions of the case. 12:41:34
4 Q All right. You didn't know, and to your 12:41:37
5 knowledge, Bishop McCormack didn't know anything 12:41:39
6 about the financial or emotional condition of 12:41:41
7 these children that Father Foley claimed that he 12:41:43
8 was the biological father of. Fair statement? 12:41:46
9 A I can't answer that. You'd have to ask Father 12:41:51
10 McCormack about that. 12:41:55
11 Q You don't have any knowledge -- 12:41:56
12 A No. 12:41:57
13 Q You don't have any -- 12:41:58
14 A But -- 12:42:00
15 Q Let me finish the question. 12:42:00
16 You don't have any recollection, as you sit 12:42:01
17 here today of ever receiving some report about 12:42:03
18 the emotional or financial circumstances of the 12:42:05
19 children that Father Foley claimed he sired, 12:42:09
20 correct? 12:42:14
21 A That's correct. The children were not, as my 12:42:14
22 understanding was, the children were not aware of 12:42:19
23 the paternity of Father Foley. 12:42:22
24 Q Right. 12:42:23

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1 A Inquiry into that about them or any inquiry to 12:42:25
2 them would have destroyed what I presume -- would 12:42:32
3 have presumed to have been their understanding 12:42:39
4 and their relationship with their natural 12:42:41
5 father -- with their adopted -- with their 12:42:44
6 presumed father. 12:42:47
7 Q So you made the decision, I take it -- did you 12:42:48
8 make a decision, Cardinal Law, that the matter 12:42:51
9 should not be pursued further with respect to the 12:42:53
10 children because it might harm them to find out 12:42:55
11 who their biological father was? Was that a 12:43:00
12 decision that you consciously made? 12:43:03
13 A I don't know that it was a decision consciously 12:43:04
14 made. I think it was -- I think it naturally 12:43:07
15 followed with the information that was available. 12:43:12
16 Q Well, but you knew nothing -- you knew nothing, 12:43:15
17 Cardinal Law, about whether or not these 12:43:20
18 children, even though they were adults, might 12:43:21
19 need some type of assistance, did you? You knew 12:43:24
20 nothing about that? 12:43:27
21 A I knew, Mr. MacLeish, in December of '93, that a 12:43:30
22 priest of this Archdiocese, 20 years before, had 12:43:40
23 been involved with a woman who died under tragic 12:43:44
24 circumstances, and that he presumably was the 12:43:49

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1 wanted to have Father Foley do penance in the 12:53:10
2 monastery and not be involved in pastoral 12:53:13
3 ministry. Remember that? That's page 69. 12:53:15
4 A Yes. 12:53:18
5 Q On 92, page 92, it states: 12:53:18
6 "I met with Reverend Foley on December 5, 12:53:21
7 '94. I talked with Cardinal Law in the morning 12:53:24
8 to make sure that he was not requiring Father 12:53:26
9 Foley to live in a monastery." 12:53:28
10 Do you see that? 12:53:30
11 A Yes. 12:53:31
12 Q It's a memo to the file from Father Flatley. 12:53:32
13 You'll then see, over on 126, some decision 12:53:36
14 that we don't know about because it's stated that 12:53:41
15 it was decided that verbal communication was 12:53:47
16 sufficient in this case and no written follow-up 12:53:51
17 would be necessary. 12:53:53
18 Do you see that? 12:53:54
19 A Yes. 12:53:54
20 Q Then we see on 148 a recommendation of Father 12:53:55
21 Foley: 12:53:58
22 "The board recommends that the priest be 12:53:59
23 returned to ministry, not as a pastor; that his 12:54:00
24 pastor be aware of his history and agree to bring 12:54:03

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1 any concerns regarding the priest's behavior to 12:54:06
2 the priest's attention; and if this fails to 12:54:09
3 satisfy, notify the Delegate; that he continue in 12:54:12
4 spiritual direction, be assigned a monitor and 12:54:14
5 continue in therapy; that he not enter any 12:54:16
6 situation with women where there is the potential 12:54:19
7 to be compromised. This recommendation should be 12:54:21
8 reviewed in one year." 12:54:25
9 Do you see that? 12:54:26
10 A I do. 12:54:26
11 Q That's 1995. And you'll see the following page, 12:54:27
12 you agreed to accept the recommendation of the 12:54:30
13 Delegate and the review board; is that correct? 12:54:34
14 A That's correct. 12:54:36
15 Q You are aware that Father Foley was assigned 12:54:37
16 ultimately as an associate pastor at St. Joseph's 12:54:41
17 Parish in Salem, Massachusetts; is that correct? 12:54:45
18 A I believe -- I know he was there, yeah. 12:54:49
19 Q He was there as associate pastor? 12:54:51
20 A Yeah. 12:54:52
21 Q So this man that you felt had stood out in your 12:54:54
22 mind, had fathered, by his own admission, several 12:55:02
23 children, and was present at the death of the 12:55:06
24 woman that bore those children, was sufficient to 12:55:10

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1 be returned, ultimately, to pastoral ministry. 12:55:15
2 MR. ROGERS: Objection.
3 Q Is that correct? 12:55:16
4 MR. ROGERS: Objection to the form. 12:55:16
5 MR. CRAWFORD: Objection to the form. 12:55:18
6 MR. MacLEISH: Go ahead. You can 12:55:19
7 answer. 12:55:20
8 A As you know, in 1993, we established a policy 12:55:20
9 which established a review board. That review 12:55:23
10 board reviewed the recommendation of the 12:55:28
11 Delegate, and that review board included 12:55:30
12 psychiatrists, parent of a victim, a former 12:55:32
13 judge. And that review board made the 12:55:43
14 recommendation to me, as you have shown it to me 12:55:47
15 in 148, that he be returned to ministry, not as a 12:55:51
16 pastor, and that was in fact what happened. He 12:55:57
17 was not a pastor. He is not a pastor now. He 12:56:00
18 was an associate pastor. 12:56:03
19 Q He's been removed as associate pastor? 12:56:04
20 A Yeah. 12:56:07
21 Q Now, did you undertake any action to inform the 12:56:07
22 parishioners at St. Joseph's Parish about the 12:56:11
23 background of Father Foley? 12:56:13
24 A No. 12:56:19

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1 Q Cardinal -- 12:56:21
2 A Nor was that a recommendation of the board. 12:56:23
3 Q Right. 12:56:28
4 A And given the unique nature of this case, I think 12:56:30
5 one could really question whether that would be a 12:56:37
6 wise thing. 12:56:39
7 Q Because of the potential for scandal? 12:56:40
8 A Because of the potential harm to family. 12:56:43
9 Q Well, the family -- I'm not talking about 12:56:46
10 identifying the family. I'm just talking about 12:56:49
11 informing the parishioners of St. Joseph's that 12:56:51
12 this man had been previously involved with 12:56:54
13 married women and that he had sired -- claims to 12:56:56
14 have sired -- 12:56:59
15 A Yes. 12:57:00
16 Q -- other children. 12:57:00
17 A No. 12:57:01
18 Q You wouldn't have had to identify who it was, 12:57:01
19 Cardinal Law. 12:57:03
20 A This was not --
21 Q Communicated. 12:57:05
22 A -- done. No. 12:57:07
23 Q All right. Now, the review board minutes that 12:57:09
24 you have in front of you, earlier review board 12:57:11

1 minutes show who was in attendance at these 12:57:13
2 review board meetings. Later review board 12:57:16
3 minutes from 1995 on don't show who was in 12:57:18
4 attendance. 12:57:21
5 Can you confidently state, Cardinal, that at 12:57:23
6 the review board for Father Foley -- and I 12:57:25
7 believe there was only one psychiatrist involved, 12:57:27
8 it was Dr. Gutheil who was the only psychiatrist 12:57:30
9 on the review. 12:57:32
10 Do you remember anybody else on the review 12:57:33
11 board? 12:57:35
12 A Did I say more -- 12:57:35
13 Q You said in the plural. 12:57:36
14 A No. I stand corrected. 12:57:38
15 Q My information is that Father -- is that 12:57:39
16 Dr. Gutheil left the review board and was not 12:57:42
17 replaced. 12:57:45
18 A I'm not conscious of that. 12:57:46
19 Q Well, the point is that we don't even know from 12:57:49
20 the documents that we have, and you didn't know 12:57:51
21 from the document that was forwarded to you, 12:57:53
22 whether there was a mental health clinician 12:57:56
23 present at the review board meeting that 12:58:02
24 recommended that Father Foley, under 12:58:02

1 circumstances where there were restrictions, be 12:58:04
2 permitted to work in a parish. You don't know 12:58:06
3 who was present? 12:58:09
4 A I did not get a record of the attendance at these 12:58:09
5 meetings in any case, that's correct. 12:58:14
6 Q So you can't say psychiatrists and a mother of a 12:58:16
7 victim or a judge even knew about the Father 12:58:20
8 Foley case because you don't know who was present 12:58:25
9 at that review board meeting, correct? 12:58:26
10 A I cannot tell you who was present at each 12:58:28
11 member -- at each meeting of the review board. 12:58:34
12 Q Right. So when you earlier suggested that a 12:58:36
13 judge -- the review board was comprised of a 12:58:38
14 judge, a psychiatrist, mother of a victim, you 12:58:41
15 can't say whether any of those individuals even 12:58:43
16 knew about this case, can you? 12:58:46
17 A I cannot speak with absolute assurance about the 12:58:53
18 attendance of every member of the review board at 12:58:59
19 any specific meeting. But I can say that the 12:59:03
20 intent in formulating that review board was to 12:59:06
21 ensure that competencies that should be 12:59:10
22 represented were, and it is my understanding that 12:59:15
23 attendance at those meetings was a very good 12:59:17
24 attendance. 12:59:20

1 Now, beyond that, I am not able to answer. 12:59:21
2 But I have to say that I resent the tone of your 12:59:25
3 question because it implies something that is 12:59:30
4 certainly clearly not the intent of the 12:59:33
5 establishment of that board and the functioning 12:59:36
6 of that board. 12:59:38
7 Q Cardinal, wasn't it simply common sense and 12:59:39
8 judgment that this man who had done these 12:59:43
9 horrendous things never again be put in the 12:59:47
10 position where, through his auspices as a priest 12:59:50
11 of the Archdiocese, could do it again? Isn't it 12:59:53
12 just common sense? 12:59:57
13 MR. ROGERS: Objection to form. 12:59:58
14 MR. CRAWFORD: Objection to the form. 12:59:59
15 You can answer. 13:00:00
16 A I think it was common sense to handle this case 13:00:01
17 in the manner in which it was handled. 13:00:03
18 Q To have Father Foley go back to St. Joseph's and 13:00:05
19 ultimately end up as associate pastor. That was 13:00:09
20 common sense? 13:00:12
21 A I think the method that was used to arrive at 13:00:12
22 that decision at that time was appropriate. 13:00:17
23 Q Can you explain to me now --
24 MR. ROGERS: It's now one o'clock. 13:00:19

1 MR. MacLEISH: One more question.
2 MR. ROGERS: Well --
3 MR. MacLEISH: Well, I'd just like to
4 follow up and then we'll move on.
5 Q Can you explain to me why after 1994, there is 13:00:22
6 nothing in the review board minutes that states 13:00:24
7 who was present at review board meetings? Can 13:00:26
8 you explain that for me? 13:00:30
9 A No, I cannot explain that to you. 13:00:31
10 MR. MacLEISH: All right. We'll break 13:00:34
11 for lunch. 13:00:35
12 THE VIDEOGRAPHER: The time is 1 p.m. 13:00:36
13 We're off the record. 13:00:38
14 (Whereupon, the luncheon recess was taken.)
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