

THE STATE OF NEW HAMPSHIRE
HILLSBOROUGH, SS
Northern District

SUPERIOR COURT

IN RE GRAND JURY PROCEEDINGS

No. 02-S-1154

AGREEMENT

NOW COMES the State of New Hampshire, by and through counsel, the Office of the Attorney General and the Roman Catholic Bishop of Manchester, a corporation sole (the "Diocese of Manchester") and hereby respectfully submit the following Agreement for filing with the Hillsborough County Superior Court, Northern District to conclude the above-captioned matter.

WHEREAS, beginning in February, 2002, the State of New Hampshire commenced a criminal investigation into the conduct of the Diocese of Manchester and its officials regarding the manner in which the Diocese responded to allegations that some of its priests had engaged in sexual misconduct with minors over a period of forty years;

WHEREAS, the Attorney General's stated interests in commencing a criminal investigation involved determining whether the Diocese itself or any of its agents committed any crimes in connection with the handling of sexual abuse incidents by clergy;

WHEREAS, the Attorney General's stated interests in commencing a criminal investigation of the conduct of the Diocese of Manchester also included the referral to

the various county attorneys for investigation and potential prosecution of individual priests who were alleged to have engaged in illegal sexual conduct with minors;

WHEREAS, the Hillsborough County Grand Jury, sitting in the Northern District, initiated an investigation into these matters;

WHEREAS, as a result of the Grand Jury inquiry, and with the cooperation of the Diocese of Manchester, thousands of pages of documents were produced for inspection by the Office of the Attorney General and the Grand Jury;

WHEREAS, pursuant to the powers of the Grand Jury, several witnesses testified regarding their knowledge of these matters;

WHEREAS, the Attorney General convened an investigative task force to pursue leads and gather evidence based on the documents and testimony provided to the Grand Jury;

WHEREAS, as a result of its investigation, the Office of the Attorney General has indicated its intention to seek indictments based on the New Hampshire child endangerment statute, RSA 639:3, I, against the Diocese of Manchester regarding this matter;

WHEREAS, in light of the documents produced, the testimony obtained, and the nature of the elements which are required to be proved to establish a criminal violation of the New Hampshire child endangerment statute, RSA 639:3, I, the Diocese acknowledges that the State has evidence likely to sustain a conviction of a charge under RSA 639:3, I, against the Diocese.

NOW THEREFORE, the State and the Diocese of Manchester agree to resolve this matter without a criminal proceeding in accordance with the terms and

conditions set forth below. Such a resolution accomplishes the following goals: (1) it will protect victims from the necessity of testifying in a criminal trial; (2) it will establish terms and conditions that will facilitate the protection of children to a greater extent than a criminal conviction and sentence; and (3) it will ensure a system of accountability, oversight, transparency, and training.

1. No Prosecution

In consideration for the promises made herein by the Diocese of Manchester, the Attorney General has agreed not to charge, seek an indictment against, or prosecute the Diocese of Manchester, a corporation sole, or its individual agents, regarding the past handling of allegations of sexual abuse of minors by clergy. This Agreement is without prejudice to the State of New Hampshire's ability to indict and prosecute individual clergy for sexual abuse of minors as permitted by law. The Diocese of Manchester acknowledges that certain decisions made by it about the assignment to ministry of priests who had abused minors in the past resulted in other minors being victimized. Accordingly, the Diocese of Manchester has published and is implementing a policy that no person who is known to have abused a child will either continue or ever be placed in ministry.

2. Reporting Allegations of Sexual Abuse

- a) As required by New Hampshire law, whenever any priest, deacon, member of a religious institute or any other church personnel serving the Diocese in ministry, employment or a volunteer position (hereinafter "Diocesan Personnel") has reason to suspect that a minor has been abused or neglected as defined in RSA 169-C:3, II & XIX,

which includes sexual abuse as defined by RSA 169-C:3, XXVII-a, and the victim is a minor at the time suspicion is formed, the individual shall comply with the mandatory reporting obligations set forth in RSA 169-C:29 to C-:32 (the “Reporting Obligations”).

- b) In addition to the requirements of New Hampshire law, whenever any Diocesan Personnel has reason to suspect that any other Diocesan Personnel has sexually abused a minor, the individual who suspects shall make an immediate report to local law enforcement where the incident occurred or where the suspect is currently located. Such report shall be made in a manner consistent with the Reporting Obligations regardless of whether the individual who suspects the abuse knows the identity of the alleged victim regardless of whether the alleged victim is currently a minor.
- c) In addition to the requirements of New Hampshire law, whenever the Office of the Delegate for Sexual Misconduct has reason to suspect that a minor has been sexually abused as defined in RSA 169-C:3, XXVII-a and the alleged victim is no longer a minor at the time the suspicion is formed, the Office shall make an immediate oral report in a manner consistent with the Reporting Obligations to the local law enforcement where the suspected abuse may have occurred regardless of whether an alleged abuser is named or identified.
- d) All Diocesan Personnel who have any contact with minors shall sign an acknowledgement that they understand the reporting requirements

described above, and that they are required personally to make the report directly to DCYF or local law enforcement. Additionally, such Diocesan Personnel shall acknowledge that they have read the Diocesan Policy described in paragraph 3 below, that they understand said Policy, that they have received specialized instruction on said Policy, and that they agree to comply with the provisions of said Policy.

- e) Upon making the report to law enforcement and/or DCYF, the Diocese shall cooperate fully with law enforcement and/or DCYF. Upon request, the Diocese shall provide law enforcement and/or DCYF with any and all information and documents in its possession relating to the alleged abuser.
- f) Upon receipt of an allegation of sexual abuse, the Diocese will ensure that, pending the resolution of the allegations, the alleged abuser will be removed from any position in which there is the possibility for contact with minors.

3. Diocesan Training

The Diocese of Manchester shall maintain the existing Office of the Delegate for Sexual Misconduct as an appropriately-trained and easily accessible office dedicated to the handling of allegations of sexual abuse of minors. The Diocese shall continue to develop, implement and revise as necessary policies and protocols for preventing, responding to, and ensuring the reporting of allegations of child sexual abuse. In addition, the Diocese of Manchester agrees to continue to provide, and to

revise as needed, its on-going safety training program regarding the sexual abuse of minors and the reporting requirements for all Diocesan Personnel who have any contact with minors. The Diocese of Manchester agrees to continue to provide to the Office of the Attorney General copies of its policies and protocols for review and comment on an annual basis pursuant to paragraph 4 or as otherwise requested by the Office of the Attorney General.

4. Annual Audit

The Diocese of Manchester shall retain all documents and information relating to allegations of sexual abuse of minors until the death of the Diocesan Personnel accused. For a period of five years ending December 31, 2007, the Diocese of Manchester agrees to submit to an annual audit to be performed by the Office of the Attorney General regarding compliance by the Diocese of Manchester with the terms of this Agreement and Diocesan policies. The audit may include, without limitation, the inspection of records and the interview of Diocesan Personnel.

5. Public Disclosure of Agreement

The Parties agree that this Agreement is a public document and further the Parties are free to hold separate and distinct public announcements of this Agreement and to supply supplemental information and to respond to questions posed by the press or members of the public except as prohibited by any laws governing the confidentiality of records or information and subject further to the provisions of paragraph 6 below.

6. Attorney General Investigative Report and Release of Investigative Material

The Diocese of Manchester acknowledges that the Office of the Attorney General will issue, at some time in the future, a report on the scope and results of the investigation, which it has conducted since February, 2002, regarding the manner in which the Diocese responded to past clergy sexual abuse of minors (the “Report”).

The Diocese of Manchester also acknowledges that the Office of the Attorney General intends to make public its own investigative file (the “Investigative File”). In order to provide the public an opportunity to evaluate and to understand the process and the information involved in this investigation, the Diocese agrees to waive Grand Jury confidentiality to allow publication of Diocesan documents obtained by the Office of the Attorney General from the Diocese pursuant to Grand Jury subpoenas (the “Documents”). The Office of the Attorney General will take all reasonable steps to ensure the confidentiality of the identity of the victims in the Report, the release of the Investigative File, and the disclosure of the Documents. The Office of the Attorney General will not disclose any mental health or other medical records, except that the Office of the Attorney General reserves the right to quote or cite in its Report those portions of such records that illustrate the information that the Diocese had and its response to information regarding sexual abuse of minors by clergy. The Office of the Attorney General will provide the Diocese with a copy of its Report, the Investigative File, and the Documents which the Office of the Attorney General intends to release to the public no later than ten business days prior to the release of the Report, Investigative File, and/or Documents. To the extent the Diocese has a dispute as to the quotation or citation of any portion of the medical and mental health

records obtained from the Diocese pursuant to Grand Jury subpoena, the Diocese may file a motion in Hillsborough County Superior Court for adjudication of that matter. The Office of the Attorney General will not release a Report containing the disputed quotation or citation to a medical or mental health record before the dispute is resolved. To the extent the Diocese has concern that the release of the Documents will infringe upon the privacy interests of Diocesan Personnel, an accused priest, or a third party, the Diocese may present those concerns to the Office of the Attorney General before the Documents are released. The Office of the Attorney General will consider the concerns of the Diocese prior to releasing the Report and/or Documents. However, with the exception of medical and mental health records, the Office of the Attorney General retains sole discretion regarding the information and/or Documents that it intends to release to the public. If the Diocese intends to release its own report or documents in response to the Report from the Office of the Attorney General, it shall provide the Office of the Attorney General with a copy of its report and/or documents no later than five business days before the Office of the Attorney General's disclosure.

7. Amendment and Term of Agreement

The Parties agree that this Agreement can be amended by a writing executed by a duly authorized representative of the Office of the Attorney General and the Diocese of Manchester upon filing the same with the Court in the above-captioned matter. The Parties agree that on or before December 31, 2007, the Office of the Attorney General will request the Hillsborough County Superior Court to hold a

status conference to address whether any of the terms of this Agreement need to be revised or amended.


8. Superior Court Enforcement

The Parties agree to submit any dispute regarding the interpretation, compliance with, and enforcement of this Agreement to the Hillsborough County Superior Court, Northern District. The Parties further agree that the breach of any material term or condition of this Agreement by one Party shall constitute a separate and sufficient basis for the other Party to seek injunctive or other equitable relief.

NEW HAMPSHIRE ATTORNEY GENERAL

DATED: 10 Dec 02 By: 
Philip T. McLaughlin

DIOCESE OF MANCHESTER

DATED: 12/09/02 By: 
Most Rev. John B. McCormack, D.D.
Roman Catholic Bishop of Manchester,
a corporation sole

Approved by: 
Presiding Justice

DATED: 12-10-02

