

THE IMPRISONMENT OF FATHER GORDON MACRAE

DOCUMENTED NARRATIVE OF THE ATTEMPT BY THE REVEREND GORDON MACRAE TO DEFEND HIMSELF AND THE RESPONSE OF HIS DIOCESAN AUTHORITY

When sentenced to prison in late 1994 to a term of 33 ½ to 67 years, inmate Gordon MacRae, Prisoner #22448, endured the usual reception for those accused of high profile sexual crimes. The pre-trial press release of his Bishop and Diocese - *"The Church has been a victim of the actions of Gordon MacRae just like these individuals"* followed him into prison as news clippings were posted for other inmates to see. The 41-year-old priest was taunted by guards, threatened by prisoners, and doused with human waste. Early one morning, he awoke to the sight of three masked men in his cell armed with broom handles. His visit to the prison hospital was followed by months of round-the-clock punitive isolation in what is known in prison as "the hole." Gordon MacRae's continued declaration of innocence rendered him ineligible for the prison's sex offender program, and by extension, for any hope of parole. "Actual innocence" also disqualified him from the better housing assignments afforded to other long term prisoners. This inmate would be forced to live for five years in a cell shared by seven other convicts. Gordon MacRae has not been alone for all the years of his imprisonment. In echoes of Dostoyevsky, the priest recounted the Experience: *"More than anything,"* he wrote, *"I was completely unprepared for the inner chaos wrought by years upon years of never, ever, ever - not for a single moment - being alone with oneself."*

ACTUAL INNOCENCE

Innocence projects around the country have freed hundreds of men wrongly imprisoned for rape and other sexual offenses. Cardozo Law School's nascent Innocence Project was contacted, and Attorney Barry Scheck took a look at the case of Father Gordon MacRae. However unjust, the case did not have the requisite DNA evidence preserved for review by the Innocence Project. New Hampshire law requires no evidence or corroboration for a rape conviction, and none was presented at trial.

When sentencing the priest to more than six decades in prison, the Honorable Arthur Brennan cited *"clear and convincing evidence"* that MacRae *"created child pornography [of his] victims."* No evidence of pornography was ever presented at trial. Nor have Father MacRae or his lawyers ever seen any. No one else claimed to have seen any either. The investigating detective says, today, *"There was never any evidence of child pornography."* Somehow, however, it was "clear and convincing" to Judge Brennan. The case came down to one person's word against another's and, after the passage of eleven to fifteen years between the claims and the trial, there could be no evidence. Imprisoned just 15 miles from the office of his diocese, Father MacRae wrote without response to several other priests. By 1996 some of the dust of his trial had settled. One old friend finally replied. Father Gerard Boucher's letter had Father MacRae elated and hopeful. He was anxious to talk to this priest, especially. Father Boucher had been named in a civil lawsuit brought by Lawrence Carnevale, and subsequently in multiple local news articles and interviews with Carnevale who described Father Boucher by name as an eyewitness to his sexual victimization. To highlight his "negligent supervision" tort against the Church, Mr. Carnevale had repeatedly claimed that Father Boucher walked in and witnessed a sexual assault in progress by Father MacRae, but did nothing. Mr. Carnevale further claimed that Father Boucher discussed with him what he had seen, and urged the 14-year-old not to tell anyone else. *"It never happened,"* Father Boucher says today. *"I have never witnessed Gordon MacRae involved in any sexual or unbecoming behavior. I certainly never witnessed Gordon and Lawrence Carnevale engaged in any sexual activity. And [Carnevale] has never mentioned anything to me about Gordon's behavior."* Asked whether State or Church officials ever asked him whether the Carnevale claim was true, Father Boucher replied, *"No one. I learned of all this for the first time by reading it in the newspapers. I knew it*

wasn't true. I expected to be contacted about it, but I wasn't."

From this point forward, Father MacRae's letters to diocesan personnel were treated with cold silence. Even Father Boucher mysteriously ceased to respond. A number of priests would later say they were given a distinct impression from "higher up" that Father MacRae wanted no contact with other priests, a claim Father MacRae says was never true. Without funds to hire legal counsel, preparations for an appeal of the trial were turned over to the Public Defender's Office. Of some seventeen appellate issues identified at trial, only three were brought forward for appeal. On June 5, 1996, the 14th anniversary of Father MacRae's ordination to priesthood, the New Hampshire appellate court released its decision. The convictions were upheld. The State, and the Court, conceded that some testimony by a prosecution expert should not have been allowed, but dismissed it as "harmless error." In their book, Actual Innocence, Attorneys Barry Scheck and Peter Neufeld define "harmless error" as "the process by which judges exonerate police, prosecutors, and the judicial system." Another public defender was appointed to bring forward a review of the priest's astronomical prison sentence. During a single 15 minute visit with his client, the harried lawyer advised that a sentence review will merely generate a media retrial of the case for nothing. MacRae says he was encouraged to withdraw the sentence review. It was odd advice given that in 1993, the year prior to Gordon MacRae's conviction, New Hampshire Sentence Review Division records for multiple aggravated sexual assault convictions showed that the average minimum sentence was slightly less than ten years per defendant, a fact MacRae could not have known. He now faced a sentence more than six times the average. He was 41 years old, and would be 108 upon release.

The loss of his appeal was devastating, but the imprisoned priest did not give up. Earning two dollars a day through prison labor, he saved for a basic typewriter sold in the commissary. There was so much more to this case than had ever been subjected to the light of day. Without funds for a canon lawyer to protect his rights under Church law, the priest wanted to present to Vatican officials the entire background of this matter. *"More than life in prison,"* he wrote in 1997, *"I fear a unilateral dismissal from the priesthood with no opportunity to defend myself."* With his new typewriter, he began work on a comprehensive case history. Before sending it to Rome, however, someone mailed him a copy of an article that appeared in First Things, the Journal of the Institute on Religion and Public Life. The article, "Sin and Risk Aversion," was about the ostracizing of priests accused in demands for monetary settlement. Father MacRae typed a response that was published in the November 1996 issue of First Things. What he wrote of his own experience generated a few letters from around the country. Among them was a copy of Congressional testimony by Ms. Carol Hopkins, founder of The National Justice Committee, a San Diego group formed to study the sex abuse witch hunts that imprisoned innocent people in a string of 1980's day care cases. The priest mailed his case history to San Diego. In January of 1998, he received a letter from a production researcher for former Los Angeles prosecutor, Marcia Clark and FOX News: *"Marcia Clark is doing a primetime special for the Fox Broadcasting Network. Through the Justice Committee, we heard about your story and want to feature it on our special. The format would be a sit-down interview with you and Marcia Clark. The interview would end with you taking a polygraph test with our expert. We understand you have taken several polygraphs in this case, and have passed. It is obvious that an injustice has occurred in your case, and there is an innocent man sitting in prison who should be free."* Father MacRae agreed to the proposal immediately. Prison officials, however, rejected Fox's petition for access to the prisoner, citing a now-defunct rule barring recording equipment from the prison. FOX appealed to Governor Jeanne Shaheen: *"It is very possible that Father MacRae is not guilty of the crimes he was convicted of. There well may be an innocent man in jail. The civil lawsuits brought by these accusers, who are now in their early thirties, have been settled by the Catholic Church. We are not looking to prove or disprove this story or to paint the judicial system or the prison system there in a negative light. If in fact Father MacRae has been falsely accused and convicted of a crime he did not commit, then the very least any of us can is give him an opportunity to tell his story."*

Governor Shaheen's reply came quickly: *"I understand your company's interest in an on-camera interview with Gordon MacRae, currently an inmate in the New Hampshire State Prison, however I will not intervene in [the] decision not to allow media access to Mr. MacRae."*

Fox producers wrote in a final letter to Father MacRae: *"Fox is still going to be interested in profiling your story, but in order for this to happen it seems necessary to move a mountain. I look forward to pursuing this further when the time is right."*

In 1999, PBS "Frontline" produced "A Case for Innocence," profiling a number of cases of rush to judgment and heavy-handed prosecution in some sexual assault claims. Frontline aired an extended interview with appellate expert, Attorney Robert Rosenthal who had been instrumental in overturning the child sexual abuse convictions of Grant Snowden, a Miami-Dade police officer wrongly imprisoned for 14 years. Father MacRae wrote to Frontline and to Attorney Rosenthal. Though without response, his case history slowly raised some eyebrows. It was also mailed to its first intended destination: the Vatican's Congregation for Clergy.

A NEW BISHOP

Back in the Diocese of Manchester, a new bishop was appointed to succeed the late Bishop Leo O'Neil, who succumbed to cancer. Bishop John McCormack, formerly Auxiliary Bishop of Boston and an assistant to Cardinal Bernard Law, was appointed Bishop of Manchester. In November of 1998, Bishop McCormack received a letter from a senior executive at WGBH, the PBS-Boston station that produces Frontline. Bishop McCormack had been involved in the "laicization" - of Father John Geoghan, a Boston priest accused in multiple demands for monetary settlement. The PBS contact told Bishop McCormack that he was very familiar with the case of a New Hampshire priest, Father Gordon MacRae, and had many questions about the legitimacy of his charges and imprisonment and about any plans to dismiss MacRae from the priesthood. Bishop McCormack's written response assured the writer: *"I am very hesitant to use involuntary laicization as a solution to such issues. That process, in my mind, should be restricted to the most unusual of cases, which gratefully I do not feel I face at this time in [this] Diocese. I have no direct knowledge of the issues surrounding Father Gordon MacRae. [T]he lack of personal contact by the Diocese after his incarceration was at Father MacRae's own request. He made it clear, through third parties, that he did not want to be contacted by 'the Diocese,' and, as a result, his wish has been honored up to now. My reason for sharing these confidences with you is to help you understand that he was not 'swept under the rug' by the Diocese."*

Father MacRae has never learned the identity of these "third parties," but the claim was echoed years later in a 2004 report by the prison Chaplain, John R. Sweeney: *"I am not aware that anyone representing the Diocese even attempted to visit Father MacRae during his first four years in prison. I have been told by priests that Diocesan officials have claimed that Father MacRae refused, through unnamed 'third parties' to be visited by a priest. During my tenure as chaplain [1991-1999], no one representing the Diocese asked me to arrange a visit with Father MacRae [who] often said he would welcome contacts with or from the Diocese. He often expressed bewilderment at the lack of outreach. On at least two occasions, I raised this issue during scheduled meetings with Rev. Msgr. John Quinn who was my supervisor and contact person at the Diocese. The only results of my inquiry were comments that I did not deem responsive. It remains my belief that Father MacRae is for some reason viewed differently from other priests who have been incarcerated "*

After a Mass at the prison in the week before Christmas, 1998, Bishop McCormack visited his priest in the Chaplain's office at the State Prison. Father MacRae wrote that he was nervous, as this was his first contact with anyone connected to the Church in nearly five years. He left the 30-minute visit feeling that Bishop McCormack had already been briefed by others, and his mind was made up. The Bishop questioned why MacRae felt it necessary to send his concerns to Rome. *"Why didn't you just bring it to us?"* Bishop McCormack asked. Meanwhile, Father MacRae received a reply from the Vatican's Congregation for the Clergy in January, 1999: *"This Congregation has received your letter of 10 October along with its enclosures and has decided to consider the material you have presented."* Over 1999 and 2000, Bishop McCormack scheduled two meetings with Father MacRae, who by this point had retained the services of a canonical advocate. The priest/canon lawyer wrote to ask for a conference with Bishop McCormack who refused the request.

From a letter of Bishop McCormack dated July 1, 1999:

"When we met a few months ago, I sensed you were not pleased with how these matters were handled and this bothered you. I also understood that you had sent information to the Congregation for Clergy about your concerns. I must say to you, though, that I did not know that you expected me to be doing something about this as well. I must also say that when I heard from [your canonical advocate], I

understood his offer of talking with me as an offer and not a request."

From a letter of Bishop McCormack dated September 13, 1999:

"I am not sure what it is I can do or what you would like me to do. The root of my pondering is what benefit will it be for you or me if I talked with [your canonical advocate] . You have made an appeal to the Sacred Congregation of the Clergy (sic), and, as you know, there is nothing civilly I can do since this forum belongs in the civil court."

From a letter of Bishop McCormack dated November 4, 1999:

"As I have indicated to you in my previous letters, I saw no reason for me to meet with [your canonical advocate] both because your case has already been civilly adjudicated and because you have already made an appeal to the Holy See. It is therefore unclear to me what advantage it would be for me to speak with [your advocate] ."

On November 12, 1999, Bishop McCormack visited Father MacRae again at the State Prison. A year earlier, the Bishop requested a copy of the Case History that the priest had sent to Rome. It was provided to the Bishop after his first meeting with his imprisoned priest in December of 1998. MacRae was incredulous, a year later, to hear his Bishop state that he received it, but never read it.

From a letter of Father MacRae dated November 15, 1999:

"I was troubled that you had not read the case history and addendum that I sent you in December of last year. I cannot help but feel that most of the input you have received in this case to date has been from others. I respectfully request that you give me equal time by a single, thorough reading of the documents I have sent you. ... I have heard your stated position that 'guilt or innocence has nothing to do with the Diocese's civil liability which was based on negligent supervision.' I feel there is a vastly understated moral perspective to the position that Diocesan liability has nothing to do with guilt or innocence."

Also, at the November 12th meeting with his Bishop, Father MacRae expressed a concern that past correspondence with the Diocese has not remained confidential. Bishop McCormack suggested that MacRae write to him at his home address, which he provided. This assuaged Father MacRae's concerns, though he was unprepared for what was to follow.

Two weeks after the November 12, 1999 meeting with Bishop McCormack, Father MacRae received a letter from a San Diego priest he had never met. The mysterious mail contained a printed copy of an e-mail letter from a former Boston priest, Father Paul Shanley, to a priest and canon law expert working with priests who had been accused. Shanley's e-mail, dated November 25, 1999, charged that MacRae was "discourteous" to his bishop, refuses to attend Mass in the prison or participate in prison chapel programs, refuses all contact with priests of his diocese, and is housed in the prison's punitive unit for behavior problems. Shanley claimed that his source for this information was an unnamed priest in the Chancery and Bishop McCormack's secretary. *"None of this was true,"* Father MacRae declared, *"but I have never received an explanation of how or why this happened."* A bewildered and angry Father MacRae sent a copy of the e-mail letter to his Bishop, but never received a reply. After a second inquiry, Bishop McCormack replied:

From a letter of Bishop McCormack dated March 8, 2000:

"Regarding my not responding to your two recent letters — I did not think they called for one. Your first letter was basically a summary of our conversation in November, and the second was some of the thoughts you had regarding Father Shanley's communication with you. What I want you to know is that I found them helpful in that they helped me understand how you experience these different events in your life."

Father Paul Shanley - who MacRae says he has never even met - would three years later emerge at the epicenter of the clergy sex abuse scandal that began in Boston and reverberated throughout the country. The Shanley case was among those leading to the resignation of Cardinal Bernard Law and heavy scrutiny of Bishop John McCormack's role in the Boston scandal. Shanley, a seminary classmate of Bishop McCormack, is now serving a prison term in Massachusetts. Father Shanley's second hand claims about MacRae's demeanor in prison are in stark contrast to other reports. The prison chaplain described MacRae's volunteering for extra work in order to earn a privilege: he asked for, and was given, weekly use of a small room to celebrate Mass in private. He requested this, according to the chaplain, because the prison did not have a priest as chaplain and Mass was offered only twice per month. Chaplain Sweeney, who retired from the Department of Corrections in 1999, but remained as an adjunct chaplain until 2005, wrote in a 2004 report to Rome: *"Father MacRae has met weekly with me over the last ten years. He has conducted himself in an exemplary manner as a person and as a priest in very difficult circumstances here. During these years in prison, Father MacRae has demonstrated a consistent interest in the priesthood, a deep concern for the Church, and a very conscientious concern for his perceived obligations as a priest. ... He has shared with me on many occasions his ongoing concern for how the pursuit of his own defense might affect other priests, the diocese, his bishop, and the Church. At times I believe he has tended to consider these to his own detriment. I remain concerned that he may not have fully defended himself because he feared compromising other priests and Church officials."*

A GROWING INTEREST

In 2000, Father MacRae began to write to Dorothy Rabinowitz, a writer for The Wall Street Journal who had examined other cases of wrongful conviction, and again to Attorney Robert Rosenthal, and PBS Frontline. His material slowly garnered attention. In March of 2000, an advocate of Father MacRae wrote to Bishop McCormack to inform him of her interest in formally retaining Attorney Rosenthal to review MacRae's trial. Within days of her letter, she received a call from Bishop McCormack's assistant asking her to meet with the Bishop.

From her 2004 statement:

"I believe now, as I believed during his trial, that the charges against Gordon MacRae are false. In June, 2000, I met with New Hampshire Bishop McCormack at the Diocesan office to discuss the possibility of the Diocese offering some financial assistance to obtain some appellate relief. During this meeting with Bishop McCormack and Bishop Francis Christian, they both expressed to me their belief that Gordon [MacRae] was not guilty and that the Bishops would consider offering some financial aid to assist with a defense."

Meanwhile, though unknown to the imprisoned priest at the time, PBS Frontline also made some discreet inquiries about the case in a series of e-mail exchanges with a contact at WGBH, the PBS Boston station that produces Frontline. In a letter to Bishop McCormack in September, 2000, the editor revealed the Frontline inquiries about Father MacRae. **From his 2004 statement:**

"A few days later, I received a phone call from Bishop McCormack's secretary to set a time to meet. The date was set for Friday, October 13, 2000 upon my return from Israel and Rome. Upon entering Bishop McCormack's office, the first words out of his mouth took the wind out of my sails. He said, 'I want you to know that I feel Father MacRae is innocent and his accusers likely lied. But what I have just told you cannot leave this office.'" He went on to explain that he is very alone in his feelings about this matter. He repeated, "None of this can leave this office." Gordon [MacRae] knew nothing of my meeting with Bishop McCormack until a year later, and even then I did not reveal the substance of this discussion. Bishop McCormack's recent actions are inconsistent with what he expressed to me."

A GATHERING STORM

Among those with whom Father Gordon MacRae corresponded was a state legislator, Representative Maxwell Sargent, who served on the legislature's Criminal Justice Committee. Representative Sargent's committee authorized a 1999 study of the state's law allowing rape convictions without evidence or corroboration. The study committee ended in a Catch-22: Representative Sargent wrote that legislators will not understand this issue until higher courts start overturning convictions. The courts, meanwhile, interpret the law according to legislative intent. After reading Father MacRae's case history, the legislator visited him in prison. He told the priest he was "*deeply troubled*" by the account and MacRae "*should be shouting this story from the rooftops.*"

Within weeks of that conversation, Father MacRae received in the mail a copy of a legislative newsletter published by Representative Sargent. In that newsletter, the legislator wrote of his concerns over aggressive sexual assault prosecutions in New Hampshire, and the study committee established to look into them. The legislator had published therein, "*The Catholic Archbishop (sic) of New Hampshire is putting up \$25,000 to appeal the case of a priest who may have been wrongly sent to prison.*" Father MacRae wrote to ask the state representative how he obtained this information, but received no reply.

Without telling Father MacRae of the inquiries from Frontline, and of his two meetings in which he asked for secrecy, Bishop McCormack revealed, in a visit to Father MacRae in prison, his decision that the Diocese would make available to him \$25,000 in "non-donated funds" for the purpose of hiring counsel for a legal review. The offer came with several conditions: MacRae was to agree that the legal review would be limited to challenging his sentence and not his conviction [this, though unknown to MacRae, after expressing the more "private" statements of belief that the priest is innocent]. Additionally, the priest would have to agree to share with the bishop the names of those advising him in this matter, and to "*limit any future contacts to only those who, with the agreement of the Diocese, are necessary to bring this matter to a conclusion.*" Father MacRae was also to choose legal counsel from a list presented to him by the Diocesan attorney.

The priest, by this time imprisoned for eight years, rejected the offer. There was no legal justification for bringing about only a sentence review. The paper trail of correspondence from Bishop McCormack to Father MacRae over the next year - much of which was released by the Diocese over the prisoner's objection in 2003 — reveals a merciless process to evade and delay.

From a letter of Bishop McCormack dated May 30, 2001:

"I plan to visit with you sometime this coming month. I have talked with Attorney Brad Cook and he is willing to talk with Attorney Rosenthal. In my conversations with him, it has become clear that the role of the Diocese in your appeal will be a major consideration. In view of this, I would like to share with you some of my thoughts [when we meet]. My sense is this conversation will determine what role the Diocese will take in assisting with a retainer."

From a letter of Bishop McCormack dated July 10, 2001:

"It is my hope that I will be able to visit you in August. I want you to know that I am ready to have Brad Cook talk to Attorney Rosenthal in New York. But I want to be clear, before he does, I would like us to have a clear understanding [when we meet] of the involvement of the Diocese in this effort."

From a memo of Bishop McCormack dated August 29, 2001:

"The role of Dorothy Rabinowitz in this process is unclear. ... A [potential] result of publicity could be questions raised about the actions of diocesan representatives, priests in the diocese, and Father MacRae himself ... Would providing a retainer, etc. imply that the Diocese thinks he is innocent of [the]

complaints regarding sexual misconduct made about him?"

From a memo of Bishop McCormack dated December 3, 2001:

"Dorothy Rabinowitz (and Attorney Rosenthal by association) are not the proper/suitable candidates to assist in the legal analysis. ... There is far too much involvement of the media and their legal 'experts' in such an investigation. I lean toward finding an independent legal expert that is mutually acceptable to Gordon and to me to investigate ... the criminal trial and conviction."

Later in December, 2001, public revelations and lawsuits began to emerge from Boston. The Boston Globe Spotlight Team began an investigation into multiple sexual abuse Maims, followed by repeated reassignment of Father John Geoghan and other priests. Bishop McCormack's role as Auxiliary Bishop and Director of Personnel for the Archdiocese of Boston before coming to New Hampshire began to be placed in a harsh and critical light. The Bishop's promise to assist Father MacRae, that to date had made little real progress, began to slowly evaporate into silence again.

From a letter of Bishop McCormack dated January 28, 2002:

"Without going into detail regarding your letter of January 2nd and your answers to my questions, please know that your bishop and diocese are interested in helping you in your efforts to assess the most appropriate way of making an appeal. What is the best and most appropriate way of doing this is what needs to be worked out. Father Arsenault and Brad Cook will be making a recommendation to me within the next couple of weeks in light of the responses you made. "

From a letter of Bishop McCormack dated February 4, 2002:

"Father Arsenault and Attorney Brad Cook have been working with me in developing a response to the observations you made about the appeal in your recent communications. Notwithstanding other distractions that might surface to draw our attention to them, my plan is to put a response in the mail no later than February 15. Part of the response is to suggest that I continue to meet with you on a pastoral basis, but that someone else represent the Diocese in working out the details of how we can support you in this effort. Would you give some thought to whether you prefer Father Arsenault or Bradford Cook to discuss these matters with you."

At about the same time the above letter was written, the Archdiocese of Boston issued a press release announcing the names of all Boston priests accused of the sexual abuse of minors in past cases that had been settled. Within days, NH Attorney General Philip McLaughlin announced that he has met with officials of the Diocese of Manchester and is satisfied that they have followed the law that went into effect in 1979 in regard to reporting abuse claims. Instead of the promised plan of action by February 15th, the Diocese released, on that date, a list of all priests in the Diocese who had been accused in the past. There were 15 names on the list, but only one was assigned in ministry, and he was quickly removed. Gordon MacRae was not on the Diocese's published list, but another priest accused by his same accusers was on that list. Within days, the NH Attorney General issued a press statement that publishing this list was something the Diocese did on its own and without prompting by his office. However, the list, once published, triggered an investigation of the Diocese to be overseen by an Assistant Attorney General, William Delker.

Months previous to this, MacRae received a letter from Ms. Annmarie Timmons, a reporter for the Concord Monitor, a small newspaper in the state capital. Ms. Timmons wrote that she was doing a story on priests who have been accused from the point of view of the victims of such assaults and she wanted

to interview Father MacRae at the prison. His letter of reply declined the interview with a statement that he was in communication with "a national media venue" about this story. Ms. Timmons followed up her letter with a series of handwritten notes on yellow-lined paper with only a Laconia, NH post office box as the return address. Ms Timmons' transformed her request for an interview into a demand. Her final note threatened that she is writing an article 'about the four men you raped,' and "it will reflect that you said nothing in your defense." MacRae typed a three-page statement about his current position in the case; and provided the name of a local attorney who would represent his position. The priest was then called to the office of a prison administrator who said he received a facsimile letter from Ms. Timmons demanding that MacRae be "brought" to the prison visiting room to meet with her. The priest showed the administrator Ms. Timmons hand-written letters, and was then advised to write a formal statement outlining what constituted harassment. A week later, Ms. Timmons and the Monitor published a front-page story in the Sunday edition that rehashed the claims, charges and lawsuits of MacRae's accusers in what MacRae described as a highly one-sided account. The lawyer/spokesperson was never contacted by Ms. Timmins, and the imprisoned priest's three- page statement was ignored. MacRae learned later that Annmarie Timmons is the wife of William Delker, the assistant Attorney General investigating and prosecuting the Diocese of Manchester.

By late January 2002, Attorney Robert Rosenthal was prepared to begin looking at the MacRae trial with an understanding that the Diocese would assist with at least partial funding. One of Father MacRae's contacts informed Attorney Rosenthal of Bishop McCormack's decision not to retain him. Though without responses, Father MacRae had also been sending documentation regarding his case to Dorothy Rabinowitz, the Pulitzer winning writer and member of The Wall Street Journal Editorial Board who had written extensively about false accusations. MacRae had sent her a copy of his case history and other documents including substantial evidence that his accusers also accused another Catholic priest. From a January, 2002 letter from Ms. Rabinowitz, the priest learned that everything he had forwarded to her at The Wall Street Journal's Manhattan office was destroyed in the collapse of the nearby World Trade Center towers on September 11, 2001. It took Father MacRae another two years to find and reproduce the information he had sent to Ms. Rabinowitz who by then showed little real interest. Father MacRae felt that his effort, which had been underway without ceasing for eight years, had been completely overwhelmed by the now national Catholic clergy sex abuse scandal. His uphill climb became far steeper.

In early April of 2002, Inmate Gordon MacRae was summoned to the office of prison Chaplain Michael Shaulis, a Catholic deacon of the Diocese of Manchester who had replaced the retired Chaplain Sweeney at the prison. Chaplain Shaulis informed the priest that he received a telephone call from Reverend Edward Arsenault, Chancellor of the Diocese and Bishop McCormack's delegate for handling the state's investigation of the Diocese. The Chaplain was instructed to call Father Arsenault back upon the arrival of Father MacRae at the office. Father Arsenault was waiting for the call, and MacRae took the phone. The latter wrote careful notes during and immediately after the conversation in the presence of the prison chaplain who remained in the room. After a friendly exchange, Father Arsenault asked MacRae where he stood in terms of seeking the legal review of his 1994 trial and sentence. MacRae said that he had been engaged in a discussion with Attorney Robert Rosenthal of New York but understood that Bishop McCormack would not support that effort. Father Arsenault and MacRae spoke of the Monitor article and other news reports of the ongoing investigation of the Diocese. The Diocesan official informed Father MacRae that a local contingency lawyer, Peter Hutchins, was attempting to consolidate dozens of new claimants against the Diocese in a Class Action lawsuit to force the Diocese into "blanket settlements," a process that results in settlement without any legitimate attempt at corroboration of any of the claims.

The priest's notes of the conversation reveal a remarkable offer by Father Arsenault. He said that the

Diocese had retained a former U.S. Attorney, David Vicinanza, to represent the Diocese in the state's investigation, and wants to also retain Attorney Vicinanza to review MacRae's case.

In an apparent reference to Robert Rosenthal's interest, Father Arsenault said, *"Why would you go to someone outside the state who isn't sure if he can help you, when we have someone on board, right now, ready to do whatever's necessary to take over this review."* "Clearly," Father Arsenault said, *"We want you out of prison and the Bishop is committed to this."* Inmate Gordon MacRae - sitting in the prison chaplain's office on that afternoon in his eighth year of a sixty-seven year sentence - felt that his options had run out. Does he trust this diocesan official whom he has never met or does he trust strangers who have shown limited interest? He told Father Arsenault that he was preparing to send a box of information to Attorney Rosenthal in the hopes it might help his interest in the case. Father Arsenault said, *"You could send it to us, and we'll have David Vicinaiizo review it."* He described Vicinanza as a former U.S. Attorney, and *"the best there is."* MacRae agreed to let the Diocese proceed. He told father Arsenault he would have the box of documents sent to Attorney Vicinanza. *"Have them sent to me,"* Father Arsenault reportedly said. Later that day, MacRae instructed a New Hampshire lawyer holding his defense files to send them to Father Arsenault to review with Attorney Vicinanza.

From a letter of Father Edward Arsenault dated April 29, 2002:

"I look forward to receiving the [legal] materials which you outline in your letter. ... I will speak with [Diocesan Attorney] Brad Cook about the manner in which these materials might be considered attorney/client work product. I expect that he may want some of the information forwarded to him ... so that it flows through his office to me."

Father MacRae was cautiously hopeful. He had read news articles about the Attorney General's investigation of the Diocese. But given that his own convictions were already eight years old, and claimed to have occurred 20 years in the past, he saw no connection between what was happening in the Diocese and what Father Arsenault was proposing for him. He wrote at the time that he saw Father Arsenault's proposal to retain Attorney Vicinanza as a direct result of what Bishop McCormack had promised, in writing, months earlier: that he would turn over to his delegate, Father Edward Arsenault, the ongoing plan to fund a legal review of MacRae's trial and sentence. He had reason to hope, finally ... or so he thought. By April of 2002, the United States Bishops' Conference faced a national scandal as the news media relentless pursued a path similar to that taken by The Boston Globe. State prosecutors throughout the country began demanding priests' personnel files, in search of sex abuse claims, from diocese after diocese. As the Bishops prepared to meet to discuss this issue in Dallas in June of 2002, Father MacRae wrote a plea to his Bishop:

From a letter of Father Gordon MacRae dated April 27, 2002:

"I remain hopeful that the bishops meeting in Dallas in June will carefully weigh the dangers of capitulating to all the demands of a scandal-driven popular culture bent on revenge and guided by greed. If the bishops of the United States respond to the crisis with retroactive laws and penalties, the popular culture may be temporarily appeased, but at the expense of justice and charity. False accusations do exist and must not be empowered by reactive laws."

Months went by. Letters to Father Arsenault went without response. Letters to Attorney Vicinanza went without response. Letters to Bishop McCormack were now responded to vaguely or not at all. The local media raged on in its coverage of the negotiations between the state and Diocese. By September of 2002 - four months after Father MacRae's representative sent his legal defense files to Father Arsenault for the promised review by Attorney Vicinanza - nothing had happened, and MacRae was contacted by no one. In the middle of September, the priest went to the office of the prison chaplain, Deacon Michael Shaulis, and asked his assistance in calling Father Arsenault. Chaplain Shaulis placed the call and was told that Father Arsenault was unavailable. The same message was given again the next day, but this time Father MacRae asked to take the phone. Father MacRae said he would call back every hour on the hour until Father Arsenault took his call. He was exasperated. Within ten minutes, the Chaplain's telephone rang. It was Father Arsenault. MacRae's notes reveal that Father Arsenault's tone was cool. *"What can we do for you?"* MacRae asked about progress in the review by Attorney Vicinanza. There

was a long silence, and then Father Arsenault said, "Well, *he's been very busy with other matters. Can I get back to you on this?*" Father MacRae then asked what became of the defense files he provided to the Diocese for the purpose of Attorney Vicinanza's review. The response left the imprisoned priest stunned and demoralized. Father Arsenault said, "*Someone was supposed to tell you about this months ago.*" The Diocesan official told MacRae that when the box of files arrived four months earlier, he placed the box in the diocesan archive. Two weeks later, according to Father Arsenault, the Attorney General's Office served the Diocese with a grand jury subpoena for all files including those in the diocesan archive. Father MacRae was incredulous: "*You mean you gave my defense files to the AG's Office?*" "*We didn't give them any thing,*" said Father Arsenault. "*They came armed with a subpoena and took files indiscriminately, and we had no opportunity for discussion.*" Father MacRae, who was led to believe that the promised legal review had been underway, asked why he was learning of this four months after it happened. Father Arsenault had no answer. Father MacRae asked what became of retaining Attorney Vicinanza to review these files and the trial. Father Arsenault said, "*Nothing's, changed. He's still on board with this, but we need you to be patient.*" He then gave the imprisoned priest some appeasing assurance: "*We're on your side. Your bishop committed to helping you in every way possible.*"

Three months later, after another series of letters without response, Father Arsenault wrote, in December of 2002:

From a letter of Father Edward Arsenault dated Dec. 3, 2002:

"I have not had an opportunity to discuss the matters, which you and I have conversed about most recently with David Vicinanza. I did have a quick conversation recently with [your canonical advocate] in which he expressed a concern that you had regarding the Diocese's approach to your canonical status. I assured him that neither Bishop McCormack nor I have had any conversations with anyone in this regard and we are in somewhat of a holding pattern as we await some directives from the USCCB regarding the implementation of the essential norms after their recognition by the Holy See."

There were no further responses to MacRae's letters from Father Arsenault or anyone else connected to the diocese. In ongoing news reports, Assistant Attorney General William Delker, who led the state's investigation of the Diocese, described the subpoena served on the Diocese quite differently from Father Arsenault: "*The Diocese gave us unprecedented access to files. We spent a week in that office reviewing files with no oversight from anyone.*" Two weeks later, in mid-December 2002, the news reported an agreement between the Diocese and Attorney General's Office that resulted in several concessions by the Diocese. A part of the agreement was the unchallenged public release of priests' files confiscated through the state's use of a grand jury subpoena. The public release was set for early March, 2003. The Agreement included assurance of a ten-day period for each accused priest to review files pertaining to him in order to challenge the release of any document(s) deemed to be protected by legal or other privilege. The Diocese also agreed to state audits of its child protection procedures for the next five years. As this story unfolded in the local news, Father Gordon MacRae addressed a letter to Father Arsenault asking to preserve his right to review documents pertaining to him before their release during the ten-day period assured in the Agreement. Knowing that Father Arsenault obtained some of the priest's defense files under an apparently false pretext, MacRae became very concerned about what was soon to be released. MacRae received no reply from Father Arsenault. Time ticked by for two months leading up to the release of documents, some of which were leaked preemptively to the news media by unnamed persons in the Attorney General's Office. Among the growing clamor in the local news media about priests accused along with monetary demands of claimants, Father MacRae's name again began to be dragged through the media mud. In late January of 2003, MacRae received a remarkable piece of mail. An old friend and former coworker in New Mexico had been searching through the archives of the center where the priest was employed before being accused. The friend stumbled upon two unmarked boxes, opened them, and found copies of virtually all the exculpatory documents and other information that MacRae needed to replace what he had earlier sent to The Wall Street Journal and was destroyed on September 11, 2001. MacRae asked that the boxes be shipped to him in prison.

Also in late January, MacRae was visited in prison by a local reporter for the Associated Press. His visit remained "off the record," but he revealed to Father MacRae that he had read a copy of the confidential case

history that the priest wrote in prison for the Vatican's Congregation for Clergy and had sent to Bishop McCormack at the Bishop's request. Father MacRae now realized that documents he sent to his Bishop - for which he was promised confidentiality by sending them to the Bishop's residence instead of the Chancery Office - were among those files taken and copied by the State. Father MacRae was appalled that this could happen. The reporter told MacRae that the case history was not to be included in the public release to the newspapers, so it was "leaked" in advance. The reporter asked MacRae if could document what he wrote in his case history. With no communications from his Diocese, and the knowledge that files were soon to be publicly released, the priest told the reporter that he could document everything. The reporter suggested sending his documentation to him through Attorney William Chapman of the Orr & Reno law firm, a firm that, unknown to the priest at the time, also represented the Diocese of Manchester and Bishop McCormack. On February 26, 2003, Father MacRae sent a three- page letter, and fifteen documents containing exculpatory information about the claims against him, to Attorney Chapman at Orr & Reno with a request that he make them available to the Associated Press reporter who had interviewed him. The priest never heard from Attorney Chapman or the AP Reporter again.

On March 3, 2003, the newspapers began to report on the celebrated release of thousands of pages of documents taken from the Diocese of Manchester's personnel and other files. The selectively released files, and the media storm of coverage about them, were a nightmare for the imprisoned priest. The documents released for public review - or, more accurately, public ridicule - included all of the correspondence with Bishop McCormack that he was invited to send to the Bishop's home, instead of the Diocesan office, because of his expressed fear that it may not remain confidential. Worse, Father MacRae was horrified to read, in The Boston Globe, excerpts of correspondence in his regard between his Bishop and Vatican officials that he did not even know existed. His requests for copies of that correspondence have never been acknowledged. The worst blow of all came in the form of media coverage of a released memo from an attorney for the Diocese to Bishop McCormack about MacRae. The memo - which was supposed to be protected by attorney-client privilege - claimed that Father MacRae and his canonical priest-advocate had somehow overtly threatened the bishop and diocese. The privileged memo was written by an attorney for the diocese to Bishop McCormack when the Bishop first began considering assisting his imprisoned priest with a new appeal. Stunned by this, MacRae could not comprehend how he and his advocate could have threatened his bishop. His request for a copy of the memo has been without response.

The subterfuge and duplicity did not end here. On March 7, 2003, five days after the public release of documents, Father MacRae was summoned to a prison office to sign for a piece of privileged legal mail. It was an answer to his request of more than six weeks earlier that the Diocese honor its commitment for a ten-day advance review. The letter - from Attorney Ronald Cioffi of the law firm of Divine, Millimet & Branch - was dated February 26, 2003. It was marked "guaranteed overnight delivery" by Federal Express to the imprisoned priest, but he did not receive it the next day as "guaranteed." He received the letter ten days later, and five days after the requested documents had been made public.

From a letter of Attorney Cioffi dated February 26, 2003:

"As a result of the Diocese of Manchester's December 11, 2002 Agreement ... the Attorney General has provided the Diocese a complete set of the documents [to be] produce[d] to the public on March 3, 2003. The Diocese has received authorization from the Attorney General's Office to immediately make available for your review documents which pertain to you."

From a letter of Fr. MacRae to the lawyer dated March 7, 2003:

"Your letter dated February 26, 2003 ... with instructions to deliver by February 27, was received by me at the NH state prison at 6:00 PM on Friday March 7, 2003. Your letter indicated that you are

authorized to release to me a complete set of the documents pertaining to me in advance of the scheduled March 3 release date. Today is March 7, and I have already read news reports over the last over the last four days in regard to the documents released"

Receiving no response, he tried again three weeks later:

From a letter of Fr. MacRae to the lawyer dated March 31, 2003:

"It is clear that someone became motivated to prevent me from requesting the pertinent documents prior to the March 3 release date. ... I sought assurance from Diocesan officials that I would have an opportunity to review documents pertaining to me in advance of their release. I would like to know why I was denied that opportunity and what steps have been taken to identify the cause."

As with other mail to Diocesan representatives throughout this period, Father MacRae received no replies, no explanations, no communication of any kind. His Diocese had never given him the ability to place a collect call from prisoner telephones — his only avenue for communication besides the mail. The promise of a legal review by Attorney Vicinanza, and the priest's expectation that rights afforded to other priests would also pertain to him, evaporated into silence. Imprisoned, out of contact, and helpless, he wrote again to Attorney David Vicinanza:

From a letter of Fr. MacRae to Atty. Vicinanza, dated April 8, 2003:

"My contacts with Father Arsenault between May and December left me with a clear impression that he asked you to review privileged documents in my regard that were sent to him, but then taken by the Attorney General's Office. I am not certain of what transpired since then, nor do I have any sense of what documents the Attorney General's Office reviewed in compiling its report. In January, I asked to review the files ten days in advance of their release in accordance with the Agreement. The Diocese retained the firm of Divine, Millimet and Branch to arrange delivery of documents pertaining to me in advance of the March 3 release date. Their letter with instructions was received on March 7, 2003 ten days after it was delivery and five days after the release of files. I have twice asked for an explanation of the above, but I have received no replies. I have no clear sense of the status of Father Arsenault's assurances that you would be reviewing documents in my regard."

Attorney Vicinanza never responded. The decision of the Diocese to enter into its Agreement with State prosecutors generated Constitutional questions around the country. Typical among them was this analysis published by Louisiana State University Law Professor John Baker in the Boston College Law Review:

"The Church should recognize the New Hampshire settlement for what it potentially is: 'the camel's nose inside the tent.' Over the years, the U.S. Department of Justice has set precedents by bringing and then settling dubious cases against corporations. ... [P]rosecutors use these 'unlitigated' settlements to launch bolder prosecutions, as circumstances permit. This intrusion by a state prosecutor into the jurisdiction of the Church may encourage and be the basis for actions by other state prosecutors. ... [T]he decision of the Diocese [of Manchester] to enter into this agreement represents a dangerous capitulation by one diocese that may have created a serious threat to the other dioceses of the United States." "Prosecuting Dioceses and Bishops" John S. Baker, 44 B.C.L.Rev. 1061 (2003)

THE AFTERMATH

The child endangerment statute that could have subjected the Diocese to prosecution for a misdemeanor, at

worst, had a one-year statute of limitation for prosecution. The most recent case for which the state prosecutor raised a flag about the Diocese's decision to reassign an accused priest was twelve years earlier. The novel theory of law behind this threat of prosecution has never been explained. It is assumed by many legal experts that the Diocese of Manchester entered into this Agreement for reasons unrelated to a threat of prosecution.

Two months before the release of files a local contingency lawyer trying to enhance settlements, in dozens of new claims generated by the media coverage of the pending Agreement, filed a motion for discovery in which he alleged, without proof, that a previous bishop "destroyed records of sexual abuse" in Father MacRae's file many years earlier. His claim is based on a single letter in the priest's yet-to-be-released file. The letter was from the Servants of the Paraclete Center in New Mexico where Father MacRae had once been a patient, and then an employee in ministry to other priests who were sent there. The 1988 letter advised (then) Bishop Gendron to return or destroy medical records after reviewing them. Following this, Mr. Jim Post, of the reform group "Voice of the Faithful" published an open letter in the National Catholic Reporter exposing this "cover-up" by MacRae's bishop. Subsequently, a priest of the Manchester Diocese created a headline by commenting that the former Bishop violated canon law by destroying the files. No one ever sought comment from Father MacRae or from the treatment center from which the letter originated. Father MacRae contacted the center's director, Rev. Peter Lechner, Ph.D. who confirmed, in a letter dated January 29, 2003, that the claim was completely bogus. He wrote that the files in question were medical files for treatment by a neurologist in 1989. The director pointed out that the "return or destroy" request was to protect the medical files of patients from becoming part of diocesan personnel files over which the patients had little control. Generally, American citizens are entitled to an expectation of doctor-patient privilege. MacRae's file contained no evidence of lurid sex abuse admissions at the treatment center because there weren't any, not because a former bishop destroyed them. In the months to follow, Father MacRae wrote to Mr. Post, President of Voice of the Faithful, to ask that he correct the false information he published in the National Catholic Reporter. MacRae included a copy of the letter from the treatment center director. He also wrote to the priest of his diocese who used the story to generate a headline claiming Episcopal cover-up. The priest never replied, and never retracted his claims. His letter to Mr. Post at V.O.T.F. was returned to him stamped "Refused by Addressee."

At about the same time, another priest of the Diocese, Father Michael Kerper, wrote an opinion piece for The Concord Monitor. Father Kerper took the position that Catholics should lobby for changes in canon law so that priests accused in sexual abuse cases can be dismissed from the priesthood by their bishops without the due process of being- able to appeal such punitive actions to the Holy See. Father MacRae quickly wrote a letter to the author asking for an opportunity to make a case for why due process for accused priests should be carefully protected in these sometimes decades-old claims. MacRae's letter came back to him unopened, and with a terse note from Father Kerper: "Communications with you are neither prudent nor welcomed." The imprisoned priest was appalled, as were many. Father Kerper served on the Diocese's Council of Priests and other committees designed to protect the rights and well being of diocesan clergy. The witch-hunt rhetoric and disregard for due process and a presumption of innocence were not confined to the Manchester Diocese. The United States Conference of Bishops established a National Review Board to oversee implementation of the Bishops Charter for the Protection of Children and Young People. Its first chairman, former Oklahoma Governor Frank Keating, set the tone in one of his first press interviews: *"any priest who would appeal his dismissal to the Vatican is shamelessly disregarding the [U.S. Bishops] Charter."*

In November of 2003, Father MacRae wrote again to the Law Firm of Divine, Millimet and Branch in a final effort to learn why his right to review released files had apparently been sabotaged. Attorney Ovide Lamontagne responded with a claim, without evidence or explanation, that prison officials, and not the Diocese, prevented MacRae from receiving his letter of instruction, eight months earlier, about the process for reviewing files before their release. The lawyer offered no explanation why his firm did not respond for eight months. Father MacRae's response carefully outlined what he had been told by prison officials regarding the 10-day delay of the "overnight" delivery. It had not been sent to the prison, but to a Department of Corrections

warehouse. It bore no indication that it was legally privileged mail sent from a law firm to a prisoner. It did not bear the prisoner's identification number - required for him to receive mail - and it was addressed in such a manner that it would have been routed through several prison departments before being finally opened by a prison employee, identified as legal mail, properly logged, and then delivered to the imprisoned priest. The prison official who reviewed this process concluded that any lawyer would know how to get an overnight delivery into the hands of a prisoner. This particular mail, he concluded, seemed purposefully designed for extended delays. Father MacRae's reply to Attorney Lamontagne also addressed other unexplained issues.

From a letter of Fr. MacRae to Atty. Lamontagne/Nov. 24, 2003:

"Your letter indicated that your firm has been acting on behalf of Bishop McCormack as Diocesan counsel. You may be aware that my contacts with Father Arsenault between April and December of 2002 left me with a clear impression that I should have some privileged defense files sent to him for the purpose of reviewing them with a legal representative of the Diocese. Since my trial counsel is deceased, I gave limited release for another attorney to send some of these files to Father Arsenault for the expressed purpose of reviewing them with Attorney David Vicinanza in order to obtain an opinion on the possibility for further appeals. Months later, I learned that these files were among those "taken" by the Attorney General's Office. ... In printed news reports, Assistant AG Delker claimed that the Diocese 'gave' him 'unprecedented access to confidential Church files. "

"In late January of 2003, I was visited in prison by an Associated Press reporter who quoted 'leaked' documents to me that could only have come from one place - the defense files described above. ... My last contact with Father Arsenault was a letter dated December 3, 2003 in which he wrote that he 'never got around' to discussing this matter with Attorney Vicinanza. Five attempts to communicate about this with Attorney Vicinanza have been without response. "

Attorney Lamontagne never responded further. Two months later, on January 29, 2004, Bishop McCormack visited Father MacRae at the prison chaplain's office. The priest raised many of the above issues, but Bishop McCormack claimed to have no awareness of any of what had transpired. He instructed the priest to ask Father Arsenault to explain what transpired. When MacRae pointed out that no one representing the Diocese has responded to any of his inquiries, the Bishop promised to look into the matter and get back to him. He apparently did neither. During this January meeting, Father MacRae told Bishop McCormack of the boxes of files that had turned up in New Mexico and were shipped to him. He pointed out that much of this material was exculpatory and directly challenged many of the conclusions - at least in MacRae's regard - in the Attorney General's published Report. Bishop McCormack asked Father MacRae to send him copies of some of these files. MacRae expressed his reluctance to do so given what had transpired in terms of the release of privileged files. The Bishop had no response. Father MacRae followed up with a letter.

From a letter of Fr. MacRae to Bishop McCormack - February 2, 2004:

"As we discussed, my case, like all others, will eventually be sent to the Congregation for the Doctrine of the Faith for review. I feel that [the files we discussed] are pertinent and material, and Diocesan officials have never seen them. I would like to ask your review of these documents, but I must ascertain that they remain confidential and privileged. Can you please discuss with Attorney Brad Cook the best way to accomplish this so you may review these files?"

Bishop McCormack did not reply. On March 10 and March 22 Father MacRae sent two more letters to Bishop McCormack through the Diocesan attorneys. He received no replies. Then, on March 23, 2004, Father MacRae received a letter from Bishop McCormack that made no reference to any of the above. With the brief letter, the Bishop enclosed a copy of the U.S. Bishops' "Essential Norms" for addressing claims of sexual misconduct by priests. The Bishop's cover letter explained:

"What I have in mind is to ask you to review [the Norms] in order that we can have a discussion about the Norms when I visit you next. My hope is to do so before the end of April. "

On April 2, Father MacRae wrote again to thank the Bishop for the Norms and to urge him to review the other files before sending anything to Rome. There was no response. The end of April came with no visit and no further replies to the imprisoned priest's letters. Then, on April 28, the priest received yet another blow from his Diocese. Bypassing the promised consultations and review of new materials, Bishop McCormack informed the priest that he has sent the claims against him to Rome without further discussion or explanation.

From a letter of Bishop McCormack dated April 26, 2004:

"I write to inform you that, in compliance with the Essential Norms, I have forwarded to the Congregation for the Doctrine of the Faith the acts relative to the accusations of sexual abuse of a minor that have been brought against you, as well as my votum in the matter. "

Letter after letter from Father MacRae pleading for a right of defense - and for knowledge of exactly what was sent to Rome went without replies. Finally, after an impassioned letter from Father MacRae, his Bishop responded.

From a letter of Bishop McCormack dated May 21, 2004:

"I received your letter in which you expressed your genuine concern about not receiving responses from me or Father Arsenault these past few months. In several instances I was not clear in understanding that you were expecting a response. In the other instances, in terms of our own communication, I am working on a response that will be as helpful as possible. You have been very understanding, Gordon, in terms of the attention that I must give to other matters besides the ones that personally concern you. "

The "response that will be as helpful as possible" never arrived. Once again, communications from Father MacRae's diocese came to a grinding halt. As late as October, 2007, Father MacRae has never been informed of the specific charges sent to Rome, of the nature of his Bishop's "votum," or of what happened to the records and files handled by Father Arsenault. Also in May of 2004, a year after the highly sensationalized media fallout of the selective release of files, the Auxiliary Bishop of the Manchester Diocese, Bishop Francis Christian, addressed an adult education seminar. His topic was "ethics." After his presentation, he was ambushed by a few members of Voice of the Faithful along accompanied by Annmarie Timmons, the wife of Assistant Attorney General Delker, and a reporter for the Concord Monitor. After a barrage of questions from the reporter and V.O.T.F. members about the "ethics" of Bishop Christian's refusal to cooperate with the Agreement between the Diocese and State, Bishop Christian reportedly responded saying "the truth was not told in the Attorney General's report on the Diocese." This apparently choreographed ambush of Bishop Christian generated a headline story in the Monitor.

From a letter of Father MacRae dated May 27, 2004:

"Dear Bishop Christian: I am certain you know you were ambushed this week by a reporter and a small group of VOTF activists promoting the fiction that has been told in the Attorney General's 2003 Report I have read that 'the truth will set you free.' Perhaps, but first someone has to tell it. I read a hint of truth in your assertion ••• that the Report was not the truth. "

Unlike others in the Diocese, Bishop Christian replied — two months later.

From a letter of Bishop Christian dated July 21, 2004:

"I am grateful to you for the concern you expressed and for making me aware of how the Voice of the Faithful people have dealt with you. ... Facts wrenched out of all human context seldom lead to the truth, and that is what happened in the present situation. "

The day after Father MacRae mailed his letter to Bishop Christian, Bishop McCormack's delegate, Father Edward Arsenault issued an unusual public statement quoted in a headline article in the Concord Monitor: "*Bishop Christian does not speak for the Diocese of Manchester.*"

RENEWED INTEREST

Inmate Gordon MacRae had not heard from Dorothy Rabinowitz since her revelation in 2001 that all the documents he sent to her were destroyed when the offices of The Wall Street Journal were devastated by the collapse of the Twin Towers in Manhattan. Two years later, in May of 2003, the priest received a letter in prison from one of the lawyers for the Diocese. Following the public release of files, the Attorney General's Report, and the Internet posting of thousands of pages of one-sided documents, Father MacRae, like other accused priests, was a stationary target. The lurid details of claims - however false and financially motivated, he says - were now a public billboard for anyone who wanted to cash in. MacRae began to hear reports from other prisoners who were taking advantage of the climate to falsely accuse several priests. Some inmates even asked MacRae for the names of priests who might have been present in their childhood towns. Finally, in May of 2003 Father MacRae received a letter from one of the attorneys negotiating blanket settlement demands for his Diocese. MacRae had been implicated in two new demands for settlement brought by two men he had never met and whose names he never before heard: Robert Martin and Brett MacKenzie.

The priest wrote immediately to the diocesan lawyer insisting that "the settlement game" must cease and vowing not to participate in this scam. "*Settlement in no way implies an acknowledgement of the claims,*" he was told. Shortly after this, Father MacRae ran into another priest imprisoned in New Hampshire. This priest had already been dismissed from the priesthood by Bishop McCormack. He seemed very depressed, and he told MacRae, while awaiting an appointment one afternoon, that he, too, has been accused by two men he has never met in the same blanket settlement demand brought by the same lawyer with two new claims against MacRae. Father MacRae was furious, and intent on exposing this. He wrote a three-page letter to Dorothy Rabinowitz at The Wall Street Journal outlining what had been sent to him by the lawyers. These new claims - which were settled without the two priests' consent and against their will - were part of blanket settlements that ultimately totaled some \$22 million in New Hampshire alone. This seemed to get the attention of Dorothy Rabinowitz, and, 2004, she asked the priest to begin to reconstruct the documents he had sent three years earlier. MacRae began to send documentation to The Wall Street Journal. By the end of 2004, Ms. Rabinowitz began to review his trial and interview people connected with the case.

Unaware of this development, Father MacRae received an urgent letter from Bishop McCormack in February of 2005, which caused his heart to sink.

From a letter of Bishop McCormack dated February 22, 2005:

"I would like to meet with you as soon as possible concerning an urgent matter relative to the disposition of your sexual misconduct case now pending before the [Vatican] Congregation for the Doctrine of the Faith. I will arrange to visit with you in the very near future. Mindful that these have been very difficult months, I pray our faith will be a source of consolation for you."

The troubling letter led Father MacRae to believe that his Bishop had obtained a disposition in the case sent

to Rome without ever responding to the priest's repeated pleas for a right of defense and, if necessary, a canonical trial. He informed his canonical advocate who prepared him for the worst. Late in March, 2005, Father MacRae was told by the prison Chaplain that Bishop McCormack would be meeting with him in the Chaplain's office the following week. A few days before the scheduled meeting, the Chaplain informed Father MacRae that he received a call from Father Edward Arsenault's office. The Chaplain was instructed to schedule no more than fifteen minutes for Bishop McCormack's meeting with MacRae. The exact chronological order of events in these weeks is unclear, but it seems that at some point between that last call to the prison Chaplain and the actual meeting between Bishop McCormack and Father MacRae, Dorothy Rabinowitz began to interview some Diocesan officials in preparation for a two-part series on the MacRae case scheduled for imminent publication. When Bishop McCormack came to the prison to meet with Father MacRae, things had changed. The meeting took place at the prison at the end of March, 2005. The priest was braced for the worst, and had come to believe, from the Bishop's letter, that a unilateral dismissal from the clerical state was about to be imposed with no defense and no avenue for appeal. This had, in fact, happened to a number of other accused priests, especially those convicted and incarcerated. It did not happen. Instead, Bishop McCormack professed to know nothing of the letter he signed and sent on February 22 about the "disposition" of the priest's case. He also said that he knew nothing of the call limiting this meeting to fifteen minutes. The Bishop told his imprisoned priest that he was unaware of whether his office had even yet sent the priest's case to Rome, and said the visit was simply a pastoral visit to see if his priest needed anything. At some point in their discussion, the Bishop casually asked MacRae if he has been in touch with Dorothy Rabinowitz. He said that he had. The meeting ended with little further exchange. Over the next two weeks, Bishops McCormack and Bishop Christian declined comment to The Wall Street Journal. Father Arsenault was interviewed at least once.

On April 27 and 28, 2005, The Wall Street Journal published the two-part commentary by Ms. Rabinowitz, a Pulitzer Prize winning writer on the Journal's Editorial Board. The series proved to be the most in-depth investigative analysis to date of the case against Father Gordon MacRae. On April 30th, the series was also published in the Journal's on-line edition. Most of the expected fallout never happened. In the local New Hampshire press, the claimants against the priest said nothing. The prosecutor from his trial said nothing. The trial judge said, vaguely, that it was a complicated matter and review is a positive thing. The contingency lawyer who brought the newer claims from people MacRae has never heard of protested loudly that Father MacRae violated a non-disclosure agreement by divulging his clients' names. The priest's response was that he was never a party to such an agreement. The loudest noise, however - and shockingly to the imprisoned priest - came from Father Arsenault. Five years after Bishop McCormack informed a representative of PBS Frontline of his belief that Father MacRae is innocent then demanded secrecy - the Bishop's Delegate, Father Edward Arsenault, went on a public attack. He questioned the journalist's objectivity, declared her an "advocate" as opposed to an objective reporter, denounced the articles as invalid because they appeared on the Journal's Opinion Page, and reminded readers that "Father MacRae was duly convicted by a jury of his peers."

From a letter of Fr. MacRae to Bishop McCormack - April 30, 2005:

"I must bring to your attention concerns that are being raised about Father Arsenault's reported comments in recent news accounts. ... I believe you know that I have been resolved to avoid being an instrument of public critique of Church officials. I am very concerned that the irresponsible and defensive statements disseminated by your Delegate may expose you to criticism. "

From a letter of Bishop McCormack dated May 5, 2005:

"I have received and read your most recent letter. Your ongoing efforts to pursue your civil rights to appeal are complicated and now involve both attorneys and other interested persons. As you know, the

matter of the complaints made about your past behavior has been forwarded to the Holy See. ... Given the complicated nature of the matters before us, I ask that you send any correspondence directed to me through your attorneys. "

ADDENDUM

In April 2006, an advocate traveled from Washington to New Hampshire to meet with a lawyer studying the case of Father MacRae. He wrote that he and his family attended Sunday Mass at a church near the prison. He wrote that after Mass, he asked the parish priest if he has ever visited Father MacRae in prison. The parish priest warned that he should keep his family away from MacRae, that he is not to be trusted, has abandoned his faith, refuses to attend Mass at the prison, and refuses contact with his bishop and other priests. Asked by the advocate if he had ever met Father MacRae, the priest admitted that he hadn't, but added that his information "is common knowledge" among priests of the Diocese.

In October of 2005, Dr. William Donohue, President of The Catholic League for Religious and Civil Rights, cited Father MacRae's case on NBC's "TODAY" concluding, "There is no other segment of the American population with less civil liberties protection than the average American Catholic priest."

In 2001, the Diocese of Manchester published a document entitled "Statement of Rights and Obligations of Persons Accused of Sexual Misconduct." The document (attached) defines the rights and obligations of accused priests of the Diocese.

PERSON _____

File No. _____

DIOCESE OF MANCHESTER
STATEMENT OF RIGHTS AND OBLIGATIONS
OF PERSON ACCUSED OF SEXUAL MISCONDUCT

When an accusation of inappropriate behavior is made, the Diocese of Manchester takes seriously its obligation to discover the facts, protect individual rights, and fulfill its obligations to the complainant, the faith community, and the accused person. In this regard, whenever an investigation or evaluation is conducted with someone accused of an offense, the following shall serve as guiding principles:

The Delegate will:

1. inform the person being interviewed of the process to be used;
2. inform the person being interviewed what information will be shared with whom;
3. inform the person being interviewed that he is acting in the external forum on behalf of the Bishop of Manchester;
4. inform the person being interviewed that any and all information disclosed will be treated with discretion, but not be subject to confidentiality because the administrative process requires the sharing of specific information with the Bishop and his Delegate.

RIGHTS OF THE PERSON ACCUSED

The accused cleric or religious has the right to;

1. not to implicate oneself;
2. counsel, civil and canonical;
3. review the results of one's own psychological evaluation;
4. know what has been alleged and to offer a defense against the allegations;
5. know and understand the review process;
6. discretion in the conduct of the investigation and to have his/her good name protected.

AGREEMENT OF THE PERSON ACCUSED

The accused cleric or religious is obliged to:

1. not to interfere in the investigative process.
2. observe any special provisions imposed by the Bishop of Manchester and/or Major Superior;
3. release the results of medical/psychological assessments and/or evaluations to the Bishop of Manchester, the Delegate, the Diocesan Review Board (shared in an anonymous format), as deemed appropriate by the Bishop of Manchester.

By affixing my signature below, I affirm that I have read and understand this statement of rights and obligations.

Signature: _____ Date _____

Delegate: _____ Date _____