

Report of External Investigation of Historical Reports of Abuse *Grace Church and Grace Church School*

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I. Overview

A. Initial Engagement

On September 18, 2019, Student 1, a 1997 graduate of Grace Church School and a former member of the Grace Church Boys' Choir, contacted Grace Church (the "Church"), Grace Church School (the "School"),¹ and the Episcopal Diocese of New York (the "Diocese"). In a letter written by Student 1's counsel, Student 1 disclosed that he had been repeatedly sexually abused during and after his time as a School student and Church parishioner by Bruce McInnes, who served as the Church's Choirmaster from 1992 to 1999.² According to the letter, this extensive sexual abuse included multiple acts of anal or oral rape and fondling, and lasted from 1992 to 2000. On November 20, 2019, Student 1 filed a civil complaint against the Church, School, and Diocese.³

In October 2019, the Church and School jointly engaged Cozen O'Connor to conduct an attorney-client privileged external investigation into this historical report.⁴ Cozen O'Connor had no prior relationship with the Church or School, or any of the individuals interviewed in the review.⁵ On October 2, 2019, the Church and School contacted their respective communities, including alumni of the School, to inform them of Student 1's report of abuse. In their

¹ As detailed in this report, the School was part of the Church until 2006, when it formally separated from the Church and became its own legal entity. This report uses the term "School" to reflect the educational institution as distinct from the Church, even if it was not legally identified as a separate entity until 2006.

² Out of respect for the privacy of all former choir members referenced in this report, all of whom were also students at the School, this report references each former choir member as "Student [#]," rather than by name. While the choir was open to non-Grace Church School students, all of the individuals Cozen O'Connor interviewed were students at the School. This report uses this naming convention for all former choir members and students, including those who did not report sexual abuse and/or otherwise reported positive encounters with McInnes. There is no significance to the number assigned to each student.

³ This civil lawsuit was brought under New York's Child Victims Act (February 2019), which opened a one year window for child abuse victims to file civil lawsuits seeking compensation for sexual abuse they suffered as children, even where those claims had previously been statutorily barred. The window to file a lawsuit was open from August 14, 2019 to August 14, 2020, and was later extended by one year to August 14, 2021, in light of the challenges posed by the Covid-19 pandemic.

Student 1's civil lawsuit was settled on October 9, 2020.

⁴ The School and the Church also engaged in a forward-looking review of policies, procedures, and practices, through an External Review Committee composed of unaffiliated professionals with expertise in church safety, school safety, parenting, physical plant security, and survivor experience. That Committee has conducted a separate thorough examination of the policies, culture, physical plant, and systems of accountability that the School and the Church have in place to safeguard children in their communities from sexual misconduct and harassment.

⁵ Gina Maisto Smith and Leslie M. Gomez, former career sexual assault and child abuse prosecutors, co-chair Cozen O'Connor's Institutional Response Group, a practice group dedicated to helping institutions, including K-12 schools, prevent sexual abuse and improve institutional responses. Smith and Gomez worked closely with Adam M. Shapiro, an attorney and experienced investigator in the Institutional Response Group. Members of the Institutional Response Group do not participate in any civil litigation, either for or against educational or other child-serving institutions.

communications, the Church and School wrote that they had received “serious allegations of sexual abuse” from a former student and parishioner involving a former Grace Church lay employee, reported to have occurred from approximately 1992 to 2000. The letters from the Church and School shared that Cozen O’Connor had been engaged “to conduct an external, sensitive and expeditious investigation into the reported conduct,” and encouraged community members to contact Cozen O’Connor or the leadership of the Church or School to share any relevant information. The letters also encouraged community members to contact child protective services or local law enforcement to report potential criminal conduct.

B. Additional Allegations of Abuse

As detailed below, during the course of the investigation, multiple additional students came forward to disclose abuse or unwelcome touching by McInnes, either directly to Cozen O’Connor or through civil complaints. In addition to Student 1, four students (Students 2, 3, 6, and 8) filed civil complaints against the Church, the School, the Diocese, McInnes, and other parties. All five former students who filed civil suits were invited to participate in the investigation. Students 2 and 3 chose to do so;⁶ Students 1, 6, and 8 either declined to participate in the investigation or did not respond to outreach.⁷ In addition, Students 4 and 5 participated in the investigation. Cozen O’Connor makes no negative inference with respect to any individual’s decision whether or not to participate in the investigation. The disclosures of abuse, to Cozen O’Connor or in civil complaints, are as follows:⁸

- On October 3, 2019, Student 2, a member of the Grace Church School class of 1998, reported to Cozen O’Connor that he was molested by McInnes on at least two occasions.⁹ Student 2 participated in two interviews with Cozen O’Connor before informing Cozen O’Connor on March 23, 2020 that he had engaged counsel and any further correspondence should be directed to counsel.
 - Student 2 subsequently filed a civil complaint on November 2, 2020, and an amended civil complaint on April 21, 2021. In the civil complaints, Student 2 alleged McInnes “repeatedly sexually abused and assaulted” him on Church and School premises from 1992 to 1998, when Student 2 was 8 to 14 years old. Student 2 alleged that on dozens of occasions, McInnes engaged in unpermitted, forcible, and harmful sexual contact with him.

⁶ In addition, all five civil plaintiffs, through counsel, were invited to review the investigation report prior to its completion. Student 1 did not respond to outreach, Student 2 declined to review the report, and Students 3 and 8 both reviewed the report. Student 6 requested to review the report, but ultimately did not do so.

⁷ As noted above, Student 8 reviewed the report but declined to participate in an interview.

⁸ All graduation years refer to eighth grade graduation.

⁹ The details of Student 2’s report, as provided to Cozen O’Connor, are included in Section VII.A.1.

- On August 11, 2021, Student 2 filed a second civil complaint, naming the following three individuals as defendants: Head of School George Davison, former Rector Samuel Abbott, and a longtime Vestry member, Vestry Member 2. The suit alleged that Davison, Abbott, and Vestry Member 2, as employees and agents of the School, the Church, and the Diocese, knew or should have known that McInnes presented a risk of child sexual abuse and failed to protect Student 2 in a variety of ways, including failing to notify Student 2 or his parents when they reportedly received a written report from two individuals who witnessed McInnes abusing Student 2 and two other students.¹⁰ Student 2 alleged additional details regarding the abuse, including that McInnes groomed Student 2 by giving him special attention, gifts, and/or praise; used his position of authority to intimidate Student 2; fondled Student 2's chest, back, hips, genitals, and buttocks; reached inside of Student 2's clothing and grabbed and cupped Student 2's genitals and buttocks; pressed his pelvis while sexually aroused into Student 2's body; made Student 2 sit on his lap against his erect penis; and subjected Student 2 to six years of unwanted fondling, hugging, and kissing.¹¹
- On August 18, 2020, Student 3 and Student 6, both members of the Grace Church School class of 1999, filed a joint civil complaint against the Church, School, the Diocese, and McInnes.¹² The complaint contained additional allegations of abuse by McInnes. Cozen O'Connor attempted to contact both students as part of this investigation.
 - In the civil complaint and subsequent correspondence on April 1, 2021, Student 3 alleged that McInnes sexually abused him “on a weekly basis” from 1994 to 1999, when Student 3 was approximately 9 to 14 years old. The letter stated that this abuse, which occurred in the choir room and McInnes's basement office, included fondling of Student 3's genitals, buttocks, and inner thighs, as well as sexually explicit conversations. According to the letter, these conversations and much of the touching occurred in the presence of adult Church members and members of Church staff, and the sexual abuse resulted in lasting effects on Student 3's education, career, and personal life, including his mental health. Student 3 and his family initially declined to participate in this investigation, but subsequently agreed to be interviewed in March 2022 following Student 3's review of the investigation report.

¹⁰ The written report to the Church referenced in the civil suit is discussed, *infra*, at Section VI.D. The written report, which followed an oral report to Abbott and one of the Wardens, precipitated a Church investigation, which concluded with a detailed written investigation report. Cozen O'Connor found no evidence that Davison was aware of this initial written report or of the final written investigation report. Vestry Member 2, through counsel, declined to participate in this investigation.

¹¹ The civil lawsuits filed by Student 2 were settled on January 5, 2022.

¹² The civil lawsuits filed by Student 3 and Student 6 were settled on September 16 and 27, 2021, respectively.

- Student 6 did not respond to Cozen O'Connor's outreach inviting him to participate in the investigation.¹³ In the civil complaint and subsequent correspondence on April 1, 2021, Student 6 alleged that McInnes sexually abused him from 1993 to 1996, when Student 6 was approximately 8 to 11 years old. The letter stated that this abuse, which occurred when he was alone with McInnes during practice, included fondling of Student 6's penis, testicles, and thighs, as well as sexually explicit conversations. According to the letter, the sexual abuse resulted in lasting effects on Student 6's education, career, and personal life, including his mental health.
- On August 6, 2021, Student 8, a Grace Church School graduate, filed a civil complaint against the Church, School, the Diocese, McInnes, and the Episcopal Church.¹⁴ The complaint contained additional allegations of abuse by McInnes. Cozen O'Connor made multiple attempts to speak with Student 8 during the investigation, including two brief conversations with his mother. Student 8 did not respond to this outreach. In the civil complaint, Student 8 alleged that McInnes sexually abused him when he was approximately 12 to 14 years old by fondling his genitals and buttocks and "sexually kissing" him.
- Student 4, a member of the Grace Church School class of 1997, told Cozen O'Connor that McInnes made an inappropriate sexual advance towards him while in the back seat of a taxi. According to Student 4, McInnes, whom he described as "touchy," massaged Student 4's neck in a manner that was unwelcome and "very not okay."
- Student 5, a member of the Grace Church School class of 1997, told Cozen O'Connor that shortly after his graduation, he was invited to McInnes's apartment by Student 1, a close friend and fellow recent graduate. According to Student 5, McInnes gave them beer and pizza and put a pornographic movie on the television, which made him very uncomfortable. Student 5 said McInnes placed a hand on Student 5's leg during this incident. Student 5 also said McInnes would give him and others "long hugs," which he described as "weird" and "uncomfortable."

In addition, several former students contacted the School or Cozen O'Connor to share experiences involving former Church or School employees other than McInnes. These reports included sexual abuse by E. Allison Grant, the School's headmaster, and also by an assistant minister of the Church in the 1950s, physical abuse by a School employee in the 1960s, sexual

¹³ As noted above, Student 6, through counsel, expressed an interest in reviewing the report, but ultimately did not do so. Student 3 also shared that Student 6 was interested in reviewing the report.

¹⁴ The civil lawsuit filed by Student 8 was settled on November 24, 2021. Following Student 8's review of the report, his graduation year was omitted at his request.

abuse by a priest in the Church in the 1960s, and sexual abuse by a School teacher in the 1980s. The review of these reports of historical conduct is ongoing.

C. Church and School Communications

During the course of the investigation, the Church and School sent supplemental letters to their communities to provide updates as they learned about these additional allegations or there was other related information to share:

- On January 14, 2020, the Church and School identified McInnes by name and disclosed that Student 1 had filed a lawsuit against the Church, School, and Diocese.¹⁵ The Church and School again encouraged community members to participate in the external investigation.¹⁶
- On January 31 and February 7, 2020, respectively, the Church and School informed the community that Student 2 had contacted the School to report that he, too, had been abused by McInnes during his time at the School. The letter also provided a status update on the external investigation and described additional safeguards being implemented regarding child protection.
- On October 15, 2020, the Church and School informed the community that the School and the Church had reached a mediated settlement agreement with Student 1. The Church and School expressed their gratitude “for [Student 1’s] courage in coming forward to share his experiences and for the opportunity to address the harm caused by McInnes’s abuse.” The Church and School also shared that Student 3 and Student 6 filed a joint lawsuit against the School, the Church, the Diocese, and McInnes.
- On December 16, 2020, the Church and School informed the community that Student 2 filed a lawsuit against the Church, the School, the Diocese, and McInnes. The Church and School again expressed gratitude “to the former students who have spoken up and given us the opportunity to address the harm caused by McInnes’s abuse.” The Church and School also shared that all four complaints were filed under New York’s Child

¹⁵ As noted above, although Student 1 has identified himself publicly in the lawsuit, the Church and School have not shared his name in any public communications. Similarly, Cozen O’Connor did not reveal Student 1’s identity in interviews with former choir members.

¹⁶ To reinforce the integrity of Cozen O’Connor’s external investigation, the Church and School also shared that Leona Chamberlin and George Davison, who both held leadership positions during the relevant time period, had voluntarily recused themselves from oversight of the investigation. At the time of Cozen O’Connor’s engagement, Chamberlin was a Senior Warden with the Church and School Board Vice Chair and Davison was the Head of School. During the time period relevant to the investigation, Chamberlin was the Chair of the School Board and Davison was the Assistant Head of School (1992 to 1994) or Head of School (1994 to present). Chamberlin is not currently a member of the Vestry or School Board. Davison is still the Head of School and will retire in June 2022.

Victims Act, which in 2019 created a one-year window for victims of child sexual abuse to file claims in cases where the statute of limitations had already expired, regardless of when the alleged abuse occurred. The Church and School again asked anyone with information pertaining to child abuse or sexual misconduct at the Church or School to participate in the investigation, contact the School, or contact local law enforcement or child protective services. Finally, the Church and School shared that the School had created a website to post and share information about the School's response to the McInnes abuse cases.

- On September 30, 2021, the Church and School informed the community that three of the four civil plaintiffs had settled their lawsuits against the School and Church. The Church and School also shared that Student 2 filed an additional lawsuit that added three individuals who held leadership positions at the School and Church in the 1990s. Finally, the Church and School shared that a fifth former student, Student 8, had filed a lawsuit against the School, the Church, the Diocese, and the national Episcopal Church. The Church and School again encouraged anyone with information pertaining to sexual abuse at the Church or School to participate in the investigation, and shared that they had asked Cozen O'Connor to prepare a thorough and transparent factual report, which it intended to share with the community.

D. Summary of Investigation

Between October 2019 and March 2022, Cozen O'Connor interviewed 59 witnesses, including current and former employees of the Church and School; former Church Vestry members and parishioners; former outside counsel to the Church; former School Board members; former choir members; and parents of former choir members. In addition, Cozen O'Connor reviewed contemporaneous documents that were maintained by the Church and the School. Cozen O'Connor also reviewed extensive documents maintained by the Church's former outside counsel and two former Wardens of the Church.

Throughout the investigation, Cozen O'Connor sought to gather facts in a sensitive and informed manner to inform the Church and School's understanding of historical information. Current and former leaders and employees of the Church and School participated voluntarily in the investigation and provided unfettered access to available documents. No investigative request was denied and the scope of the investigation was not restricted in any way. In fact, the Church and School on several occasions proactively requested to expand the scope of the investigation. The observations and conclusions in this report were not influenced or directed in any way by the Church or the School.

This report synthesizes the most salient information gathered during Cozen O'Connor's investigation. It does not catalog every meeting, communication, or event relevant to the investigation. It also does not catalog every document or communication reviewed by Cozen O'Connor. Rather, it provides a chronology of key events, communications, and

interactions as they bear on the collective institutional response to notice of potentially abusive conduct by McInnes.¹⁷

II. Timeline

The following is a brief timeline of the key events related to McInnes's tenure:

- Prior to being hired by the Church in 1992, McInnes was asked to leave two prior employers, Amherst College and the University of Wisconsin-Eau Claire, due to allegations that he had had inappropriate sexual relationships or interactions with adult male undergraduate students.
- Samuel Abbott, the incoming Rector of Grace Church in 1992, recommended McInnes for the position of Choirmaster. Abbott and McInnes had a longstanding friendship. A Search Committee, which included members of the Vestry (the Church's lay leadership body), extended a job offer to McInnes in the summer of 1992. Although Abbott was aware of McInnes's history, he did not share it with the Church. The Search Committee was unaware of McInnes's history at the time the offer was extended. Prior to his starting date, several Church parishioners voiced concerns about McInnes's history. His history was disclosed to the full Vestry, including then-Head of School Kingsley Ervin, as well as the parents of the 1992-93 Boys' Choir members. In the fall of 1992, following these disclosures, McInnes assumed the position of Choirmaster.
- In 1995, a parent of a Boys' Choir member (also a Grace Church School student) told Head of School George Davison to "keep an eye on [McInnes] and [Student 1]" or to "watch out for [Student 1] now that I'm leaving." The parent did not identify any specific conduct of concern at the time.
- Additional concerns regarding McInnes were raised in 1996 and 1997, when an adult Church employee told a Church administrator that McInnes had made him feel uncomfortable by hugging and touching him on the shoulder; a School teacher told Davison and Abbott that she had seen McInnes put his arm around a choir member in a way that made her uncomfortable; and two School teachers reported to Davison that McInnes had made a concerning comment regarding Student 1, who had recently graduated from the School. Davison reported the concerning comment to Abbott and the then-Chair of the School Board, Leona Chamberlin.

¹⁷ The information in this report includes relevant information received by Cozen O'Connor as of March 2022. As noted below, during the course of the investigation, Cozen O'Connor attempted to contact numerous potential witnesses, including all former Boys' and Girls' Choir members. In some instances, Cozen O'Connor was unable to find current contact information for the potential witnesses; in other instances, the witnesses did not respond to outreach or declined to participate in the investigation. Cozen O'Connor encourages anyone who was affected by McInnes to contact the School, Church, Cozen O'Connor, or external law enforcement authorities.

- In the summer of 1998, the Youth Chaplain¹⁸ (a lay Chaplain in the School) and her husband reported to Abbott and one of the Church's Wardens that they had witnessed McInnes hugging, patting, and otherwise interacting with three students in a way that made them uncomfortable. The Church's two Wardens engaged outside counsel and initiated an investigation, using three parishioners (two of whom were also members of the Vestry) as the investigators. During the investigation, a Church maintenance employee reported that he had observed McInnes fondling the genitals of Student 1. The investigation also identified other documented or witnessed instances of inappropriate conduct with minors by McInnes. The investigators found that McInnes had violated the Church's sexual misconduct policy. McInnes was not terminated following this investigation. Subject to his adherence to a set of conditions, including written behavioral guidelines governing his future interactions with minors, psychological evaluation, and treatment, he was allowed to stay on as Choirmaster until his "retirement" after the conclusion of the 1998-99 academic year.
- In the spring of 1999, despite having breached at least one of the requirements of his separation agreement, the Church gave McInnes a merit raise and extended his retirement date from August 1999 until 2001. Shortly thereafter, in or around June 1999, one of the Wardens and Davison received a report that McInnes had engaged in inappropriate conduct with Student 3, a graduating eighth grader and Boys' Choir member, who had been permitted by Davison to spend time alone with McInnes during a school suspension.¹⁹
- This incident precipitated McInnes's exit from the Church, which did not occur for several more months. Although McInnes received a letter of termination in July 1999, he was allowed to begin the Fall 1999 academic semester as the Choirmaster and was subsequently permitted to resign. His departure in September or October 1999 was communicated to the Church and School communities as an early retirement due to health reasons, and during Homecoming Weekend in October 1999, McInnes was honored at a farewell luncheon sponsored by the Church. In October 1999, a Church official gave a positive employment reference for McInnes to an independent music conservatory for post-secondary students, where McInnes served as Dean until May 2001.²⁰

¹⁸ The description of the Youth Chaplain's role was clarified on April 27, 2022, to reflect that the Youth Chaplain was a lay Chaplain employed by the School. The Youth Chaplain oversaw all aspects of the School's Chapel program and taught Bible and Ethics. The Youth Chaplain also volunteered her time with the Church's youth group. In addition, the Church provided housing for the Youth Chaplain and her husband.

¹⁹ According to Davison, at that time, he was not aware that Student 1 had been sexually abused by McInnes or that McInnes had been found in violation of the Church's sexual misconduct policy. Cozen O'Connor did not locate any contemporaneous documents suggesting that Davison was specifically aware of Student 1's abuse, the detailed findings of the 1998 Investigation, or the events that gave rise to the 1998 Investigation.

²⁰ Although outside the scope of this investigation, in September 2001, a 23 year-old student filed a civil complaint against the music conservatory and McInnes, alleging, among other things, that McInnes made unwanted sexual advances towards him.

III. Overview of Engagement

A. Scope of Review

The Church and School, jointly, engaged Cozen O'Connor to conduct an external investigation of the historical report of abuse raised by Student 1. Cozen O'Connor sought information, through documents and witness interviews, to understand the context of McInnes's tenure at the Church and his intersections with the School; whether there was information that would corroborate Student 1's account of abuse; whether there was any information that suggested McInnes potentially abused other choir members; whether the Church and School were aware, or should have been aware, of concerns about McInnes; and, if so, the nature of the responses by the Church and School to that notice. Consistent with the scope of the investigation, Cozen O'Connor accepted as true Student 1's allegations, as well as the allegations of other former choir members who have since come forward to share their experiences with McInnes.

B. Investigative Approach

Cozen O'Connor conducted the investigation with a commitment to open-ended exploration of the issues and sought to follow the facts wherever they led. The review process integrated investigative protocols to support a neutral, impartial, and thorough investigation and to report the information gathered in the investigation to the Church and School in an objective, organized, synthesized, and dispassionate manner. Cozen O'Connor sought to gather all relevant information and rigorously tie the fact-finding to available contemporaneous documents and witness interviews. In the recitation of the facts gathered, the report does not speculate as to intent, but rather, lets the facts speak for themselves. The report also includes the explanations offered by the witnesses, in the context of other available information, without explicitly evaluating the credibility of those explanations.

During the course of the investigation, the Church and School provided unfettered access to documents, information, and personnel, and both were fully cooperative with the review. The Church and School respected the impartiality of the external investigation process and took steps to reinforce the integrity of that process. Notably, in structuring the investigation, the Church and School accepted the voluntary recusal of the Head of School and the then-Senior Warden of the Vestry and Vice Chair of the School Board (as of the fall of 2019) from oversight roles in this investigation because both had held administrative or leadership roles at the School during times relevant to this investigation and were therefore potential fact witnesses.²¹ Additionally, while the investigation was ongoing, at Cozen O'Connor's recommendation, the Church and School broadened the reach of the investigation by giving Cozen O'Connor the specific authority

²¹ George Davison was Assistant Head of School at the time of McInnes's hiring in 1992. He served in that role until the fall of 1994, at which point he became Head of School. He is still the Head of School. Chamberlin previously served as the School Board Head in 1998 and was a Senior Warden of the Vestry and Vice Chair of the School Board when this investigation was initiated. She is not currently a member of the Vestry or the School Board.

and instruction to locate and reach out to all former Boys' and Girls' Choir members during McInnes's time at Grace Church. At the request of the Church and School, Cozen O'Connor also contacted McInnes's subsequent employer, who shared information about a professional reference provided by the Church.

Cozen O'Connor was not engaged to defend the Church or School in response to any litigation by former choir members and did not participate in any mediations or settlement discussions related to the civil lawsuits.²²

C. Naming Conventions

Given the highly sensitive nature of this investigation, and in deference to the privacy of current and former Church and School community members in the context of a public report, this report does not identify by name former choir members, parents, and parishioners. Although most of the former Boys' Choir members who filed civil suits have identified themselves publicly in the lawsuits, not all have chosen to do so. The decision to share one's identity and experiences – and in what contexts – is an important part of agency and autonomy. Cozen O'Connor, the Church, and the School have not shared their names in any public communications or within the Church and the School, beyond those directly responsible for oversight of the investigation and the leadership of both institutions. Similarly, Cozen O'Connor did not disclose, or confirm, the identities of former choir members abused by McInnes in interviews with other former choir members.

With respect to School and Church employees, this report generally does not share names of current or former employees, or volunteer lay leaders, including the Wardens and Vestry members. In some instances, such as with individuals who were professionally employed and empowered to make decisions in these matters, including individuals who held key leadership roles in the Church and the School, a candid accounting of the facts required the sharing of names. For this reason, and for ease of reading, the report references by name former Rector Sam Abbott, former Priest-in-Charge John Andrew, former Head of School Kingsley Ervin, and current Head of School George Davison.²³ Similarly identified by name are individuals from the Episcopal Diocese of New York, including Bishop Richard Frank Grein and Rev. Canon Anne F.C. Richards, the Canon for Ministry of the Diocese. As noted below, Andrew, Ervin, and Richards are deceased; Abbott and Davison have both had the opportunity to participate in interviews and to review the report to ensure its accuracy and provide any additional context. In keeping with these naming conventions, information gathered through witness interviews and

²² As noted above, Cozen O'Connor's Institutional Response Group does not engage in any civil litigation, either for or against educational institutions.

²³ Both Davison and Abbott had the opportunity to view the report prior to its release. Leona Chamberlin is also named, as the Church and the School previously identified Chamberlin by name in their January 14, 2020 letters to the community.

review of contemporaneous documents has largely been presented in this report without attribution to individual witnesses by name.

D. Interviews

From October 2019 to March 2022, Cozen O'Connor conducted interviews with 59 individuals in connection with this investigation. The witnesses included current and former employees of the Church and School; former Church Vestry members and parishioners; former outside counsel to the Church; former School Board members; former choir members; and parents of former choir members. In order to ensure a full and fair opportunity to participate in the investigation, to share relevant documents, and to provide full context, Cozen O'Connor interviewed some of these individuals on more than one occasion. For example, Cozen O'Connor conducted initial telephone or in-person interviews with Church and School leaders in October and November 2019; these were followed up with additional interviews in January 2020, after Cozen O'Connor was able to locate significant additional documentation not maintained by the Church or School.

The interviews were conducted to gather relevant information through an open and neutral inquiry. At the beginning of each interview, Cozen O'Connor identified the members of the Cozen O'Connor team participating in the interview, described Cozen O'Connor's role, the scope of the review, and how information shared with Cozen O'Connor would and could be used. Cozen O'Connor explained that the firm was jointly retained by the Church and School as outside counsel to conduct an external investigation and to review the institutional response to potential notice of sexual abuse by McInnes. Cozen O'Connor explained that the investigation was attorney-client privileged, that the privilege belonged to the Church and School jointly, and that only the Church and School could decide whether to maintain or waive that privilege. Cozen O'Connor also explained that the firm would share the information gathered with a small circle of Church and School leaders, who would then determine whether and how to share the information gathered in the investigation. Cozen O'Connor provided each witness a full and fair opportunity to share any relevant information, ask questions, and follow up with any additional information. In several cases, Cozen O'Connor conducted follow-up interviews to ensure that the witnesses had a full and fair opportunity to be heard and to respond to information gathered during the investigation. Relevant information from the witness interviews is set forth in the sections that follow, and Cozen O'Connor has maintained attorney work product-protected notes of each of the interviews.

Cozen O'Connor acknowledges and appreciates the willingness of all witnesses to participate fully in this investigation on a voluntary basis. Cozen O'Connor also acknowledges that the choice to participate in a review of this nature is a personal and individual choice and Cozen O'Connor makes no negative inference against individuals who did not respond to outreach or declined to participate. This is particularly true with respect to former Choir members who may have been most directly impacted by McInnes.

Of the 59 individuals interviewed by Cozen O’Connor, 24 were former members of the Boys’ Choir under McInnes.²⁴ Many of the former choir members shared information with an expectation that it would be shared without personal attribution. The charts below list the 59 witnesses, as well as each of their affiliations with the Church and/or School. These individuals are listed in chronological order, based on the date of their first interview with Cozen O’Connor.

Interviews with Former Students²⁵

Name	Role	Date(s) of Interview
Student 2	Former Boys’ Choir Member Grace Church School Class of 1998	October 3, 2019 February 3, 2020* February 25, 2020*
Student 31	Grace Church School Class of 1996	October 3, 2019
Student 22	Former Boys’ Choir Member Grace Church School Class of 1996	October 14, 2019
Student 4	Former Boys’ Choir Member Grace Church School Class of 1997	January 4, 2020
Student 9	Former Boys’ Choir Member Grace Church School Class of 1997	February 11, 2020
Student 10	Former Boys’ Choir Member Grace Church School Class of 1995	February 26, 2020
Student 11	Former Boys’ Choir Member Grace Church School Class of 1995	March 4, 2020
Student 12	Former Boys’ Choir Member Grace Church School Class of 2002	March 17, 2020
Student 13	Former Boys’ Choir Member Grace Church School Class of 2005	April 9, 2020
Student 14	Former Boys’ Choir Member Grace Church School Class of 2003	April 9, 2020
Student 15	Former Boys’ Choir Member Grace Church School Class of 2002	April 9, 2020
Student 16	Former Boys’ Choir Member Grace Church School Class of 2001	April 9, 2020
Student 17	Former Boys’ Choir Member Grace Church School Class of 1997	April 11, 2020
Student 18	Former Boys’ Choir Member Grace Church School Class of 1998	April 16, 2020
Student 19	Former Boys’ Choir Member Grace Church School Class of 2002	April 16, 2020

²⁴ In addition, Cozen O’Connor received email responses from five Boys’ choir members, each of whom reported positive or neutral experiences with McInnes and the Boys’ Choir. Cozen O’Connor also received email responses from several members of the Girls’ Choir.

²⁵ Interviews marked with an asterisk were conducted in person.

Name	Role	Date(s) of Interview
Student 20	Former Boys' Choir Member Grace Church School Class of 2000	April 20, 2020
Student 21	Former Boys' Choir Member Grace Church School Class of 2004	April 20, 2020
Student 30	Former Boys' Choir Member Grace Church School Class of 2003	April 20, 2020
Student 5	Former Boys' Choir Member Grace Church School Class of 1997	April 22, 2020
Student 24	Former Boys' Choir Member Grace Church School Class of 1997	October 9, 2020
Student 25	Former Boys' Choir Member Grace Church School Class of 2004	October 12, 2020
Student 26	Former Girls' Choir Member Grace Church School Class of 1997	October 13, 2020
Student 27	Former Boys' Choir Member Grace Church School Class of 2001	October 15, 2020
Student 28	Former Boys' Choir Member Grace Church School Class of 2005	November 3, 2020
Student 29	Former Boys' Choir Member Grace Church School Class of 1994	November 6, 2020
Student 3	Former Boys' Choir Member Grace Church School Class of 1999	March 9, 2022*

Interviews with Other Individuals

Name	Role	Date(s) of Interview
The Rev. J. Donald Waring	Rector, Grace Church, 2004 to Present	October 15, 2019 November 1, 2019*
George Davison	Head of School, Grace Church School, 1994 to Present	October 21, 2019 November 1, 2019* January 3, 2020* January 6, 2020 March 8, 2020*
Sexton and Engineer	Sexton and Engineer, Grace Church	November 1, 2019*
Leona Chamberlin	Former Head of School Board Former Senior Warden, Grace Church	November 1, 2019* January 7, 2020 February 11, 2020
Warden 1	Former Warden, Grace Church	November 2, 2019 January 3, 2020*
Warden 2	Former Warden, Grace Church	November 4, 2019* January 8, 2020
Legal Counsel	Former Outside Counsel to Grace Church	November 11, 2019* January 8, 2020
Investigator 1	Former Vestry Member, Grace Church	November 11, 2019
Investigator 2	Former Vestry Member, Grace Church	November 14, 2019

Name	Role	Date(s) of Interview
Youth Chaplain	Former Youth Chaplain, Grace Church	November 14, 2019*
Parishioner 1	Former Parishioner, Grace Church	November 14, 2019
Parents 1 & 2 ²⁶	Former Parents, Grace Church School	January 4, 2020
Parent 3	Former Parent, Grace Church School	January 5, 2020
Investigator 3	Former Parishioner, Grace Church	January 6, 2020
Former Head of the School Board	Former Head of School Board Vestry Member, Grace Church	January 6, 2020
Vestry Member 1	Former Vestry Member, Grace Church	January 6, 2020
The Rev. Samuel Abbott	Former Rector, Grace Church, 1992-98	January 7, 2020
Teacher 1	Former Teacher, Grace Church School	January 7, 2020
Administrator 1	Admissions Associate, Student & Family Coordinator, Grace Church School	February 3, 2020*
Parent 8 (Student 2's Father)	Former Parent, Grace Church School	February 3, 2020*
Parent 4	Former Parent, Grace Church School	February 20, 2020
Parent 5	Former Parent, Grace Church School	February 24, 2020
Church Receptionist	Former Receptionist & Registrar, Grace Church	February 24, 2020
Assistant to the Head of School	Assistant to the Head of School, Diversity Advisor, Grace Church School	February 25, 2020*
Parent 9 (Student 8's Mother) ²⁷	Former Parent, Grace Church School	April 9, 2020
Teacher 2	Teacher, Grace Church School	April 9, 2020
Teacher 3	Former Teacher, Grace Church School	April 16, 2020
Associate Organist	Former Associate Choirmaster	September 10, 2021
Warden 3	Former Warden, Grace Church	October 6, 2021
Parents 6 and 7 (Student 3's Parents) ²⁸	Former Parents, Grace Church School	March 9, 2022*
The Vicar	Former Vicar, Grace Church	March 21, 2022*

In addition to the individuals listed in the charts above, Cozen O'Connor attempted to contact and/or request interviews with numerous other individuals, including dozens of former Boys' and Girls' Choir members. In some instances, they either did not respond, indicated that they had no relevant information, or declined (either personally or through counsel).²⁹ In other

²⁶ Parents 1 & 2 were interviewed jointly by telephone.

²⁷ In Cozen O'Connor's efforts to speak with Student 8, a former Boys' Choir member, Cozen O'Connor spoke briefly with his mother (Parent 9) on two occasions. Student 8 did not respond to this outreach, but did subsequently review the report and executive summary.

²⁸ Student 3's parents were interviewed jointly in person.

²⁹ Student 3 shared with Cozen O'Connor that he had previously encouraged several former choir members not to speak with Cozen O'Connor, as at the time, he was adhering to his attorney's advice that he and others not participate in the investigation.

instances, Cozen O'Connor was unable to obtain current contact information for them despite accessing publicly available databases. Among the individuals who either declined or did not respond to Cozen O'Connor's interview requests were: McInnes;³⁰ Student 1;³¹ Student 6;³² Student 8;³³ and Vestry Member 2, who was named by Student 2 in his civil suit.³⁴ Several other individuals who may have had relevant information, including former Head of School Kingsley Ervin, former Diocesan official Anne Richards, and former Grace Church Priest-in-Charge John Andrew, were deceased prior to the commencement of the investigation.

E. Document Review

Cozen O'Connor also reviewed available contemporaneous documents as part of its investigation. These documents were dispersed across various locations and were maintained by several document custodians. Some of the documents were maintained by the Church itself; some were maintained by the Church's former Wardens; some were maintained by the Church's former outside legal counsel; and some were maintained by the School. The Church and School records were not complete; most of the key information was maintained by the Church's former outside counsel or within personal files maintained by the former Wardens.

Specifically, Cozen O'Connor reviewed the following sets of documents:

- McInnes's personnel file, maintained by the Church;³⁵

³⁰ Cozen O'Connor attempted to contact McInnes multiple times prior to his death, but did not receive a response. McInnes died on April 15, 2021.

See <https://www.legacy.com/us/obituaries/gazettenet/name/bruce-mcinnnes-obituary?pid=198380576>.

³¹ Student 1, through his counsel, declined an interview request. Student 1 also declined the opportunity to review the investigation report in advance of its release.

³² Student 6 did not respond to outreach. Student 6 initially expressed an interest in reviewing the investigation report, but ultimately did not do so.

³³ As noted above, in an effort to contact Student 8, Cozen O'Connor spoke with Student 8's mother (Parent 9) twice; Student 8 did not respond to outreach. Student 8 did, however, review this investigation report prior to its release, and requested that his graduation year not be included in order to preserve his privacy.

³⁴ Vestry Member 2, through counsel, declined to participate in the investigation.

³⁵ McInnes's personnel file, as maintained by the Church, was sparse and was missing numerous documents related to his employment and conduct and that were relevant to this investigation. Cozen O'Connor located a contemporaneous inventory of McInnes's personnel file as of 1998; that inventory contained references to several documents that were not located in McInnes's personnel file in 2019. However, over the course of the investigation, Cozen O'Connor was able to locate most of the documents on this inventory in other archived materials that were maintained by the Church's former outside legal counsel or former Wardens. The Vicar also indicated that she had additional personal records from her tenure with the Church, but that these would not be accessible prior to the completion of the report.

- Vestry meeting minutes from 1992 to 1999, maintained by the Church;³⁶
- School yearbooks from 1992-93 through 1999-2000, maintained by the School;
- School Board meeting minutes from 1991-92 and 1992-93, maintained by the School;
- Student files for complainants identified in the investigation, maintained by the School;
- Notes, documents, and correspondence, maintained by former Wardens of the Church Vestry;
- Archived notes, documents, and correspondence, maintained by the Church’s former outside counsel; and
- Information provided by McInnes’s subsequent employer.

Given the historical nature of the conduct in question, which largely occurred during the “pre-digital” era, Cozen O’Connor did not request or review contemporaneous emails or electronic documents from the Church or School. Cozen O’Connor located limited email correspondence through its review of the above archived sources; those emails had been printed out in hard copy and included for preservation in the relevant files.

IV. Background and Other Contextual Information

A. September 18, 2019 Demand Letter and November 20, 2019 Civil Complaint

As noted in the Introduction, on September 18, 2019, an attorney representing Student 1, a 1997 graduate of the School and a former member of the Church’s Boys’ Choir, sent a letter on behalf of his client to the Church, School, and Diocese alleging that McInnes had repeatedly sexually abused his client during and after his time as a student, Boys’ Choir member, and Church parishioner. On November 20, 2019, Student 1 filed a civil lawsuit in New York state court against the Church, the School, and the Diocese, in which he made similar allegations.

According to the letter and civil complaint, McInnes committed extensive sexual abuse against Student 1 from 1992 to 2000.³⁷ These acts, which were described in the letter and civil complaint as “sadistic,” allegedly included, but were not limited to: McInnes forcing Student 1 to sit on his lap while he moved Student 1 over his penis until he ejaculated; McInnes showing Student 1 pornographic videos; McInnes taking nude photographs of Student 1; McInnes kissing and licking Student 1’s face, lips, ears, and other body parts; McInnes fondling Student 1’s naked

³⁶ Cozen O’Connor notes that several pages from the Church’s official collection of Vestry minutes, during a time period relevant to the investigation, were inexplicably missing. Despite multiple interviews, there was no clear explanation for their absence.

³⁷ McInnes served as the Church Choirmaster from 1992 to 1999.

genitals; McInnes orally copulating Student 1; Student 1 orally copulating McInnes; Student 1 anally penetrating McInnes; and McInnes repeatedly anally penetrating Student 1 with his penis, fingers, tongue, and a foreign object. The letter and complaint alleged that Student 1 would cry in pain during the “anal rapes” and that he sustained permanent physical injuries as a result. Student 1 further alleged that Church and School employees knew or should have known about the abuse and grooming behaviors, and the letter stated that McInnes in 2019 “admitted” to Student 1 that he had abused him and caused him harm.³⁸

B. Background Information Regarding the Church and the School

1. Historical Background³⁹

Grace Church is an Episcopal Church in the Diocese of New York, and Grace Church School is a private, independent coeducational day school. The Church’s congregation was founded in Lower Manhattan in 1808, and the present-day Church building, located in Manhattan’s Greenwich Village, was consecrated in 1846. The Church in 1894 founded a Boys’ Choir as well as Grace Church School, which served as New York City’s first choir boarding school. In the 1930s, the School began enrolling boys who were not choristers, and in 1947, the School became coeducational. Since 1972, the School has been governed by an independent Board of Trustees and has been a fully accredited member of the New York State Association of Independent Schools and the National Association of Independent Schools. In September 2012, the School opened its High School Division at 46 Cooper Square, which graduated its first class of seniors in May 2016.

2. Contextual Background Regarding the Relationship Between the Church and School from 1992 to 1999

The School was part of the Church until 2006, when it formally separated from the Church and became its own legal entity. At that time, the School purchased the buildings that it occupies at 86 Fourth Avenue. Between 1992 and 1999, the Church, as the sole legal entity, had oversight

³⁸ Student 1, through his counsel, provided a copy of an email from McInnes to Student 1, dated April 7, 2017. The email read:

NO! There were no others! You were my great and only love – for so many reasons – NOT just sex! As for others knowing about us, forget it!!! At the very beginning you and I agreed that we would NEVER tell anyone about this, and I have kept that promise! [The organist] was interested and very nosy, but I never divulged the truth about our relationship – not in the slightest! And I never discussed anything like this with the men in the Choir; it was none of their business, and it would have severely compromised my relationship with them and my authority over them! I imagine most of them knew or guessed I was gay, but I never allowed personal involvements to enter our discussions – either way, theirs or mine. It would have been too risky; gay guys can be very ‘catty’ and nasty when they get ahold of ‘juicy’ gossip, especially if they get mad at you and want to seek revenge for some perceived injustice. This secret will go to my grave which might not be very far off! Love Bruce

³⁹ The historical information described in the paragraph below is derived from the official websites of the Church and School.

of the School and its employees. At the time, the School included students from Junior Kindergarten through Eighth Grade. In the 1993-94 academic year, McInnes created a girls' choir, formally known as the St. Cecilia Choir. Although the Boys' and Girls' Choirs were comprised almost exclusively of Grace Church School students, the Choirmaster was a Church employee who reported to the Rector, and the choir members were paid a small sum by the Church for their service. In addition to serving at Church services on Sundays, the choirs sang at School chapel services and School commencement ceremonies. Both choirs rehearsed twice a week early in the morning before school, and the Boys' Choir also rehearsed on Friday afternoons after school. McInnes maintained an office in the Church, and choir members spent time in his office, as well as in the rehearsal room in the Music Room at the School. The choirs were considered an extra-curricular activity and were featured in the annual School yearbook. Additionally, a tuition grant was available for choir members, and individual choir members also received recognition at the School's commencement. McInnes also directed the Church's choral programs and lived in an apartment on Church premises.

From 1992 to 1998, which encompasses most of the relevant time period, Sam Abbott served as the Church's Rector. As described in further detail below, Abbott's tenure at the Church was acrimonious and he agreed to resign in October 1998 following a difficult and challenging separation process that involved the Diocese. From approximately November 1998 to May 1999, the Vicar was the highest-ranking member of the clergy at the Church, although she was not formally named as either the Priest-in-Charge (approved by the Bishop) or interim Rector (hired by the Vestry); per the Vicar, she had limited authority and decision-making ability.⁴⁰ In June 1999, John Andrew became the Priest-in-Charge. In addition to the clergy, the Church at all times during the relevant period had a Vestry, constituted by elected members of the Parish and which served as the Church's lay leadership. The Vestry was led by a pair of lay Wardens and an Executive Committee, who were the Church's corporate fiduciaries under New York law. The Head of School served as an ex-officio member of the Vestry.

There were two Heads of School during the relevant period: Kingsley Ervin, now deceased, was the Head of School through the 1993-94 academic year; and George Davison, who was the Assistant Head of School under Ervin and is still the Head of School today, replaced Ervin at the beginning of the 1994-95 academic year. The School had a separate Board of Trustees, whose authority was delegated by the Vestry through an enabling resolution. According to information provided by Davison during the investigation, the Rector had the ability to dissolve the School Board and terminate School employees, including the Head of School, until the School and the Church legally separated in 2006. This dynamic contributed to a challenging balance of power and authority between the Church and the School.

⁴⁰ This assertion is reinforced by the November 3, 1998 Vestry minutes, which reflect that the Vicar Bishop of New York, the Rt. Rev. E. Don Taylor, attended the meeting in Abbott's absence. The minutes state, "The Vestry and Wardens now assume many of the responsibilities of the Rector."

3. Contextual Background Regarding Sam Abbott's Tenure as Rector

Nearly every Church employee, Church parishioner, and School employee from the mid-to-late 1990s who participated in the investigation described Sam Abbott as a uniquely polarizing Rector. These individuals described a Church environment where internal fissures ran deep and where Churchgoers and Church leaders were split along pro-Abbott and anti-Abbott fault lines (colloquially known as “Sam-ites” and “anti-Sam-ites”). This period was described by one School administrator as the “The Church Wars.” The Vicar used a similar reference, describing her perception that there was both “a rebellion afoot” and “a war going on” within the Church. Similarly, Vestry members described the atmosphere at the time as stressful, “bumpy,” “unpleasant,” and full of yelling and screaming. The Head of School also observed that there was a constant feeling of distrust and contentiousness between the Church and the School, which he said was fueled in part by Abbott’s desire to make the School less secular, as well as a perception that Abbott was unfriendly in his interactions with students. The Vicar shared her perspective that “everything was politicized” in the relationship between the Church and School.⁴¹ In his interview with Cozen O’Connor, Abbott acknowledged that he made several mistakes regarding his stewardship of the Church during his time as Rector.

The acrimony surrounding Abbott’s rectorship came to a head in 1998. In June 1998, the Church retained a “Parish Consultant” to survey the environment at the Church, issue a report to the Vestry regarding “how the parish got to this point,” and make recommendations for next steps.⁴² In the report, which was finalized in September 1998, the Parish Consultant wrote that “Grace Church lacks joy and peace” and commented that “it is truly sad to see [the Church] in shambles as it currently is.” The report concluded, “[T]he evidence makes it clear that the pastoral relation has been broke beyond repair.” As described in greater detail below, during the Parish Consultant’s review, important information about McInnes’s concerning behaviors was shared with the Vicar and the Parish Consultant directly, rather than with the Rector; this was due to fears about retaliation and retribution by Abbott, as well as concerns about the close friendship between McInnes and the Rector and the Rector’s wife. Despite concerted efforts by Abbott to remain Rector, Bishop Richard Grein intervened and Abbott eventually agreed to resign on October 26, 1998. Abbott departed the Rectory by December 1998.

It was against this backdrop that most of the events relating to McInnes occurred. As described in fuller detail below, Church leaders became aware of specific allegations of sexual misconduct by McInnes in the early summer of 1998 and initiated an investigation into those allegations that

⁴¹ The Vicar imputed some of this tension to ongoing discussions about the Loft Building Resolution, which was unanimously approved at the November 3, 1998 Vestry meeting. Per Davison, the Resolution allowed the School to take over some of the floors in a Church building, for which the School paid the renovation costs. He described the agreement as “a win-win for the Church and School” and said that it actually helped the Church-School dynamic at the time. The November 3, 1998 minutes reflect: “The resolution was unanimously adopted. Mr. Davison, speaking for GCS, expressed appreciation of the good faith of GC towards GCS and its mission. He furthermore acknowledged GC’s mission and said that GCS will strive to be accommodating.”

⁴² Cozen O’Connor sought to speak with the Parish Consultant, who declined to participate in the investigation.

lasted into the fall of 1998. Multiple witnesses involved in Church or School leadership at the time told Cozen O'Connor that their memories of the 1998 time period predominantly focused on the removal of Abbott, rather than the events surrounding McInnes. Coincidentally, Abbott agreed to resign on October 26, 1998, the same day the investigators who conducted the 1998 investigation into McInnes issued their final written report regarding McInnes's conduct.⁴³

This contextual backdrop regarding Abbott frames a perceived culture of fear and intimidation that existed within certain Church circles and which may have caused a reluctance to report information regarding potential misconduct by McInnes, who was known to be a longstanding friend of Abbott and his wife. For instance, in at least one contemporaneous document that was sent to the Parish Consultant, the Church's night watchman wrote that he was aware of a "disturbing" allegation of sexual misconduct by McInnes. He wrote that this information had previously gone unreported because Church employees feared Abbott, who he described as "defensive, duplicitous, and despotic;" this employee said that he and others would be willing to discuss the allegations further, but only if the Parish Consultant was willing to meet them "off . . . premises" and guarantee them confidentiality.⁴⁴

4. Contextual Information Regarding McInnes's Sexual Orientation

In addition to the backdrop of the Church-School dynamic and the tensions involving Sam Abbott, McInnes's sexual orientation played a contextual role in how individuals perceived his conduct and the subsequent reporting, or lack thereof, of concerns. Several witnesses described the Episcopal Church as a progressive, forward-leaning institution; and, in that vein, they said the community by-and-large embraced McInnes and his sexual orientation. A member of the Church's maintenance staff told Cozen O'Connor that he and his colleagues were instructed by the Rector not to treat McInnes differently because of his sexual orientation. Some parents, however, were described as less tolerant of homosexuality. Several witnesses also noted that McInnes's tenure at the Church coincided with the peak of the AIDS crisis, which was especially devastating in New York's Greenwich Village, where the Church is located; they noted that the heightened sensitivity regarding the issues facing the gay community may have led certain members of the Church and School community to be more inclined to overlook or excuse ambiguous conduct or comments by McInnes as reflective of his openly affectionate personality, rather than his inappropriate crossing of boundaries.

⁴³ This report is referenced throughout this document, and is described in detail below.

⁴⁴ As noted below, Abbott told Cozen O'Connor that the night watchman who reported these potential barriers to reporting had "animus" towards Abbott because Abbott had reprimanded him for work-related reasons.

C. Legal Framework

1. Reporting Requirements

Under New York law in effect in the 1990s, several categories of individuals, including school officials, were required to file a report when they suspected that a child was being neglected or abused. However, this reporting requirement was limited to suspected abuse or maltreatment *by a parent or legal guardian*. Specifically, the mandatory reporting obligation applied whenever a school official had a “reasonable cause” to suspect that (i) a child “coming before them in their professional capacity” was an abused or maltreated child; or (ii) a child was abused or maltreated where the “parent, guardian, custodian or other person legally responsible for such child” came before them in their professional or official capacity and “state[d] from personal knowledge facts, conditions or circumstances which, if correct, would render the child an abused or maltreated child.”⁴⁵ Under controlling case law at the time, the phrase “person legally responsible” included any person who was acting in the “functional equivalent of a parent in a familial or household setting,” but did not include “persons who provide extended daily care of children in institutional settings, such as teachers.”⁴⁶

2. Relevant Criminal Statutes

The conduct described by many of the students – including Students 1, 2, 3, 6, and 8 – and at least one Church employee would have met the elements for criminal conduct under New York state law. For example, in the 1990s, New York defined “sexual abuse in the second degree” as subjecting another person to “sexual contact” when such other person was less than 14 years old.⁴⁷ “Sexual contact,” in turn, was defined as “any touching of the sexual or other intimate parts of a person not married to the actor for the purposes of gratifying sexual desire of either party. It includes the touching of the actor by the victim, as well as the touching of the victim by the actor, whether directly or through clothing.”⁴⁸ New York’s penal code also defined several other sex crimes that were potentially applicable to the conduct as reported.

⁴⁵ N.Y. SOC. SERV. LAW § 413(1) (McKinney’s 1995).

⁴⁶ *In the Matter of Yolanda D.*, 88 N.Y.2d 790, 796 (1996).

⁴⁷ N.Y. PENAL LAW § 130.60 (McKinney’s 1965).

⁴⁸ N.Y. PENAL LAW § 130.00 (McKinney’s 1996).

V. Overview of Facts Gathered

As described below, starting with the circumstances of McInnes's hiring in 1992, and throughout his tenure at Grace Church, administrators and lay leaders of the Church and School received notice of potential misconduct by McInnes involving inappropriate sexual conduct.

The Church and School were first aware of the potential for concern in 1992, based on reports that McInnes had engaged in sexual misconduct with adult, college-aged male students, which precipitated his departure from two of his prior employers. Between 1995 and 1997, a handful of reports of potentially concerning behaviors and comments, which involved minors from the Boys' Choir, were elevated by a parent and three teachers to Church and School employees.⁴⁹ In addition, between 1996 and 1998, two adult employees of the Church shared concerns about McInnes with Church employees.

In the summer of 1998, lay leaders of the Church became aware of specific contemporaneous reports of overt touching of students in a sexually concerning manner, as well as a report of fondling of a former student's genitals. Upon receiving this report, the Wardens, on behalf of the Vestry, engaged external legal counsel from a prominent New York law firm. With the guidance of counsel, the Wardens commissioned and oversaw an investigation into McInnes's conduct. The 1998 investigation concluded with an October 1998 written report finding that McInnes had violated the Church's Sexual Misconduct Policy. Despite this finding, McInnes was permitted to remain in his role as Choirmaster, subject to the terms of a written separation agreement dated October 20, 1998, which included a number of conditions.

In 1999, the Church and School leadership received a contemporaneous report that McInnes had attempted to engage with another student in a sexually inappropriate manner. Although that episode precipitated McInnes's departure from Grace Church, the Church communicated his departure to the parish as an early retirement rather than a termination. Additionally, McInnes was permitted to stay on as Choirmaster (and thereby continue to interact with minors in the choir) at the start of the Fall 1999 academic semester. McInnes was subsequently honored at a farewell luncheon during the October 1999 Homecoming Weekend, and in October 1999, a Church official provided McInnes' future employer with a positive employee reference for McInnes. McInnes became Dean of the Conservatory at a post-secondary independent music conservatory, where he was the subject of a 2001 civil complaint alleging sexual harassment by a 23-year-old male student.

The following is a high-level summary of the various points in time when a member or members of Church or School leadership received notice of potential concerns relating to McInnes, and the ensuing institutional responses to such notice. The concerns vary in nature and degree, ranging

⁴⁹ As noted above, during McInnes's tenure as Choirmaster, the Boys' and Girls' Choirs at the Church were comprised almost exclusively of Grace Church School students. Unless otherwise specified, in this report, this report uses the terms "choir member," "former choir member," "student," and "former student," interchangeably.

from inappropriate comments and potential boundary violations to potential criminal sexual conduct. The concerns noted here were all documented in contemporaneous Church records.

First, in 1992, after McInnes was selected for the Choirmaster position but before he assumed that role, multiple Church parishioners reported concerns to Church officials regarding McInnes's sexual history. Specifically, they reported that McInnes had a history of alleged inappropriate sexual relationships or contacts with adult male undergraduate students at two of his prior employers, Amherst College and the University of Wisconsin-Eau Claire, and was forced to leave those institutions as a result. This background was known to Sam Abbott, the incoming Rector and longtime friend of McInnes, before he encouraged McInnes to apply for the open Choirmaster position. Abbott did not volunteer this information to others at the Church during McInnes's hiring process. Once the parishioners raised concerns regarding McInnes's prior history, his background was disclosed to the full Vestry of the Church (which, at the time, included the Head of School), as well as the parents of the 1992-93 choir members. The Vestry met with McInnes, who assured them that his prior conduct exclusively involved adults and that he was not attracted to children. In addition, the then-Head of School, Kingsley Ervin, advocated for McInnes's continued employment in written correspondence to the Vestry, and McInnes and either Ervin or Abbott met with parents of potential choir members in the fall of 1992.⁵⁰ Following these disclosures, McInnes was allowed to begin serving as Choirmaster in the fall of 1992.⁵¹

Second, in 1995, a parent of a graduating eighth grader told the new Head of School, George Davison, to "watch out for" or "keep an eye on" Student 1 and McInnes because she was no longer going to be part of the School's parent community and therefore could not watch out for Student 1 herself. Based on available contemporaneous documentation, and as corroborated by the parent herself, she shared with Davison only her general concern for Student 1's welfare based on her wariness of McInnes.

Third, in 1996, an adult Grace Church employee reported to the Church's Parish Administrator and Business Manager ("Parish Administrator")⁵² that McInnes had made him feel uncomfortable by hugging and touching him on the shoulder.

Fourth, in the spring of 1997, a School math teacher, Teacher 4, reported to Abbott and/or Davison that she had observed McInnes, while giving a private piano lesson to a student (and choir member) in his office, put his arm around that student and keep it there in a way that made her feel uncomfortable. According to a contemporaneous document and witness interviews, upon receiving this information, Davison either reported it to Abbott or instructed Teacher 4 to do so herself. Abbott met with McInnes, cautioned him, and ultimately accepted his explanation

⁵⁰ Witnesses provided conflicting information as to whether Ervin or Abbott was present at the meeting.

⁵¹ Cozen O'Connor found no evidence that the Church or School held similar meetings with parents after the 1992-93 academic year.

⁵² This title refers to one employee; the Parish Administrator also served as the Church's Business Manager.

that the circumstances of the interaction were benign. McInnes also approached Davison to discuss the incident and assured Davison that he was not sexually interested in young boys.

Fifth, in the summer of 1997, McInnes commented to two School teachers, Teacher 2 and Teacher 3, in reference to Student 1, who had just graduated: “It’s a good thing I’m not into young boys, because if I were” According to contemporaneous records, McInnes described Student 1 as either “delicious” or “scrumptious.” This comment concerned the two teachers, who reported it to Davison in the fall of 1997. According to Davison, he concluded at the time that McInnes’s intent in making this comment was to hit on the two male teachers, but he nonetheless reported the comment to Abbott and Chamberlin, the Chair of the School Board (also a choir parent).⁵³ Contemporaneous documentation from 1998 reflects that choir parents were not notified about this comment or the earlier 1997 incident reported by Teacher 4.

Sixth, in June 1998, the Youth Chaplain and her husband, Parishioner 1, reported to Church officials, in person and in writing, that they had witnessed McInnes interacting with three students in a way that made them uncomfortable. They reported that McInnes’s interactions with the students included hugging, as well as stroking or patting of their backs and buttocks. The Youth Chaplain and Parishioner 1 reported their concerns to Abbott and Warden 2. Upon receiving this report, the Wardens (the Church’s lay leaders) engaged external legal counsel, and, with the guidance of counsel, commissioned and conducted an investigation (the “1998 Investigation”) into McInnes. The investigation was conducted by three parishioners, two of whom were on the Vestry, and was overseen by the two Wardens and outside legal counsel, a labor and employment attorney with specific experience in these issues.

The 1998 Investigation included interviews of 22 individuals, including Church and School employees and some of McInnes’s prior employers. Based on these interviews, the investigators determined that five individuals had “firsthand accounts of inappropriate touching,” and other individuals knew of “information regarding more general circumstances that made people uncomfortable.” One of the firsthand accounts included a report by Maintenance Worker 1 that in August 1997, he observed McInnes fondling Student 1’s genitals while giving an organ lesson in the Church. Despite the information gathered during the 1998 Investigation, no students were interviewed by the investigators, no choir parents were informed of the investigation or its findings, and no reports were made to external authorities (child protective services or law enforcement). Similarly, there is no indication that the report or its specific findings were shared with the Vicar, the full Vestry or the School.

The investigators, as documented in their written investigation report (the “1998 Investigation Report”), determined that McInnes “inappropriately touched” several students, and that such touching constituted “sexual behavior,” as defined by the Church’s Sexual Misconduct Policy. The 1998 Investigation Report concluded that McInnes therefore violated the Policy. McInnes was not terminated at the conclusion of the 1998 Investigation. Rather, McInnes – who had been

⁵³ Abbott told Cozen O’Connor that he has no recollection of receiving this report.

represented during the 1998 Investigation by an attorney who advocated on his behalf – was allowed to remain in his role as Choirmaster, subject to certain behavioral guidelines, a psychological assessment, and recommended therapy. These conditions were explicitly enumerated in a written separation agreement that facilitated McInnes’s “early retirement” as of August 18, 1999.

On November 3, 1998, Warden 2 informed the Vestry that the investigation had been resolved, the allegations had been investigated thoroughly, and the allegations were found to be credible. Warden 2 also informed the Vestry that the personnel considerations had been resolved by an agreement with the employee that permitted his continued employment with the Church subject to certain conditions.⁵⁴ According to Vestry minutes and Warden 2’s personal notes, no additional details were shared about the report or the specific findings.

Cozen O’Connor found no documentation confirming that the 1998 Investigation Report was shared with the Vestry as a whole, although several members of the Church’s lay leadership were actively involved in the investigation and aware of its substantive findings and conclusions.⁵⁵ Similarly, Cozen O’Connor found no documentation that the 1998 Investigation Report was shared with the Vicar or the School. However, the School, through George Davison, the current Head of School, was aware of certain aspects of the investigation. Cozen O’Connor did not locate any contemporaneous documents suggesting that Davison was specifically aware of Student 1’s abuse, the detailed findings of the 1998 Investigation, or the events that gave rise to the 1998 Investigation. Contemporaneous documentation reflects that Davison was interviewed as part of the 1998 Investigation, on July 30, 1998; was copied on an August 6, 1998 letter indicating that McInnes was under investigation for sexual misconduct involving minors; was present for the November 3, 1998 Vestry meeting where the conclusion of the investigation was disclosed, albeit without detail; and, on December 4, 1998, was sent the written behavioral guidelines that McInnes agreed to abide by as a condition of his continued employment, pursuant to his written separation agreement. The Vicar also participated in the 1998 Investigation. She was aware of specific reports of sexual abuse by custodial staff and the night watchmen, which she shared with the 1998 Investigators. We did not locate any contemporaneous documents

⁵⁴ Cozen O’Connor did not find any documentation that McInnes’s name was shared with the full Vestry. However, according to the Vicar, the Vestry members were aware that Warden 2’s personnel update related to McInnes. In addition, Davison, the Vicar, and others who were interviewed as part of the 1998 Investigation were aware that the inquiry involved McInnes.

⁵⁵ The 1998 Investigation was conducted by three parishioners appointed by the Wardens as investigators. Investigator 1 and Investigator 2 were also Vestry members at that time. The Wardens also received a copy of the 1998 Investigation Report, including its substantive findings and conclusions.

At the time the 1998 Investigation Report was issued, Abbott, who had been recused from the underlying investigation due to his close personal relationship with McInnes, was in the process of being removed from his position. Although a copy of the written separation agreement was subsequently mailed to his attention, there is no evidence to suggest that he was aware of the substantive findings and conclusions of the 1998 Investigation Report. In fact, during his interview with Cozen O’Connor, Abbott said he assumed McInnes had been vindicated by the 1998 Investigation because he had not been terminated at its conclusion.

suggesting that the Vicar was specifically aware of the detailed findings of the 1998 Investigation or that the behavioral guidelines were officially shared with the Vicar. The Vicar told Cozen O'Connor that she was aware of the behavioral guidelines because McInnes showed them to her.

Seventh, and finally, in addition to permitting McInnes to stay on as Choirmaster, the Wardens of the Church awarded him a \$5,000 merit raise in April 1999,⁵⁶ and, in May 1999, amended his written separation agreement to extend his early retirement date from 1999 to 2001.⁵⁷ Following these actions, at the end of the 1998-99 academic year, Student 3, a graduating eighth grader who worked with McInnes during a School suspension (with Davison's permission), reported that McInnes engaged in inappropriate physical contact with him. This incident precipitated McInnes's early exit from the Church. Student 3's father reported this incident to Warden 1 (one of the two Wardens who led the 1998 Investigation), as well as Davison. John Andrew, the Priest-in-Charge who was serving as the Church's interim Rector at the time, also learned of this incident, as did the Vicar. On July 21, 1999, Andrew co-signed a termination letter to McInnes along with the two Wardens.

Despite this termination letter, McInnes's departure was subsequently communicated to the Vestry as well as the Church and School communities as an early retirement due to health reasons. McInnes was allowed to begin the Fall 1999 academic semester as the Choirmaster and did not leave Grace Church until September or October 1999. During Homecoming Weekend in October 1999, McInnes was honored at a farewell luncheon sponsored by the Church.

Although a contemporaneous document reflects that the Church informed McInnes's counsel that it would not provide McInnes with an employment recommendation, the Vicar provided a positive reference for McInnes to his subsequent employer, an independent music conservatory for post-secondary students. McInnes became Dean of the music conservatory that fall, and he served there until May 2001. In September 2001, a 23 year-old student filed a civil lawsuit against the music conservatory, and McInnes personally, alleging, among other things, that McInnes made unwanted sexual advances towards him.

⁵⁶ The Vicar received a similar pay raise at the time.

⁵⁷ By this time, the Wardens were Warden 1 and Warden 3. Warden 2 was no longer serving on the Vestry, having been unseated in a highly contested election.

VI. Facts Gathered

The following chronology summarizes key events, as identified through a review of contemporaneous documents and interviews of relevant witnesses. This section also includes Cozen O'Connor's observations and syntheses of information, where relevant.

A. 1992: The Circumstances of McInnes's Hiring

McInnes came to Grace Church in 1992. As described below, McInnes was hired as Choirmaster at the recommendation and insistence of Sam Abbott, the incoming Rector and his close personal friend. Despite having sterling credentials, McInnes had a history of alleged inappropriate sexual relationships or contacts with male undergraduate students, which precipitated his departure from prestigious positions at two colleges. Although Abbott was aware of this history, he did not divulge it to the Church at the time he recommended McInnes for the Choirmaster position. After the Church offered the position to McInnes, but before McInnes began, multiple parishioners reported concerns regarding McInnes's history to the Vestry. McInnes's history was thereafter disclosed to the full Vestry and then to the parents of the 1992-93 choir members. Following these disclosures, McInnes began serving as Choirmaster in the fall of 1992.

1. April to July 1992: McInnes Selected as Grace Church Choirmaster

From 1960 to 1992, Frank Smith served as the Choirmaster of Grace Church.⁵⁸ Upon Smith's retirement in 1992, the Church began a search for a new Choirmaster, and formed a Search Committee that included members of the Church and School community. At the time of the search, Abbott was a candidate to be the new Rector of the Church. Abbott and his wife, Edith, had a close friendship with McInnes. In April 1992, Abbott alerted McInnes, who had excellent academic and professional credentials, to the vacancy.⁵⁹

In April 1992, Abbott forwarded McInnes's *curriculum vitae*, along with a note in which he recommended McInnes for the Choirmaster appointment. McInnes formally applied for the Choirmaster opening in May 1992. The Search Committee contacted four of McInnes's references during the summer of 1992. A contemporaneous memorandum reflects that the Search Committee inquired of the references why McInnes had left his three prior permanent teaching positions in quick succession and concluded that McInnes left two of his prior teaching

⁵⁸ See Music at Grace Church in New York webpage.

⁵⁹ McInnes's experience included degrees from Dartmouth College, Yale University, the Conservatoire National de Musique in Paris (where he was a Fulbright Scholar), and Amherst College, as well as a 30-plus year career in music education, including over 25 years in higher education. McInnes had served as a Professor of Music at the University of Wisconsin-Eau Claire (1988-91); prior to that, he served as the Chairman and Professor of Music at Pacific University (1985-88) and as the Chairman and Professor of Music at Amherst College (1979-85), where he had also served in various other roles since 1964. McInnes's *curriculum vitae* listed 16 professional references and McInnes also provided several letters of recommendation to Grace Church in connection with his employment application process.

positions (at Amherst College and Pacific University) for legitimate career-related reasons, but that there was insufficient information available surrounding his departure from a third institution (University of Wisconsin-Eau Claire).

McInnes was not the first choice of the Search Committee. Specifically, he was the third choice of the Committee, but the first choice of Rector-Elect Abbott, who had the authority under Canon Law to make this hiring decision and determine the terms of McInnes's employment.⁶⁰

On July 3, 1992, Rector-Elect Abbott wrote a letter to McInnes offering him the job as Grace Church Choirmaster. In that letter, Abbott wrote, "It will be a great pleasure to work with you. I know that you have much to contribute to Grace Church. I pray that it will be a place where your recovery will be supported and strengthened."

2. July to August 1992: Additional Information Surfaces Regarding McInnes's Departure from Amherst College and the University of Wisconsin-Eau Claire

After the Church extended the job offer to McInnes, several Church parishioners learned that McInnes had been asked to leave prior teaching positions at Amherst College and the University of Wisconsin-Eau Claire due to allegations of inappropriate sexual relationships and/or contacts with undergraduate students at those institutions. In both instances, the alleged misconduct leading to McInnes's departure involved students who were reportedly at least 19 years old.

According to McInnes, who was interviewed as part of the 1998 Investigation, and whose interview statement was summarized as part of the 1998 Investigation Report:

- At Amherst College, he had a consensual sexual relationship with a male student who was 19 or 20 years old. The student (or his parents) reported this relationship to the College, and Amherst's President ultimately recommended that McInnes resign in light of the inappropriate relationship between a professor and a student.
- At the University of Wisconsin-Eau Claire, McInnes was watching television in his apartment in a "group setting," when he patted the thigh and massaged the neck and shoulders of a 21 year-old male student. He also gave that student a parting hug. The student's mother reported this incident to the Dean, who conferred with the Chancellor, who decided that McInnes "had to go." According to McInnes, he acquiesced to the Chancellor's request that he resign rather than face a public investigation.⁶¹

⁶⁰ Abbott told Cozen O'Connor that, "In hindsight, I should not have [hired McInnes], but we do not, alas, live our lives in hindsight but in foresight." He said that, "[McInnes], and the rest of us, will one day stand before the judgment of God. I hope for mercy for all of us."

⁶¹ The 1998 Investigation Report also includes a summary of an interview with the then-Chancellor of the University of Wisconsin-Eau Claire, who recalled that "two students" came forward to report that McInnes had "taken advantage of them sexually," and the University believed "this was a very serious charge." The then-Chancellor

- At the time of his departure from the University of Wisconsin-Eau Claire, McInnes was in psychotherapy and subsequently entered a five-week residential program at the Golden Valley Institute in Minnesota. Following his treatment at Golden Valley, he joined support groups in Minneapolis and then at the Cathedral in Eau Claire, Wisconsin.

At the time that Abbott recommended McInnes for the Choirmaster role in April 1992, he was aware of McInnes’s history of alleged sexual misconduct with college-aged males, but did not volunteer that information to the Vestry or the Choirmaster Search Committee.⁶² The Rector told Cozen O’Connor that it was a mistake not to have shared McInnes’s history with the Vestry; however, at the time he felt that McInnes was deserving of a “fresh start” because he was “clearly the most able candidate” and he had “no history of attraction to children.” Also, prior to recommending McInnes, the Rector spoke with the Dean of the Cathedral in Eau Claire, Wisconsin. According to the Rector, the Dean reassured him that McInnes had “learned his lesson” and had received professional help. The 1998 Investigation Report includes information provided by the Dean of the Cathedral to the Rector, including that McInnes’s treatment at the Golden Valley program had been successful.

also recalled that McInnes “was known to have routinely invited students to his home for dinner and to watch movies.”

Davison was interviewed on July 30, 1998 as part of the 1998 Investigation and, according to the notes of that interview, he stated that McInnes had been forced to leave the University of Wisconsin due to a “liaison” with a choir member.

It is unclear what, if anything, was known in 1992 by Grace Church employees and parishioners regarding McInnes’s departure from the University of Wisconsin-Eau Claire. None of the four references contacted by the Search Committee as part of McInnes’s reference check were from the University of Wisconsin-Eau Claire.

⁶² In a subsequent October 9, 1998 letter from Bishop Richard Grein to Abbott, which Grein authored after receiving pushback from Abbott regarding the dissolution of his rectorship, Grein wrote:

[Y]our ministry at Grace was compromised from the start by your decision to withhold from the Vestry and Search Committee vital and serious information about the sexual and employment history of the organist/choirmaster during his hiring process, sharing it with them only when confronted after he was hired. I trust that that decision was well-intentioned, given your longtime friendship with the organist and your hope for what he might accomplish at Grace. However, that unwise decision raised early on a question about trust and about your administrative competence

3. August 1992: The Vestry's Response to Concerns About McInnes

Once the Vestry learned of the allegations regarding McInnes's prior history, it convened a special meeting on or around August 31, 1992 to discuss this information. McInnes was present at that meeting and had an opportunity to share information and answer questions from Vestry members. McInnes assured the Vestry members that his prior transgressions never involved minors and were not a problem in his present life.

During this meeting, Abbott undertook to personally monitor McInnes's conduct as Choirmaster. According to the 1998 Investigation Report, Abbott told McInnes that if there was "ever a question of appropriateness of conduct he should come to him and he would advise him." McInnes also remembered that the then-Head of School, Kingsley Ervin, who was also an *ex officio* member of the Vestry and a member of the Choirmaster Search Committee, advised him to "never touch a kid below the shoulders."

Also at the Vestry meeting, Ervin presented a letter, dated August 31, 1992, the contents of which are reproduced below:

To members of the Vestry of Grace Church:

In view of current concern about the personal history of the new Choirmaster, it may be useful for you to have some reflections on the part of the Head of Grace Church School, from which nearly all of the choirboys are selected. Needless to say, I have felt, and have discussed with the Rector, my own sense of responsibility in this situation. Yet I think it's essential to dispel as many preconceptions and myths as we can, so as to see clearly the practical possibilities within a Christian community and an elementary school.

As an educator who acts on the belief that a school's primary commitment is to allow children to grow, free of interference which is not part of a carefully thought-out pedagogical scheme, I've been adamant about dismissing any teacher who let personal needs govern the dynamics of behavior with child. I have discussed this position with the new Choirmaster very candidly, insofar as it bears on the School's encouraging children to join the Grace Church choir. He is in agreement with it, and is insistent that nothing in his own history presents any risk to children in the choir.

While I accept his sincerity, and have no doubt of his musical competence and energy, I also believe that the particular circumstances justify a more explicitly guarded approach with the school community. Specifically, while his work might well be fatally compromised by an initial "confession", I believe that parents who have reason to be concerned should be able to talk with me, with the Rector, with any member of the Vestry, or, most important, with one or two choir parents who have been apprised of the circumstances, and receive accurate, candid answers. To such a parent, I would say that these circumstances might justify not putting a child in the choir, but that I do not myself believe any risk is involved, and that I would let my own child sing in the choir without question (though I might give instructions about not being alone with the Choirmaster, and about reporting circumstances which seemed in any way worrying).

In the School we have had, and have, teachers of varying sexual orientations. Students have asked me whether I realized that this fact made some of them uneasy. My reply has been that the expected standards for teachers include intelligence, teaching skill, and professional responsibility towards children, and that regardless of gender preferences, any exploitative, interfering, or predatory behavior from any person is grounds for dismissal. Given these limits, GCS tries for acceptance of as wide a range of individual traits as can be handled within a small tight community. Such diversity is the stated policy of the Board, and is welcomed by the Faculty.

A specific history of predatory incidents in the present instance is the chief reservation to be brought against the view I've expressed. It certainly presents the greatest cause for concern. After talking with both the Rector and the Choirmaster, I am willing to accept the opinion that the course of treatment for such a compulsion has been effective, and will continue to be so if it is ongoing here.

A widespread tendency toward unexamined opinion and blind anxiety about children's sexual development must be resisted. Most children in New York are prepared to understand risks in this respect; ours have been taught about unwanted gestures from caretakers and adult family members. It is children who are themselves anxious and needy who can be both seductive and acquiescent with adults; we try to address the source of their conflicts, rather than to protect them from every adult in the city who might interfere with them. I have no intention, however, of being sanguine about GCS children in the choir. It is possible to arrange practical circumstances in such a way that rehearsals always involve groups and fit within expected time frames.

As a member of the parish, I find it difficult to believe that a Christian who has found through the Lord a way out of a tormenting compulsion should be denied support by our community. Irritation at the unexpectedness of information about his situation is best directed at those who knew it and will explain how they decided to deal with it. A wider program of support for addicts of all sorts within our community might strengthen our sense of limits and possibilities for such fellow Christians.

Having said all this, I don't pretend that in a practical sense, the coming year would not be easier to arrange without the complications before us. I see them not as an unjustified burden, but as a challenge from which we may learn something. I hope everyone can proceed in that spirit.

Kingsley Ervin

In his interview with Cozen O'Connor, Abbott said he feared at the time that McInnes's job offer might have had to be rescinded by the Church. However, at Ervin's suggestion, the Vestry instead decided to give full disclosure of McInnes's history to the choir parents and give them the option of removing their children from the choir.

4. September 1992: McInnes's History Disclosed to the Choir Parents

Consistent with Ervin's suggestion that McInnes's fate be left with the choir parents, Ervin, Abbott, and McInnes convened a meeting with the parents of the 1992-93 choir members shortly after the Vestry meeting. At this meeting, which, from context, likely occurred in early September 1992, either Ervin or Abbott disclosed McInnes's history and gave the parents the opportunity to ask questions and/or withdraw their children from the choir.⁶³

Abbott said that the parents collectively decided that McInnes should be given another chance and that they were likely comforted by the notion that the Associate Organist would always be in the room with McInnes during rehearsals.⁶⁴ Cozen O'Connor interviewed five parents of choir members from the 1992-93 school year, as well as School employees from that era. Although they had varying levels of recollection regarding this meeting, most recalled that Abbott disclosed McInnes's history with adult males in the university context, and one recalled Abbott saying that the Church is "in the business of redemption and [McInnes] is in a 12-step program." Another recalled that Abbott shared that McInnes had been abused as a child. Cozen O'Connor also received second-hand information that during this meeting, McInnes said he had received professional help and pledged to be celibate during his tenure at the Church.⁶⁵

McInnes officially assumed the Choirmaster position that September. Cozen O'Connor found no evidence that any subsequent choir parent meetings were convened in the ensuing years to disclose McInnes's prior history.

B. 1994: George Davison Becomes Head of School

At the beginning of the 1994-95 school year, Ervin retired and Davison, who had served as the Assistant Head of School since 1987, was promoted to be the Head of School.

Davison told Cozen O'Connor that at some point as he was transitioning to the role of Head of School, Ervin shared with him the details of McInnes's past, but told Davison not to share those details with others. According to Davison, Ervin told him that McInnes had left Amherst College because he engaged in sexual relations with a student who was over 18, and that McInnes had sworn to him that he was not sexually interested in children. Davison said that Ervin never told him, and he was unaware until he was interviewed by Cozen O'Connor in 2020,

⁶³ Abbott did not recall being present at this meeting, but documentation from 1998 reflects that he attended.

⁶⁴ In his interview during the 1998 Investigation, McInnes said his "self-imposed restrictions" included having an Associate Organist present at every rehearsal, and an open invitation to parents to attend all rehearsals and auditions.

⁶⁵ In addition to these parents, Cozen O'Connor interviewed eight of the 19 Boys' Choir members from the 1992-93 school year: Student 10, Student 18, Student 22, Student 2, Student 17, Student 9, Student 11, and Student 4. Student 18 said he knew to keep a distance from McInnes because his mother may have told him early on about a "Scarlet Letter" from McInnes's past. Student 17 said he was aware at the time, likely through his parents, that McInnes had to leave prior teaching posts due to sexual contacts with consenting adults. He recalled that his parents told him at some point that, after the disclosure to the parents was made, Abbott said, "We're in the forgiveness business here." Student 4 said he recalled that his father had gotten "weird vibes" from McInnes and never liked him.

that McInnes had also been asked to leave the University of Wisconsin-Eau Claire under a cloud of sexual suspicion.⁶⁶ Finally, Davison said that Ervin told him about McInnes's history of heart problems and that McInnes had told Ervin that he could not have too much sex because he would get too excited and have a heart attack if he did.

Davison told Cozen O'Connor that, having been reassured that McInnes was not sexually interested in little boys, he and others gave McInnes the "benefit of the doubt" as a gay man. Davison said that the early 1990s in New York was the height of the AIDS crisis, and, given that climate, "we were all sympathetic to gay men" at the time.

Cozen O'Connor is not aware of any reports of inappropriate conduct by McInnes made to Church or School employees from 1992 to 1994.⁶⁷ At the time Davison became Head of School, McInnes had begun to demonstrate his success as a Choirmaster and, by all accounts, was performing his job well.⁶⁸

C. 1995 to 1997: Reports of Potential Inappropriate Conduct by McInnes

From 1995 to 1997, several individuals reported potentially concerning conduct or comments involving McInnes. As described below, in certain cases, these reports were made to the School, and, in some cases, they were also made to employees on the Church side. These reports were the earliest documented incidents of concern for Church and School administrators regarding potentially inappropriate conduct by McInnes at Grace Church.

With the benefit of hindsight, these reports, when considered as a whole, might be seen as red flags of potential boundary violations, particularly given McInnes's known history at two prior institutions. However, in evaluating each of these reports in the context of what was known (and not known) about McInnes by the various School and Church employees at the time, we have taken care to avoid the "tyranny of temporal compression" (*i.e.*, the tendency to compress all facts learned over a period of time as if they were all known at one earlier point in time). Therefore, Cozen O'Connor does not ascribe to the School and Church employees who received these reports the knowledge that they would come to learn about McInnes in subsequent years.

⁶⁶ Davison was interviewed as part of the 1998 Investigation and, according to the notes of that interview, he discussed with the investigative team during his July 30, 1998 interview that McInnes had been forced to leave the University of Wisconsin due to a "liaison" with a choir member.

⁶⁷ It is possible that earlier complaints were raised to Church or School administrators, especially given that the earliest known abuse involved a choir member from the early 1990s, and several former choir members describe abuse occurring as early as 1992.

⁶⁸ After assuming the Choirmaster position, McInnes established the St. Cecilia Choir in 1993-94. Throughout McInnes's tenure as Choirmaster, he raised the bar in terms of the professionalism and standing of the Boys' and Girls' Choirs. Several witnesses noted, for instance, that under McInnes, the Boys' Choir performed at Carnegie Hall and recorded several professional CDs.

1. 1995: Conversation Between Parent 1 and Davison Regarding McInnes and Student 1

In the spring or summer of 1995, Parent 1, the mother of a graduating student, told Davison to watch out for McInnes's interactions with Student 1. This conversation was documented in the 1998 Investigation Report, which reflected that on July 30, 1998, Davison told the investigators that Parent 1 told him to "keep an eye on Bruce and [Student 1]" or to "watch out for [Student 1] now that I'm leaving." Although Davison did not initially recall this conversation with Parent 1 when he was interviewed by Cozen O'Connor, Davison subsequently remembered the parent's comment as a passing comment in the hallway during graduation, and, with the benefit of hindsight, told Cozen O'Connor he believed the comment should have been "a big red flag." Davison said that not taking action in response to this comment was his "first real failure," especially in light of his perception that Parent 1 was levelheaded and not homophobic.

Cozen O'Connor interviewed Parent 1, who did not remember making this comment to Davison. She said she and her husband, Parent 2, were always "wary" about McInnes's interactions with Student 1, who they knew had a single mother and spent a lot of time at the Church with McInnes. Parent 1 said that she kept a close eye on her own son when he intersected with McInnes, to the point where she would always sit outside of McInnes's office whenever her son was practicing with McInnes alone.

2. 1996: Report by Employee 1 Regarding McInnes

On June 4, 1996, the Vestry approved a new Church policy prohibiting sexual harassment and urging employees to report suspected misconduct to Church officials. The Parish Administrator distributed the written policy to all employees. The 1996 Sexual Harassment Policy prohibited "sexual harassment" and "sexual misconduct" by Church employees, and "strictly prohibit[ed] any interaction with children or youth by anyone with a civil or criminal record of child sexual abuse or who has admitted prior sexual abuse or [is] known to have a paraphiliac diagnosis." It stipulated, in relevant part, "If anyone believes an employee or volunteer of Grace Church is guilty of sexual harassment, we urge that person to bring the problem to the attention of [designated Church personnel]."

According to the 1996 Sexual Harassment Policy, Church employees were required to adhere to the following protocol:

Whenever an incident of sexual harassment is brought to the attention of the Church, the Church Executive Committee or a committee designated for this purpose will investigate what happened and take appropriate action to remedy the situation if it is warranted. Grace Church will conduct the investigation promptly. Complaints will be handled on a "need to know" basis; to the extent possible, only those persons conducting the inquiry will know the identities of the charging party and the accused. However, once a representative of the Church learns of an incident of sexual harassment involving an employee or volunteer, the Church must investigate the report. We cannot honor a complainant's request that we do nothing.

According to information documented in the 1998 Investigation Report, in June 1996, Employee 1, a Grace Church employee who worked in the Church's Business Office, reported to the Parish Administrator that McInnes had made him feel uncomfortable by hugging and touching him on the shoulder. The 1998 Investigation Report does not indicate what steps, if any, the Church took in response to this report, and Cozen O'Connor did not find any documentation of the Church's response to the report.⁶⁹

3. 1997: Report by Teacher 4 Regarding Potentially Inappropriate Physical Interaction Between McInnes and Student 7

In the spring of 1997, Teacher 4, a math teacher at the School, was standing in an outside courtyard when she peered into McInnes's office window and observed him giving a piano lesson to Student 7, who she believed was approximately eight to ten years old at the time.⁷⁰ According to the 1998 Investigation Report, Teacher 4 said that McInnes and the student were seated together on a piano bench when McInnes "put his arm around the boy and kept it there," which made her "uncomfortable" since "she felt this gesture might not really have been necessary." Teacher 4 said the student "did not react in any remarkable manner" to McInnes and there was "nothing else unusual about the incident," but she was concerned enough to make a report to Davison.

Upon receiving this report from Teacher 4, Davison reported the incident to Rector Abbott.⁷¹ Abbott, in turn, spoke to McInnes, who assured Abbott that the circumstances of the incident were innocent. According to Abbott's contemporaneous handwritten notes of his conversation with McInnes, the incident was "reported by George D." His notes state that a teacher had seen McInnes "pull[] [a] kid tightly to his side + kid scooted away. Happened again" Abbott's notes continued: "When I spoke to Bruce [McInnes] about it and cautioned him, he explained that he was trying to get [the student] ready for an audition and [the student] was squirming and wouldn't focus. I accepted his explanation."

McInnes also approached Davison directly to address this incident and assured Davison that he was "not into little boys."

4. 1997: Report by Teacher 2 and Teacher 3 Regarding an Inappropriate Comment About Student 1 by McInnes

⁶⁹ Cozen O'Connor attempted to contact the Parish Administrator as part of the investigation, but was unsuccessful in doing so.

⁷⁰ According to School records, Student 7 was in the Class of 2000. In the spring of 1997, he would have been in fifth grade and was likely 10 or 11 years old. Cozen O'Connor attempted to contact Student 7, but was unsuccessful in doing so.

⁷¹ In his interview with Cozen O'Connor, Davison recalled that it was Teacher 4, and not him, who reported this incident to the Rector. However, the Rector's contemporaneous notes, described below, state that the incident was reported to him by Davison.

In July or August 1997, McInnes had lunch at a local restaurant with two male School teachers, Teacher 2 and Teacher 3, where he made a comment about Student 1 that concerned both teachers. At the time, Student 1 had just graduated from Grace Church School. According to the 1998 Investigation Report, McInnes “made several complimentary comments about Student 1 and . . . went on to say, ‘It’s a good thing I’m not into young boys, because if I were’ He left the sentence unfinished but [they] understood him to be suggesting that he would be interested in [Student 1], and felt that it was an odd comment and that it didn’t flow from the conversation.” According to the 1998 Investigation Report, this comment continued to trouble Teacher 2 and Teacher 3 over the ensuing weeks; in September or October 1997, approximately six-to-eight weeks after McInnes made the comment, they reported the comment to the Head of School.

The notes from the 1998 Investigation reflect that Teacher 2 and Teacher 3 reported to Davison that McInnes had told them it was a good thing he was not into little boys because he thought Student 1 was either “delicious” or “scrumptious.” According to the notes, Davison interpreted the comment as McInnes trying to make “a move” towards Teacher 2 and Teacher 3. In his interview with Cozen O’Connor, Davison said he remembered the comment in question and reiterated that he believed at the time that McInnes had been trying to “hit on” or “ping” the teachers, who were both in their twenties at the time. He said he did not consider the comment to be concerning from a child protection perspective.⁷²

Cozen O’Connor interviewed Teacher 2 and Teacher 3, neither of whom specifically remembered McInnes’s “delicious” or “scrumptious” comment, or their subsequent meeting with Davison. However, consistent with the Davison’s recollection, Teacher 3 said that, to the extent he went to the Head of School to make a report, he likely would have been making such a report based on his perception that McInnes was being flirtatious with him (as opposed to being a threat to minors).

Davison shared the teachers’ concerns with the Rector⁷³ and the Head of the School Board. Notes from the 1998 Investigation reflect that a decision was made not to “reveal to choir parents these incidents” because of a concern that some parents would not understand.⁷⁴ In their interviews with Cozen O’Connor, neither Davison nor Chamberlin remembered a discussion about whether or not to share this information with parents, and neither was able to provide additional context about the content of these notes; however, both said that they would not have made a decision not to tell parents about these incidents. We have found no evidence that

⁷² Student 1 had already graduated by the time the comment concerning him was reported to Davison.

⁷³ Rector Abbott told Cozen O’Connor that he has no recollection of receiving this report. He said that he would have found McInnes’ comments about Student 1 disturbing had he been aware of them at the time.

⁷⁴ The reasonable inference from the notes is that the “incidents” referenced were: (i) the conduct reported by Teacher 4 in the spring of 1997; and (ii) the comment reported by Teacher 2 and Teacher 3 in the fall of 1997. Those reports consisted of McInnes reportedly touching a student’s back and making a concerning comment regarding a then-former student.

Davison or Chamberlin knew at this time about the more concerning allegations of sexual misconduct by McInnes that would later emerge, although both had prior knowledge of McInnes's history that might have given these concerns greater significance. Various witnesses described McInnes at the time as having been affectionate or "touchy-feely" and according to the Church and School leaders we interviewed, he had been serving as Choirmaster for five years without any major documented incidents.

Davison told Cozen O'Connor that, in hindsight, it was a "profile of lack of courage" for him to report this incident (and the one reported by Teacher 4) to Rector Abbott without "making a big stink" or "the stink that was needed." Davison said that, at the time, his focus was on passing relevant information about McInnes to Abbott since McInnes was an employee of the Church and not the School; he added that he tried to avoid unnecessary conflict with Abbott, given the tensions that existed at the time.

Contemporaneous documentation reflects that the 1997 concerns about McInnes were elevated to the Diocese. In an October 9, 1998 letter from Bishop Richard Grein to Abbott – which Grein authored after receiving pushback from Abbott regarding the dissolution of his rectorship – Grein referenced the 1997 report by Davison to Abbott:

*[Y]our ministry at Grace was compromised from the start by your decision to withhold from the Vestry and Search Committee vital and serious information about the sexual and employment history of the organist/choirmaster during his hiring process [T]hat unwise decision raised early on a question about trust and about your administrative competence. **That question was reinforced when you failed to address a concern about the organist's behavior brought to your attention by the head of school about a year ago.**⁷⁵ And now, this summer, the parish has had to deal with the consequences of that decision by having to investigate questions about possible misconduct at Grace on the organist's part. This has put Grace Church in a position of great moral and legal vulnerability The Executive Committee graciously decided – in order to save both you and the organist embarrassment – not to put this issue on the table for the entire present Vestry as part of the information on which they have deliberated. I raise it now because it is an essential piece in the breakdown of your relationship with the Executive Committee. (emphasis added).*

It is unclear from the face of this letter whether Grein was referencing the 1997 conduct reported by Teacher 4, the 1997 comment reported by Teacher 2 and Teacher 3, or both.

D. 1998: Report of Inappropriate Physical Touching by McInnes Leads to a Formal Investigation

⁷⁵ The letter references the "organist's behavior." Based on the available information, Cozen O'Connor has made the inference that the reference was to the choirmaster, especially as Grein refers to this individual as the organist/choirmaster earlier in the letter.

In 1998, following a complaint from the Youth Chaplain and her husband, Parishioner 1, the Church initiated an investigation into McInnes's interactions with minors. The 1998 Investigation was overseen by the two Wardens and conducted by three Church parishioners, two of whom were also Vestry members. The Church engaged outside counsel, a labor and employment attorney with specific experience and expertise in this area, who consulted with the Wardens throughout the investigation.⁷⁶ As described below, the impetus for that investigation was the oral and written report by the Youth Chaplain and her husband of potentially inappropriate physical contact between McInnes and three Grace Church School students around the time of the School's June 1998 graduation. The 1998 Investigation concluded that McInnes engaged in touching that constituted "sexual behavior" and violated the Church's Sexual Misconduct Policy. McInnes was not terminated; rather, he was permitted to continue on as Choirmaster for the remainder of the academic year, but with the explicit understanding that he would undergo an independent psychiatric evaluation, comply with counseling recommendations, adhere to specific written behavioral guidelines, and resign at the end of the 1998-99 academic year.

1. June 13, 1998: Observations by the Youth Chaplain and Parishioner 1

The 1998 eighth grade graduation at Grace Church School occurred on June 13, 1998. At the graduation, and at a subsequent dinner party hosted at the home of Student 2, the Youth Chaplain and her husband, Parishioner 1, observed McInnes interacting with three students in a way that caused them concern. In the ensuing weeks, they reported their observations and concerns to the Rector and Warden 2. In addition to making these oral reports, they documented their observations in a July 1, 1998 memorandum, which they addressed to Abbott.⁷⁷ The memo, entitled Report to the Reverend Sam Abbott, stated:

On June 13, 1998, we attended a graduation dinner for [Student 2]. The dinner was at the home of [Student 2]. There were approximately 25 family and friends present and alcohol was served.

From [Youth Chaplain]:

- 1. During the evening, the father was giving a toast to [Student 2]. The guests had formed a large circle. I was seated two or three people away from Bruce McInnes, who was seated on a stool. I could see, because of the arching circle, [McInnes]'s hand placed on [Student 2]'s back. This was not in full sight of anyone else, to my knowledge. [Student 2] was next to [McInnes]. During this time of toasting, [McInnes] stroked and rubbed [Student 2]'s back repeatedly and extensively in a manner that I would describe as sexual.*

⁷⁶ The attorney, now deceased, was a partner at a prominent New York law firm. The attorney was also engaged to provide legal advice regarding the Church's separation from the Rector.

⁷⁷ Although addressed to him, Abbott told Cozen O'Connor that he never received this memorandum. A contemporaneous document reflects that Abbott was away on vacation at the time.

[McInnes], using his fingers, worked his hand down [Student 2]’s back. Finally, [McInnes]’s hand rested on [Student 2]’s buttocks.

From [Parishioner 1]:

- 2. At the same party, I was witness to another episode that caused [Youth Chaplain] and me to feel great concern about the inappropriateness of [McInnes]’s affections. I was in the bedroom of [Student 2], with [Student 2] and [Student 17], and maybe a third student, and [McInnes]. [Student 17] announced his departure for the night. [McInnes] solicited a hug from the departing student. I was sitting, facing [McInnes]. [McInnes] embraced [Student 17]. During the hug, which itself struck me as quite long and affectionate, [McInnes] placed his hands on [Student 17]’s buttocks for two pats. I was directly behind [Student 17].*
- 3. This same evening, in the [Student 2]’s living room, at the end of the party, [Student 2] was either standing, leaning against his parents’ piano, or sitting on a stool with his back to the piano. [McInnes] was sitting on a stool next to the piano. [McInnes] placed his head on [Student 2]’s chest for an extended period of time. I was looking at [McInnes]’s profile. I saw him speaking to the boy.*
- 4. Last, immediately following the Grace Church School graduation, earlier that same day, I was talking to a boy, [Student 6]. [McInnes], while seated on the organ seat in a straddling position, said to the boy, “give me a hug.” The boy came forward as instructed, and, upon reaching [McInnes]’s outstretched arms, turned sideways so that he was perpendicular to [McInnes]. The boy left his arms at his side, and had a very pained, uncomfortable expression on his face.*

Cozen O’Connor interviewed Student 2 and Student 17, two of the three students mentioned in the July 1, 1998 memorandum. Neither remembered the specific events in question. As described in greater detail in Section VII, Student 17 described having a positive relationship with McInnes; he said he had remained in touch with McInnes into adulthood and that McInnes officiated his wedding. Student 2, who disclosed to Cozen O’Connor and has alleged in a civil lawsuit that he was abused by McInnes on multiple occasions, explained to Cozen O’Connor that he did not remember the specific events described in the memorandum, in part because the conduct in question (*i.e.*, touching of the buttocks) was so routine and minor in comparison to McInnes’s more egregious conduct that it would not have registered to him as particularly poignant. Cozen O’Connor attempted to interview Student 6, the third student mentioned in the written memorandum, but he did not return the outreach.⁷⁸

⁷⁸ As noted above, Student 6 later filed a civil complaint alleging that he was sexually abused by McInnes.

2. Late June 1998: Elevation of the Complaint to the Rector and Warden 2

Following the events of June 13, 1998, the Youth Chaplain and Parishioner 1 determined that they needed to report their observations to the Church. They did so despite what they described to Cozen O'Connor as multiple barriers to reporting, including the fraught Church-School relationship at that time, the intra-Church tension related to the Rector, and the close personal relationship between McInnes, the Rector, and the Rector's wife.⁷⁹ At the time, the Youth Chaplain and Parishioner 1 lived directly below McInnes in the same Church-owned apartment building on the Church grounds.

On June 26, 1998, Parishioner 1 called Warden 2, and asked how he should go about alerting the Executive Committee to a sensitive personnel matter that he was reluctant to bring to the attention of Rector Abbott. On June 30, 1998, the Youth Chaplain and Parishioner 1 met with Abbott to report McInnes's conduct.⁸⁰ A contemporaneous document from 1998, as well as the recollection of the Youth Chaplain and Parishioner 1, reflects that Abbott initially suggested that the matter be handled informally and confidentially with McInnes. However, Abbott said that should the Youth Chaplain and Parishioner 1 decide to make a formal report, that they should do so in writing.⁸¹ Later that day, Parishioner 1 called Warden 2 to report McInnes's conduct and to inform her that he and the Youth Chaplain had just met with Abbott to report their "observations

⁷⁹ Similar information about potential barriers to reporting – including fears of reprisal by Abbott – was echoed by another Church employee in a contemporaneous document. In a July 1998 letter from the Church's night watchman to the Parish Consultant hired by the Church to advise on the potential removal of Sam Abbott as Rector, the night watchman wrote, among other things, that:

- he wanted to meet with the Parish Consultant "off . . . premises" to report "disturbing things" he had come to know while working at the Church;
- others, including two members of the maintenance staff, also "could be persuaded to speak candidly with you if they can be assured their testimony will remain confidential";
- "Most disturbing to me is that [Maintenance Worker 1] claims to have seen Bruce McInnes fondling a young teenage boy during a piano lesson in the church. Yet apparently because he and the rest of the staff are aware of the unique relationship between the Rector and Bruce this has never been reported to Sam";
- "Most of the people working here have a deep suspicion of even the vestry members, and do not know who to turn to because they have seen the special relationships Sam has cultivated over the years"; and
- "Sam is . . . [seen by the staff] as . . . defensive, duplicitous, and despotic . . . [and] he prefers to lead through fear and intimidation . . ."

Abbott told Cozen O'Connor that the night watchman who reported these potential barriers to reporting had "animus" towards Abbott because Abbott had reprimanded him "quite severely" for allowing homeless people into the parish house at night without authorization. Abbott also said that the suggestion that people did not report their concerns about McInnes because they were afraid of him or because he was defensive should be discounted. Abbott noted that there was turmoil leading up to his resignation, but that the turmoil, or any perception that he was difficult to approach, "are not excuse for failing to speak up when the health and the wellbeing of young people is at risk."

⁸⁰ Abbott told Cozen O'Connor that Parishioner 1 telephoned him, mentioning only that McInnes had rubbed Student 2's back and gave him a "pat on the bottom."

of allegedly sexually suggestive behavior.” Following her conversation with Parishioner 1, Warden 2 informed Warden 1 of the allegations.

The Vestry convened later on the evening of June 30 for a regularly scheduled meeting. Following the Vestry meeting, Abbott asked Warden 2 to serve on the investigative team with him.⁸² Warden 2 agreed to serve on the investigative team, but told Abbott that, because of his close personal relationship with McInnes, he should recuse himself and the Diocese should advise on process.

3. July 1998: The Wardens Notify the Episcopal Diocese

In early July 1998, Warden 1 and Warden 2 informed the Parish Consultant of the allegations against McInnes, the actions taken to date, and the suggestion that Abbott be recused from any investigation into McInnes. The Parish Consultant agreed with the concerns of the Wardens and instructed them to contact the Episcopal Diocese, and in particular The Rev. Canon Anne F.C. Richards, the Canon for Ministry of the Diocese, whose responsibilities included sexual misconduct matters.⁸³

On July 13, 1998, Warden 2 and Richards spoke by telephone. According to a contemporaneous document, Warden 2 explained the nature of the allegations and the concerns regarding Abbott’s potential involvement in the investigation, and Richards agreed that the matter was serious and that Warden 2’s concerns were well-founded. However, Richards said that the Diocese had no authority over sexual misconduct matters involving lay employees, so she could only offer advice.

Richards notified multiple officials within the Diocese regarding the allegations, including the Chancellor of the Diocese and the individual responsible for communications for Bishop Richard Grein, who subsequently informed Bishop Grein.

4. July 1998: The Wardens Initiate an Investigation into McInnes

On July 21, 1998, Warden 1 and Warden 2 met with Abbott and requested that he formally recuse himself from any investigation into McInnes to ensure the appearance of impartiality and because there were witnesses who might not feel comfortable being interviewed by Abbott.⁸⁴

⁸¹ As noted above, the Youth Chaplain and Parishioner 1 subsequently addressed a written memorandum to the Rector on July 1, 1998. Abbott told Cozen O’Connor that he never received the memorandum, and that by July 1, 1998, the Youth Chaplain and Parishioner 1 were dealing with the Wardens, not with him.

⁸² Under Canon Law of the Episcopal Church, it was Abbott’s responsibility, as Rector, to conduct this investigation.

⁸³ The Parish Consultant declined an interview request by Cozen O’Connor, and the Canon for Ministry is deceased.

⁸⁴ This concern was reflected in the July 1998 letter from the Church’s night watchman, in which he wrote to the Parish Consultant that he and certain members of the maintenance staff were aware of disturbing conduct involving McInnes that they had previously been unwilling to report due to fear of retribution by Abbott.

Warden 2 suggested that a three-member investigative team be created to investigate and make recommendations. Abbott ultimately agreed to recuse himself entirely.

In late July 1998, a three-person investigative team was selected to conduct the investigation into McInnes. All three investigators were Grace Church parishioners, and Investigators 1 and 2 were also members of the Vestry at the time. The Church also retained outside counsel to provide legal advice regarding personnel matters.

Based on the available documentation, as well interviews with the three-person investigative team, the two Wardens, and the Church's outside legal counsel, the 1998 Investigation (including the fact-gathering and report-writing) was conducted by Investigators 1, 2, and 3 under the supervision and guidance of the Wardens and the Church's outside legal counsel. Counsel offered legal advice to the three investigators as well as the two Wardens, who were privy to the information gathered in the investigation and actively participated in discussions about investigative strategy. Although not explicitly stated in any single document, the record as a whole reflects that the ultimate decision-making authority rested with the two Wardens, who were acting on behalf of the Vestry in place of the Rector, given his recusal.

Warden 2 told Cozen O'Connor that it was likely that the investigation wound up being delegated to the three-member investigative team rather than to the Wardens because the Wardens were perceived as "anti-Sam." She said they did not want the investigation into McInnes to be seen as biased, especially given Abbott's mindset that he, and therefore McInnes, was being "oppressed at every turn." Warden 2 said that as a result, they "ke[pt] a distance from [the investigators'] work." Warden 2 told Cozen O'Connor that the safety of the children was everyone's "first concern," which was why they were "meticulous" (in terms of informing the Diocese, retaining outside counsel, and recusing individuals with potential conflicts of interest), especially by 1998 standards, in setting the guardrails for the investigation. Warden 1 told Cozen O'Connor that he felt comfortable with the process because of the collective credentials and experience of Warden 2, the three-person investigative team, and outside counsel.

5. July to August 1998: Information Gathered Through Witness Interviews

Over the course of July 29 to August 24, 1998, the investigators conducted interviews with 22 individuals who had potentially relevant information: the Youth Chaplain; Parishioner 1; Davison; former Head of School Kingsley Ervin; the Vicar; the night watchman; four members of the maintenance staff; two former Wardens; Rector Abbott; the Curate; Teachers 2, 3, and 4; Parent 1; the Parish Administrator; an attorney from the University of Wisconsin-Eau Claire; the ex-Chancellor of the University of Wisconsin-Eau Claire; and the Dean of the Cathedral in Eau Claire, Wisconsin.⁸⁵

⁸⁵ The investigators did not interview the Associate Organist in 1998, who worked with McInnes from approximately 1992 to 1998. Student 1, in his September 2019 letter to the Church and the School, reported that the

a. Overview of Information Gathered

The final Investigation Report, completed on October 26, 1998, classified the information gathered in the interviews into two categories: “(1) Firsthand accounts of inappropriate touching. These were reported by 5 individuals” and “(2) Information regarding more general circumstances that made people uncomfortable and led us to first-hand witnesses.”

The five “firsthand accounts of inappropriate touching” were provided by the Youth Chaplain, Parishioner 1, Teacher 4, Maintenance Worker 2, and Maintenance Worker 1:

- The Youth Chaplain and Parishioner 1 described their observations of McInnes’s interactions with the three students (Student 2, Student 6, and Student 17) on June 13, 1998, as detailed in Section VI(D)(1) above.
- Teacher 4 described observing McInnes’s interactions with Student 7 during a piano lesson in the spring of 1997, as detailed in Section VI(C)(3) above.
- Maintenance Worker 2 said that in or around January to June 1997, he observed McInnes giving a piano lesson in his office to “a long-haired boy,” who was approximately 11 years old.⁸⁶ According to Maintenance Worker 2, McInnes “was sitting at the piano with the boy standing next to him. He observed [McInnes] stroking the boy’s hair and sliding his hand down to caress the boy’s buttocks. There

Associate Organist shared an apartment with McInnes for a period of time around 1995, and that the Associate Organist knew McInnes had spent time alone with Student 1. Student 1 also reported that the Associate Organist overheard McInnes make inappropriate sexual comments to Student 1.

In his interview with Cozen O’Connor in 2021, the Associate Organist said that he never lived with McInnes, and did not “ever remember” McInnes making sexually inappropriate comments or jokes. The Associate Organist said that when he first began to work with McInnes, McInnes was adored and beloved by everybody. He said that about six months into his employment, he learned from a colleague that McInnes had been asked to leave Amherst College because of a relationship with a student. The Associate Organist said that he became more mindful of McInnes’s conduct after that, and that he noticed McInnes touching and hugging students, and kissing them on the forehead or head, which he described as nothing serious, especially as his conduct occurred in front of many people, including parents. The Associate Organist said that as the conduct became more “systemic,” he approached Abbott’s wife, who was involved with the Church’s music program, to share his concerns. The Associate Organist said he did not go to Abbott himself because he viewed Abbott as difficult to talk to, and he was “kind of scared” of Abbott. The Associate Organist said that he told Mrs. Abbott his concern that McInnes was “cozying up to these kids in a way that I don’t think he should.” He said that Mrs. Abbott reacted with concern, and that he assumed she spoke with Abbott or McInnes, because the conduct stopped for a period of time (approximately eight months to more than a year). The Associate Organist said that when he observed the behavior again, he noticed that McInnes focused his conduct on attractive boys, and that he would “pull them up against him.” The Associate Organist said he again spoke with Mrs. Abbott, this time threatening to go the police if something was not done. He said McInnes “had an insatiable need for attention and need for adulation and being loved” and that McInnes was jealous of any attention the Associate Organist received. The Associate Organist said that he began to “pull back” from the choir, especially after he accepted another job that required travel. He ultimately left in 1998.

⁸⁶ Maintenance Worker 2 and the 1998 investigative team were unable to identify the “long-haired boy” in 1998.

was no visible reaction from the boy. [Maintenance Worker 2] mentioned this incident to the Sexton.”⁸⁷

- Maintenance Worker 2 also described “another incident in the summer of 1997 that took place in the church with another student.” According to Maintenance Worker 2, “with the choir present, [McInnes] and a student [later identified as Student 1] were engaged in a scooting game on the bench that was of concern to [Maintenance Worker 2], due to the partiality he frequently showed this student, but which he commented, may have been innocent.”
- Maintenance Worker 1 described observing McInnes fondling Student 1’s genitals during an organ lesson in the church during the summer of 1997. The Investigation Report summarized Maintenance Worker 1’s witness statement as follows:

Two people we interviewed suggested that we speak to [Maintenance Worker 1] who they believed had an eye-witness account of improper touching. In August 1997, [Maintenance Worker 1] was in the church apparently unobserved and witnessed an incident where the Choirmaster was giving an organ lesson to a young boy ([Student 1]) around 11-12 years old. He stated that he saw the Choirmaster standing behind the boy with his hands over the boy’s shoulders. He then moved his hands to the boy’s genital area. [Maintenance Worker 1] then stated that the Choirmaster began to fondle the boy from the outside of his pants.

We re-interviewed [Maintenance Worker 1] on September 2 to re-confirm his statement, which he did emphatically, stating [this is] “no joke, I’m telling you, it’s true as I remember it.” We showed him a picture of the Grace Church Boys’ Choir from the 1996-97 Grace Church School Yearbook and he identified [Student 1] as being the boy at the organ in this incident. On October 21, in the church building, [Maintenance Worker 1] pointed out where he was standing near the entrance to the Honor Room in the south transept when he observed the incident.

What [Maintenance Worker 1] observed greatly upset him and he became anxious to locate the boy’s mother to warn her about the Choirmaster’s behavior. However, he never had an opportunity to speak to her in private.

[Maintenance Worker 1] appeared to be certain, specific and troubled by what he had observed.

The report specifically noted that numerous witnesses expressed concerns about McInnes’s interactions with Student 1. According to the report:

⁸⁷ Cozen O’Connor interviewed the Sexton, who corroborated these events. He said that he, too, witnessed McInnes touching the buttocks of the long-haired boy, which stood out to him at the time because McInnes was “gay and touching a kid.” However, he said he did not believe at the time that the touching was “a gay molestation thing” and he did not report the encounter.

Many of the interviewees expressed concern focusing on one choirboy ([Student 1]) to whom the Choirmaster gave private lessons, and who frequently visited his apartment and was generally shown special attention.

For instance, it was reported by a choir parent . . . that on one occasion the Choirmaster arranged to have him paid as a soloist, although he did not perform as a soloist, at a concert

[Maintenance Worker 3] reported that [Student 1]'s mother questioned him about the choirmaster's reputation, asking specifically if he was a child molester, did [Maintenance Worker 3] know anything?"⁸⁸

The report also summarized the concerns of Teachers 2 and 3 – to whom McInnes commented, in reference to Student 1, “It’s a good thing I’m not into young boys, because if I were” – and the report they made to Davison in the fall of 1997 regarding their concerns.⁸⁹

Moreover, the report summarized the statements of several witnesses, including McInnes himself, who categorically denied any inappropriate sexual contact with any Grace Church School students and reiterated that he was “not into little boys.” According to the report, McInnes stated that Student 1 “was the only student who had been alone in his apartment. This happened at the event of a concert at Carnegie Hall when he had dinner with Bruce at his apartment, and then spent the night after the concert at the Rectory with the Abbotts.” McInnes added that following the student’s graduation, Student 1 “continues to visit [him] in his apartment on Saturdays. They often go to a movie or watch a video in [his] apartment. He is now fifteen years old.”

Davison was interviewed by the investigators on July 30, 1998. As described above, the notes of Davison’s interview reflect that: he had been informed by Ervin about McInnes’s prior history; Parent 1 had told him in 1995 to keep an eye out for Student 1 and McInnes; Teacher 4 had reported potentially inappropriate physical contact with Student 7 in 1997; and Teachers 2 and 3 had reported a potentially inappropriate comment that McInnes made to them regarding Student 1.⁹⁰ The notes of Davison’s interview also reflect Davison’s perception that McInnes was “terrific as choirmaster.”⁹¹

⁸⁸ The investigators’ underlying notes reflect that when Student 1’s mother asked Maintenance Worker 3, in or around 1996, whether McInnes was a child molester, he told her that he “didn’t know anything about it.”

⁸⁹ The episode involving Teachers 2 and 3 is described in Section VI(C)(4) above.

⁹⁰ Davison initially told Cozen O’Connor that he was not aware of the 1998 Investigation, nor did he remember being interviewed as part of it. However, upon reviewing the investigative notes of his July 30, 1998 interview, Davison was able to recall being interviewed by Investigator 1, although not in significant detail.

⁹¹ Davison later clarified that this interview occurred prior to his receipt of the August 6, 1998 letter notifying McInnes of the investigation into allegations of sexual misconduct. Davison acknowledged his perspective at the time that McInnes was a very talented choir director.

The Vicar was interviewed by the investigators on July 31, 1998. The notes of the Vicar's interview reflect that: she learned from parishioners that McInnes had a prior history before coming to Grace Church, which the search committee and Vestry learned about after McInnes was hired; she was "not given the head's up" about McInnes despite the fact that she had a son in the choir; the Night Watchman told her about two relationships that he had learned about from Maintenance Workers 1, 3, and 4, including that one of them had seen McInnes fondling a boy while giving him an organ lesson; she spoke with the Night Watchman and Maintenance Workers 1, 3, and 4 about their concerns; Maintenance Worker 3 described intimate encounters between McInnes and "young men" from the boys in the choir, and Maintenance Worker 1 said he saw McInnes fondle a child; she told the Night Watchman to tell the Parish Consultant what he and the others had seen, insisting that if he did not, she would; the information she heard, and her own observations that McInnes was picking up choir boys for practice and taking them back home after practice and was with boys in the public stairways and elsewhere, put her on alert; and, as a result, she spoke with McInnes to share her concerns, informing him that "his exposure is with the children."⁹² The notes also reflect that the Clergy and staff were unwilling to take the sexual misconduct class she had organized, which was not mandatory at the time.⁹³

b. Advice of Counsel

As described above, in conducting their interviews with witnesses, the three investigators and the Wardens were guided by the Church's outside counsel. Contemporaneous documents reflect that outside counsel advised the investigators and Wardens regarding numerous matters in the investigation, including whether there were mandatory reporting obligations for suspected child abuse or neglect in New York, the conduct and scope of the investigation, appropriate questions and demeanor during interviews, the sharing of information with parents, potential remedies and resolution options, and the negotiation of the settlement agreement, described below.⁹⁴

As discussed below, based on Cozen O'Connor's review of documents and interviews with Church and School leaders overseeing the 1998 Investigation, neither the Church nor the School

⁹² In her interview with Cozen O'Connor, the Vicar shared that she spoke with the Night Watchman, and Maintenance Workers 1, 2, 3, and 4 to better understand what they had observed. She said that "no one said I saw him fondling a child's penis," and that there was "a difference between suspecting that someone wasn't safe and having direct knowledge." She also shared that she confronted McInnes about what the maintenance staff had shared with her, and that McInnes "said nothing like that had ever happened." In hindsight, the Vicar said, "What the hell was I thinking? I should have done something, nobody was doing anything." She shared her perspective that at the time, the "grownups [the Wardens and Investigators] were in charge" and had been made aware of the information she knew, which had been reported to her second hand. The Vicar said, "If I had done something [like reporting the conduct to the police precinct or the Bishop], I would have been thrown out of the house."

⁹³ The Vicar told Cozen O'Connor that she was relatively young and naïve at the time and so "co-dependent" that she thought that if the Rector and others would complete the sexual abuse training she had been organizing, "it would be okay."

⁹⁴ Cozen O'Connor reviewed outside counsel's files, which provided additional context and contemporaneous information to inform understanding of the events in question.

reported McInnes's alleged conduct to law enforcement or child protective services in 1998.⁹⁵ At the time, outside counsel's legal research confirmed that there was no statutory obligation to do so, as McInnes was not a parent, caregiver, or person legally responsible for the care of children, but that a common-law duty to report alleged sexual abuse by an employee may have existed at the time.⁹⁶

6. August to October 1998: Summary of Events Leading Up to October 26, 1998 Investigation Report

During the course of the 1998 Investigation, through its completion in October 1998, there were ongoing communications among several constituencies regarding the investigation. These communications related to both procedural and substantive aspects of the investigation, and involved: ongoing negotiations between the Wardens and McInnes; ongoing negotiations between outside counsel for the Church and McInnes's attorney regarding the scope of the investigation and the terms of its resolution; and ongoing legal advice regarding reporting, counseling, policies and procedures, and other issues, from the Church's outside counsel to the Wardens and the investigative team. These communications, which were documented in extensive contemporaneous records, reflect the numerous simultaneous moving parts occurring in the background throughout the course of the 1998 Investigation. Relevant correspondence from this time period is described below.

a. August 5, 1998 Guidance from the Diocese

On August 5, 1998, as the investigative team was still conducting its interviews, and one day after Maintenance Worker 1 reported to the investigative team that he had witnessed McInnes fondling Student 1's genitals a year earlier, Investigator 1 recorded in her notes what appears to be guidance from the Canon for Ministry of the Diocese, Anne Richards. The notes state, "[A]s told by [Warden 2]," who, from context, appears to have spoken with Richards, "Were (sic) not out to ruin anyone's career. [P]rotect children. [P]rotect everyone."

b. August 6, 1998 Letter from the Wardens to McInnes

On August 6, 1998, the Wardens sent a letter to McInnes, copying Rector Abbott and Davison. The letter stated:

Dear Bruce:

This will confirm the conversation of today's date among you, [Warden 2, Investigator 2, and Investigator 3]. Grace Church is currently investigating allegations that you have

⁹⁵ In early January 2020, based on the information provided by Student 1 and additional reports of concerning conduct gathered through Cozen O'Connor's investigation as of that date, the School reported the allegations of abuse to the New York County District Attorney's Office.

⁹⁶ This analysis is consistent with Cozen O'Connor's understanding of the New York child protective services framework at the time, as described above in Section IV(C)(1).

engaged in “sexual misconduct,” within the meaning of the Church’s policy regarding such conduct, involving minors. You previously acknowledged receipt of the policy. We provided an additional copy to you today.

Due to the serious nature of any such allegation, we are hereby instructing you to refrain from any and all non-public contact with minors currently or formerly affiliated with Grace Church or Grace Church School, and from all physical contact with such minors, pending resolution of the matter and until further notice. “Non-public contact” includes private music lessons, telephone calls, social events, and any other situations, where parents or other responsible adults are not present.

We are working prayerfully and diligently with the interview team to complete the investigation as expeditiously as possible and look forward to discussing the issues with you in detail. Please be assured that the investigation will be thorough and fair.

*Faithfully yours,
[Warden 1 and Warden 2]*

cc: The Rev. Samuel B. Abbott, Mr. George Davison

Davison told Cozen O’Connor that he did not remember receiving this letter, but he acknowledged that his name was included in the CC line and that it was likely sent to him.

c. August 25-26, 1998 Communications With and Regarding McInnes’s Attorney

During the 1998 Investigation, McInnes retained a New York-based employment attorney. The Church’s outside counsel and McInnes’s counsel had numerous oral and written exchanges regarding the nature, scope, and outcome of the 1998 Investigation. Those communications included an August 25, 1998 request by the Church’s counsel to release McInnes’s medical records from his 1990 inpatient stay at the Golden Valley Institute, where he had been evaluated for sex addiction. McInnes’s counsel also expressed concern that children would be interviewed as part of the investigation and that McInnes was being singled out because of his background. Documentation of the communications from McInnes’s counsel reflects that McInnes asserted that other faculty members routinely engaged in the same conduct (e.g., holding kids on their laps and hugging them when they cry); that McInnes believed that he was being unfairly targeted and singled out because his background was known; that he was very concerned about whether kids were being interviewed because they are very suggestible; and that if kids were being interviewed, he wanted to know who was doing the interviewing and what they were saying.

Counsel for the Church communicated to McInnes’s counsel that “[n]o children have been interviewed to date and, at least at present, the Committee does not intend to interview any.” Counsel for the Church also informed McInnes’s counsel that McInnes should report any inappropriate or questionable behavior by other faculty members of which he was aware.

McInnes's counsel communicated to the Church's counsel that McInnes "wants to retire 'with dignity,'" and that McInnes wanted to "stay on until next June on payroll until August," as a "bridge to Medicare."

d. Draft Investigation Report

Cozen O'Connor reviewed the investigators' August 31, 1998 draft of their written investigation report. The "Conclusions" section of the draft report included the following language:

It is our conclusion that, on the basis that the described touching constitutes "sexual behavior," the Choirmaster is in violation of the Grace Church Sexual Misconduct policy, and should be required to tender his resignation. It would not be appropriate for us to continue to employ an individual in such troubling circumstances who exercises such poor judgment in these matters.

This recommendation that McInnes be required to tender his resignation did not appear in the final version of the written Investigation Report.

e. September 16, 1998 Receipt of Golden Valley Medical Records

As noted above, the Church's counsel requested McInnes's medical records from the Golden Valley Institute. McInnes's attorney provided the records on September 16, 1998. The records reflect that McInnes was admitted to Golden Valley on November 12, 1990 and discharged on December 15, 1990, and that he was diagnosed, among other things, with "Psychosexual disorder, NOS."⁹⁷ No other relevant information was contained in the records.

f. September 16 and 18, 1998 Communications Between Counsel for the Church and Counsel for McInnes

On September 16, 1998, counsel for the Church and counsel for McInnes spoke by telephone. McInnes's attorney raised a concern that the Youth Chaplain and Parishioner 1 had made homophobic comments and that they both had ill will towards McInnes.

Counsel also discussed an "offer" proposed by McInnes's counsel, pursuant to which McInnes would submit to an independent medical examination, and, depending on the results of that examination, the circumstances of McInnes's potential departure might be kept confidential and that people would be told he was taking early retirement.

Two days later, on September 18, 1998, McInnes's counsel shared a "proposal on confidentiality." She requested that "all parties agree not to divulge the existence of the agreement, its terms, or the circumstances giving rise to it, except [in accordance with the

⁹⁷ In medicine, "NOS" is an acronym for "Not Otherwise Specified."

proposed language on confidentiality].”⁹⁸ As described below in Section VI(D)(6)(k), the non-disclosure provisions of McInnes’s final separation agreement, dated October 20, 1998, allowed for disclosure under a number of circumstances and were not as restrictive as the proposal submitted by McInnes’s counsel.

g. September 23, 1998 Diocese Child Sexual Abuse and Sexual Harassment Education Workshop

On September 23, 1998, McInnes attended “a four-hour Child Sexual Abuse Education Workshop and a four-hour Sexual Harassment and Exploitation Education Workshop.” According to the Certificate of Attendance, these workshops were “presented by the Episcopal Diocese of New York to meet the requirements of the diocese and of the Church Insurance Company.”

h. October 3, 1998 Letter from McInnes to the Wardens

On October 3, 1998, McInnes sent a letter to the Wardens stating that he was “broke” and was going to terminate his attorney because he could no longer afford to pay for her legal services. In his letter, McInnes denied the allegations against him, stated that he would not sign the separation agreement that was in the process of being negotiated among counsel and would not agree to a psychiatric evaluation. He assured the Wardens that he had resumed therapy for sexual addiction and that a “responsible adult” would always be with him during every rehearsal going forward. The letter stated:

Dear [Wardens]:

I am writing to tell you that I am unable to continue to pay the costs of legal representation and have terminated my professional relationship with my attorney,[omitted]. The simple fact is I am broke! My savings are wiped out, I have had to cash in my life insurance policy, and am now attempting to secure additional funds from a home equity loan on my camp in Maine to cover costs already incurred. Thus, if negotiations are to continue we shall have to deal with one another directly.

I have decided not to sign the agreement generated on your behalf by [the Church’s counsel] outlining the conditions under which I might continue as an employee of Grace Church in New York. I hope you will bear with me while I explain the reasons for this decision, and allow me to outline steps I have already taken to insure (sic) that allegations such as those that have brought us to this point are never made again.

I cannot afford to bear or share the costs of a complete psychiatric evaluation. And, with due respect, it seems such a waste of time and money. I have spent five weeks going through

⁹⁸ Based on context, the “agreement” being referenced here was likely the contemplated separation agreement between McInnes and the Church, the terms of which were being drafted at that time, and which was eventually signed on October 20, 1998. This separation agreement is described below in Section VI(D)(6)(k).

“complete and thorough psychiatric evaluation” as well as extensive therapy at the Golden Valley Health Center several years ago. I was never diagnosed with a paraphiliac disorder. Furthermore, I made full disclosure about my sexual orientation, my previous employment record, as well as the Golden Valley program to the Vestry, the Music Committee, and the Chorister Parents when I came to Grace Church in the fall of 1992.

As matters stand now I am an “employee at will.” Why go through this entire exercise only to reiterate the fact that I am and remain “an employee at will” and can be terminated at any time? The bottom line, however, is that I am being asked to accept early retirement as a punishment for something that I did not do. The allegations that exist have been brought not by students, nor their parents, but by third parties. The first allegation was exaggerated and grossly misinterpreted, particularly with respect to motive. It was brought by people with whom I had had what might be described as an occasionally “challenged” relationship. These are people who have their own issues of deep-seated anger to deal with. The second allegation was entirely false! I cannot understand how anyone seeing me giving instruction at the organ console could possibly have come to such a conclusion. I confess that I am dismayed and heart-sick to think that anyone would ascribe such behavior to me.

Long before seeing the [draft separation agreement] I had instituted several changes in the way I work with choristers, boys and girls, along the lines of those suggested in [] Exhibit A. I have made certain that there will be another “responsible adult” in the room during every rehearsal. I have asked parents to become more involved in the choirs (sic) activities and have had at least one parent present at rehearsals of the Boy Choir since the year began. I attended the Diocesan Workshop on Sexual Harassment at the Cathedral on Wednesday September 23, which I found both informative and revealing. I have resumed therapy with the SATTI (The Sexual Addiction Treatment and Training Institute) Group here in New York. And I am willing to abide by the guidelines in [the draft separation agreement].

I am proud of what has been accomplished in the Music Program at Grace Church during my tenure as Organist and Choirmaster

I had planned to retire from Grace Church in another two or three years, and imagined that I might do so with grace and dignity, perhaps a few accolades, and maybe even a small party. During this difficult time in the life of the Parish I would like to remain as Director of Music and to do what I can to effect a smooth period of transition or reconciliation. I assure you that I would continue to work in a diligent and responsible way to sustain a distinguished music program, that I would be loyal to my superiors and faithful to my choristers, and that I would be dogged in my adherence to the guidelines mentioned above.

This whole thing has torn me apart, financially and emotionally. Back in August you indicated that this matter would be settled fairly and expeditiously; such has not been the case. This horrific affair has yet to be put to rest. I understand that you are having to deal with other more pressing matters right now, and that my situation is not your first priority. But I find it unconscionable that you would allow this matter to drag on and on without appearing to realise what this is doing to me and to my work. We are at a point where I should begin contracting orchestral musicians for the Choral Society Christmas Concert

or we simply will not have access to the most qualified players. And a few days ago I was informed that proposals for next year's budget are due by the end of next week. Just how am I expected to respond?

I ask and pray for your understanding in the hope that an early resolution will be found and that this whole nasty business will be put to rest.

*Yours sincerely,
Bruce McInnes*

i. October 9, 1998 Response Letter from the Wardens to McInnes

On October 9, 1998, the Wardens met with McInnes and hand-delivered a letter responding to his October 3 correspondence. In their response letter, the Wardens refuted McInnes's assertions and denied his demands. The letter, in full, stated:

Dear Bruce:

We received your October 3 letter in the mail this week. We are, frankly, astounded that you wish to break the agreement that you made with us on September 4, 1998. We worked very hard with the investigators and the Church's lawyer during the month of August to complete the investigation promptly and to find a way that the Church could both accede to your request for retirement as of August 19, 1999 and protect the children the Church has entrusted to you. We outlined the terms very specifically to you during our meeting on the afternoon of September 4 and, after a lengthy consultation with your lawyer, you accepted them.

In reliance on your acceptance and at great expense, the Church's lawyer prepared an agreement documenting the terms. The initial draft was prepared over the Labor Day weekend. The delay since then, and a considerable portion of the legal expenses that Church has incurred, resulted from the numerous requests for changes in the draft that you and your lawyer requested. We patiently considered and made changes in response to all of your expressed concerns.

We are also troubled by your suggestion that you are letting your work for the Church suffer even as we have struggled to produce documentation acceptable to you. You are still an employee of Grace Church. We fully expect that you will perform all of your duties to the appropriate standard of excellence for as long as you remain employed by the Church. There is no excuse for any delay in contracting musicians for the Christmas concert and there is no reason for you to delay preparation of the Church's 1999 budget.

We are surprised by your protestations of poverty. While your lawyer [] informed us in our first meeting that you have spent a great deal of money on your property in Maine, we fail to understand how, with fully-subsidized housing and a generous salary, you are unable to contribute to the cost of an evaluation. The Church has already agreed to limit your contribution to \$1,500 (or half the cost of the evaluation, if that is less). This amount

can be repaid to the Church over time, at \$150 per month, by salary deduction if that is more convenient for you.

We have always admired and appreciated your musical talents and the tremendous, very successful work that you have done over the years in building up the music program. It is also good that you have been proactive in seeking therapy since this inquiry began. We must, however, make sure that as a church we do what is necessary to make sure that it is proper to entrust children to your care.

[We have been advised] to require an evaluation by a qualified professional and your agreement in advance to comply with any treatment recommendations that professional makes as a condition to his or her approval of your continued employment. Some weeks ago, you selected [a psychiatrist] as the expert to perform the evaluation.

You are a self-described sex addict. You have been diagnosed as having a psychosexual disorder. You left prestigious posts at two universities in the wake of sexual incidents involving students under your tutelage. You were not forthcoming with the Music Director Search Committee about your diagnostic history or the reasons you left your prior institutions when you were interviewed by the committee. Nor have you conducted yourself in the manner the Vestry was led to expect after the information about your past was brought to lay leaders' attention by third parties, after you had been hired. In our recent discussions, you admitted that you have not complied with Kingsley Ervin's direction not to touch children below the shoulders and that you did not continue in treatment after coming to New York. You have been observed touching children improperly by more than one person.

Despite your assurances that your actions were misinterpreted by the observers and that you have now taken all necessary steps on your own, you must understand that the Church cannot responsibly rely on your representations alone. If indeed your condition does not pose a danger to the children, there is no reason to shy away from the opportunity for a psychiatric expert's concurrence in this assessment. Please keep faith with us and the children by cooperating in obtaining this reassurance.

The enclosed agreement reflects the terms that you agreed to on September 4 and responds to all of the concerns raised by your lawyer. It also provides that your contribution to the cost of the evaluation can be paid over time by salary reduction. Please review it carefully, sign both copies and return both to [the Church's counsel] . . . no later than 5:00 p.m. on Wednesday October 14, 1999. We look forward to working with you, under the conditions you agreed to on September 4, through August 18, 1999.

*Faithfully yours,
[Wardens]*

Enclosure

cc: [Counsel for the Church]

After the Wardens met with McInnes, Warden 2 faxed this letter (along with the proposed separation agreement) to the Church's counsel and the Diocese. In her cover note accompanying the fax, Warden 2 wrote, "We had a very frank discussion with [McInnes] this morning, and things seem to be back on track." Warden 2 added that they agreed to consider an extension of McInnes's resignation date if the psychiatric report came back clean and his behavior was good as of the first quarter of 1999.⁹⁹

j. October 19, 1998 Letter from McInnes's New Counsel to the Church's Counsel

As McInnes wrote in his October 3 letter to the Wardens, he terminated his lawyer due to monetary considerations. On October 19, 1998, a new attorney sent a letter to the Church's counsel on behalf of McInnes. In addition to suggesting additional edits to the separation agreement, the attorney confirmed his understanding that the Church was not willing to offer McInnes any future employment references.

k. October 20, 1998 Separation Agreement

The Church and McInnes agreed to a written separation agreement dated October 20, 1998.¹⁰⁰ Pursuant to the agreement, McInnes was permitted to remain in his position as Choirmaster, to remain in his subsidized apartment on Church property, and to retire on August 18, 1999, subject to several conditions. These conditions included the following requirements: that McInnes submit to "a thorough psychiatric evaluation" by a mutually agreed-upon psychiatrist, pass such evaluation (by demonstrating that he did not suffer from a paraphiliac disorder and could safely work with children), and agree to any additional course(s) of treatment recommended by the psychiatrist; that McInnes attend seminars and trainings relating to sexual harassment and misconduct offered by the Church, including interactions between adults and children, as well as individualized training; and that McInnes obey certain behavioral guidelines in his interactions with minors.

With respect to the behavioral guidelines, the agreement conditioned McInnes's continued employment on his compliance with written rules governing his interactions with minors. These guidelines, which were attached to the agreement as an exhibit, consisted of the following:

1. *Employee will refrain from any and all physical contact with minors under the age of eighteen who are currently or formerly affiliated with the Church or School, except*

⁹⁹ This provision did not appear in the final October 20, 1998 version of the agreement, discussed below. However, as noted elsewhere, in May 1999, McInnes's agreed-upon retirement date was extended from August 18, 1999 to June 30, 2001.

¹⁰⁰ The signatories to the agreement were McInnes, Warden 1, Warden 2, and Rector Abbott. On November 17, 1998, the Church's counsel sent an executed copy of the agreement to Abbott and the Parish Administrator.

handshakes and touching on head and shoulders of Choir members to the extent necessary for pedagogical reasons during rehearsals and lessons.

2. *Employee will refrain from any and all non-public contact with minors under the age of eighteen. “Non-public contact (sic)” means any circumstances or situation where a parent or another responsible adult is not present and able to observe Employee’s conduct, including but not limited to social events, meals, excursions, and private music lessons.*
3. *Employee may contact current minor students and Choir members by phone to discuss participation in Choir activities only.*
4. *Employee may participate in a professional and appropriate manner in telephone conversations initiated by students and former students.*

The agreement also contained several provisions which explicitly allowed the Wardens to share the existence and substance of the agreement and the underlying 1998 Investigation with several constituencies, including: the clergy of the Church; the Head of the School; the Chair of the Board of the School; management employees of the Church; parents “who make inquiry about [McInnes’s] conduct”; successor Wardens; Diocesan representatives or designees; the Church’s Parish Administrator and “other Management employees who the Wardens believe need to know to facilitate implementation.”¹⁰¹ The agreement further allowed the Wardens to disclose the substance of the agreement as required by law or “as deemed necessary to explain the manner in which the Church responded to allegations about [McInnes’s behavior].” Moreover, the agreement allowed the Wardens to disclose the existence of the 1998 Investigation and the information gathered during that investigation in response to requests for references regarding [McInnes], to governmental agencies and the insurers of the School and Church, and as required by law.

In her interview with Cozen O’Connor, Warden 2 said that the multiple exceptions to the non-disclosure clauses were consistent with “the character in the Episcopal Church . . . not to keep things mum.” She added that “[w]e really didn’t want to send [McInnes] to another institution where he could . . . hurt other people.”¹⁰²

¹⁰¹ As noted later, there is no indication that the full agreement was provided to most of these individuals, including Davison, the Vicar, or Warden 3, who was elected to the Vestry in February 1999.

¹⁰² An earlier draft of the agreement reflects that Warden 2 edited the agreement to broaden the list of individuals permitted to access information regarding McInnes.

7. October 26, 1998: Final Written Investigation Report

On October 26, 1998, the three-person investigative team issued its final written report regarding the 1998 Investigation.¹⁰³ The report, which consisted of 14 pages of content and five pages of exhibits, was sent from the investigators to the Wardens and the Church's counsel, and was marked "privileged and confidential."

a. Overview of Conclusion

The investigators concluded that McInnes had engaged in touching that "constituted 'sexual behavior'" and that he was therefore "in violation of the Grace Church Sexual Misconduct policy." The "Conclusion" section of the report states, in full:

The information reported to us by [the Youth Chaplain and Parishioner 1, Maintenance Worker 2, Maintenance Worker 1, and Teacher 4] clearly describes incidents where [McInnes] inappropriately touched students. The act of caressing backs and buttocks reported by the [Youth Chaplain and Parishioner 1] was troubling in that it was clearly not inadvertent, but intended to express affection which in [the Youth Chaplain]'s opinion had the effect of being "arousing" to the boy.

[Maintenance Worker 2]'s report supports the credibility of their account in that it describes a very similar incident of improper touching, that is, stroking a student's hair and then caressing his buttocks. Similarly, the fact that [Teacher 4] was upset enough to report what she had seen indicates that it was a matter of some concern and corroborates the other reports. [Maintenance Worker 1]'s report is the most disturbing, and, although [McInnes] vehemently denied it, we can only characterize his report as being credible.

We found their reports to be sincere, thoughtful, specific and motivated by nothing other than their spontaneous concern.

We believe that touching of this nature can be considered "sexual behavior" as described in the Grace Church Sexual Misconduct policy:

The term "sexual behavior" as used in this rule means any form of physical or voyeuristic behavior that is intended to provide sexual gratification to any party involved in that behavior, including but not limited to "sexual abuse" and "sexual misconduct."

[McInnes], in his interview, was cooperative and comprehensive in describing his past charges of alleged sexual misconduct, the events surrounding his employment at Grace and his professional, social and physical interactions with choir students. He denied all

¹⁰³ As noted elsewhere in this report, October 26, 1998 was also the date on which Abbott agreed to resign as the Church's Rector. Abbott told Cozen O'Connor that he never saw the 1998 Investigation Report or learned about the findings of the 1998 Investigation Report, which is consistent with both the timing of his departure and contemporaneous documentation reviewed by Cozen O'Connor.

of the current allegations. He was straightforward and direct in response to questions and his manner did not suggest a lack of credibility.

[McInnes] has acknowledged that there have been past allegations involving charges of sexual misconduct. In this light, we believe that he used very poor judgment in not adhering to boundaries of the utmost strictness regarding his interactions with choir students. Giving private lessons, soliciting hugs, patting bottoms and exhibiting other outward displays of affection should have been avoided. In addition, he did not take any initiative to attend sexual misconduct training which was offered by the Diocese and would have given valuable guidance on the boundaries of physical interaction with children. Also, he did not seek ongoing counseling of any other kind. He does not seem to be able to recognize when he begins to cross the boundaries to improper touching and to refrain from “touching students below the shoulders” as was recommended by the ex-headmaster.

It is our conclusion that, on the basis that the described touching constitutes “sexual behavior,” the Choirmaster is in violation of the Grace Church Sexual Misconduct policy.

b. Additional Information Not Included in the Final Report

The final report did not include all of the potentially relevant information that was documented in the investigators’ interview notes and/or earlier drafts of the report. For instance, Maintenance Worker 1 said in his first interview that he observed McInnes fondling Student 1’s genitals from the *inside* of Student 1’s pants, rather than from the outside. Other members of the Church’s maintenance staff said they had heard rumors that McInnes was having sex with Student 1, that McInnes possessed pornographic magazines with boys in them, that McInnes drank beer with a 17 year-old “street boy,” and that McInnes would come home drunk late at night with underage boys. The Youth Chaplain and Parishioner 1, who lived in the same building as McInnes, said that Student 1 spent time at McInnes’s apartment between Church and Youth Group and would nap there.¹⁰⁴

c. Witnesses Not Interviewed

The investigators received information alleging that eight individuals (two adult employees and six minors) experienced inappropriate touching and/or sexual advances by McInnes. Those individuals were: Employee 1; Employee 2;¹⁰⁵ Student 2; Student 17; Student 6; Student 1; Student 7; and the unidentified “long-haired boy.”

¹⁰⁴ The Youth Chaplain also told Cozen O’Connor that she remembered that “[Student 1] spent nights at Bruce McInnes’s apartment . . . because . . . his commute was kind of inconvenient . . . due to the early morning Boys’ Choir rehearsals.” Her former husband corroborated this memory.

¹⁰⁵ According to the 1998 Investigation Report, in or around 1998, Employee 2, described as “an approximately 18 year old part-time maintenance worker,” confided in three Church employees, including Maintenance Worker 1, that McInnes had: told Employee 2 that he loved him; asked Employee 2 to go to the movies; and encouraged Employee 2 to stay overnight in his apartment. Employee 2 said McInnes’s advances made him uncomfortable and that he made it clear to McInnes that he was exclusively interested in women.

These eight individuals were not interviewed as part of the 1998 Investigation. The report reflects that the two adult employees, Employee 1 and Employee 2, were either unwilling to speak to the investigative team or could not be reached by the investigative team.

The written report does not provide any insight into why none of the five identified students were interviewed. Information gathered by Cozen O'Connor reflects that the question about whether or not to interview students was explicitly discussed between some of the individuals leading the investigation, and McInnes's attorney advocated against interviewing students. However, it is not clear who ultimately made the decision not to interview students, or what the rationale was for not interviewing them. In their interviews with Cozen O'Connor, the three investigators each said they did not remember any deliberations over whether or not to interview students. Investigator 3 speculated that the reason might have been that no student ever came forward to complain, and Investigator 1 speculated that it might have been because they did not want to involve the students' parents.

In her interview with Cozen O'Connor, Warden 2 said she did not remember any discussion about whether or not to interview students, but she said the Church's outside legal counsel may have been consulted on such a decision.

In his interview with Cozen O'Connor, Warden 1 said he did not specifically remember the decision-making process, but he recalled hearing that McInnes was concerned about children being interviewed. Warden 1 was also aware that children should not be interviewed alone, without a parent present. He said that regardless of any guidance the Church's counsel might have given regarding interviewing children, he knew that he and Warden 2 were the ultimate decision-makers on that issue.

8. November 3, 1998: Warden 2 Reports to the Vestry Regarding the McInnes Investigation

On November 3, 1998, the Vestry convened for a regularly scheduled meeting.¹⁰⁶ According to the minutes of that meeting:

Warden 2 reported that the personnel matter investigated by [Investigators 1, 2, and 3] has been resolved. Steps have been implemented to assure the safety of all involved with the particular individual. This problem highlighted the absence of training of staff and laity in matters of sexual misconduct and abuse. A special class is scheduled for 14 November for all who have contact with children, both staff and lay workers. The Vestry approved the expenditure of \$35,000 for legal costs.

¹⁰⁶ The attendees of this meeting included the Vicar Bishop of New York, the Wardens, Investigators 1 and 2, Davison, and the Vicar. In light of his October 26, 1998 resignation, Abbott was not in attendance at this meeting.

Warden 2's files included her personal notes she prepared for her presentation to the Vestry. The notes state:

Involves person who [at] time of hiring had history of employment problems & psychiatric issues of a sexual nature. History was disclosed to Rector at time of initial hiring, but not to Vestry. Later it was disclosed to Vestry & School Head & certain principles of conduct were articulated.

The recent allegations were investigated thoroughly by [Investigators 1, 2, and 3] & found credible. The process of investigation and reaching resolution was complicated b/c the person hired, then fired a lawyer and requested to be allowed to stay. A complicated balance of protecting the people the person worked with, the ministry of the Church & Grace as an institution, while being as sensitive and compassionate with the person as possible.

In [the] course of [the] investig[ation], learned that none of Church's staff had been assigned to take the training in sexual abuse & sexual misconduct that the Diocese offer several times a year. This training has been available for a long time & is mandatory for churches covered by church insurance fund. Also became clear that there was a very low level of awareness among staff of proper practices & procedures in this regard.

The personnel situation has been resolved by an agr[reement] w[ith] the person that conditions person's continued employment on a number of things including taking training and complying w[ith] appropriate practices. And all staff and lay volunteers who work w[ith] children are being asked to attend training. Some staff have attended training already. On Nov 14 Claire W-A is doing the training here . . . [page cut off]

Legal costs originally estimated at 10k will be about 35k, largely due to complicated contract negotiations & need for more thorough [background] investig[ation] in [connection] w[ith] continued empl[oymen]t.

Cozen O'Connor did not locate any documentation reflecting that the 1998 Investigation Report was shared with the full Vestry at this time. Davison told Cozen O'Connor that he never saw the Investigation Report, nor was he even aware of its existence until he learned about it through Cozen O'Connor's investigation. Davison also said he never asked about the outcome of the 1998 Investigation, which he said demonstrated a lack of curiosity on his part. Although Davison was present at the November 3, 1998 Vestry meeting, he said he had no recollection of this part of the meeting, and that his focus at that meeting would have been squarely on the agenda item relating to Abbott's resignation. He added that since McInnes was being allowed to stay on as Choirmaster, he likely thought that his underlying conduct was not egregious.

The Vicar, who also attended this meeting, said that everyone in attendance knew that the personnel situation that was discussed involved McInnes. The Vicar stated that she never saw

the 1998 Investigation Report herself and that she doubted the regular members of the Vestry, or Davison, would have seen a copy either.¹⁰⁷

9. November 29, 1998: Report of McInnes's Psychiatric Evaluation

Under the October 20, 1998 separation agreement, McInnes's continued employment at Grace Church was conditioned, among other things, upon the Church's receipt of a satisfactory independent psychiatric assessment of McInnes. On November 29, 1998, the psychiatrist who examined McInnes issued his report, which summarized McInnes's prior medical records and the substance of his one-on-one counseling sessions with McInnes in October and November 1998. The report concluded that "there is no evidence that Mr. McInnes has currently or ever suffered from a paraphiliac disorder" that would prevent him from working with children, but that he must alter his teaching methods to ensure that he no longer touched students. The report stated that McInnes, despite being "self-destructive," understood and was able to comply with the terms of the October 20, 1998 agreement, and it recommended that McInnes continue to see him on a monthly basis until at least August 1999, as part of his ongoing treatment.¹⁰⁸

10. December 4, 1998: Behavioral Guidelines Sent to Davison

On December 4, 1998, Warden 2 sent Warden 1 a fax with the subject line "Material sent to Davison" and a cover note that stated, "I am mailing copies of the enclosed to George D (marked Personal and Confidential) today." The fax enclosed the written behavioral guidelines that McInnes had agreed to obey as a condition of his continued employment pursuant to the October 20, 1998 separation agreement.¹⁰⁹ The fax did not include a copy of the full separation agreement, nor is there any evidence that Davison was informed of the details of the separation agreement.

In her interview with Cozen O'Connor, Warden 2 said that she would have sent McInnes's behavioral guidelines to Davison because the choir program was an activity of Grace Church School¹¹⁰ and involved Grace Church School students, and it was therefore important that the Head of School know about McInnes's behavioral rules to ensure effective implementation of

¹⁰⁷ When informed by Cozen O'Connor in March 2022 about the outcome of the 1998 Investigation Report, the Vicar reacted, "Well, if this happened, why didn't they let him go?"

¹⁰⁸ The evaluation did not include any indication that the psychiatrist had access to the 1998 Investigation Report or to a full set of facts that would have provided him with a sufficient foundation to reach a diagnosis. Instead, it appears that he relied primarily on information provided by McInnes.

¹⁰⁹ These behavioral guidelines are reproduced above in Section VI(D)(6)(k).

¹¹⁰ As noted elsewhere in this report, although the choir was composed almost entirely of School students, choir was officially a Church activity and the Choirmaster was an employee of the Church who reported up to the Rector. In addition to serving at Church services on Sundays, however, the choirs sang at School chapel services and School commencement ceremonies. The choirs were considered an extra-curricular activity and were featured in the annual School yearbook. Additionally, a tuition grant was available for choir members, and individual choir members also received recognition at the School's commencement.

those rules. Warden 1 also said Davison would have been responsible for enforcing these behavioral guidelines on the School side. Warden 2 said she, Warden 1, and/or the Church's outside counsel likely had a conversation with Davison prior to sending him the behavioral guidelines, although she could not remember the substance of any such conversation; regardless, she said that Davison would have been expecting the guidelines and would have known why he was receiving them.

Davison told Cozen O'Connor that he was aware of the guidelines at the time, which he believed were shared "just to keep [him] in the loop." Through counsel, Davison expressed that he was surprised to hear that Warden 2 had expected him to enforce these behavioral guidelines. Davison said he was never given explicit instructions by anyone to that effect, and that such instructions would have been unrealistic considering McInnes worked on Church grounds (as opposed to School grounds) and choir practices took place during non-School hours. Davison said he believed that Warden 2 faxed him these guidelines as a notice or assurance that the Church was taking proactive steps to keep children safe. He said the guidelines he received in December 1998 provided the same general guidelines as the August 6, 1998 letter he had received four months earlier.¹¹¹

Notably, Grace Church did not have a Rector at this time. As detailed above, Abbott had agreed to resign on October 26, 1998, and he told Cozen O'Connor that he had vacated the Church premises by December 1, 1998. That left the Vicar (the highest-ranking clergy member) and the Parish Administrator, as the two individuals from the Church most likely to have been in a position to administer and enforce the guidelines.¹¹² Cozen O'Connor did not locate any contemporaneous documentation reflecting that the Vicar received a copy of the separation agreement or the behavioral guidelines. However, the Vicar told Cozen O'Connor that McInnes himself showed her a copy of the written behavioral guidelines during the 1998-99 academic year. She said McInnes complained to her that his interview with the Church's counsel as part of

¹¹¹ Davison also said that in December 1998, he was unaware of the complaint by the Youth Chaplain and Parishioner 1, the substance and findings of the 1998 Investigation, McInnes's separation agreement, and the negotiations leading up to that separation agreement. Davison also said that, because McInnes continued to remain employed by the Church after the conclusion of the 1998 Investigation, he likely believed at the time that the 1998 Investigation had not uncovered egregious conduct by McInnes. Davison said that, from a practical point of view, he knew only a small fraction of what the Wardens knew.

As noted elsewhere in this report, Davison was copied on the Wardens' August 6, 1998 letter to McInnes in which they informed McInnes that the Church was "currently investigating allegations that [McInnes] engaged in 'sexual misconduct'" Davison was subsequently interviewed in the 1998 Investigation. He later attended the November 3, 1998 meeting of the Vestry where Warden 2 reported that the allegations regarding a personnel matter had been investigated and found to be credible. Davison did not, however, receive the 1998 Investigation Report, despite a provision in McInnes's October 20, 1998 separation agreement that permitted disclosure of information relating to the 1998 Investigation to several constituencies, including the "Head of the School."

Warden 2 said she was surprised that there was no record of the notifications of the conduct provisions and the reasons for them to the people on site at the Church.

¹¹² As noted above, on November 17, 1998, the Church's counsel sent an executed copy of the October 20, 1998 separation agreement to the Parish Administrator.

the 1998 Investigation had been “one of the worst experiences of his entire life” and that counsel had “questioned him and harassed him.” The Vicar said McInnes denied the allegations to her.¹¹³ She said that her understanding of the outcome of the 1998 Investigation was that “it was decided that there would be a set of rules that he could never be alone with minors.” The Vicar told Cozen O'Connor that she remembered thinking that, if the allegations against him were true, it would have been unrealistic for McInnes to obey the guidelines, but that she pleaded with McInnes to obey them nonetheless. When asked whose responsibility it was to enforce the behavioral guidelines, the Vicar said that the Wardens and Davison should have had a meeting to determine who was going to supervise McInnes.

E. 1999: McInnes Resumes Choirmaster Duties but Is Later Terminated for Violating the Behavioral Guidelines

McInnes continued in his role as Choirmaster for the remainder of the 1998-99 academic year.¹¹⁴ In January 1999, a Church employee complained about inappropriate comments by McInnes. In February 1999, McInnes told the Church that he had stopped going to counseling, as required by his separation agreement, and that he had recently seen both Student 1 and Student 2 (both graduates). Nonetheless, in April 1999, McInnes received a merit raise, and in May 1999, the Church agreed to extend his resignation date for an additional two years. In or around June 1999, at the end of the academic year, McInnes was accused of inappropriate physical contact with Student 3, a graduating eighth grader. This incident ultimately led to McInnes's separation from the Church. McInnes was initially terminated, but his exit was later announced publicly to the Vestry and the Church community as a resignation due to health reasons, rather than a termination for cause. Although McInnes received a termination letter in July 1999, contemporaneous documents reflect that McInnes began the Fall 1999 semester as the Choirmaster and did not step down until September or October. In October 1999, during Homecoming Weekend, McInnes was honored with a farewell program during a luncheon sponsored by the Church. That month, the Vicar also provided a positive employment reference for McInnes to his subsequent employer, where McInnes next served as Dean and, two years later, faced allegations of sexual misconduct with a male undergraduate student.

¹¹³ The Vicar said that about three years later, McInnes admitted to her that “it was all true.” She said at the time she first learned of the allegations in 1998, she had perceived it as gossip. She said she “knew it was possible” that the rumors were true, but that when he later “admitted it” to her, she remembered thinking, “Should I have gone to the police?”

¹¹⁴ Student 3 told Cozen O'Connor that the mother of one of the choir boys sat in on all choir practices during the 1998-99 year because she did not want her son to be alone with McInnes. He said that the boys did not like having the mother present because it “took away the dynamic of the camaraderie” between McInnes and the boys. Student 3 said that he asked McInnes about it himself, lamenting that the mother's presence meant that McInnes could no longer tell dirty jokes or make fun of the Girls' Choir, and McInnes responded that he could not deny a parent's request to sit in with them. In a February 4, 1999 letter, discussed more fully below, McInnes also wrote, “I continue to have [the organist] with me at each chorister rehearsal (Boy Choir and St. Cecilia Choir), as well as one of the boy choir ‘moms.’”

1. January 1999: Complaint of Inappropriate Comment by McInnes

On January 7, 1999, the Church's Music Director¹¹⁵ wrote a memorandum to the Parish Administrator stating that she observed McInnes playfully using swear words in front of two 12 year-old students in a manner that made her uncomfortable. In the memorandum, the Music Director also stated that she was aware of additional inappropriate behavior with students that "while not sexual in nature, exhibited extremely poor modeling." She asked the Parish Administrator to share this information "only [with] those who are familiar with the situation at Grace," due to the "sensitive nature" of the information.¹¹⁶ The memorandum was shared with Warden 2, who, on January 13, 1999, faxed the memorandum to the Church's outside counsel with a copy to Warden 1. In the cover note enclosing the fax, Warden 2 wrote that the memorandum was "sensitive" and asked counsel to request that the psychiatrist address McInnes's "general conduct/how one acts around children" during their monthly therapy sessions.¹¹⁷

2. February 1999: McInnes Stops Attending Counseling

On February 22, 1999, McInnes wrote to Warden 1 to request an extension of his planned resignation date (*i.e.*, beyond August 18, 1999). He enclosed an earlier letter drafted on February 4, 1999, which had not been previously sent.¹¹⁸

In the February 4 letter (which was addressed to the Wardens, with a copy to the Vicar),¹¹⁹ McInnes wrote that he was no longer seeing the psychiatrist for psychotherapy sessions and disclosed that he had recently seen both Student 1 and Student 2. The letter stated:

I know you have more urgent business on your minds at this point, but I also want very much to be candid and up-front with you. I am no longer seeing [the psychiatrist].

At our last session before he distributed his written report I agreed to continue to see [the psychiatrist] once a month and we made an appointment for January 11 at 1:00 PM. This

¹¹⁵ As described to Cozen O'Connor, the Music Director oversaw the Church's contemporary music program, whereas McInnes oversaw the choir and organ music. Cozen O'Connor attempted to contact the Music Director, but she did not respond to our outreach.

¹¹⁶ This description suggests that the Music Director had some awareness of the issues related to McInnes's conduct.

¹¹⁷ Warden 2 told Cozen O'Connor that she did not remember there being a female music director in addition to McInnes, and that she did not remember receiving this communication or sharing it with the Church's legal counsel.

¹¹⁸ McInnes explained in the February 22 letter that he had not mailed the February 4 letter (which had been addressed to the Wardens) because he knew the Vestry might have voted to replace Warden 2 from her leadership position by the time she would have received the letter. According to Vestry minutes, Warden 2 was indeed voted out as a Warden on February 7, 1999.

¹¹⁹ McInnes subsequently sent this letter only to Warden 1. There is no evidence to suggest that it was shared with Warden 2 or the Vicar; however, as noted above, McInnes told the Vicar about the written behavioral guidelines. In her interview with Cozen O'Connor, the Vicar reflected that this letter was written to the Wardens, not her, as she was not in a position of power or authority in her role.

may seem naïve on my part, but until receiving a copy of [the psychiatrist's] report and seeing his statement, I had no idea that he charged \$300 an hour! I simply cannot afford the cost of such visits, especially since I continue to see my own therapist on a bi-weekly basis.

Nonetheless, on January 11, eventhough (sic) I was still feeling very much under the weather with the flu I dutifully took the subway up to 77th Street, walked up to 79th, took the bus across the Park, and walked up Central Park West to [the psychiatrist's] office. I arrived at 12:50; he was not in his office so I returned to the lobby to inquire of the doorman who reported that he had not seen [the psychiatrist] that day, but that I was welcome to wait. I sat in the lobby and waited for the next hour! In the meantime I asked the doorman if by any chance [the psychiatrist] had left a message for me. He had not. So at 1:45 I left my card and a message for [the psychiatrist] and headed back downtown since I had another appointment at 2:30. By the time I returned to my office [the psychiatrist] had called full of apologies claiming simply that he had written down in his January 1998 date book and would I please call to reschedule. I did not call back. I was slightly annoyed, to say the least, and felt insulted, especially at \$300 an hour!

But, all of that aside, I am writing now to ask if, in light of [the psychiatrist's] report, which served, I trust, to verify everything I had reported to you previously, I might be relieved of this obligation (paragraph #4 in our agreement). In further support of this request I refer to the final paragraph of his written report (page 14) where he states: "The reason for this (the continuing sessions with [the psychiatrist]) would be to avert the likelihood of untreated depression, and also to assist him with difficulties that might emerge as he nears the termination of his contact with Grace Church." I assure you that I would greatly prefer to deal with my own therapist should "depression" or "other difficulties" arise. These problems would, I feel, be far better managed with a therapist of my own choosing and one with whom I was having regular counseling sessions, then (sic) with a psychiatrist "assigned" to me by others who was under a continuing obligation to report his findings regularly to an unsympathetic lawyer. This seems to me more like reporting to a parole officer than (sic) visiting one's therapist. Should you feel the need to verify the fact that I am seeing a therapist regularly I would be happy to provide you with his name and phone number, and to give him permission to state that I am his patient.

I should report to you also that I have recently seen both [Student 2] and [Student 1]. [Student 2] knocked on my office door, unannounced, a couple of weeks ago when he was home from school on a long weekend. He "just wanted to say hello, and see how things were going with the choir." We visited briefly and he departed. [Student 1] came by to look over the contents of a carton of organ music that Edith Abbott left behind for him in my care. He reviewed the contents of the box, we went out for lunch in a public restaurant, and he headed back to Brooklyn.

I continue to have [the organist] with me at each chorister rehearsal (Boy Choir and St. Cecilia Choir), as well as one of the boy choir "moms."

*Yours sincerely:
Bruce G. McInnes*

On March 18, 1999, Warden 1 faxed this correspondence to the Church's outside counsel.

3. April 26, 1999: McInnes Receives a Merit Raise

On April 26, 1999, McInnes received a \$5,000 merit raise at the recommendation of Warden 1 and his newly-elected co-Warden, Warden 3.¹²⁰ According to the minutes of an April 26, 1999 Vestry meeting: "The Wardens, having conducted a performance review with Organist and Choirmaster Bruce McInnes, recommended, and the Vestry approved, a raise in his base salary. This is the first increase, apart from the minor cost of living adjustments, in his five years with us. Under his leadership, GC's music program has excelled."

Warden 1 and Warden 3 sent McInnes a letter that day regarding his raise. In the letter, they wrote:

Dear Bruce,

Over the past six years you have provided unflagging service to Grace Church and both revitalized existing music programs and instituted new ones. We are deeply appreciative of the work you have done and realize that it has been a "labor of love" to glorify God by ensuring the breadth and depth of the music programs at Grace Church.

Therefore, in recognition of your specific contributions including the greatly enhanced development of the Choral Society, the institution and development of the [St.] Cecilia Chorus, your effort on the Organ Project, and your overall impact on the music program we thank you on behalf of Grace Church.

As a further recognition of our appreciation, the Vestry has voted unanimously that you receive a \$5000 merit raise, effective immediately. On behalf of the Vestry and the Parish, thank you very much.

[Wardens 1 and 3]

In his interview with Cozen O'Connor, Warden 1 said he did not remember why he and Warden 3 gave McInnes this merit raise, though he speculated it might have had to do with McInnes's impending retirement. In his interview with Cozen O'Connor, Warden 3 said he was unaware at the time of any misconduct by McInnes, and that Warden 1 had not disclosed to him McInnes's prior history, including any information about the 1998 Investigation or the behavioral guidelines. Warden 3 attributed this lack of disclosure to the divide between the Wardens and members of the Vestry regarding Rector Abbott. Davison, who had no involvement in the decision to offer McInnes a raise and did not attend the April 26 Vestry meeting at which the raise was discussed, told Cozen O'Connor that he believed several Church

¹²⁰ Warden 3 replaced Warden 2 as a Warden in February 1999 following a contested and tense election arising from how the Rector's separation from the Parish was handled.

The Vicar also received a similar pay raise at this time.

employees received a one-time bonus around this time as a gesture of appreciation for “holding things down” during the tumultuous months after Abbott resigned as Rector.¹²¹

4. May 26, 1999: Extension of McInnes’s Retirement Date

In a document dated May 26, 1999, Wardens 1 and 3 agreed to amend certain of the terms of the October 20, 1998 separation agreement. Under the amended agreement, McInnes’s resignation date would be extended from August 18, 1999 to June 30, 2001, and he would be required to see the psychiatrist on a quarterly basis, rather than monthly, with the Church paying for those sessions.¹²²

It is unclear what prompted this two-year extension or the reduction in the frequency of counseling requirements, especially in light of the admissions by McInnes to Warden 1 that he had recently seen Students 1 and 2, and that he had stopped attending his required counseling. In his interview with Cozen O'Connor, Warden 3 said that at the time this contractual amendment was made, he had not reviewed the prior written agreement and was unaware at that time of any written behavioral guidelines governing McInnes’s contact with students.

5. June/July 1999: Report of Inappropriate Touching Involving Student 3

In or around June 1999, Parent 6, the father of Student 3 (Grace Church School class of 1999), reported to the Church that McInnes touched his son inappropriately.¹²³ Student 3, an eighth grader, was a graduating member of the Boys’ Choir who had been suspended for the remainder of the academic year for a conduct issue. This report was the catalyst that precipitated McInnes’s eventual departure from Grace Church in the fall of 1999.

According to Student 3, Student 3’s parents, Davison, Warden 1, and the Vicar, just prior to the eighth grade graduation in June 1999, Davison suspended Student 3 for violating School rules.¹²⁴

¹²¹ According to the Vestry minutes from the April 26, 1999 meeting, the Vicar also received “a one-time bonus . . . in recognition of her extraordinary service during this time GC has been without a Rector.”

¹²² Under the terms of the original agreement and the November 29, 1998 psychiatric assessment, McInnes was supposed to have psychiatric appointments on a monthly basis and pay for those appointments himself.

¹²³ Student 3’s description of the underlying incident, as described to Cozen O’Connor, is detailed below in Section VII(A)(2). Student 3 said that he minimized his description of the incident to his parents, and only later in life did he share additional detail about the extent of the abuse.

¹²⁴ Davison said Student 3’s father was “furious” with Davison regarding his son’s suspension, and that he was also being attacked by others for suspending Student 3 rather than expelling him. Student 3’s father said that he did not recall being upset about the suspension; rather, he was upset because he understood that Davison wanted to expel his son after nine years at the School and just prior to graduation. Student 3 also has a specific recollection of Davison threatening to expel him. Davison, through his counsel, said he never planned to or threatened to expel Student 3. He said he might have told Student 3’s father that others were pressuring him to expel Student 3, but that he had only contemplated suspension and that it was not his practice to threaten a sanction that he did not plan to actually impose.

As a consequence, Student 3 was prohibited from attending the senior trip to Cape Cod and was also required to do community service.¹²⁵ Student 3 completed his exams in Davison's office, and performed community service in the library and with the drama teacher. Student 3 also performed community service with McInnes.

Cozen O'Connor received conflicting information about how Student 3 came to work with McInnes. Davison recalled that Student 3's father "asked if [Student 3] could do some service work for the Church." Student 3's parents said they did not specifically talk to Davison about their son working with McInnes.¹²⁶ Parent 7 (Student 3's mother) recalled that the Vicar called her to offer her sympathies about Student 3's suspension. Parent 7 said that when she shared with the Vicar that Student 3 was embarrassed about doing community service in front of his peers at the School, the Vicar suggested that Student 3 work with McInnes. The Vicar did not recall making this suggestion; however, she said that if Parent 7 had a specific recollection of this call, then, as Student 3's mother, Parent 7 likely had a better recollection of the substance of this conversation.¹²⁷

Davison told Cozen O'Connor that in evaluating whether Student 3 could work with McInnes, he was thinking primarily about whether the request was consistent with the terms of Student 3's suspension, which required that Student 3 not be present on School property. Davison said that when he approved this request, he "obviously" was not thinking about the correspondences he had received during 1998 regarding McInnes, namely the August 6, 1998 letter regarding the 1998 Investigation and the behavioral guidelines, which were sent to him in December 1998. Davison said that, in retrospect, this oversight was a mistake. Davison added that he did not notify anyone at the Church that Student 3 would be spending time alone with McInnes, and that,

¹²⁵ Davison told Cozen O'Connor that the community service was not a requirement of the suspension. Other witnesses, including Student 3 and his parents, recalled that the community service was required by the School.

¹²⁶ Parent 6 told Cozen O'Connor that when they joined Grace Church, he learned from other parishioners that there were some concerns about McInnes. He said that he approached the Rector about McInnes's "integrity" and how trustworthy he was with boys, and that Abbott and his wife shared that there were prior problems, but that McInnes was a "Christian repentant" and that his problems were behind him. Parent 7 said they "trusted the Rector – that is all part of our theology" and that they did not think about it again until Student 3 disclosed that he did not want to return to assist McInnes in June 1999.

¹²⁷ Despite the concession that Parent 7's recollection might be accurate, the Vicar told Cozen O'Connor that she recalled being frightened when she learned that Student 3 was working with McInnes because she worried McInnes was going to get fired for being alone with a minor. She said, "I remember detecting that kids were being assigned during a vacation period to work for [McInnes]." The Vicar said she confronted McInnes about who he was working with, and that McInnes complained that he was not provided with anyone to serve as a monitor. She said that McInnes reassured her that he was never alone with Student 3. The Vicar recalled being angry with Davison for putting the Church in this position, but also noted that she and Davison did not have a good working relationship, and that, "I would not have called to give him advice, and he would not have listened to me." Davison, through counsel, said that the School did not assign students to do community service or otherwise work with faculty or staff over School breaks.

in retrospect, it was a failure on his part – one that he regrets – not to have alerted the Vicar that Student 3 would be working alongside McInnes at the Church.¹²⁸

Several days into Student 3’s work with McInnes, while sitting at the family’s kitchen table, Student 3 disclosed to his parents that he did not want to return to work with McInnes. Student 3’s parents told Cozen O’Connor that Student 3 said he was uncomfortable returning to work with McInnes, which Parent 7 viewed as a red flag. Parent 7 asked whether McInnes had been inappropriate or touched him, both of which Student 3 confirmed. Both Parent 6 and Parent 7 were present for this disclosure.

Parent 6 said that he called Vestry Member 2 immediately, and that he subsequently went to Davison. According to Warden 1, Student 3’s father called Warden 1 to report that McInnes had “taken a pass” at his son.¹²⁹ Warden 1 then called Davison, informed him of the allegation, and the two of them went to Student 3’s home to meet with the father.¹³⁰ On the drive there, Davison told Warden 1 that he had been aware of the behavioral guidelines governing McInnes’s conduct with students, but had not taken them into consideration in this instance.

Parent 6 and Parent 7 recall Davison and Warden 1 (as well as Vestry Member 2 and potentially another individual) coming to their home for a meeting.¹³¹ Parents 6 and 7 recalled the individuals who came to meet with them leaving with a clear understanding that Student 3 felt violated by McInnes and that, as a result, McInnes’s contract would be terminated.

After the meeting, Warden 1 told Davison that he had previously warned McInnes that he would be terminated immediately if he ever “touched another kid;” in light of this new report, Warden 1 commented to Davison, “This is it. He [McInnes] is gone now.” According to Davison, preparations were then made for McInnes’s “immediate exit.”¹³²

¹²⁸ Chamberlin, the Head of the School Board at the time, told Cozen O’Connor, “I knew that there was some restriction on [McInnes] being alone which made it seem odd that [Student 3] had been allowed to do the community service with him.”

¹²⁹ Davison told Cozen O’Connor that the conduct as described to him consisted of McInnes grabbing Student 3 from around the waist and hugging him. He also said that Student 3 was a big kid and that Student 3 insisted that McInnes get off of him, which McInnes did.

¹³⁰ Davison, through counsel, told Cozen O’Connor that this meeting occurred after graduation, and that it likely occurred in late June 1999, but may have occurred as late as July 1999. Parents 6 and 7 clearly recalled this meeting occurring before the June 1999 graduation, as one outcome of the meeting was that Student 3 could participate in graduation and that McInnes was going to lose his job. Parent 6 said that he had a subsequent meeting with Davison in the summer when he learned that McInnes was going to be returning to lead the choir in the fall of 1999. Davison recalled that this subsequent meeting may have been a telephone call, rather than an in person meeting.

¹³¹ As noted above, Vestry Member 2 declined to participate in our investigation. Davison, through counsel, said he had a clear recollection that this meeting involved only himself, Warden 1, and Student 3’s parents.

¹³² As noted in the chronology that follows, McInnes did not leave the Church until the fall of 1999, and he began the Fall 1999 semester as Choirmaster for the first few months, overseeing both the Boys’ and Girls’ Choirs.

Student 3 and his parents said that McInnes subsequently participated in the graduation ceremonies, which greatly upset Student 3.¹³³ Parent 7 said that part of her understood that it would have been hard for the Church to replace McInnes immediately or to explain to everyone why he was not present at graduation when he was responsible for the music program, but that it was a difficult time for Student 3 and their family. Parent 7 explained, “I think my son just wanted to leave. We just wanted to walk away from this and try to minimize the impact in our heads.” She said that she and her husband were also concerned about their daughter, as Student 3 and his sister were scholarship students, and they feared the School would revoke her scholarship and prevent her from completing her last two years at the School. Parent 7 said they were hoping “the worst didn’t happen and thinking it was a huggy, over the clothes situation,” rather than something more.

6. July 21, 1999: Termination Letter Sent to McInnes

On July 21, 1999, the Church, through the Wardens and Priest-in-Charge Andrew, sent McInnes a termination letter.¹³⁴ The letter stated:

Dear Bruce:

This is to advise you that, based on information that has recently come to our attention, we have decided that we have no choice but to terminate your employment effective immediately. We believe that you have engaged in conduct that violates the policies, practices and guidelines of Grace Church which you previously agreed to adhere to as a condition of continued employment.

We hope you will work with us to ensure a smooth transition.

Sincerely,

[Warden 1]

[Warden 3]

John Andrew, Priest-in-Charge

¹³³ As noted above, Davison, through his counsel, said the meeting with Student 3’s parents occurred after graduation.

¹³⁴ John Andrew, who is now deceased, began serving as the Church’s Priest-in-Charge on June 1, 1999. In his interview with Cozen O’Connor, Warden 3 recalled attending an in-person meeting with McInnes, Warden 1, and John Andrew in or around July 1999. Warden 3 said that at this meeting, Warden 1 terminated McInnes.

7. August 1999: Communications Regarding McInnes's Separation from the Church

Despite the July 21, 1999 termination letter, in August 1999, the Church told the parish that McInnes would be resigning due to health reasons. Several documents from August 1999 confirm that McInnes's separation from the Church was characterized as a resignation, rather than a termination. For instance, on August 9, 1999, Warden 1 sent a letter to the Church's counsel notifying her that McInnes had submitted a letter of resignation "with the termination (sic) letter still in effect."

Additionally, the minutes of the August 10, 1999 Vestry meeting reflect that Priest-in-Charge Andrew reported to the Vestry that he had received from McInnes a letter of resignation, due to health problems. The minutes state that there would be "a program of appreciation for Mr. McInnes's work" in October.¹³⁵

Finally, on August 16, 1999, Priest-in-Charge Andrew wrote a letter to the Grace Church community. In that letter, he wrote:

Dear Members of Grace Church Parish Family:

Sadly I have again to write with news of a premature resignation. Bruce McInnes, our Organist and Master of Choristers, has as you know a history of heart problems and surgery to deal with them. It is obvious that they are not going to go away and he is clear that he must resign.

The time table looks like this: by the end of October he will leave, and our hope is that by then we shall not only have identified a successor but brought him or her on board. The job is demanding, tiring, and very complex, with different choirs to train and rehearse. The standards he has set and the kindly personality he has shown make the job of selection no easy one. Good people in this profession are numerous; the very best are scarce. And we must go for the very best. It is but one way of saying how much we owe to Bruce.

Plans are soon to be drawn up for a party/reception to thank him. I am personally sorry so soon in my time here to lose him.

*Sincerely, your Priest-in-Charge,
John Andrew*

The documents do not reflect why McInnes was permitted to resign rather than being terminated. However, Davison told Cozen O'Connor that he assumed this decision – which he said would have been made by Andrew, who, in turn, may have been advised by the Wardens – was made in order to spare the Church from further embarrassment following the ouster of Rector Abbott.

¹³⁵ The minutes of this Vestry meeting reflect that Warden 3 had recently resigned as Warden. Investigator 1 replaced Warden 3 as the new co-Warden and served alongside Warden 1 for the remainder of the time relevant to this investigation.

Davison said Andrew kept the circumstances of McInnes's exit "under wraps" and instructed him not to communicate with others regarding the circumstances of the departure. Davison also said that he thought Warden 1 may have allowed McInnes to sculpt his own exit because, to the best of everyone's knowledge, McInnes's alleged inappropriate physical contact with Student 3 in 1999 was "immoral but not illegal."

Davison said that he, too, wanted McInnes gone, and, in that sense, his and Andrew's interests were aligned because Andrew kept assuring him that McInnes was being "carefully monitored" and that "everything was being taken care of" in terms of McInnes's exit. Davison said that he was "following John Andrew's instructions," that Davison knew why McInnes was leaving, and that Davison was "told not to communicate why he was leaving." According to Davison, "A deal was going to be made – If I had thrown my body in front of John Andrew, we didn't need any more conflict." Davison explained that Andrew, as the new Priest-in-Charge, had the power to dissolve the Board and fire Davison; and that Davison was aware that Andrew had taken similar action with respect to the Board and the Head of School at a prior institution. Davison said, "I thought that if I spoke up, I would be fired."

Warden 1 did not remember how McInnes's "termination" ultimately became a "resignation," but he told Cozen O'Connor that Andrew "helped calm the waters" at the Church.

The Vicar recalled learning about the incident with Student 3 after the fact. She said that Andrew told her that McInnes "was out" because Student 3 had brought a complaint. The Vicar said that Andrew told her he did not know if the allegations were true and that he doubted "whether anything ever occurred." The Vicar shared her perspective that Andrew, as the Priest-in-Charge, had been put in place to restore order to the parish. She said that she did not remember Andrew ever seeing the 1998 Investigation Report, and that if he had, he would have shown it to her immediately.¹³⁶

8. August 20, 1999: Attorney for Student 3's Family Contacts Grace Church

On August 20, 1999, an attorney wrote a letter to the Church stating that he represented Student 3's family "in regard to the sexual assault of [Student 3] by Bruce McGinnis (sic)." The attorney addressed the letter to Warden 1 and requested that he forward it to the Church's attorney. The Church's outside counsel then notified the Church's insurance company of the potential claim.

Parent 6 told Cozen O'Connor that when he learned that McInnes's employment was going to be extended through October, he became angry. He said that he confronted Davison, who deferred responsibility to the Church for McInnes's hiring and retention. Parent 7 said, "I thought that

¹³⁶ The Receptionist/Registrar at the Church told Cozen O'Connor that she remembered Student 3's parents appearing visibly upset after a meeting in the office of Priest-in-Charge John Andrew. Neither Parent 6 or 7 recall ever meeting with Andrew during the summer of 1999.

after the situation surrounding graduation, that would be the last time [McInnes] directed the choir.” She said that when she learned McInnes would be staying into the fall, it was very uncomfortable, but that she trusted the Church was working diligently to find someone to take over. Student 3’s parents said they retained counsel, but did not ultimately pursue the lawsuit, in part because of their concerns for their daughter’s continued financial aid at the School and in part to spare Student 3 from having to testify in court. Parent 6 said that after their attorney sent the letter, Vestry Member 2 came to Parent 6’s office and said the Church would pay for psychiatric treatment if Student 3 needed counseling. Parent 6 said that Vestry Member 2 was “helpful and kind, but not forthright about [McInnes].” Parent 6 said that when McInnes was subsequently “lauded and celebrated,” it was “really a very painful time.”

9. Fall 1999: McInnes Steps Down as Choirmaster and Is Honored at a Farewell Reception

As stated in Priest-in-Charge Andrew’s August 16, 1999 letter to the Grace Church community, described above, McInnes agreed to depart the Church by the end of October. This timeline is consistent with contemporaneous documentation¹³⁷ and the statements of numerous witnesses, which together reflect that McInnes continued to serve as the Boys’ and Girls’ Choirmaster in the fall of 1999.

McInnes was then honored at an October 31, 1999 luncheon sponsored by the Church during Homecoming Weekend. According to the minutes of a November 2, 1999 Vestry meeting, approximately 80 people attended McInnes’s luncheon and farewell program.¹³⁸

F. October 1999: McInnes Becomes Dean of the Music Conservatory

Following his departure from Grace Church, McInnes became the Dean at an independent music conservatory, where he served until May 2001. Although the circumstances of his employment there are beyond the scope of this investigation, prior to being hired by the music conservatory, the Vicar provided the school with a positive employment reference for McInnes.¹³⁹

In her interview with Cozen O’Connor, the Vicar said she did not remember providing this employment reference for McInnes, but upon seeing contemporaneous documentation,

¹³⁷ For instance, the School’s 1999-2000 yearbook contains photographs of McInnes on the Boys’ and Girls’ Choir pages. The written narrative on the Boys’ Choir page states, “The Boys’ Choir got off to a rocky start this year after Bruce G. McInnes, Choir Master and founder of the St. Cecilia Choir, retired and moved to Cleveland, where he is now Dean In November, an intern . . . came to direct us.” A similar narrative on the Girls’ Choir page states that McInnes’s temporary replacement arrived in November 1999. In addition, multiple former students who were part of the 1999-2000 choir told Cozen O’Connor that McInnes began that school year as Choirmaster but left abruptly during the year.

¹³⁸ Davison told Cozen O’Connor he did not attend the luncheon, and he has never attended any Homecoming event during his tenure with the School.

¹³⁹ As noted above, the Church, through outside counsel, had told McInnes’s lawyer in 1998 that it would not provide any future employment references for McInnes. Cozen O’Connor did not locate any documentation directly

acknowledged that she must have done so. The Vicar expressed regret for providing the employment reference, and explained that she likely believed at the time that McInnes, in his new role – a Dean at a music conservatory for undergraduate and graduate students – was not going to be working with children and therefore would not have posed a threat to minors. Upon reviewing the professional reference, she said that the information in the reference was true – that McInnes was an excellent administrator, that he was well liked, well organized, always on time with the music for the bulletin, and that the music program was calm. However, she reiterated, “If I did this, it is because I didn’t think he would have been around kids. I wish I had not written this letter. I wish to God I hadn’t done it.”

Cozen O’Connor also located documentation reflecting that a 23 year-old student filed a civil lawsuit against the music conservatory and McInnes in September 2001, alleging, among other things, that McInnes made unwanted sexual advances towards him. These alleged sexual advances included touching the student’s buttocks, kissing him, and grabbing his crotch. The complaint, which is publicly available online, also alleged that another student had previously reported to the music conservatory’s President that McInnes had made unwanted sexual advances towards him as well.¹⁴⁰

VII. Summary of Information Gathered from Former Choir Members

As part of Cozen O’Connor’s investigation, Cozen O’Connor attempted to contact all former Boys’ and Girls’ Choir members who served under McInnes. Cozen O’Connor interviewed 24 former members of the Boys’ Choir.¹⁴¹ The following section provides a high-level overview of the information provided by the former choir members about their personal experiences in the choir with McInnes and their observations of McInnes’s interactions with other members of the choir.

As described below, in addition to the reports of sexual abuse raised by Students 1, 2, 3, 6, and 8 in their civil lawsuits, several former choir members reported to Cozen O’Connor that they personally experienced inappropriate conduct of a sexual nature by McInnes, and others reported

confirming that the Vicar had knowledge of this agreement or any specific knowledge of McInnes’s misconduct, and Davison specifically said he did not inform the Vicar of the written behavioral guidelines governing McInnes’s conduct when Student 3 performed community service with McInnes in the summer of 1999. The Vicar also told Cozen O’Connor that while she was aware of information regarding potential sexual abuse by McInnes, which she shared during her interview with the 1998 Investigators, she had never seen a copy of the 1998 Investigation Report, nor was she aware of its specific findings. However, the Vicar acknowledged being present at the November 3, 1998 Vestry meeting where Warden 2 informed the Vestry that the 1998 Investigation had determined that a Church employee (who she knew to be McInnes) had violated the Church’s sexual misconduct policy, and was aware of the behavioral guidelines through McInnes himself.

¹⁴⁰ According to public records, the plaintiff in that case reached a settlement with the music conservatory in February 2002, following a mediation.

¹⁴¹ In addition, Cozen O’Connor received email responses from five choir members, each of whom reported positive or neutral experiences with McInnes and the Boys’ Choir. Cozen O’Connor also received email responses from several members of the Girls’ Choir and interviewed one member of the Girls’ Choir.

that they suspected that McInnes was engaging in such conduct with other choir members. Many of the former choir members described to Cozen O'Connor interactions with McInnes that could constitute “grooming,”¹⁴² and that they said, in retrospect, were inappropriate or crossed boundaries. These practices included: overt and perceived favoritism towards certain choir members; time spent alone with choir members; informality or casualness in interactions with the choir as a whole; and hugs and other physical demonstrations of affection of a “touchy-feely” nature.

At the same time, many former choir members reported having neutral and/or positive experiences with McInnes. In addition, some of the choir members who described inappropriate or questionable conduct by McInnes reported that, overall, they had fond memories of McInnes and their time in the choir.¹⁴³ The overwhelming majority of the former choir members, as well as former employees and choir parents, recognized that McInnes was an effective instructor who professionalized the choir and elevated it to unprecedented heights during his tenure. Many also described a significant positive personal impact from their interactions with McInnes.

¹⁴² “Grooming” is a term of art used in the evaluation of child abuse that refers to those behaviors designed by an offender to break down the normal barriers that might exist between the offender and the potential victim, in order to support or facilitate sexual victimization. Grooming is a process by which offenders gradually draw victims into a sexual relationship and maintain that relationship in secrecy. Grooming interactions usually involve desensitizing the victim to sexuality and emotionally manipulating the victim’s response. Grooming often sets the tone or context for later abuse by preparing victims for or making victims accustomed to later sexual assault, and serves as a means of ensuring victims’ compliance and allowing the offender to maintain the abusive relationship. Through the grooming process, an offender builds a rapport and emotional connection with a targeted victim in order to gain the victim’s trust, then later distorts and manipulates the relationship to gain access sexually and maintain secrecy. Grooming can include positive behaviors that mimic affection or mentoring, as well as behaviors that are more directly and objectively inappropriate, often referred to as boundary violations because these behaviors violate appropriate professional boundaries between an adult and a minor. The impact of the positive behaviors makes it more difficult for the victim to identify the offender’s true intent. Common examples of grooming behaviors include: targeting a person for special attention, activities or gifts; slowly isolating a person from other social relationships; finding reasons for isolated, one-on-one interactions, such as sleepovers, trips, or private instruction; gradually crossing physical boundaries or engaging in activities that lead to “accidental” or incidental touch (e.g. tickling, roughhousing); and encouraging the victim to keep activities and conversations secret from others. The progression to sexual physical conduct often occurs simultaneously with non-sexual physical contact (e.g., hugging, rubbing, hair brushing, accidental bumping, wrestling, and tickling). This behavior may begin to occur more regularly, desensitizing the victim to more prolonged or explicit conduct.

Notably, an offender’s grooming behaviors often expand beyond the victim. An offender may groom a potential victim’s parents and caregivers, the offender’s co-workers, and other members of their shared community. An offender intentionally works to create a positive reputation in order to gain access to the potential victim, reinforce caregivers’ trust in the offender, and minimize the chances that the potential victim will be believed if the victim discloses to individuals who trust the offender. The more effectively an offender can groom the individuals in the victim’s environment, the less likely it is that the offender will be reported and the lower the probability that the reporting victim will be believed.

¹⁴³ These two dynamics are not mutually exclusive. The nature of an offender’s interactions with a minor can be complex, and many abuse victims describe feeling conflicted about the offender because the same individual who abused them may also have made positive contributions to their lives.

A. Allegations Regarding Personal Experiences with Sexually Abusive Conduct

Four former choir members reported to Cozen O'Connor that they personally experienced inappropriate conduct by McInnes that involved inappropriate touching or advances of a sexual nature. With the exception of Student 3, Cozen O'Connor found no evidence that the behaviors detailed below were reported to the Church or the School by the students or their parents. However, as noted above, with respect to at least Student 2, the conduct was contemporaneously reported to the Church by other individuals.

1. Student 2

Student 2, a member of the Grace Church School Class of 1998, and a member of the Boys' Choir under McInnes from 1992-93 through 1997-98, told Cozen O'Connor that he was "molested" by McInnes when he was less than 13 years old; he described McInnes placing his hand in Student 2's pants, but not under his underwear.¹⁴⁴ In subsequent interviews, Student 2 told Cozen O'Connor that, on at least two occasions, McInnes put his hand inside Student 2's pants and McInnes may have taken off his own pants and/or placed Student 2's hand into McInnes's own pants. Student 2 said that these encounters took place in McInnes's office in the Church basement, and that he thought one or two other choir members (Student 18 and/or Student 23) may have been present during one of the encounters.¹⁴⁵

Student 2 told Cozen O'Connor that McInnes, as a general matter, was "really touchy-feely" with the members of the choir and went "way overboard" in terms of inappropriate behavior with them, which he said often included butt-grabbing. He added that McInnes "constantly" went up to the line of inappropriateness without crossing it, and that parents and students were "lulled" into accepting McInnes's boundary violations "because of how routine it was."

Student 2 was one of the students of concern identified by the Youth Chaplain and Parishioner 1 in their 1998 report. The June 13, 1998 graduation party took place at Student 2's home. According to their written report to the Church, McInnes (i) placed his head on Student 2's chest for an extended period of time and (ii) stroked and rubbed Student 2's back in a sexual manner and rested his hand on the student's buttocks. Although Student 2 did not independently recall these specific encounters during his interview with Cozen O'Connor, he said he would not have

¹⁴⁴ Student 2 was one of the first individuals to respond to the School's October 2, 2019 invitation to participate in the investigation. Student 2 contacted Cozen O'Connor immediately after the letter from the School was released. After the initial telephone conversation on October 3, 2019, Student 2 met in person with Cozen O'Connor on two occasions. Cozen O'Connor has maintained detailed notes summarizing the lengthy discussions with Student 2, and has shared those notes with Student 2 at his attorney's request. On January 31 and February 7, 2020, the School and Church, respectively, sent their third letter to the community to inform them that a second former choir member had come forward with allegations against McInnes; the former choir member referenced in that letter was Student 2.

¹⁴⁵ Cozen O'Connor interviewed Student 18, who did not remember this specific encounter with Student 2. However, he shared his observations that, as a student, he observed McInnes interact with Student 1 in a manner that suggested a sexually inappropriate relationship. Cozen O'Connor attempted to reach out to Student 23 but was unable to contact him.

because they would not have been particularly noteworthy to him at the time; he explained that McInnes touched his buttocks “all the time” and that the events on June 13 would have been “a small thing” in comparison to the more “egregious . . . things he did.”

Student 2 described significant, life-defining and traumatic impacts as a result of McInnes’s conduct and his perception that the Church and School did not respond in a meaningful way.¹⁴⁶

2. Student 3

Student 3, a member of the Grace Church School of 1999, and a member of the Boys’ Choir under McInnes from 1994-95 through 1998-98, alleged in his August 2020 civil complaint and April 1, 2021 correspondence to the Church and School that McInnes sexually abused him on a weekly basis from 1994 to 1999. According to Student 3, this abuse, which occurred in the choir room and McInnes’s basement office, included fondling of Student 3’s genitals, buttocks, and inner thighs, as well as sexually explicit conversations. Student 3 stated that these conversations and much of the touching occurred in the presence of adult Church members and members of Church staff, and the sexual abuse resulted in lasting effects on his education, career, and personal life, including his mental health. Based on the advice of counsel, Student 3 and his family initially declined to meet with Cozen O’Connor.¹⁴⁷

In March 2022, after reviewing the investigation report, Student 3 and his parents agreed to meet with Cozen O’Connor to provide first-hand information about Student 3’s experience with

¹⁴⁶ During Cozen O’Connor’s interviews with Student 2, he shared information about the events from the 1998-99 time period that he learned from his father subsequent to the October 2, 2019 community letter. Cozen O’Connor interviewed Student 2’s father (Parent 8), who recalled that:

He attended the meeting of choir parents in 1992 where McInnes’s history with young adult males at Amherst and a second university in the Midwest was disclosed by the Rector and McInnes. Parent 8 said the parents were all given the opportunity, very formally, to take their children out of the choir. He said that at the time his impression following that meeting was that the choir parents had “assumed the risk” with respect to McInnes, such that “we could not be totally surprised if something happened.”

In either 1998 or 1999, McInnes asked to have lunch with Parent 8. Parent 8 said this occurred either right before McInnes signed an “NDA” with the Church (1998) and/or right before McInnes was “let go” (1999). At that lunch, McInnes told him that Parishioner 1 had witnessed “something” between McInnes and his son at the June 1998 graduation party at his home, which Parishioner 1 reported to the Church.

McInnes “admitted” to Student 2’s father that he had hugged Student 2 at the graduation party and alluded to other, broader conduct about which Student 2’s father perceived that McInnes “felt a certain degree of guilt.”

Neither the School nor the Church ever contacted him in relation to the allegations involving his son. He said he was “very angry” (both now and at the time) that no outreach was made and that a non-disclosure agreement was signed. Student 2’s father also said he did not contact the School or Church himself in relation to these events.

Student 2’s father directed his anger at the Wardens of the Church, noting that the Wardens were the more influential and historical members of the Church. He was upset that as an attorney, Warden 2 “did not come to a more appropriate and a more protective approach from a legal view.” He also directed his anger at Davison, who he said, in his role as Head of School at the time, was responsible for the safety of the students.

¹⁴⁷ Student 3 said that on advice of counsel, he also asked his family, Student 6, Student 6’s mother, and approximately eight other former choir members not to speak with Cozen O’Connor.

McInnes and the response by the School and the Church to his 1999 report of abuse. Student 3 wrote, “I would appreciate having the opportunity at least to let our tight knit community know my story.”

In his interview with Cozen O’Connor, Student 3 described the School community as extremely close and special, both while students at the School and later as alumni. Student 3 described how alumni supported and looked after each other even after they moved on to various high schools. Student 3 described his experience in the School as positive, and lauded the intergenerational connections and ability to come back and visit teachers and classes after graduation. Student 3 explained that the choir was “that closeness times 100” – because of the small size of the choir (two to five students per grade), the choir included only around 20 students at a time. Student 3 said that McInnes ran the choir through a ranking system that was imbued with elements of bullying and hierarchy, which he described as “militaristic boarding school stuff.”¹⁴⁸ Student 3 said that this gave the students in the choir a sense of power, and that McInnes “let us have the room to ourselves a lot – you could really unleash, wrestle, and play.” He described the choir as a brotherhood, especially for the boys who did not have siblings.¹⁴⁹

Student 3 explained that McInnes was “funny and charming,” that he made the choir boys feel “special,” and that he was the only adult whom choir members “could be honest with and talk about things you wouldn’t talk about with your parents.” He described McInnes as closer than an uncle or grandfather, but also like “your best friend.” Student 3 said, “We loved [the choir] so much and it was so special; when our voices started to change, we really struggled with depression, feeling that our beauty and our value was being lost, ripped from us and out of our control.”¹⁵⁰ He also described the feeling of power and accomplishment that came from being paid for performances and receiving an actual paycheck each year. Student 3 said that he and others loved McInnes because he gave them such a positive experience.

Within this context, Student 3 said that using the term “grooming” to describe McInnes’s actions was an understatement. He said, “We were all groomed and then his favorites were groomed ten times that.” Student 3 also said, “All of us were abused – it was a twisted mindfuck.” Student 3 said that the grooming started with the younger kids, who were released from School earlier on Fridays than the older students and therefore had about 30 to 45 minutes alone with McInnes.

¹⁴⁸ Student 3 explained that the youngest students started with black cassocks and were required to sit next to McInnes. The students started at number 20 or 21, and over time, progressed in rank, earning a lower number as they progressed. Student 3 described a medal system, moving from white to dark blue to thick red, and that the number system progressed all the way to number 1. Student 3 said the Prefect and the Optimus were at the top of the ranks. He explained that if your number was lower than someone else’s, you were in charge of the other students. Student 3 said that the older boys were the enforcers and that “real issues” only went to McInnes if they were “big” and the boys could not handle it themselves.

¹⁴⁹ Student 3 said that McInnes bonded with the choir boys by making fun of the Girls’ Choir. Student 3 said that McInnes would make fun of the way the girls sang, and that he would make faces impersonating them in front of the boys.

¹⁵⁰ Student 3 reported that Student 12, Class of 2002, said to him, “I will never in my entire life be as good at something as I was at that age – I peaked at 11 years old.”

Student 3 described McInnes “starting right from the beginning” with the second, third, and fourth graders. He described McInnes routinely sitting on the piano bench with choir boys, playing the piano with only one hand while the other hand was “always touching a kid on either side of him.” Student 3 said McInnes did this openly in the presence of himself and other choir members. He added that McInnes touched all of the boys –butt pats, head kisses, and slow rolls – even in front of choir parents, which made Student 3 think at the time that McInnes’s actions were “okay.”¹⁵¹ Student 3 said that McInnes would touch kids on the buttocks, “dig his fingers in our butt and crotch” and fondle the genitals of boys seated at the piano.

Student 3 said that he was not one of McInnes’s commonly noted favorites, but that McInnes valued him because he was a leader and good with the younger kids. He said, “I was not groomed properly” and identified himself as the only one of the five civil plaintiffs who was not one of McInnes’s favorites. Student 3 said that McInnes had been touching him weekly for five years, but that he would push McInnes away or avoid him. He also described Student 1 as a “heat shield” for many of the other boys, noting that Student 1’s relationship with McInnes served to protect other boys. Student 3 said he felt guilty about not speaking up about the abuse earlier. He said he did not want to destroy the choir, but he also had huge guilt about McInnes doing something to another kid.

Student 3 said the most significant incident of abuse happened while he was performing community service as part of the suspension at the end of his eighth grade year. According to Student 3, while working in McInnes’s basement office, which he described as a “sex dungeon,” he and McInnes started talking about sexually explicit things, like penis size, sodomy, and raping old ladies with dog collars on. Student 3 said that he did not think that McInnes was planning on touching him, but that they were having very sexualized conversation, which lasted for several hours, and, “I think I got him riled up.” Student 3 said McInnes suddenly “had his hands in me and underneath me” and was “pushing himself” onto him. Student 3 said he was really pushing McInnes away, but that McInnes was touching his bottom, and began to undo Student 3’s belt, unbutton his pants, and tried to put his hand inside Student 3’s pants. Student 3 said that McInnes “put himself against me” so that he could feel McInnes’s erection. Student 3, who had just turned 14 years old and was strong for his age, said he shoved McInnes away and physically defended himself, and that McInnes “came back at me pretty hard.” He said that, “I gave him a good shove, with my back to the wall, ready to go,” after which McInnes “left it alone.” Student 3 said that after McInnes ceased his sexual advances, McInnes somehow shifted the mood and made Student 3 feel like nothing had happened.

Student 3 said that when he was leaving, McInnes “switched on the loving, grandparent, friend, kind of thing,” and said to him, “You know, whatever we do down here, it’s just between you

¹⁵¹ Student 3 said that after McInnes abused him, McInnes gave him a book, which Student 3 still has. He said that McInnes was so skilled at grooming that when he later confided in his fellow choir members about the touching he experienced, some of those choir members made Student 3 feel like he was crazy. Student 3 said that, even today, and possibly as a result of this grooming, he is not angry at McInnes; he described McInnes as having a sickness, and said he was more angry towards the adults at the Church and School who enabled him to abuse children. He said, “I blame the same people for not protecting the innocent.”

and me.” Student 3 said, “That set off alarms for me” and “a chill went over me that I will never forget.” He said that when McInnes made the comment, he understood that McInnes’s conduct was wrong, explaining, “If he didn’t say that, I never would have said something, but him saying that brought it home for me and made it obvious.” Student 3 said he got “real quiet and shrunken in.” He said McInnes realized that “he did it to the wrong kid at the wrong time – he thought he could do anything, but he made a huge mistake.”

Student 3 said, “I didn’t tell my parents exactly what happened” at the time. He said that even later in the summer, he told his dad “a little bit more,” but that he “backpedaled” when his parents asked him for more details and said, “No, he just hugged me a little too long.” Student 3 said, “Part of me is very proud that I actually was the one to stop him, but I also wish I had done more.”¹⁵²

3. Student 4

Student 4, a member of the Grace Church School Class of 1997, and a member of the Boys’ Choir under McInnes from 1992-93 through 1996-97, told Cozen O’Connor that McInnes made an inappropriate sexual advance towards him. According to Student 4, he and McInnes went to see a Broadway show featuring his classmate, Student 1. Following the performance, Student 4 and McInnes shared a taxi home. Student 4 said that during that taxi ride, McInnes “leaned over and began massaging [his] neck in a very not okay way.” Student 4 said the physical contact was “not invited” and he immediately realized that “it was not cool.” Student 4 said he “squirmed [his] way out of it, and it stopped.”

Student 4 said that, apart from this encounter, he never had any other issues with McInnes. However, he described McInnes as a “touchy” old man and said he and other choir members once attended a sleepover at McInnes’s apartment.

4. Student 5

Student 5, a member of the Grace Church School class of 1997, and a member of the Boys’ Choir under McInnes from 1993-94 through 1996-97, told Cozen O’Connor that he had one “really bad” encounter with McInnes that involved potential sexual misconduct and other inappropriate interactions. According to Student 5, in the summer of 1997 (right after he had graduated from Grace Church School), he was invited to McInnes’s apartment by Student 1, a close friend and fellow recent graduate. While Student 5 and Student 1 were in McInnes’s apartment, McInnes gave them beer and pizza and put a pornographic movie on the television. Student 5 said he was confused at the time because he did not know whether this interaction was inappropriate or representative of “what adults do” when they hang out. However, Student 5 said he grew increasingly uncomfortable with the situation, and McInnes ultimately placed a hand on his leg; at that point, Student 5 got up and left. Student 5 said that

¹⁵² As described above, Student 3 described significant impacts on his mental health and emotional well-being, which he attributed to McInnes’s conduct.

Student 1 remained in the apartment with McInnes after he left, but Student 5 never discussed the situation with Student 1 or anyone else afterwards.

Apart from this one incident, Student 5 described his interactions with McInnes in positive terms. Student 5 said McInnes was “friendly” and that he “just seemed like the older guy who wanted to be friends with the kids.” He said McInnes occasionally took him and others, including Student 1 and Student 17, out to a restaurant for hamburgers, and that he took them to the movies on one occasion. He said that McInnes would give him and others “long hugs,” which he said was “weird” and might have made him “uncomfortable” at the time, but that, at the time, he did not sense that the hugs were perverted in any way.

B. Observations or Knowledge of Others’ Experiences with Sexually Abusive Conduct

In addition to these three firsthand reports of inappropriate sexual advances by McInnes, multiple former choir members reported to Cozen O’Connor that they either (i) contemporaneously observed McInnes interacting with other choir members in a sexually inappropriate manner; (ii) contemporaneously suspected that McInnes was interacting with other choir members in a sexually inappropriate manner; or (iii) later learned that McInnes had interacted with other choir members in a sexually inappropriate manner.

Although many of the individuals who participated in the investigation identified numerous former choir members towards whom they suspected McInnes may have made unwelcome sexual advances – based on, among other things, perceived favoritism, one-on-one time, and/or personal circumstances that may have caused those choir members to seem vulnerable or susceptible to abuse – they consistently reported the names of three former choir members who they said they now knew had been sexually assaulted or abused by McInnes: Student 1; Student 3; and Student 6.¹⁵³ In addition, one former student who was not a choir member shared a concern about Student 8.¹⁵⁴ The following sections summarize the observations shared by former choir members with respect to each.

1. Student 1

Numerous former choir members reported that McInnes overtly favored and spent a substantial amount of time alone with Student 1, who they described as an extremely gifted musician. Student 1 was consistently the first name that former choir members mentioned when asked about potentially inappropriate sexual conduct by McInnes. A number of the choir members also reported that Student 1 recently informed them that he was the initial complainant who prompted

¹⁵³ As noted earlier, Cozen O’Connor attempted to interview all three individuals. Student 1 and Student 3 declined interview requests through their counsel. Student 6 did not respond to outreach and later retained counsel who requested the Cozen O’Connor not contact Student 6 or his family.

¹⁵⁴ Cozen O’Connor attempted to contact Student 8, and spoke with his mother (Parent 9) twice. Student 8 did not return this outreach.

the October 2, 2019 letter to the community. The former choir members who shared observations about Student 1 reported that they were contemporaneously aware of the following information regarding Student 1's relationship with McInnes:

- Student 18 (Class of 1998) said that when he received the School's October 2, 2019 letter to the community, he immediately suspected that it was in reference to McInnes and Student 1. According to this choir member, Student 1 spent a significant amount of time alone with McInnes in his office, which made him suspect at the time that there was "something going on between them" in a "sexually nefarious" way. Even though the choir member recognized that Student 1 received "special attention" from McInnes because Student 1 was musically gifted, he said "something seemed up" to him based on how much "special quiet time" the two would spend alone in McInnes's office. The choir member said he remembered thinking at the time, "What the fuck is going on in there?" However, he said he gave them the "benefit of the doubt" and assumed that their relationship "must be fine," based on his perception that their seemingly-inappropriate interactions were so "obvious" and out in the open, yet nobody ever took any actions to intervene. The choir member said he himself spent time in McInnes's office with McInnes and Student 1 and he was struck by how familiar Student 1 was with the office ("he knew his way around"). He recalled that he might have seen Student 1 sitting on McInnes's lap at one point.
- As described above, Student 5 told Cozen O'Connor that Student 1 invited him over to McInnes's apartment in the summer of 1997, where McInnes provided them with pizza and beer, played a pornographic movie on the television, and touched Student 5 on the leg. The choir member said that after he left McInnes's apartment, Student 1 stayed, which at the time seemed strange to Student 5. However, Student 5 never discussed the incident with Student 1 or knew at the time that their relationship was sexual. Although Student 5 knew that the McInnes and Student 1 spent "huge amounts of time" together – including a lot of private music lessons – and that "nobody else had that relationship with [McInnes]," Student 5 viewed their relationship at the time as McInnes cultivating Student 1's musical talent.
- Student 2 said that McInnes's relationship with Student 1 made him "uncomfortable" at the time. Student 2 did not elaborate on what, if anything, he perceived as inappropriate, but he told Cozen O'Connor he remembered that Student 1 became "despondent" and "stopped being happy" when Student 1 was in eighth grade.
- As described above, Student 3 described Student 1 as a "heat shield" for a lot of boys, noting that Student 1's actions protected a lot of the other boys.

Multiple other former choir members reported that they remembered Student 1 being a favorite of McInnes, and that the two of them spent a significant amount of time alone in McInnes's

office. However, at the time, most of these choir members did not suspect anything sexually inappropriate between them.¹⁵⁵

2. Student 3

Multiple former choir members reported to Cozen O'Connor that they are now aware that McInnes made an inappropriate sexual advance towards Student 3, and that this incident resulted in McInnes's termination in 1999. The former choir members said they recently learned this information from Student 3 himself, or second-hand through a mutual friend. One former choir member said that Student 3 confided in him recently that McInnes brought Student 3 to his office, where McInnes "came on to [him]," after which Student 3 said "fuck you" to McInnes and told his father. The details of this second-hand report are consistent with the other known details regarding McInnes's interactions with Student 3, which, as described above, occurred in the early summer of 1999, were contemporaneously reported to Church and School officials, and precipitated McInnes's departure in the fall of 1999.

The former choir members interviewed by Cozen O'Connor did not report specific contemporaneous knowledge of sexual misconduct by McInnes involving Student 3. However, one former choir member said he remembered Student 3 receiving special attention from McInnes. Another former choir member said he "discounted [Student 3]'s story back in the day," but did not elaborate. Finally, a former member of the Girls' Choir contacted Cozen O'Connor by email to report that, in or around 2002, another member of the Girls' Choir told her that McInnes had been forced to leave Grace Church because it was discovered that he had abused choir boys.

3. Student 6

Student 12 (Class of 2002) reported that he learned, through Student 3, that Student 6 had recently stepped forward as having been sexually abused by McInnes.

Student 2 told Cozen O'Connor that McInnes's relationship with Student 6 made him "uncomfortable" because it "mimicked" his own abusive relationship with McInnes. He added that Student 6 never explicitly told him that he was abused by McInnes, but that he spoke with Student 6 when they were in their mid-20s and Student 6 "was giving [him] all the [signs]" that McInnes had sexually abused him.

Student 3 (Class of 1999) and Student 6 filed their lawsuit jointly. Student 3 said that Student 6 told him about an occasion where he and McInnes were watching Student 3 sing a solo, and McInnes said to Student 6, "I think [Student 3] is losing his voice" while he grabbed Student 6's crotch from the front.

¹⁵⁵ These observations regarding Student 1 are in addition to the observations of former employees and choir parents, which are detailed throughout the Factual Summary section above.

Other former choir members remembered that Student 6 was a favorite of McInnes, and one former choir member (Student 20) reported that when he received the School's October 2, 2019 letter to the community, he immediately suspected that it was in reference to McInnes and Student 6.

Student 6 was one of the students of concern identified by the Youth Chaplain and Parishioner 1 in their 1998 report. They observed and subsequently reported to Church officials that, on June 13, 1998, McInnes, who was straddling an organ seat, instructed Student 6 to give him a hug. They said that Student 6 complied, but that he had a pained and uncomfortable expression on his face as he did so.

4. Student 8

Student 31 (Class of 1996), who was not a member of the Boys' Choir, told Cozen O'Connor that he recalled hearing a rumor when he was still a student that Student 8, a choir member, had been molested. He also recalled a rumor that someone related to the choir had brought a boy or boys to their house and provided the boy(s) with alcohol, cigarettes or pornography, but did not know who was involved.

5. Student 32

Student 3 told Cozen O'Connor that he witnessed McInnes touch Student 32 (Class of 1999) in a way that he described as abusive. He said that McInnes would touch all of the boys inappropriately, but that it was really obvious when he touched Student 32. He said that McInnes would hug Student 32 from the back, lifting him off the ground by his crotch, and would be "digging in there from the butt and from the front." He said, "I remember being disgusted by it," but that Student 32 was naïve and not as aware of the nature of the conduct.

C. Other Inappropriate Behaviors (Potential Boundary Violations or Forms of Grooming)

In addition to the reported sexually inappropriate conduct described above, many former choir members described observing and/or experiencing interactions with McInnes that they described more generally as inappropriate but that did not rise to the level of sexual misconduct. Some of these former choir members said they recognized at the time that McInnes's conduct was inappropriate, while others said that it only registered as inappropriate in hindsight. Such conduct by McInnes included frequent testing and crossing of boundaries with numerous choir members that, collectively, was indicative of "grooming" practices. McInnes's conduct included: perceived favoritism towards certain choir members; time spent alone with choir members; hugs and other physical demonstrations of affection of a "touchy-feely" nature; and informality or casualness in his interactions with the choir as a whole.

1. Perceived Favoritism

Almost all of the former choir members said that McInnes displayed favoritism towards a handful of choir members, and many of them referenced the same five or six choir members whom they perceived as having received preferential treatment. The students most commonly perceived as having been the favorites were Student 1, Student 6, Student 7, Student 8, Student 17, and Student 23. Most of the former choir members believed at the time that McInnes played favorites based on one's singing ability. Student 10 (Class of 1995) told Cozen O'Connor that McInnes's overt favoritism of others made him jealous of his peers, and Student 11 (Class of 1995) said he believed McInnes did not like him because he was not a strong singer.

Similarly, Student 2 (Class of 1998) said he remembered thinking that he was not as talented a singer as some of his peers. However, he recalled submitting to McInnes's "uncomfortable" hugs and other "touchy-feely" displays of physical affection because he thought that McInnes had been doing him a "favor" by allowing him to remain in the choir despite not being the strongest singer.

2. Time Spent Alone With Choir Members

Many former choir members reported that McInnes spent substantial time alone with choir members, both in one-on-one settings and in small group settings, and usually in his basement office. In most cases, the choir members who were reported to have spent time alone with McInnes were the same choir members identified as having been favorites of McInnes. Some of the choir members said they enjoyed hanging out in McInnes's office, while others had negative associations with being in his office.

Student 10 (Class of 1995) said he spent "a fair amount" of time alone with McInnes in his basement office because he would need to practice his solo singing performances. This choir member said McInnes never attempted anything sexually inappropriate with him, but he noted that his mother would routinely sit right outside of McInnes's office during his private lessons.¹⁵⁶ Student 10 said groups of choir members routinely hung out in McInnes's office outside of school hours (*i.e.* on Sundays or before/after choir rehearsals on weekdays), and that the younger choir members would play computer games on McInnes's computer. He added that McInnes's office "was like its own separate world," in that it was located in the basement "away from everything, and it felt separate It was like his alcove and nobody else was there."

Student 4 (Class of 1997) said he remembered that his fellow choir members loved spending time in McInnes's office, where they would play with McInnes's two dogs.

Student 17 (Class of 1997), one of the three students of concern identified by the Youth Chaplain and Parishioner 1, said he enjoyed spending time in McInnes's office, where he would play with computer games and McInnes's dogs. Student 17 said he and Student 1 "spent a lot of time

¹⁵⁶ This statement is consistent with the information shared by Parent 1, who said that she kept a close eye on her son when he intersected with McInnes, to the point where she would always sit outside of McInnes's office when her son was practicing with McInnes alone.

down there” because they were soloists, and that they hung out there both during and outside of normal school hours.¹⁵⁷

Student 2 described McInnes’s office as being “a world away from the School” and said that “if you yelled down in [McInnes’s] office, nobody would have heard you.” He said that the corridors around McInnes’s office were always “silent” and that the only adults who ever walked through those hallways were Church employees of whom he would have been scared.

Student 9 (Class of 1997) said McInnes would routinely take students down to his office for music lessons. He said such lessons often occurred in small groups and sometimes included the Associate Organist. The former choir member, who said he was not subjected to any sexual advances by McInnes, told Cozen O’Connor that he remembered his peers joking around by saying, with “a wink and a nod,” “You’re going to have to go to the basement with Mr. McInnes.” He said he himself went to McInnes’s office for a lesson (with others) only once, and he remembered thinking that it was “odd” to be made to go to his office for a music lesson.

Student 18 (Class of 1998) said he remembered being in McInnes’s office once or twice with one or two other choir members, and that he played with McInnes’s dogs. As described above, this former choir member said he also remembered that Student 1 frequently went down to McInnes’s office for “special quiet time together,” and he remembered that Student 1 knew his way around the office. He said that “something seemed up” and he thought at the time that something “sexually nefarious” was occurring in McInnes’s office between McInnes and Student 1.

As described below, Student 22 (Class of 1996) said he remembered being in McInnes’s office on one occasion and sitting on McInnes’s lap, which made him uncomfortable.

In addition to choir members spending time alone or in small groups with McInnes in his office, former choir members said they also spent time with McInnes alone or in small groups in other settings. For instance, Student 5 – who, as described above, reported that he and Student 1 once visited McInnes’s apartment together, where McInnes played a pornographic movie and touched his leg – reported that McInnes would occasionally take him and others out to a restaurant for hamburgers and that he once took them to a movie. Similarly, Student 4 – who, as described above, had his neck massaged by McInnes while the two were alone in a taxi – said he once attended a sleepover at McInnes’s apartment.

¹⁵⁷ Student 3 said he tried to talk to Student 17 while they were in their mid-twenties. Student 3 asked Student 17 if he ever had an issue with McInnes touching him, and Student 17 said, “I still love him.” He said Student 17 said, “He does that to me all the time, and I would just tell him to knock it off.” He said Student 17 described McInnes as “a harmless old guy.”

3. Physical Demonstrations of Affection

Many former choir members described McInnes as routinely engaging in overt physical demonstrations of affection with choir members that they believed did not rise to the level of inappropriate sexual misconduct.¹⁵⁸ Such behaviors included hugging them, patting them on the buttocks, and having them sit on his lap.

Student 12 (Class of 2002) said he experienced some “love-dovey touching” by McInnes, but that this felt “normal” at the time. This choir member said McInnes would kiss his peers on the head and pat them on the buttocks, and that he did so in front of parents as well.

Student 5 (Class of 1997) recalled that McInnes would give the boys long hugs, which he thought was “weird” at the time, but not in a perverted way.

Student 18 (Class of 1998) said McInnes was “flirty” and “touchy-feely.” He said McInnes was “a hugger” and that McInnes routinely had his hand on choir members’ shoulders or necks. He also recalled that he might have seen Student 1 sitting on McInnes’s lap at one point. This choir member reported that he always had his “hair up” around McInnes, which he thought was because his parents had told him about McInnes’s prior history while he was in the choir.

Student 22 (Class of 1996), described McInnes as “a wonderful man” who “everybody loved.” He said he remembered one “awkward” encounter with McInnes. The choir member said that, while in McInnes’s office with McInnes and the Associate Organist, McInnes asked him to sit on his lap. The choir member said McInnes had “tight pants” on and he remembered “his legs feeling warm.” He described the experience as “uncomfortable” and “awkward.” Although he said he did not feel “jeopardized” by McInnes, he described this episode as a “red flag.”¹⁵⁹

Student 10 (Class of 1995) said he routinely observed McInnes hugging choir members, patting them on their buttocks and heads, and having them sit on his lap. He also said he experienced hugs and pats on the buttocks, which he said McInnes tended to do as a way of congratulating

¹⁵⁸ The descriptions below are consistent with that of several adult employees of the Church and School, as well as parents of former choir members, who described to Cozen O’Connor that McInnes was physically affectionate, but not in a way they believed at the time to be predatory. For instance, the Rector said, “Bruce [McInnes] is demonstrative. He hugs and kisses me on the cheek, which I don’t do because I’m a straight man.” The Youth Chaplain said, “I feel like he was [affectionate] . . . [H]e used to call them . . . terms of endearment, and that was weird. It was not something I was used to, like ‘sweetie’ . . . He also hugged them, and that was all out in public. Everything was totally in public.” And Parent 4 said, “Bruce [McInnes] was affectionate with all the boys, but not in a way that caused concern for parents. He would give the boys hugs and call them ‘dear,’ but they were little boys so that wasn’t unusual to me.”

As described in greater detail in Section VI(D)(5), the Church’s Associate Organist from approximately 1992 to 1998 told Cozen O’Connor that he observed McInnes openly hugging and kissing students on the forehead, which was concerning enough to him that he warned the Rector’s wife about McInnes’s behavior on at least two occasions.

¹⁵⁹ Cozen O’Connor interviewed this student’s mother, Parent 3, who did not recall being present at the 1992 choir parent meeting about McInnes’s background. Parent 3 had two sons in the choir, one in the Class of 1996, and one in the Class of 1998. She said she had a photograph of one of her sons sitting on McInnes’s lap.

him for a job well done. This choir member said this level of physical affection was not something he ever experienced or observed from his teachers at the School. According to the former choir member, McInnes would have students sitting on his lap in his office. He described that as out of the norm compared to School teachers. Student 10 said that he had “no recollection of any teacher at Grace, in any way, shape, or form, doing that on that level,” that teachers did not invite students to hang out in their offices, and that there was not a “hugging atmosphere” at the School. He also said that he “identified it as normal with [McInnes] because it was a choir thing” which “felt more familial than a school environment.”

Student 2 said that McInnes was “very touchy-feely” with the choir members, and that he would routinely give hugs, which he described as “uncomfortable.” He said McInnes would “constantly go[] to the level of inappropriate without going over the line.” He said that, in retrospect, McInnes was likely “taking the temperature of the room” to see what he could get away with, and with whom.

4. Casual or Informal Interactions with Choir Members

In addition to the behaviors described above, multiple former choir members said that McInnes was too casual in his interactions with students. They said that, with the benefit of hindsight, such interactions blurred the line of what should have been appropriate teacher-student boundaries.

Several former choir members said McInnes’s informal approach to his interactions with choir members often manifested itself in the form of inappropriate or crass jokes. While several former choir members described McInnes as “funny” or “cheeky,” at least three former choir members said that, in retrospect, his sense of humor crossed the line.

According to Student 5 (Class of 1997), McInnes would make “adult-level” and sexual jokes with students. He said McInnes treated students like they were adults or “just some of the boys.” Student 5 said, “It wasn’t like a teacher-student relationship where there’s a strong sense of he’s the adult and we’re the children.” As noted above, this former choir member described McInnes as “friendly” and said that he “just seemed like the older guy who wanted to be friends with the kids.”

Student 16 (Class of 2001) described McInnes’s sense of humor and interactions with choir members as a “gentleman’s club.” He said, “He would treat us like young adults, and, in retrospect, it probably wasn’t the best way to speak to children, but he was someone who you felt was like a friend kind of, and he would treat you like a friend as opposed to a kid or student.” Student 16 said McInnes would say inappropriate things and tell off-color jokes, which were usually about women. He gave an example of McInnes talking about a woman’s “bodacious tatas.” Student 16 said, “As a third grader, I thought it was like the funniest thing; I thought he was like the grandfather or uncle you all wished was in your family.” This choir member added that, in retrospect, “the way [McInnes] talked to us . . . was highly inappropriate” and “he treated us like it was a fraternity, but we were too young to be in a fraternity.”

Finally, Student 17 (Class of 1997) said he now realizes that McInnes “made jokes back then that might have been fine in the 80s and 90s but that today would probably be over the line.” He said the choir was like “a nerdy sports team” and McInnes liked to make “inappropriate jokes” in front of them; he said everyone’s favorite joke was, “That’s what the bishop said to the actress”

D. Positive Experiences

Many of the former choir members interviewed by Cozen O’Connor, including some choir members who had negative associations with McInnes, reported that their overall experience with McInnes and the choir was positive. These choir members described the choir as being a formative and influential part of their young lives, and they attributed the camaraderie and success of the choir to the efforts of McInnes, who they said genuinely cared about the choir and its members. These choir members – some of whom decided to pursue music in high school and beyond, in part because of their positive experiences in the Grace Church choir – said the choir achieved unprecedented levels of success under McInnes, and most of them reported that they did not experience or witness McInnes engaging in physical or sexual behavior that they believed at the time was inappropriate.

Student 17 (Class of 1997), who was consistently identified by his peers as a favorite of McInnes, told Cozen O’Connor that he was, until recently, “completely unaware” of any alleged abusive conduct by McInnes. This choir member said he spent a lot of time in McInnes’s office, both alone and with other choir members, where he enjoyed playing with McInnes’s dogs and computer games. The choir member described McInnes as a “mentor.” As noted above, he said he continued to sing in an adult choir with McInnes until recently, and that McInnes officiated his wedding.

Several former choir members spoke in glowing terms about their experiences in the choir under McInnes. Student 16 (Class of 2001) said being part of the choir was “magical” and everyone seemed to “adore” McInnes. He said he enjoyed the camaraderie of the choir, and he also enjoyed when he and his mother would join McInnes and chat with him on his morning dog-walks around the block. The choir member said McInnes never made him feel uncomfortable, and that he was never alone with McInnes.

Other former choir members (Students 13 and 15; Class of 2005 and 2002, respectively) described their experiences as “overwhelmingly positive” and “generally positive,” and one choir member (Student 12; Class of 2002) said “choir was the thing that mattered most to us” and McInnes “was the cause of our enthusiasm.” That choir member said McInnes was “a unique figure in our lives” in that he provided a sense of continuity from year to year, whereas students only took classes with their other teachers for one year at a time.

Two other choir members said they enjoyed being in the choir, not only because of the camaraderie with their peers, but because McInnes instilled in them at a young age a sense of leadership, discipline and responsibility. One of these choir members (Student 21; Class of

2004) said McInnes organized the choir in a hierarchical manner and awarded choir members medals for achieving certain ranks or milestones, which gave him a sense of pride. He added that McInnes was a “comforting” figure. The other choir member (Student 20; Class of 2000) said he enjoyed moving up the ranks of the choir, and he got the sense that McInnes “really loved us.”

As noted above, one former choir member (Student 22; Class of 1996) said McInnes made him feel uncomfortable on one occasion by pressuring him to sit on his lap. However, that choir member said that McInnes, overall, was a “wonderful man” and that “everybody loved him.”

Also as noted above, another former choir member (Student 18; Class of 1998) said he was always wary of McInnes, in part because he perceived that he was engaging in a “sexually nefarious” relationship with Student 1. However, this choir member also said McInnes was “nice” and “I liked him, he was friendly, and he liked me.” The choir member added that McInnes was an excellent choirmaster who “really elevated the choir,” as evidenced by the fact that, under McInnes, the choir performed at Carnegie Hall and recorded a professional CD.

VIII. Key Issues Regarding the Institutional Response

Cozen O’Connor sought to understand the context of McInnes’s tenure at the Church and his intersection with the School; whether there was any information available to corroborate Student 1’s account of abuse;¹⁶⁰ whether there was any information that suggested other choir members had potentially been abused by McInnes; whether the Church and School were aware, or should have been aware, of concerns about McInnes; and, if so, how the Church and School responded to notice of potential abuse by McInnes. For the purpose of discussing the Church and the School’s institutional response, Cozen O’Connor accepts as true the allegations raised by Students 1, 2, 3, 6, 8, and other former choir members.

The information detailed in this report confirms that at various points throughout McInnes’s tenure, including prior to his hire, concerning information regarding McInnes was reported to individuals in leadership positions at the Church and School. The individuals who participated in the investigation expressed to Cozen O’Connor that, at all times, they sought to do their best to protect the safety and welfare of the students. However, they generally acknowledged that, in hindsight, certain aspects of the Church and School’s response to concerns regarding McInnes fell short.

The following sections summarize information gathered about certain aspects of the Church and School’s institutional response, primarily focusing on the Church and School’s actions during and following the 1998 Investigation. Through document-based interviews, Cozen O’Connor sought to understand the context of institutional decisions with respect to interviewing students,

¹⁶⁰ At the outset of the investigation, Cozen O’Connor was only aware of this one allegation.

notifying parents, notifying external authorities, extending McInnes's employment, and sharing relevant and timely information with the Church and School communities.

A. 1998 Investigation: No Interviews with Minors

As described above, the three-member investigative team, with the guidance of outside counsel and the two Wardens, interviewed 22 witnesses as part of the 1998 Investigation. No minors were interviewed during the investigation, although six choir members (both current and former) were specifically identified by the investigators as having experienced potentially inappropriate touching by McInnes.¹⁶¹

None of the members of the investigative team remembered specifically discussing whether to interview children as part of the 1998 Investigation. Warden 1 told Cozen O'Connor that any such decision would have rested with the Wardens and not with outside counsel. Warden 1 said he did not specifically recall any of the discussions surrounding this issue, but he vaguely remembered conversations in which McInnes expressed concern over the notion of children being interviewed. He also said that he knew at the time that children should not be interviewed alone or without the consent of their parents. Warden 2 said she did not remember any specific discussions regarding whether to interview students, but she suspected that the Wardens would have followed the advice of the Church's outside counsel on that issue.

As noted above, contemporaneous documentation reflects that McInnes, through his attorney, raised concerns with outside counsel for the Church regarding the subject of potential interviews with students. In an August 25, 1998 phone call with the Church's outside counsel, McInnes's counsel said McInnes was "very concerned about whether kids are being interviewed" and that if they were going to be interviewed, "[McInnes] wants to know who is doing the interviewing and what they are saying. His concern is that kids are very suggestible."

B. 1998 Investigation: No Notification to Parents

The 1998 Investigation Report stated in its "Conclusion" section that, over the course of the 1998 Investigation, the investigative team received multiple "credible" reports of improper touching of students by McInnes, and that this touching constituted "sexual behavior." The Report stated that McInnes's improper touching of students included a "disturbing" eyewitness report by Maintenance Worker 1 that McInnes fondled Student 1's genitals. Despite this conclusion, which was reached without interviewing children, no parents were notified about the potential that their child may have been harmed by McInnes.

There is minimal documentation regarding the decision not to contact parents. Warden 2 included several carve-outs to the non-disclosure clauses in McInnes's October 20, 1998

¹⁶¹ One of these boys, referred to in the 1998 Investigation Report as a "long-haired boy," was not positively identified by the investigators, and three of the boys (Student 1, Student 2, and Student 17) had graduated Grace Church School by the time of the 1998 Investigation.

separation agreement. Among these carve-outs was language that made it permissible for the Wardens to disclose information about the 1998 Investigation and separation agreement to “parents who make inquiry about Employee’s conduct.” Warden 2 told Cozen O’Connor that seeing this specific carve-out in the separation agreement gave her “comfort” in that it allowed for the sharing of information with parents.

C. 1998 Investigation: No External Reporting

No Church or School official made an external report regarding McInnes’s conduct to law enforcement or a child protective services agency, either at the time of the initial report or after the conclusion of the 1998 Investigation.

Warden 2 told Cozen O’Connor that she did not recall any specific discussions regarding the possibility of making an external report to law enforcement or a child protective services agency. She said that, based on her current reading of the 1998 Investigation Report, it was likely that “we . . . all breathed a sigh of relief . . . based on what we heard, that the reported conduct was touching through their clothes, and not anything more . . . graphic.”¹⁶² Warden 2 said that she and her colleagues in the Church’s lay leadership felt that “in working with the Diocese and hiring . . . external counsel, we thought we were being very meticulous and cautious in terms of . . . making sure to take the right steps to ensure the safety of the children.” She added that the Episcopal Diocese was “forward-looking” in the 1990s and today, and that “if we were required to go to the police with any of this, [the Diocese] would have told us to do so, which is in line with our Church’s values.”

Warden 1 told Cozen O’Connor he also did not recall specific discussions regarding external reporting obligations, although he recalled that the Church’s lay leadership may have done some diligence and determined that the relevant reporting obligations had not been “triggered.” Warden 1 added that he and the lay leadership felt pressure at the time to “get to the finish line of what needed to happen with Bruce [McInnes],” especially in light of McInnes’s stubbornness and vacillations during the investigative process. With this context in mind, he added, “We may have felt that we didn’t have time to opine on whether we should reach out to a different lawyer on another different legal issue.”

Davison told Cozen O’Connor that he never saw the 1998 Investigation Report, and that he was unaware that the investigators concluded that Student 1 had been sexually abused by McInnes.¹⁶³ During Davison’s interview with Cozen O’Connor on January 3, 2020, Cozen O’Connor shared the 1998 Investigation Report with Davison, which he said was the first time he had seen the

¹⁶² As noted in Section VI(D)(7)(b) above, an earlier version of the 1998 Investigation Report, as well as the underlying investigative notes, stated that McInnes had fondled Student 1 inside his pants, whereas the final version of the 1998 Investigation Report stated that the fondling occurred outside of his pants.

¹⁶³ As noted elsewhere in this report, Cozen O’Connor did not locate any contemporaneous documents suggesting that Davison was specifically aware of Student 1’s abuse, the detailed findings of the 1998 Investigation, or the events that gave rise to the 1998 Investigation.

document. Davison was visibly disturbed at the information in the report and asked, “So why didn’t they fire him on the spot?” Davison reflected that he himself “still dropped the ball.” He said:

Not only in 1998 and 1999, [and] it’s 20-20 hindsight, but I should have been standing up louder and clearer, instead of passing it on. My only excuse was I was trying to hold the School together and any time you piss off the crazy man at the Church, it hurts the School. I don’t know if I did that consciously; it may have been subconscious not to make him any angrier than he already was. Sam was wanting to make the School more parochial, more religious, and my job was to hold that at bay. . . . I’d fight him here and there, but [I was] not going to take him on on his own guys.

Davison said that had he “known that [McInnes] was doing this to [Student 1], [he] would have called the police.”

As noted above, the Vicar told Cozen O’Connor that from her perspective, the “grownups [the Wardens and Investigators] were in charge” and had been made aware of the information she knew, which had been reported to her second hand. The Vicar said, “If I had done something [like reporting the conduct to the police precinct or the Bishop], I would have been thrown out of the house.” She said at the time she first learned of the allegations in 1998, she had perceived it as gossip. She said she “knew it was possible” that the rumors were true, but that when McInnes later “admitted it” to her, she remembered thinking, “Should I have gone to the police?”

D. 1998 Investigation: McInnes Not Terminated

The 1998 Investigation Report stated that McInnes “does not seem to be able to recognize when he begins to cross the boundaries to improper touching” and concluded that McInnes had violated the Church’s Sexual Misconduct policy by engaging in touching that constituted “sexual behavior.” McInnes was not terminated following this conclusion. Rather, pursuant to the October 20, 1998 written separation agreement between McInnes and the Church, McInnes was permitted to maintain his employment until August 18, 1999, nearly 10 months later. This planned retirement was conditioned on several contractual obligations, which included: a requirement that McInnes submit to and pass “a thorough psychiatric evaluation;” a requirement that McInnes attend seminars and trainings relating to sexual harassment and misconduct; and a requirement that McInnes, in his interactions with minors, obey certain behavioral guidelines, which were included as an exhibit to the agreement.

The available records reflect that termination was among the employment decisions being contemplated during the course of the 1998 Investigation. As described in Section VI(D)(6)(d) above, an earlier draft of the 1998 Investigation Report from August 31, 1998 contained a recommendation that McInnes be “required to tender his resignation” because “[i]t would not be appropriate to continue to employ an individual . . . who exercises such poor judgment” This language did not appear in the final 1998 Investigation Report.

In addition to the internal dialogue regarding McInnes's eventual employment outcome, contemporaneous documents reflect that McInnes's attorney was actively advocating on his behalf during the course of the 1998 Investigation. On an August 26, 1998 phone call, McInnes's counsel stated that McInnes wanted to retire with dignity and to stay on for another 18 months as a bridge to Medicare. On a September 16, 1998 phone call, McInnes's counsel said that McInnes wanted an assurance that he would be able to stay at the Church and offered to undergo an independent medical examination to prove he was fit to continue interacting with students.

The Wardens, who, as noted above, were likely the ultimate decision-makers regarding McInnes's employment status – given that Abbott had been recused from the investigation and by October 26, 1998 had agreed to resign – said in their interviews with Cozen O'Connor that they felt at the time that they had put the necessary protective measures in place for the children (who they said were their utmost priorities) and that allowing McInnes a graceful exit was in keeping with their Christian values of not treating McInnes in a manner that was unduly harsh.

According to Warden 2, who did not remember specific discussions on the topic of termination, “We wanted to go forward in a way that was protective of children and healthy and efficacious for the institution.” She added, “We must have been convinced that the prophylactics we put in place would be sufficient,” and these prophylactics included sending Davison a copy of the written behavioral guidelines. Warden 2 said that, based on her recent review of relevant documents, because McInnes was pushing hard to stay, “[W]e tried to . . . find a solution,” which she said involved “go[ing] into protective mode for the children.” Nonetheless, she said that the negotiating position of McInnes's counsel “would have been very important in our determinations as to what we needed to consider” and that they were determined to act in a way that “would be consistent with [McInnes's] graceful exit and the best interests of the children.” Warden 2 said that although “sympathy appeals” on McInnes's behalf would not have led the lay leadership to make a decision that was dangerous for the children – because a “viper in the nest” situation was not acceptable – they were also bound to act consistently with their Christian values, which in this case meant not punishing McInnes in a way that was “unnecessarily mean.” Warden 2 also added that their calculation regarding the employment decision was likely influenced by not wanting to “exacerbate any more than necessary the negative activity . . . in the parish” surrounding the acrimonious removal of Abbott as Rector, which was occurring simultaneously.

Warden 1 agreed with Warden 2's belief that the October 20, 1998 separation agreement appropriately threaded the needle in terms of instituting the necessary protective measures for children while also allowing McInnes to have a graceful exit. He added that there was little appetite at the time to “duke[] it out” over the “high hurdle” of terminating McInnes because “Sam Abbott's agreements were signed, sealed, and delivered” and “[w]e wanted Sam to get the heck out of the picture.”

The Vicar similarly recalled from her discussions with the Wardens and other members of the Vestry that the Wardens' first priority at the time was the removal of Abbott as Rector. She said

that the Wardens feared that if they attempted to fire McInnes as well, they would have risked further antagonizing Abbott's supporters within the Church, who would have perceived the firing as a "witch hunt" or another "anti-Sam" move. In particular, the Vicar recalled a discussion with Warden 2, who shared these concerns, but in response to the Vicar's queries regarding whether any minors had been hurt, Warden 2 "felt pretty secure that they could maintain these boundaries." The Vicar observed, "People took their own interests more seriously than the interests of the minor children."

E. Enforcement or Oversight of the Behavioral Guidelines

As described above, McInnes's agreement to abide by the behavioral guidelines included in the October 20, 1998 separation agreement was a critical condition to his continued employment at the Church through August 1999. However, witnesses generally described the oversight and enforcement of these guidelines as insufficient.

Warden 2 faxed the behavioral guidelines to Davison on December 4, 1998. She said she did so as one of the prophylactic measures to ensure that the School's leadership was in the loop regarding the conditions of McInnes's continued work with students.¹⁶⁴ Davison told Cozen O'Connor that he was never informed of the substantive findings of the 1998 Investigation. Nonetheless, he acknowledged to Cozen O'Connor that he had received McInnes's behavioral guidelines and "dropped the ball" by allowing Student 3 to be alone with McInnes in the early summer of 1999 without informing anyone at the Church (including the Vicar) that Student 3 would be spending time alone with McInnes.

In his interviews with Cozen O'Connor, Davison described choir activities as functions of the Church rather than the School. Although the Boys' and Girls' Choirs were predominantly composed of Grace Church School students, Davison explained that McInnes, as an employee of the Church, reported to the Rector (or, following the Rector's resignation, the Vicar or the Priest-in-Charge); that choir rehearsals and performances took place during non-School hours, on Church property; and that choir was not an officially-recognized offering of the School and would not show up on students' report cards.¹⁶⁵ Davison noted that the Church's leadership structure was in disarray in late 1998 and early 1999 because of the infighting that had resulted in the removal of Abbott, the fact that Priest-in-Charge John Andrew did not assume the interim

¹⁶⁴ As noted above, the non-disclosure provisions of the October 20, 1998 separation agreement allowed the substance of the separation agreement and the 1998 Investigation to be shared with School officials, including the Head of School and Chair of the School Board. Contemporaneous documents reflect that Warden 2 proposed and was successful in broadening the list of permitted disclosees to include "supervisory personnel of the Church & School on a need-to-know basis . . . [and] chairman of board of School if deemed appropriate by Wardens." Despite these provisions, neither the 1998 Investigation Report nor its specific findings were shared with Davison in 1998.

¹⁶⁵ Consistent with this description, Abbott told Cozen O'Connor that the Choirmaster was a Church employee who reported up to the Rector. Abbott said there was "cooperation" between the Church and School with respect to the choir, but that the Choirmaster did not answer to the Head of School. He added that the Choirmaster was the Church's music director who, as a byproduct of his employment at the Church, provided "musical enrichment" for the students at the School.

Rector role until the middle of 1999, and his perception that the Vicar – the highest-ranking member of the clergy until Andrew’s arrival – could not be trusted. As a result, he said, “the lights were basically off” at the Church in terms of being able to monitor and enforce McInnes’s behavioral guidelines.¹⁶⁶

The Vicar said that nobody in a leadership role with the Church, including the Wardens, ever showed her the behavioral guidelines, much less asked her to enforce them. She said McInnes himself was the only person who ever showed her the guidelines. When asked whose responsibility it was to enforce the behavioral guidelines, the Vicar said that the Wardens and Davison should have had a meeting to determine who was going to supervise McInnes

Warden 1 said the responsibility to monitor and enforce McInnes’s behavioral guidelines on behalf of the Church would have fallen to the Wardens and the interim Rector. Warden 2 told Cozen O’Connor that the Vicar likely would have been responsible for monitoring the agreement since she was the senior-most full-time clergy member at the time, and the remaining Church leadership (including the Wardens) were volunteers who did not live on the Church premises. However, contemporaneous documents reflect that: Warden 2 was voted out as a Warden in February 1999; John Andrew did not assume the Priest-in-Charge role until May or June 1999; and the Vicar may not have received the behavioral guidelines.¹⁶⁷ Moreover, since the Wardens were lay leaders with separate, full-time jobs, they would not have been physically present on Church premises on a day-to-day basis to monitor or enforce the behavioral guidelines. Warden 1 said that Davison at that time might have been the only Church or School official capable of monitoring McInnes’s behavior on a day-to-day basis.

Davison, through his counsel, strongly disagreed with the assertions that he should have been expected to monitor McInnes and enforce the written behavioral guidelines. Davison said he was never given explicit instructions by anyone to that effect; that such instructions would have been impractical, considering McInnes worked on Church grounds (as opposed to School grounds) and choir practices took place during non-School hours; and Davison lacked much of the substantive knowledge that the Church’s lay leaders had regarding the allegations and conclusions of the 1998 Investigation.

Davison, through his counsel, also said he believed that Warden 2 faxed him the behavioral guidelines as a notice or assurance that the Church was taking proactive steps to keep children safe, and that it did not ever occur to him that the Church would not have enforced its own guidelines. Davison told Cozen O’Connor multiple times that he knew at the time that the

¹⁶⁶ In her interview with Cozen O’Connor, the Vicar did not dispute this characterization of the Church at that time. In addition to the shift in Church leadership from Abbott to herself to Andrew, she said that she was a young and relatively inexperienced member of the clergy at the time, that the Church had only a skeletal support staff, and that she had young children and was busy tending to family matters.

¹⁶⁷ This documentation is consistent with the Vicar’s recollection that no member of the Church’s leadership ever shared the behavioral guidelines with her.

Church's leadership and oversight structure was in a state of disarray, and that it was just the Vicar serving in a leadership role at the Church.

F. Response to Report of 1999 Incident

Following Student 3's report in early summer 1999, McInnes was terminated on July 21, 1999. Following the receipt of the termination letter, McInnes was subsequently permitted to resign and to remain employed into the fall of 1999. On August 9, 1999, Warden 1 notified outside counsel that McInnes "submitted his letter of resignation with the termination (sic) letter still in effect."

The documents do not reflect why McInnes was permitted to resign rather than being terminated. Davison told Cozen O'Connor he thought Warden 1 may have allowed McInnes to sculpt his own exit because, to the best of everyone's knowledge, McInnes's alleged inappropriate physical contact with Student 3 was "immoral but not illegal." Davison also told Cozen O'Connor that he assumed this decision – which he said would have been made by Priest-in-Charge Andrew, who, in turn, would have been advised by the Wardens – was made in order to spare the Church from further embarrassment following the ouster of Abbott. Davison said Andrew kept the circumstances of McInnes's exit "under wraps" and instructed him not to communicate with others regarding the circumstances of his departure. Davison said that he too wanted McInnes gone, and that Andrew was assuring him that McInnes was being "carefully monitored" and that "everything was being taken care of" in terms of McInnes's eventual departure. Davison added that Andrew, as the new interim Rector, had the power to fire him, so he wanted to get on Andrew's "good side" and did not want to sour their relationship from the outset by "speaking up."

Warden 1 did not remember the details of this evolution, but told Cozen O'Connor that Andrew "helped calm the waters" at the Church after he arrived.

The Vicar said that Andrew told her he did not know if the allegations were true and that he doubted "whether anything ever occurred." The Vicar shared her perspective that Andrew, as the Priest-in-Charge, had been put in place to restore order to the parish, and that Andrew likely did not terminate McInnes in order "to protect the institution."

IX. Review of Report

On July 15, 2020, Cozen O'Connor shared a draft copy of this report with School leadership, including Davison and his counsel, in order to provide an opportunity to review the report, offer any additional information or clarification, or provide comments to Cozen O'Connor prior to the submission of the draft report to the Board.

On July 19, 2020, counsel provided Davison's feedback to Cozen O'Connor. In response to this feedback, Cozen O'Connor incorporated a small number of edits that did not affect the substance of the report. Where such feedback was substantive in nature, Cozen O'Connor specifically

noted in the report what the feedback was, and provided additional context from interviews and documents.

On July 21, 2020, Cozen O'Connor shared an updated draft of this report with the School Board, as well as the current Rector of the Church. Access to the report was subsequently shared with the Vestry. Since July 2020, as new members have joined the Board or the Vestry, they have been provided access to the July 21, 2020 draft of the report.

Subsequently, the Church and School asked Cozen O'Connor to prepare a draft of this report for public release. The revision process involved the incorporation of additional information gathered from post July 2020 interviews, as well as application of the naming conventions. While no substantive content was eliminated, certain sections were shortened for accessibility and personally-identifying information about students, employees, and witnesses has been removed. On August 31, 2021, Cozen O'Connor shared the updated draft for public release with the School Board and the Vestry.

On November 15, 2021, Cozen O'Connor shared a draft of the executive summary with the School Board's Response Group. On November 22, 2021, Cozen O'Connor shared updated drafts of the executive summary and full report with both the School Board and the Vestry. Following feedback from the Church and the School, Cozen O'Connor prepared updated drafts of both documents.

On December 15, 2021, Cozen O'Connor shared a draft of the executive summary and this report with George Davison, Sam Abbott, Warden 1, and Warden 2. Each was asked to review the documents for accuracy and completeness and to provide any feedback necessary to ensure accuracy, clarification, or completeness. Davison offered one point of clarification, which has been incorporated into the report. Warden 1 did not have any clarifications or comments. Warden 2 said she did not have any reason to believe that anything in the report was inaccurate, as her own memory is incomplete. She provided a number of small clarifications, which were incorporated into the report. Abbott also offered a number of comments and observations, all of which have been incorporated as well.

On January 4, 2022, Cozen O'Connor shared an updated draft and executive summary with the full Board and Vestry. On January 10, 2022, Cozen O'Connor attended a joint meeting of the Board and Vestry. Cozen O'Connor received oral comments during this meeting, as well as subsequent written comments from individual Board or Vestry members. Cozen O'Connor considered any additional information presented and incorporated that information as appropriate. Cozen O'Connor did not substantively alter any information provided in the prior drafts of the report, but added clarification and context where needed.

Cozen O'Connor appreciates the careful review by the Board, the Vestry, and former Church and School decision-makers. Cozen O'Connor also appreciates their deference to the independence and external nature of the investigation, and no facts or conclusions were changed or altered based on this feedback.

As the final step in the review process, on February 23, 2022, Students 1, 2, 3, 6, and 8 were invited to review this report and an executive summary. The purpose of this step was to ensure that these former choir members were able to address any concerns about privacy based on the manner in which the information was presented, and to provide an opportunity for the former choir members to share any additional information. As noted above, Student 1 did not respond to the invitation, Student 2 declined to review the report, and Student 3 and Student 8 chose to review the report. Student 3 subsequently participated in the investigation, and his account has been included in the report.¹⁶⁸ Student 6 indicated he wished to review the report, but ultimately did not do so.

X. Conclusion

Cozen O'Connor was not asked to make findings in this investigation, but rather to prepare a detailed and comprehensive report where the facts would speak for themselves. Throughout the investigation, Cozen O'Connor observed the disconnect between the stated intentions of those who participated in the investigation – to protect the safety of minors – and the long term and perhaps preventable harm caused to so many members of the Church and School community by the flaws in the institutional response at multiple points. Of the many failures identified in the factual summary above, perhaps the most difficult ones to understand are the decision not to interview identified choir members in 1998 or to notify the parents of the children identified in the 1998 Investigation, and the failure to take responsive action commensurate with the findings of the 1998 Investigation. These critical omissions in the 1998 Investigation and subsequent response impeded the Church and the School's ability to identify the potential scope of the abuse, which would have allowed the students and their families the opportunity to access support and resources, and to prevent future abuse.

Cozen O'Connor is deeply appreciative of the many current and former Church and School community members who participated in this external investigation and shared candid and comprehensive information. We recognize that even two years into this investigation, with extensive notice to the community, there may be other individuals impacted by McInnes, and we encourage anyone with additional information to share the information with the School, with Cozen O'Connor, or with external authorities. We thank the Church and the School for their leadership of this matter and remain available to assist.

¹⁶⁸ In addition, Cozen O'Connor interviewed Student 3's parents and the Vicar in March 2022, just prior to the conclusion of the investigation.