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ARTICLE

HARM, HEALING, AND CULTURE CHANGE: A CASE STUDY OF THE ARCHDIOCESE OF ST. PAUL AND MINNEAPOLIS

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I. A WOUNDED CHURCH

In the wake of revelations regarding defrocked former cardinal, Theodore McCarrick, numerous American Catholic universities and schools hosted events and programs to examine the twin crises of clergy abuse and leadership failures—toward the goal of fostering ecclesial reform and greater accountability in the Catholic Church.¹ Between spring 2019 and fall 2021, I attended and participated in multiple conferences on the topic of the Church crisis in Washington D.C., San Antonio, TX, the Twin Cities of Minneapolis and St. Paul, South Bend, IN, and San Diego, CA.² Addition-

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1. See SECRETARIAT OF STATE OF THE HOLY SEE, REPORT ON THE HOLY SEE'S INSTITUTIONAL KNOWLEDGE AND DECISION-MAKING RELATED TO FORMER CARDINAL THEODORE EDGAR McCARRICK (Nov. 10, 2020), http://www.vatican.va/resources/resources_rapporto-card-mccarrick_20201110_en.pdf. The McCarrick Report was noted for its thoroughness and candor upon release and seemed to signal to interested observers and commentators a shift in the Vatican's response to institutional failings and attendant harm.

2. In the time period referenced above, I attended a conference—"Law, Lawyers and the Clergy Abuse Crisis" at Georgetown University in Washington D.C. sponsored by the Georgetown University Law Center and the university's Initiative on Catholic Social Thought and Public Life, a gathering of academics and Catholic Church leaders on the Church crisis at the University of St. Thomas in St. Paul and Minneapolis, sponsored by the Terrence J. Murphy Institute for Catholic Thought, Law and Policy, a Catholic Partnership Summit in Washington D.C.—"We are the Body of Christ: Creating a Culture of Co-Responsible Leadership" sponsored by Leadership Roundtable, the "National Convening for Lay Leadership for a Wounded Church and Divided Nation" in Washington D.C. sponsored by Georgetown University's Initiative on Catholic Social Thought and Public Life, and The Eugene De Mazenod Conference—"A Pathway of the Heart: Renewing the Catholic Church" at the Oblate School of Theology in San Antonio,

ally, I have led or participated in restorative justice programming in the Archdiocese of St. Paul and Minneapolis and the dioceses of Duluth, MN; Bismarck, ND; Milwaukee, WI; and Wheeling, WV. These forums provided a view of what was in the hearts and minds of many Catholics, including Catholic leaders and scholars.³

In examining the collective wisdom from these academic colloquia and restorative justice experiences, consensus regarding many of the root causes of the present ecclesial crisis is nearly monolithic: a closed clerical culture that inhibits episcopal and clerical accountability, the pressing need for a co-responsibility model for Church governance among clergy and laity that integrates the talents and wisdom of lay Catholics, the failure to respond to victim-survivors of clergy abuse with compassion and care as informed by biblical justice, the teachings of Christ and the wisdom of Catholic social teaching, current American seminary formation that reinforces or proliferates a culture of clericalism rather than promoting a servant leadership model of priesthood, and the destructive influence of myopically focused lawyers who fail to see the broader interests of the dioceses they advise.⁴ The harm from the present crisis in the Catholic Church nationally and globally is manifold and deep.

The Archdiocese of St. Paul and Minneapolis (ASPM) is accurately described as ground zero in the landscape of clergy abuse in the United States. June 5, 2015, was in many ways the tipping point for ASPM in the cultural transformation that has occurred over the last six years. Many Twin Cities Catholics remember vividly that June day when Ramsey County Attorney John Choi announced that his office had charged the archdiocesan

sponsored by the Oblate School of Theology and the Missionary Oblate Partnership, at which I presented with Janine Geske on the role of restorative justice in healing the harm of clergy abuse and peripheral harm among Catholics. In the fall of 2021, I participated in a consultation at the University of Notre Dame which brought together twenty-five Catholic leaders to discuss the use of truth and reconciliation processes in response to the harm of clergy abuse and leadership failures. Also in the fall of 2021, I presented at the 83rd Annual Canon Law Convention in San Diego, CA with my colleague Susan Mulheron, archdiocesan Chancellor for Canonical Affairs, on the use of restorative justice in response to the harm of clergy abuse to respond to unmet needs for healing and repairing harm.

3. The above referenced restorative justice ministry was done in the capacity of my role as liaison for restorative justice and healing of the Archdiocese of St. Paul and Minneapolis, which began July 1, 2019.

4. See INITIATIVE ON CATHOLIC SOCIAL THOUGHT AND PUBLIC LIFE, GEORGETOWN UNIVERSITY, LAY LEADERSHIP FOR A WOUNDED CHURCH AND DIVIDED NATION: LESSONS, DIRECTIONS, AND PATHS FORWARD—NATIONAL CONVENING REPORT (Nov. 4, 2019), <https://catholicsocialthought.georgetown.edu/publications/report-of-the-national-convening-on-lay-leadership-for-a-wounded-church-and-divided-nation/>; WE ARE THE BODY OF CHRIST: CREATING A CULTURE OF CO-RESPONSIBLE LEADERSHIP, LEADERSHIP ROUNDTABLE (2020), https://leadershiproundtable.org/wp-content/uploads/2015/09/LeadershipRoundtableReport_WearetheBodyofChrist_2020.pdf; and CONFERENCE REPORT, FINDINGS AND RECOMMENDATIONS FROM A PATHWAY OF THE HEART: RENEWING THE CATHOLIC CHURCH, DE MAZENOD CONFERENCE, OBLATE SCHOOL OF THEOLOGY AND THE MISSIONARY OBLATE PARTNERSHIP (Feb. 15–17, 2019), <http://www.omiusa.org/pdf/De%20Mazenod%20Conference%202019%20Report%20FINAL%20DRAFT.pdf>.

corporation with multiple crimes for its failure to protect children.⁵ Choi also commenced a civil action against ASPM to help ensure the greater protection of children in the archdiocese. At the press conference, Choi stated that he had hoped that these actions, unprecedented in the United States in relation to a Catholic diocese, would affect positive culture change with respect to the safe environment of ASPM.⁶ This article asserts that a change of culture has indeed occurred in ASPM and presents four key dimensions of the transformation from harm to healing.

As the global Catholic Church continues to reel from the harm of the twin crises of clergy abuse and leadership failures, there are important lessons to be learned—elements integral to the positive change of culture in ASPM that can be followed by other similarly situated dioceses. I approach this topic as a priest and lawyer who worked in the chancery as archdiocesan delegate for safe environment in 2013 and 2014 at the height of harm, and now as archdiocesan liaison for restorative justice and healing. I am heartened that the arc of my work for the archdiocese is now on the critical side of healing. I present this account of what occurred in ASPM for the sake of review, consideration, and critique as the Catholic Church seeks to move from the scourge and attendant harm of clergy abuse and leadership failures to a place of greater integrity and healing.

In this article, I trace four dimensions integral to the change of culture in ASPM—dimensions that can be replicated by dioceses throughout the United States seeking greater ecclesial health: the integration of the gifts and presence of talented laity in key positions of responsibility, big picture lawyering that promotes the broader interests of ASPM, competent and humble episcopal leadership, and, importantly, a victim-survivor centered response to clergy abuse, which utilizes restorative justice and restorative practices to help heal direct and peripheral harm. These four key dimensions are integral to the change of culture occurring in ASPM. It seems essential that this case study is presented with candor, clarity, and in good faith from my perspective as a priest who has worked both in the crucible of harm and now in the hope-filled ministry of healing.

II. A PATHWAY TO HARM

The great sadness of clergy sexual abuse of minors and the failure to protect children descended on ASPM like a hurricane in the fall of 2013. This case study has import for the larger Catholic Church—both in what led

5. News Release, Off. of the Ramsey Cnty. Att’y, *Archdiocese of St. Paul and Minneapolis Criminally Charged with Multiple Counts of Failing to Protect Children* (June 5, 2015), <https://www.ramseycounty.us/sites/default/files/Archdiocese%20criminally%20charged%20with%20multiple%20counts%20of%20failing%20to%20protect%20children.%20%281%29.pdf>.

6. Madeleine Baran & Jon Collins, *Twin Cities Archdiocese Criminally Charged in Priest Child Abuse Case*, MPR News (June 15, 2015), <https://www.mprnews.org/story/2015/06/05/archdiocese-investigation>.

to the catastrophic failures as well as the positive signposts on the road to restoration and healing. I begin with the awful reality of clergy abuse of minors because, as Pope Francis says, “reality is more important than ideas.”⁷

In September of 2013, Minnesota Public Radio (MPR) reported grave failures of ASPM that resulted in multiple missed red flags regarding a priest who abused, with impunity, multiple minors of the same family.⁸ I cover below the grim reality of the abuse of the Hoffman boys at the hands of a now defrocked priest—Curtis Wehmeyer. I include a description of the clericalist and dysfunctional chancery culture that allowed for, and in some cases, perpetuated, this abuse. Additionally, I present the case of St. Paul and Minneapolis, including my work as delegate for safe environment and now as liaison for restorative justice and healing, because these experiences, along with the collective wisdom of victim-survivors and laity are integral to the change of culture that is occurring in ASPM. In short, the perspective I offer is not an abstraction, but borne of challenging experiences and collective wisdom that comes from institutional failure, attendant harm, and the grace of restoration.

I was appointed delegate for safe environment by Archbishop John Nienstedt in the late summer of 2013. Prior to beginning my work, I met with Fr. Kevin McDonough to learn more about my new role. Fr. McDonough had served many years as the vicar general for Archbishops John Roach and Harry Flynn and had continued to serve as delegate for safe environment under Archbishop John Nienstedt. One of the root causes of the crisis of ASPM was unchecked authority and unsupervised performance in the critical roles of vicar general and delegate for safe environment. This dynamic persisted across three episcopal administrations. Fr. McDonough—Kevin—as he is known to friends and colleagues, is a bright, talented, and affable Irishman. I had a good rapport with McDonough, but also had concerns as I had glimpsed years earlier his imprudence in trying to exercise various advocacy roles in the same case at the same time. My concerns regarding how McDonough had handled a priest’s case in 2004 were a harbinger of things to come. During that summer 2013 meeting, I listened attentively as McDonough described his work. I responded by asking some clarifying questions. A concern surfaced when I asked him how much contact he had with Archbishop Nienstedt. McDonough said, “Very little—the archbishop prefers it that way.”

One of the significant issues that came to light in the fall of 2013—and beyond—was the culture of ASPM, particularly, the chancery. Archbishop Nienstedt was a shy man who did not possess an easy rapport with col-

7. POPE FRANCIS, *EVANGELII GAUDIUM* §§ 231–233 (Nov. 24, 2013).

8. Madeline Baran, *Archdiocese Knew of Priests Sexual Misbehavior, Yet Kept Him in Ministry*, MPR NEWS (Sept. 23, 2013), <https://minnesota.publicradio.org/features/2013/09/clergy-abuse>.

leagues. He preferred to work in his office—the door open—but the message that everyone received was—leave me alone to do my work. In addition, the vicar general in 2013, was Fr. Peter Laird—since voluntarily laicized—who resigned as vicar general in October of 2013. Laird, like McDonough is bright, talented, and supremely confident. His personality and style—demanding and at times abrupt—presented a challenge to many in the chancery. Fear of the vicar general abounded. Archbishop Nienstedt had outsourced the managing of Laird’s aggressive style to Bishop Lee Piche—who resigned with Nienstedt in 2015. Piche’s timid approach to this challenging situation was no match for Laird’s force of personality. The combination of Nienstedt’s aloofness, Laird’s aggressiveness, and Piche’s timidity created a chancery atmosphere of fear and dismay that led to most working in silos without sharing critical relevant information among colleagues. This fraught atmosphere portended the coming storm.

For those working in the chancery in the fall of 2013, September 23rd is a date forever emblazoned on our respective memories. The eye of the hurricane came in the form of a highly detailed investigative story by MPR chronicling multiple missed red flags regarding the troubling behavior of Curtis Wehmeyer who went on to abuse multiple minor boys of the same family.⁹ The article, released in the early morning of September 23rd, rocked the archdiocese and spread through the Twin Cities like a wildfire. In its reporting, MPR relied on multiple detailed memos and other documents provided by Jennifer Haselberger, a former ASPM canon lawyer, who had resigned months earlier. Among the most troubling details of the story were: Wehmeyer had allegedly made sexual advances on two young men at a Barnes and Noble, was stopped by a police officer at a park known for gay cruising, was seen camping with unaccompanied minor boys, and was arrested for DUI.¹⁰ What shocked clergy and Catholics of ASPM was that Wehmeyer’s behavior was known by archdiocesan officials and, despite the warnings of Haselberger, Wehmeyer was promoted twice—by two different archbishops.¹¹

What was not reported in the original article by MPR, was Wehmeyer’s concerning behavior, dating to his first assignment as an associate pastor, which was also known by archdiocesan officials, including Nienstedt and his predecessor, Archbishop Flynn. Prior to being ordained a bishop, Piche had been the pastor of the parish where Wehmeyer was first assigned as a priest. Wehmeyer’s repeated troubling behavior occasioned frequent meetings at the chancery by Piche and parishioners to voice concerns about his young associate. A notable failure on the part of Piche was his lack of intervention as vicar general and auxiliary bishop in the case of

9. *Id.*

10. *Id.*

11. *Id.*

Wehmeyer. Piche was well aware of Wehmeyer's past misconduct, yet at a time when he possessed considerable authority, he failed to effectively intervene. Perhaps most alarming, and likely a factor in his resignation as auxiliary bishop, Piche did not recall that a priest informed him that he had seen Wehmeyer in the same bed with a minor boy while they were camping in Northern Minnesota. Piche's troubling omissions regarding Wehmeyer are extensively outlined in the charging document of the Ramsey County Attorney's Office.¹²

Several detailed investigative stories by MPR followed the late September bombshell—each robustly aided by information provided by Jennifer Haselberger. Within two weeks of the original MPR story about Wehmeyer, Peter Laird resigned as vicar general, stating that he had hoped his stepping aside would help repair the trust of many, including victims.¹³ The MPR stories had a cascading effect on the archdiocese as they meticulously described multiple failures of archdiocesan officials to appropriately respond to priest misconduct, the resulting lack of vigilance in protecting children, and a failure to care for victim-survivors.

In response to the stories, there was understandable outrage on the part of many Catholics in the archdiocese and among clergy. From inside the chancery, it was also apparent that Nienstedt was frozen and did not know how to respond or how to lead. Outside advisors and his relatively new senior staff filled the vacuum and took some positive steps to help guide the archdiocese through these turbulent waters. Two positive decisions were made by archdiocesan leaders in the early wake of the MPR stories: the decision to initiate a thorough file review of all clergy—living and deceased—by Kinsale Management and the move to assemble an independent lay task force which reviewed relevant policies and procedures of the archdiocese and the mistakes made in the Wehmeyer case.¹⁴ Still, confusion abounded on many fronts. In the aftermath of the initial MPR story and prior to his resignation, I asked Laird, "To whom do I report as delegate?"

12. Complaint at 20, *State of Minnesota v. The Archdiocese of Saint Paul and Minneapolis*, a Minnesota Corporation, No. 2139124 (Minn. 2d Jud. Dist. Ct. June 5, 2015).

13. Madeleine Baran & Rupa Shenoy, *Laird, Top Deputy of Archdiocese, Resigns*, MPR NEWS (Oct. 3, 2013), <https://www.mprnews.org/story/2013/10/03/laird-resigns>.

14. Kinsale Management was founded and is directed by Kathleen McChesney, Ph.D. who has held unique and important positions in the Federal Bureau of Investigation, the United States Conference of Catholic Bishops, (McChesney was selected by the USCCB to establish its Office of Child Protection) and the Walt Disney Company. *See also*, the Safe Environment and Ministerial Standards Task Force, established as an independent all-lay task force in the fall of 2013 to review all policies and procedures of ASPM related to safe environment and child protection and to offer recommendations to archdiocesan leadership for implementation. Its Report and Recommendations were submitted to ASPM and made public March 31, 2014. Notably, all recommendations by the Task Force have been implemented by ASPM. SAFE ENV'T AND MINISTERIAL STANDARDS TASK FORCE, REPORT AND RECOMMENDATIONS TO PROTECT CHILDREN FROM CLERGY SEXUAL ABUSE (Mar. 31, 2014), <https://safe-environment.archspm.org/download/report-recommendations-safe-environment-ministerial-standards-task-force/>.

He said, “Archbishop Nienstedt.” When I asked Nienstedt the same question, he said “Fr. Laird.” What is more, there was no record that McDonough had any supervision or performance assessment in his work as delegate for safe environment.

In October 2013, the presbyteral council and the college of consultors met in a joint session to discuss the crisis in ASPM and necessary steps to help rebuild trust. Concern and alarm among clergy was high in the archdiocese. I presented multiple reasons I believed had led to the crisis. I was frank in my assessment. First, for any organization, especially at the change of leadership, a risk assessment is critical—particularly addressing the question of where the organization is most at risk. I stressed that one cannot simply take the word of those in key positions for such an assessment. An effective risk assessment needed to be an objective evaluation of risk, preferably by competent outside experts. The place I concluded the archdiocese—or any diocese—was most at risk was in the protection of children. Given the challenging record of the Catholic Church in the United States, if a diocese were found to lack vigilance in protecting children, there would be grave consequences—first and foremost in the pain of abuse for those who were victimized. The loss of trust, credibility, and resources would soon follow. In the transition from Archbishop Roach to Flynn and from Flynn to Nienstedt, there was no indication that this important risk assessment occurred.

In the October briefing to the joint session of the council and college and later to a full gathering of priests, I highlighted other contributing factors. The silo mentality and culture of the chancery was a problem, resulting in a lack of critical information shared among relevant colleagues. Laird and other colleagues had made some improvement in this area prior to his departure, but more needed to be done. Additionally, there was a lack of objective standards for priest misconduct, a lack of best practices, and a failure to apply standards justly and vigilantly to specific cases. Simply put, we were too subjective and too lax in our response to priest misconduct. Fourth, and related again to risk assessment, we did not have a clear sense of what information was in the various priest files and what risk certain priests might pose to the safe environment. Kinsale Management would soon begin a thorough review of all clergy files.

Fifth, the seminary culture—particularly at the minor seminary—had a “band of brothers” ethos that was fueled by a clerical culture and thus inhibited the necessary rigor in response to issues of concern. This failure to confront formation issues involving particular seminarians extended to the major seminary and was sometimes exacerbated by pressure from bishops whose desire for increasing numbers pushed through marginal candidates.¹⁵

15. See *Bishop Apologizes for ‘Failings’ re Priest Who Likely Murdered Two*, CATHOLIC NEWS AGENCY (Jan. 16, 2006), <https://www.catholicnewsagency.com/news/5761/bishop-apolo>

Finally, of concern was my predecessor's reliance on his own instincts and imprudent application of knowledge from other related fields, such as psychology, of which he did not possess professional competence.¹⁶ The above factors were a potent recipe for the crisis that enveloped ASPM, beginning in the fall of 2013.

In looking back at my assessment eight years later, one critical area I did not address clearly enough at the time was ASPM's response to and care of victim-survivors. This has been a significant area of weakness for the Catholic Church and is addressed *infra*. It is not that care for victim-survivors was unimportant to me or nonexistent in my work as delegate, but I did not fully appreciate how important a victim-survivor centered response is to our duty to love and provide healing to those who have been harmed by clergy abuse. Nor did I fully appreciate the level of trauma caused by clergy abuse and the layers of harm that result when victim-survivors are not believed, not properly cared for, or when their perpetrators and negligent bishops are not held accountable. Tom Johnson, the inaugural archdiocesan ombudsperson for clerical sexual abuse, now deceased, has powerfully described this dynamic as an inversion of the moral order which greatly harms victim-survivors and the wellbeing of the Catholic Church.¹⁷

In my role as delegate for safe environment, late fall of 2013 presented significant challenges and pressure as the question of clergy misconduct reached the highest level of ecclesial authority in ASPM. In October and November of 2013, multiple allegations involving Archbishop Nienstedt and his alleged misconduct were communicated to chancery officials. The process that led to the investigation of Archbishop Nienstedt as well as the investigation itself is addressed in a detailed memo I wrote to Bishop Piche in July of 2014—a memo which is now in the public realm.¹⁸ I believe the

gizes-for-failings-re-priest-who-likely-murdered-two. The most notable case is of Fr. Ryan Erickson, a deceased priest of the Diocese of Superior, WI, who a judge ruled likely murdered two individuals at a Hudson, WI funeral home—noting that on a scale of 10, the circumstantial evidence was a 10. Strong concerns about Erickson had been raised years earlier while he was a seminarian but went unheeded by his bishop. Bishop Raphael Fliss of Superior apologized in 2006 to parishioners of St. Patrick in Hudson where Erickson was assigned as pastor when he likely committed the murders: "I am the one who must be held accountable for the lack of proper supervision and for all else that I failed to see, heed and act upon."

16. Baran, *supra* note 8. The article quotes clergy abuse expert Thomas Doyle who said in response to McDonough's Wehmeyer memo, "Clergy who aren't trained in psychology are in no position to make that kind of a judgment call over someone like Wehmeyer." Doyle called McDonough's memo, "goofy, quasi-psychological mumbo jumbo."

17. See Tom Johnson, Victim Advocate, Panel Discussion at Georgetown University Law Roundtable: Law, Lawyers and the Clergy Abuse Crisis (Apr. 9, 2019).

18. Memorandum from Daniel Griffith, Delegate for Safe Environment for the Archdiocese of St. Paul and Minneapolis, to Most Reverend Lee A. Piche (July 7, 2014), <https://www.scribd.com/document/397279352/Griffith-to-Piche-Memo-7-7-2014>. On my last day as Delegate for Safe Environment for the Archdiocese of St. Paul and Minneapolis, I wrote a lengthy memo to Bishop Piche detailing the origins of the investigation of Archbishop Nienstedt, where it became derailed, and advocated re-hiring Greene Espel Law Firm to complete the investigation, consistent with the original mandate and standard for the investigation.

investigation and the challenging circumstances related to the attempts to preserve its integrity amount to a veritable Rorschach test for the Church as well as a foreshadowing of several issues that would soon receive global attention: clericalism, the lack of accountability for bishops and their conduct, the lack of a mechanism for investigating bishops, the lack of care for victim-survivors, and a culture of corruption that seeks to blame the innocent, preserve power, and avoid scandal at all costs.¹⁹

The period of late Fall 2013 to June of 2015 in ASPM saw the cascading of harm as the archdiocese descended into a time of acute suffering. ASPM was effectively without a leader and our spiritual communion frayed as Catholics were rightly dismayed by the ongoing revelations of leadership failures and attendant harm. Consequently, the morale of priests and laity who worked for the local Church was at an all-time low. These critical months also saw the occurrence of the following significant events: the archdiocese released a list of credibly accused priests, ASPM filed for bankruptcy, an independent lay task force completed its work and issued its report, Kinsale Management completed its review of clergy files, the investigation of Archbishop Nienstedt began and was ultimately derailed, Judge Timothy O'Malley began his work as director of ministerial standards and safe environment, and Ramsey County commenced an investigation of the archdiocese for its failure to protect children. During this period numerous Catholic leaders advised Nienstedt to resign—some privately and others publicly.²⁰ Not heeding this advice or perhaps listening to other

19. *Id.* See also, Maria Wiering, *Bishop Cozzens: Archbishop Nienstedt Investigation 'Doomed to Fail,'* THE CATHOLIC SPIRIT (Sept. 1, 2018), <https://thecatholicspirit.com/news/local-news/bishop-cozzens-archbishop-nienstedt-investigation-doomed-to-fail>, referring to an August 31, 2018 statement by Bishop Cozzens calling for a mechanism by which to effectively investigate bishops and hold them accountable for misconduct and leadership failures. *Vos Estis Lux Mundi*, since promulgated by Pope Francis on May 7, 2019, seeks to provide this important mechanism for greater episcopal accountability. Pope Francis, *An Apostolic Letter Issued Motu Proprio Vos estis lux mundi* (Vatican City, 2019). It is notable that the first case brought under *Vos Estis* was against Crookston, MN Bishop, Michael Hoepfner, who resigned April 13, 2021. Marie Wiering, *Hoepfner Apologizes to Crookston Diocese During Farewell Mass*, NATIONAL CATHOLIC REPORTER (Apr. 19, 2021), <https://www.ncronline.org/news/accountability/hoepfner-apologizes-crookston-diocese-during-farewell-mass>.

20. See Elizabeth Mohr, *Archbishop Nienstedt Won't Resign, Pledges to put Victims First*, TWIN CITIES PIONEER PRESS (Nov. 3, 2015), <https://www.twincities.com/2014/07/31/archbishop-nienstedt-wont-resign-pledges-to-put-victims-first>. The Star Tribune and the New York Times each published calls for Nienstedt's resignation from their respective editorial boards. My colleague Hank Shea, of St. Thomas Law, also published an op-ed in the Star Tribune calling for Nienstedt's resignation. See Hank Shea, *An Open Letter to Archbishop Nienstedt: 4 Reasons Why You Need to Step Down — Now*, STAR TRIBUNE (June 13, 2015), <https://www.startribune.com/an-open-letter-to-archbishop-nienstedt/307206291/>. Numerous priests of ASPM publicly called on Nienstedt to resign for the good of the archdiocese. See e.g., Grace Pastoor, *News Outlets, Priests Pressure Nienstedt to Resign*, TOMMIEMEDIA (Sep. 14, 2014), <https://www.tommiemedia.com/news/news-outlets-priests-pressure-nienstedt-to-resign/>. In October of 2013, I privately advised Archbishop Nienstedt to resign, citing Canon 401, 2 of the Code of Canon Law, which provides the option for resignation for grave reason for the good of the Church.

counsel, Archbishop Nienstedt remained at the helm of a local Church reeling from harm.

III. A PATHWAY TO CULTURE CHANGE AND HEALING

As was noted at the outset of the article, June 5, 2015 was a game-changing event in ASPM in response to clergy abuse and the failures of Church leaders to protect children. Nowhere in the United States had law enforcement taken such significant and widespread action in response to failures by Church officials to protect children. The clear failures of the archdiocese, its lack of effective episcopal leadership, the presence of plaintiff's attorney Jeff Anderson within the Twin Cities community, and John Choi's resolute determination to change the culture of the Catholic Church in the Twin Cities were all factors that led to this unprecedented action. Like MPR's reporting that first ushered in the crisis, the criminal charges and civil suit brought by Ramsey County was a bombshell and signaled that the present episcopal leadership of ASPM was not tenable.

The charges brought against ASPM by Ramsey County in June of 2015 sealed the fate of Nienstedt—his imminent departure was now on the horizon. According to reporting by *Crux*, the spokesperson for Cardinal Sean O'Malley of Boston confirmed that Cardinal O'Malley personally intervened with Pope Francis in the resignations of Bishop Robert Finn of Kansas City-St. Joseph and Archbishop Nienstedt.²¹ It may be that Cardinal O'Malley, given his role as chair for The Pontifical Commission for the Protection of Minors, felt a particular responsibility to help certain dioceses plagued by failed leadership and was likely familiar with the recent criminal charges against the archdiocese. The fact that Cardinal O'Malley had to go around then papal nuncio, Archbishop Carlo Maria Vigano, in the case of Nienstedt, is attested to by Georgetown University's John Carr. When Carr approached Vigano with concern for the wellbeing of his native archdiocese and encouraged the need for new leadership in St. Paul and Minneapolis, Vigano responded by forcefully asserting, "[W]e cannot give in to the enemies of the church, the media, the attorneys, and others who oppose the church."²² The McCarrick Report attests to a similar lack of care and inaction on the part of Vigano in response to reports of clergy abuse by McCarrick.²³

21. Christopher White, *Questions Still Surround Papal Accuser's Role in Nienstedt Probe*, CRUX (Aug. 31, 2018), <https://cruxnow.com/church-in-the-usa/2018/08/questions-still-surround-papal-accusers-role-in-neinstedt-probe>.

22. Julie Bourbon, *Georgetown Panel Deals with 'Moral Catastrophe' of Church's Own Making*, NATIONAL CATHOLIC REPORTER (Sept. 26, 2018), <https://www.ncronline.org/news/accountability/georgetown-panel-deals-moral-catastrophe-churchs-own-making>, reporting on the admissions of John Carr (Co-Director of Georgetown University's Initiative on Catholic Social Thought and Public Life) that Vigano had responded to him in this manner and his admission that he had experienced sexual harassment and abuse as a young seminarian in Minnesota.

23. SECRETARIAT, *supra* note 1.

Many priests in the Midwest will tell you that when your phone pings at 5:00 a.m., relevant news is coming in from the Vatican. This was the case on June 15, 2015, when priests and members of the archdiocese learned that the resignations of Archbishop Nienstedt and Bishop Piche had been accepted by Pope Francis. Nienstedt said in his resignation letter that he had hoped that his stepping down could give the archdiocese a new beginning.²⁴ Notably, Nienstedt also said in the letter that he had wanted to share this news with the priests of the archdiocese that day in Rochester, Minnesota as priests began our biennial assembly, but he said that the Vatican did not allow this.²⁵ This fact, and the confirmation by Cardinal O'Malley that he intervened directly with Pope Francis, appears to contradict Nienstedt's claim that his resignation was voluntary and not procured by the Vatican.²⁶

In Rochester we met our new leader, Archbishop Bernard Hebda. Hebda was appointed apostolic administrator of ASPM until a new archbishop could be appointed—a post he was later given by Pope Francis in March of 2016. Hebda's CV is impressive: two Ivy League degrees, including a JD from Columbia Law and a JCL from the Gregorian Jesuit University of Rome.²⁷ But it is not Hebda's significant academic credentials that most contribute to his effective leadership in the archdiocese. Rather, Hebda's humility, competence, and inclusive style were characteristics acutely needed for a local Church suffering from harm and neglect. These characteristics of Hebda's leadership style became important building blocks in a new era of restoration for ASPM that would help bring healing to victim-survivors and struggling Catholics.

With the emergence of Archbishop Hebda in June 2015, and now more than six years on, ASPM has experienced significant renewal and restoration, the foundation of which includes several building blocks integral to the successful journey from harm to healing. No one claims that ASPM has reached perfection as a diocese. There is continued need for growth in a number of areas important to the sustained health of ASPM. Notwithstanding the need for vigilance and improvement, County Attorney John Choi has noted that the archdiocese has gone well beyond what was required of it by law.²⁸ In addition, plaintiff's lawyer Jeff Anderson now refers to ASPM as the safest diocese in the country—a notable accolade from a zealous

24. Joshua K. McElwee & Brian Roewe, *Archbishop Nienstedt Resigns After Twin Cities Archdiocese Charged with Failing Children*, NATIONAL CATHOLIC REPORTER (June 15, 2015), <https://www.ncronline.org/news/parish/archbishop-nienstedt-resigns-after-twin-cities-archdiocese-charged-failing-children>.

25. Letter from Archbishop John Nienstedt to Priests of Archdiocese of St. Paul and Minneapolis (June 15, 2015) (on file with author).

26. White, *supra* note 21.

27. *Archbishop Bernard Hebda*, ARCHDIOCESE OF ST. PAUL AND MINNEAPOLIS, <https://www.archspm.org/leadership/archbishop-bernard-hebda/> (last visited May 7, 2021).

28. Sarah Horner, *Audit Finds Archdiocese 'Substantially Compliant' with Clergy Abuse Settlement Terms*, TWIN CITIES PIONEER PRESS (Jan. 17, 2018), <https://www.twincities.com/2018/01/05/audit-finds-archdiocese-substantially-compliant-with-clergy-abuse-settlement-terms/>.

advocate for those harmed by clergy abuse and attendant ecclesial failures.²⁹ The change of culture for ASPM—as it relates to the protection of children and engagement with victim-survivors—is described in detail in a January 2020 Cultural Assessment Report by Ramsey County.³⁰ Today, ASPM is recognized as a national leader in best practices in safe environment, and for its emerging work in restorative justice and healing.³¹

IV. INTEGRATED GIFTS OF TALENTED LAY CATHOLICS

More than any other factor, competent and determined efforts by talented laity in the archdiocese helped turn the ship around. It should be noted that many committed lay Catholics were in the chancery or interfaced with the archdiocese during the Nienstedt regime, but the dysfunctional chancery culture did not allow their gifts and voices to have critical influence. The need for a more robust role for the laity in governance, leadership, and in ensuring greater accountability for Church leaders has been mentioned repeatedly at conferences, and in articles on the Church crisis.³² In the wake of clear and too frequent institutional failures, a broad spectrum of lay Catholics agree on the need for: a more significant role for the laity, greater accountability for bishops, and greater care for victim-survivors.³³

29. Kevin Conneely, *Counterpoint: Archdiocese Makes Great Strides Against Abuse*, STAR TRIBUNE (June 28, 2019), <https://www.startribune.com/counterpoint-archdiocese-makes-great-strides-against-abuse/511974472>.

30. THOMAS E. RING & STEPHANIE L. WIERSMA, OFF. OF THE RAMSEY CNTY. ATT’Y, RCAO CULTURAL ASSESSMENT REPORT: THE IMPACT OF THE RAMSEY COUNTY ATTORNEY’S SETTLEMENT AGREEMENT ON THE ORGANIZATIONAL CULTURE OF THE ARCHDIOCESE OF SAINT PAUL & MINNEAPOLIS (Jan. 28, 2020), <https://www.ramseycounty.us/sites/default/files/County%20Attorney/RCAO%20Cultural%20Assessment%20Report%201.28.2020.pdf>. It is notable that this cultural assessment report closely aligns with similar views that were manifested through the multiple conferences on the Church crisis I attended from 2018–2020, including the necessary components of an ecclesial culture that is more healthy, effective, and inclusive.

31. The 2019 and 2020 Leadership Roundtable Partnership Summit Reports highlighted efforts of leaders in the Archdiocese of St. Paul and Minneapolis in moving ASPM from harm to healing. See HEAL THE BODY OF CHRIST: A PLAN TO CREATE A NEW CULTURE OF LEADERSHIP AND A NEW RESPONSE TO ABUSE IN THE CATHOLIC CHURCH, LEADERSHIP ROUNDTABLE (2019), <https://leadershiproundtable.org/wp-content/uploads/2015/09/SummitReport2019.pdf>; WE ARE THE BODY OF CHRIST: CREATING A CULTURE OF CO-RESPONSIBLE LEADERSHIP, *supra* note 4.

32. Tom Roberts, *Leadership Roundtable Brings a Dose of Reality to the Church*, NATIONAL CATHOLIC REPORTER (Mar. 11, 2020), <https://www.ncronline.org/news/accountability/ncr-connections/leadership-roundtable-brings-dose-reality-church>. In this excellent summary of the 2020 Leadership Summit, in addition to the need for a more robust role for laity in Church governance, Roberts also notes the issues of clericalism, a greater role for women in the Church, and greater accountability for Church leaders. INITIATIVE ON CATHOLIC SOCIAL THOUGHT AND PUBLIC LIFE, *supra* note 4.

33. I was appointed liaison for restorative justice and healing by Archbishop Bernard Hebda on July 1, 2019. From July 2019 to the present, I have led or participated in numerous restorative justice listening sessions and healing circles on the topic of clergy abuse and ecclesial leadership failures. I have been struck that across demographics, ecclesial, and geographical lines, there is a broad consensus among Catholics that a greater role for the laity, care for victim-survivors, and accountability for clergy and bishops must mark the Catholic Church going forward.

Multiple examples demonstrate that the specific work and expertise of the laity was the most important factor in the turnaround of ASPM. First, a well-respected all-lay task force was assembled in the fall of 2013 and published a report of its findings and recommendations in the spring of 2014.³⁴ These recommendations have borne much fruit. As delegate for safe environment, I quickly realized that a part-time priest should not be in this critical role—I lacked sufficient time, expertise, and credibility as a priest policing fellow priests. Thus, in November of 2013, I advocated in a memo to Nienstedt that a competent and experienced lay person should serve as delegate for safe environment, not a priest with multiple assignments.³⁵ Another positive step forward in using the gifts of talented laity was the appointment of an ombudsperson who was to be an independent advocate for victim-survivors. The consensus choice among all parties concerned was Tom Johnson, a former Hennepin County attorney and an exceedingly well-respected lawyer in the Twin Cities.³⁶ Tom’s work with victim-survivors and his strong and prudent advocacy with archdiocesan leadership were instrumental in the shift of culture in ASPM.³⁷

In addition to the Task Force and Johnson’s role as ombudsperson, lay Catholic leaders on the archdiocesan corporate board were credited with helping ASPM and Ramsey County reach a landmark settlement in the criminal and civil cases. As Tim O’Malley has said often about the intense but important mediation that led to the settlement of the case with Ramsey County, “There was only one collar in the room and the rest were laity.”³⁸ Previous to Hebda’s leadership, lay leaders were in specific roles and on boards, but they were not sufficiently informed, engaged, or listened to. With effective engagement and integration of lay leadership, their gifts and initiatives are now the norm in ASPM. Critical roles in the chancery are

34. SAFE ENV’T AND MINISTERIAL STANDARDS TASK FORCE, *supra* note 14.

35. See November 2013 Memo from Fr. Daniel Griffith to Archbishop John Nienstedt (on file with author and in archdiocesan archives).

36. Sarah Horner, *As Hennepin County Attorney, Tom Johnson Went After Perpetrators of Child Sexual Abuse. Now He’s Helping Victims*, TWIN CITIES PIONEER PRESS (Apr. 21, 2018, 11:12 PM), <https://www.twincities.com/2018/04/21/as-hennepin-county-attorney-tom-johnson-went-after-perpetrators-of-child-sexual-abuse-now-hes-helping-victims/>.

37. In countless ways, both privately and publicly, Tom Johnson was instrumental in helping ASPM achieve a culture change in its outreach to victim-survivors and greater accountability for Church leaders. The positive effect of his efforts cannot be overstated. In representing ASPM as a lawyer, he helped build back trust with the St. Paul Police Department and helped foster greater transparency within ASPM’s communications. Privately, Tom advised me, as delegate for safe environment and later as liaison for restorative justice and healing, to choose the path of justice, no matter the costs. Archbishop Hebda also noted at Tom’s funeral the positive impact that Tom had on him.

38. Tim O’Malley, Comment to the Lay Advisory Board (April 21, 2021). Tim O’Malley commented to the Lay Advisory Board (LAB) of ASPM on the positive impact of laity in moving the archdiocese to a place of greater integrity and healing. Specifically, O’Malley noted the presence of Karen Rauenhorst, Brian Short, and Tom Abood as critical members of the mediation team that settled the ASPM case.

now staffed by competent and highly respected lay leaders who work alongside clergy as equals.

Another area which saw significant and effective lay leadership was in the safe environment program of ASPM.³⁹ O'Malley and his colleagues have traveled extensively and consulted broadly to help dioceses improve their safe environment policies and procedures. In six years, the transformation in the area of safe environment for ASPM is a remarkable achievement—borne of hard work, competence, vigilance, and thoughtfulness. Today, it can be truly described as a gold standard program and a significant factor in moving ASPM from harm to healing.⁴⁰

There are many strengths of ASPM's current safe environment program that can be replicated in other dioceses. First, competent leadership and staff are a driving force of sustained success. O'Malley's staff include multiple individuals who are experienced in law enforcement and investigations. Second, there has been great care to develop policies and procedures that are effective and realistic. Often these policies have been promulgated only after much dialogue and after appropriate engagement and consultation with relevant stakeholders. Third, the safe environment policies and procedures are objectively and consistently enforced and updated when necessary. Fourth, O'Malley's presence at multiple gatherings of laity, including restorative justice opportunities for victim-survivors, and his presence among clergy helped inform, form, and create "buy in" from those who minister in ASPM and other relevant stakeholders.

V. BIG PICTURE LAWYERING AND THE GOOD OF THE CHURCH

An area of concern that has been flagged often in response to the twin crises of clergy abuse and leadership failures, is the role of lawyers who advise Catholic leaders. Georgetown Law School and the Initiative for Catholic Thought and Public Life hosted a program on this important topic in the spring of 2018, which gathered multiple diocesan leaders and lawyers who serve as inside or outside counsel in dioceses throughout the country.⁴¹

39. Tim O'Malley began his work as Director of Ministerial Standard and Safe Environment of ASPM on September 1, 2014, bringing extensive experience in law enforcement and investigations as a former FBI agent and former superintendent of the Bureau of Criminal Apprehension. *See Archdiocese Names Judge Timothy J. O'Malley as Director of Ministerial Standards and Safe Environment*, Catholic Spirit (Aug. 25, 2014), <https://www.archspm.org/archdiocese-names-judge-timothy-j-omalley-director-ministerial-standards-safe-environment/>.

40. The Leadership Roundtable in Washington, D.C. refers dioceses to ASPM when they inquire as to a model of best practices in the area of safe environment, investigations, and ministerial standards. LEADERSHIP ROUNDTABLE, <https://leadershiproundtable.org/who-we-are/our-mission/> (last visited Oct. 27, 2021).

41. Georgetown University Law Center and Georgetown University's Initiative on Catholic Social Thought and Public Life sponsored a dialogue, April 9, 2019, "Law, Lawyers and the Clergy Abuse Crisis" which included survivors, clergy, attorneys for the Catholic Church, attorneys for survivors, canon law and civil law experts, media, and victim advocates. I was one of seven individuals from the Twin Cities who attended. I found the dialogue enlightening.

As noted by numerous attendees of that conference, and as seen in the Pennsylvania Grand Jury Report and elsewhere, lawyers can and have done great damage by not advising their diocesan clients in a manner consistent with the bigger picture and broader good of the institutions they represent.⁴² Myopically focused lawyers tend to isolate the particular legal issue at hand and may employ any means at their disposal to prevail. These lawyers often proceed without considering the ramifications of a zero-sum game approach which may win the immediate battle but lose the larger war for what is right and just. I often tell my law students at St. Thomas that our society, and indeed the Catholic Church, needs the assistance of more big picture lawyers—lawyers who can adroitly traverse complex situations in a way that both ascertains relevant issues of law as well as the broader interests of their clients.

Regrettably, too many dioceses in the United States have historically been ill advised by lawyers who approach issues of law apart from care for victim-survivors, the wellbeing of the larger Catholic community, or important principles of Catholic teaching which should rightly guide Church leaders. During his tenure as president of the United States Conference of Catholic Bishops, then Bishop Wilton Gregory of Belville was prophetic in many ways, including in insisting that bishops need to respond to victim-survivors with the heart of a pastor rather than the head of a lawyer.⁴³ These wise words were true nineteen years ago and continue to hold import for the Catholic Church today. Gregory's words are not to be taken to mean the heads of lawyers and their counsel do not matter, but rather that their counsel, which is at times quite narrowly focused, should not become a tail that wags the ecclesial dog. This false bunker mentality leads to greater harm for victim-survivors, Catholics, and a further diminution of moral credibility among Church leaders. As the broader Catholic Church seeks to embrace

42. *Id.* See also OFF. OF THE ATT'Y GEN. OF THE COMMONWEALTH OF PA., REPORT 1 OF THE 40TH STATEWIDE INVESTIGATING GRAND JURY (2018), <https://www.attorneygeneral.gov/report/>. The Report noted the pattern of response to victims of clergy abuse that was similar across dioceses which was deleterious to the wellbeing and good of victim-survivors. It also noted that only one diocese—the Diocese of Erie—fully cooperated with the investigation of the attorney's general's office.

43. This message was confirmed by the Archdiocese of Washington, D.C. Email from Paula Gwynn Grant, Secretary of Communications for the Roman Catholic Archdiocese of Washington D.C., to Fr. Daniel Griffith (Nov. 22, 2021 07:54 CST) (on file with author). See also Wilton Gregory, USCCB Presidential Address (June 13, 2002). In reviewing this speech, Gregory's prophetic stance on multiple issues of import to the clergy abuse crisis is noteworthy. Pope Francis appointed Gregory Archbishop of Washington, D.C. in 2019 and named him cardinal in 2020, the first African American bishop in the United States to be named a cardinal. See also Joshua J. McElwee & Heidi Schlumpf, *Pope Names Gregory, Designer of U.S. Bishops' Abuse Procedures, as Washington Archbishop*, NCR (Apr. 4, 2019), <https://www.ncronline.org/news/people/pope-names-gregory-designer-us-bishops-abuse-procedures-washington-archbishop>. Several prominent Catholics welcomed Gregory's appointment due to his strong record on combatting clergy abuse, his outreach to victims, and his strong advocacy for racial justice and civil rights.

greater integrity and greater care for victim-survivors, it needs the assistance of more big picture lawyers.

A significant dimension to the culture change of ASPM can be traced to big picture lawyers who advised the archdiocese consistent with its broader interests. Some of these lawyers, canon and civil, were employees of ASPM and others were lawyers hired by the archdiocese to serve as outside counsel. I point to five examples where macro-focused lawyering advanced the good of ASPM in its journey from harm to healing.

First, a trio of lawyers—two canon lawyers and one civil lawyer—recognized the important needs of child protection and greater care for victim-survivors before nearly anyone else in ASPM. Whether one agrees with the approach taken by Jennifer Haselberger, she outlines in great detail in her affidavit the reasons why she felt compelled to take the bold actions she did.⁴⁴ When I arrived at the chancery in the late summer of 2013, two colleagues stood out in their concern for the failures of child protection in ASPM and the lack of attention and care for victim-survivors: Sara Kronholm, a civil lawyer who worked in the child protection office at the chancery and Susan Mulheron, Haselberger's successor as chancellor for canonical affairs. The broader concerns these colleagues consistently voiced for safer environments, greater accountability for clergy, and victim advocacy won the day in the transformation of culture that is occurring in ASPM.

Second, outside counsel Brian Wenger and Tom Abood, a lawyer who served on the archdiocesan corporate board, were instrumental in advancing the broader interests of ASPM: by filling the leadership vacuum left by a compromised Nienstedt, in creating objective standards to be applied to clergy misconduct, in advising Nienstedt that he should consider resigning for the good of the archdiocese, and in insisting on an independent investigation regarding allegations of misconduct involving Nienstedt.⁴⁵

Third, attorneys Tom Johnson, who later served as independent ombudsperson, and Matt Forsgren, who represented ASPM in the investigation of Nienstedt, advised Bishops Piche and Cozzens that the archdiocese should disclose the Nienstedt investigation to the St. Paul Police Department. As ASPM had articulated the goals of greater accountability, transparency, and restoration of trust, both attorneys believed this disclosure was in furtherance of those stated goals. Additionally, Forsgren advised that I disclose the fact of the Nienstedt investigation to a member of the indepen-

44. Affidavit of Jennifer Haselberger, In re: The Archdiocese of Saint Paul and Minneapolis, No. 15-30125, (Bankr. D. Minn 2016).

45. In the interests of disclosure and transparency, in 2017 I was named the inaugural Wenger Family Faculty Fellow of Law at the University of St. Thomas School of Law. Brian Wenger, referenced above, and his wife Kathleen were the benefactors for this newly established faculty endowment position.

dent Lay Task Force, which was completing its work and report in the spring of 2014.

Fourth, and perhaps most importantly, the decision to settle the case brought by Ramsey County against ASPM rather than litigate, which may still have been ongoing, represents a master class in big picture lawyering—on both sides. It is noteworthy that there was a confluence of broad-minded lawyers who were able to build consensus for the good of ASPM and the broader community, including bankruptcy lawyers who ceded to the broader interests of the archdiocese and its goals of healing and restoration. Archbishop Hebda recently and humbly noted at Tom Johnson’s funeral that he was persuaded to work for the broader interests of ASPM during a critical meeting with lawyers Joe Dixon, Tim O’Malley, and Tom Johnson.⁴⁶

Finally, when the independent investigation of Nienstedt became public, including the predictable and unfounded assailing of the reputations of the investigating lawyers, their response demonstrated how they viewed their client.⁴⁷ Matt Forsgren and David Wallace-Jackson released a short statement defending their work and noted that they viewed their client as the broader archdiocese, including its various stakeholders, and conducted, or attempted to conduct, the investigation according to best practices.⁴⁸ In 2018, in the wake of the controversy surrounding McCarrick and his long-countenanced misconduct, Bishop Cozzens, who like Piche was in an unenviable position vis-à-vis the Nienstedt investigation, released a statement wherein he said that the investigation was “doomed to fail.”⁴⁹ However, I agree with the late Tom Johnson, who said to me in response to Bishop Cozzens’ statement, “No, it was caused to fail.”

Often impenetrable is the clerical culture of the Catholic Church, especially when aided by narrowly focused lawyers who seek to preserve power at all costs, thus inhibiting the broader good of the Church in the process. This confluence of harmful factors was what caused the Nienstedt investigation to fail.⁵⁰ Thankfully, the positive influence of macro-focused lawyers

46. Archbishop Hebda, Comments at the Close of the Funeral of Tom Johnson (June 13, 2020).

47. Madeline Baran, *An Isolated Nienstedt Tried to Limit Investigation into Himself*, MPR NEWS (June 19, 2015, 10:00 AM), <https://www.mprnews.org/story/2015/06/19/nienstedt>. In the article, Baran refers to the statement from the Greene Espel lawyers that they were responding because they would not allow their work for ASPM to be mischaracterized.

48. *Id.*

49. Maria Wiering, *Bishop Cozzens: Archbishop Nienstedt Investigation ‘Doomed to Fail,’* CATHOLIC SPIRIT (Sept. 1, 2018), <https://thecatholicspirit.com/news/local-news/bishop-cozzens-archbishop-nienstedt-investigation-doomed-to-fail/>. The article quotes the statement of Bishop Cozzens as the issue again became relevant after the McCarrick scandal broke. The failure of the investigation was in no way inevitable. Had the original mandate for the investigation been followed, and had the investigating lawyers been allowed to complete the investigation unimpeded, there is every reason to believe it could have been successfully completed.

50. See Daniel Griffith Memo to Bishop Lee Piche (Jul. 7, 2014), at faithandflourishing.blog.

at, and advising, ASPM was a critical factor in moving the archdiocese from harm to healing.

VI. HUMBLE AND COMPETENT EPISCOPAL LEADERSHIP

The modern landscape of episcopal leadership and clerical culture is a complex reality which often exposes multiple weaknesses during the various crises that confront the Catholic Church. Nowhere has this been more painfully and clearly revealed than by the clergy abuse crisis. While their talents and temperaments vary, it is fair to say that most American bishops are intelligent men of good will. Notwithstanding these baseline characteristics, the clergy abuse crisis has highlighted multiple failures in leadership and prudence among some bishops which inhibit the health of the Church. Many lay Catholics who appear to be universally angered and dismayed by the harm that has consistently resulted from a closed clerical culture, have strongly advocated for an ecclesial model that fosters co-responsibility among clergy and lay Catholics.⁵¹

The stress test of the twin crises of clergy abuse and attendant leadership failures provides an opportunity to realistically evaluate present ecclesial culture with an eye toward reform and creativity. Bishops who blend competence, humility, and courage would seem best suited to a more inclusive and effective way of governing their respective dioceses.⁵² Humility may be the most important of this triad, as it opens bishops up to their own limitations and the gifts and perspectives of others. The case of ASPM demonstrates the potential for significant turnaround and culture change when an episcopal leader brings to the table both humility and competence. The presence and effective contributions of multiple lay Catholics in ASPM would not have been possible without a leader who recognized that he does not have all the gifts and thus fostered an open and inclusive style of governance. In addition, Hebda's presence in ASPM initiated a culture of listening and accompaniment that has helped heal the local Church.

Recently, Archbishop Hebda formulated a lay advisory board in order to hear the collective wisdom of God's people. This initiative communicates to laity and clergy that our journey as a local Church is communal—a journey open to the wisdom and guidance of the Holy Spirit manifested through the entire body of Christ. Additionally, ASPM has begun a synodal process that has employed multiple listening sessions, prayer, and discern-

51. See *WE ARE THE BODY OF CHRIST: CREATING A CULTURE OF CO-RESPONSIBLE LEADERSHIP*, *supra* note 4.

52. Ecclesial leaders outside the United States notably focused on the possible spiritual roots of the ecclesial crisis in the United States. See Christophe Pierre, Papal Nuncio to the U.S., Address at the United States Conference of Catholic Bishops (Nov. 12, 2018), <http://nunti-ususa.comcastbiz.net/pdf/homelies/12Nov2018AddressUSCCB.pdf>, which was a compelling spiritual exhortation to conversion, consistent with Pope Francis's fraternal counsel that the U.S. bishops should enter into a collective retreat to pray for the guidance of the Holy Spirit and spiritual discernment.

ment as Catholics seek together the way forward for the local Church. Most importantly, Hebda has listened attentively and respectfully to many victim-survivors which, in addition to giving him a clearer perspective as to the nature of the harm from clergy abuse, has led him to work for greater accountability for those who have caused harm. Recently, the archdiocese hired a new lay chief operating officer, an emerging ecclesial best practice that has been effective in the Archdiocese of Chicago and elsewhere. While Hebda would not claim to be a perfect bishop and would no doubt express the need for further growth and learning, his characteristics of humility and openness to innovation have helped foster an archdiocesan culture that is less insular and more vibrant. These characteristics also provide a template for effective episcopal leadership for other bishops and dioceses in the United States.

VII. RESTORATIVE JUSTICE AND A VICTIM-SURVIVOR CENTERED RESPONSE

Along with the integral role of talented laity, big picture lawyering, and humble and competent episcopal leadership, the use of restorative justice has been critical to this new era of healing and restoration in ASPM. Restorative justice is a theoretical and practical approach to harm that seeks healing and accountability by inviting victim-survivors to tell their stories.⁵³ Practitioners of restorative justice consistently remark how effective it is in helping heal harm.⁵⁴ The integration of restorative justice and restorative practices into ASPM's response to the harm of clergy abuse has been a positive development. This effort includes outreach and programming at multiple parishes and at the seminary.⁵⁵ Significant credit for the use of restorative justice belongs to my St. Thomas Law colleague Hank Shea who strongly encouraged Ramsey County and ASPM to explore the use of restorative justice and introduced archdiocesan leaders and Choi to restorative justice experts, Janine Geske and Mark Umbreit.⁵⁶ In addition, Ramsey County Attorney John Choi was instrumental in exposing archdiocesan leaders to the positive potential of restorative justice by its inclusion in the

53. Janine Geske, Address at Wheeling University on Restorative Justice in Response to Clergy Abuse (Feb. 26, 2020), <https://cardozoocr.com/vol8no2/651-658.pdf>.

54. *Id.*

55. Daniel Griffith, *Healing the Harm — The Effectiveness of Restorative Justice in Response to Clergy Abuse*, 17 U. ST. THOMAS L.J. 18, 32 (2020). In this recent article, I examine the effectiveness of restorative justice in response to clergy abuse in ASPM, celebrate the pioneering work of Janine Geske, and examine the many positive correlations of restorative justice with biblical justice and Catholic teaching.

56. *Id.* Janine Geske is a retired justice of the Wisconsin Supreme Court and retired law professor from Marquette Law, where she founded the Initiative for Restorative Justice. Mark Umbreit is the founding director of the Center for Restorative Justice and Peacemaking at the University of Minnesota. Both are nationally recognized experts in restorative justice and restorative practices.

settlement agreement.⁵⁷ This important initiative on the part of Choi met Hebda's fundamental openness to restorative justice, resulting in the broad use of restorative practices to bring greater healing to victim- survivors and Catholics who have experienced the ripple effects of harm from the Church crisis.⁵⁸

The developments in the use of restorative practices flowed from an emerging victim-centered response to the crisis of clergy abuse on the part of archdiocesan leadership. This approach represents the most authentic way forward for the Catholic Church. Additionally, the integration of restorative practices into ASPM's response to clergy abuse has been organic over the last five years, and today is multifaceted.⁵⁹ One of the most important elements of the success of restorative justice in the archdiocese is the presence of multiple victim-survivors who advise archdiocesan leaders and who are omnipresent at conferences, on clergy review boards, involved in decision-making, and integral to a restorative justice working group which meets regularly.

The significant presence of victim-survivors is a leaven for good and helps ensure that the response of Church leaders to the reality of harm benefits from their critical perspective and experience. Over the past five years, the use of restorative justice and restorative practices has gone above and beyond what was anticipated by Choi in the settlement agreement, including the creation of two new restorative justice focused positions and multiple program options for parishes tailored to their particular needs.⁶⁰ Restorative justice holds tremendous potential to help heal harm inside the Catholic Church, and throughout broader society, by inviting those who have been harmed to tell their story and by inviting others to accompany them on their path to healing.⁶¹

The dimensions of the archdiocesan culture that allowed for clergy abuse of minors and significant attendant harm were many: a dysfunctional, insular, and siloed chancery; the privation of integrated and effective lay leadership; ineffective episcopal leadership; a safe environment program that lacked objectivity, best practices, and expertise; seminary formation walled off from the larger Church and its everyday life and challenges; the failure to deliver accountability and meet the needs of victim-survivors; and the failure to restore trust and bring healing to the Catholic communion of St. Paul and Minneapolis. Given the above weaknesses of the culture of ASPM, the collapse was inevitable.

The road to restoration resulted from an inversion of the past culture, supplanted by the following critical dimensions: strong integration of tal-

57. *Id.*

58. *Id.* at 33.

59. *Id.* at 35.

60. *Id.* at 32-33.

61. *Id.* at 41.

ented and committed lay Catholic leaders; big picture lawyering which serves the broader interests of the Church; competent and humble episcopal leadership; the effective presence and wisdom of victim-survivors; and the use of restorative practices in parishes, in the seminary, among priests, and in the Catholic university setting. The shift in culture described above is remarkable, given its depth and the speed at which it occurred. As the universal Catholic Church continues to struggle with the twin crises of clergy abuse and coverup and the harm they cause, there is great utility in the story of ASPM and lessons to be learned from a transformation of culture that has moved from harm to healing.

VIII. SEMPER VIGILANS FOR ASPM AND THE GLOBAL CATHOLIC CHURCH

In ASPM, critical work lies ahead toward a healthier ecclesial communion. First, vigilance is key regarding safe environments, including recognizing red flags that signal clergy unhealth and potential for harm. This responsibility for vigilance extends to all Catholics in ASPM—archdiocesan leaders, clergy, and laity. Second, vigilance is also needed in care for victim-survivors and, relatedly, toward greater accountability for clergy whose actions or omissions have harmed others.⁶² Third, many have publicly and repeatedly called for a just resolution of the Nienstedt investigation, including attendant and appropriate transparency.⁶³ Fourth, clergy

62. See 'A Fair Outcome?' — What an Abuse Allegation and Its Fallout Can Teach the Church, PILLAR (Apr. 12, 2021), <https://www.pillaratholic.com/p/a-fair-outcome-what-an-abuse-allegation>. In addition to the critical issue of responding sensitively and in a timely manner to victim-survivors, the question of accountability for clergy who cause harm has been raised by multiple victim-survivors, including Frank Meuers, head of SNAP for the Twin Cities, who remains dismayed that Fr. Kevin McDonough, former vicar general and delegate for safe environment, has not been held accountable for multiple failures during his time in archdiocesan leadership. In early June 2021, ASPM released a statement that indicated it had done an exhaustive review of the documents related to McDonough's service in these capacities and did not find intentional misconduct. Meuers questioned why it took four years to complete such a review. Terry McKiernan, president of Bishop Accountability, said "bishops are not interested in punishing good foot soldiers," and noted that McDonough comes "from a prominent family and was well liked in many circles." Although I discussed this matter with Timothy O'Malley and participated in the healing circle mentioned in the article, as McDonough's immediate successor as delegate for safe environment, I was not interviewed for the exhaustive review. Jean Hopfensperger, *Twin Cities Archdiocese Investigates Former Vicar General's Oversight of Abusive Priests*, STAR TRIB. (June 3, 2021, 6:38 PM), <https://www.startribune.com/twin-cities-archdiocese-investigates-former-vicar-general-s-oversight-of-abusive-priests/600064396/>.

63. See Christopher White, *Court-Appointed Official Says Vatican Failing on Accountability in Nienstedt Case*, CRUX (Mar. 23, 2020), <https://cruxnow.com/church-in-the-usa/2020/03/court-appointed-official-says-vatican-failing-on-accountability-in-nienstedt-case/>. In this article, Tom Johnson, former ombudsperson, now deceased, raises troubling questions regarding a lack of timely response in the Nienstedt case as well as a lack of resources or perhaps resolve to fulfill the mandate and provisions set forth in *Vos Estis Lux Mundi*. Victoria Newcome Johnson has succeeded her husband as ombudsperson and is continuing with vigilance Tom's advocacy for victim-survivors and justice. See also *An Open Letter to Archbishop Hebda*, YARESPOND (2018), <https://yarespond.wixsite.com/catholic/the-letter-2018>. This is a letter from young adult Catholics

morale and wellness must be of paramount and ongoing concern as internal and external pressures take their toll and contribute to circumstances where unhealth can lead to harm. Fifth, any places and instances of a culture of clericalism in ASPM need to be opposed with vigor, including in the seminaries where the seeds of clericalism too often take root.⁶⁴ Lastly, the four dimensions noted throughout this article that led to a culture change in ASPM must receive due attention and consistent integration in the culture of ASPM going forward.

Broadening the scope to the Catholic Church in the United States and the global Catholic Church, important lessons should be heeded from the case of ASPM. In addition, several critical issues need to be addressed with deliberate speed and seriousness toward the greater good of the Catholic Church. First, a paradigm shift must occur in response to clergy abuse and harm that is too often perpetuated by a lack of transparency and leadership failures. Specifically, a new ecclesial paradigm that embraces a victim-survivor centered response to harm will help the Church benefit from the critical perspective of victim-survivors and will help bring needed healing to a wounded Church.⁶⁵ Second, as noted above, the culture of clericalism that afflicts the Catholic Church must be reformed and supplanted by a more inclusive culture that integrates the gifts of laity and fosters a co-responsibility model of Church governance. Third, greater accountability for bishops is of outmost importance toward a healthier Church. The Vatican document *Vos Estis Lux Mundi* is a step in the right direction, but these new norms regarding episcopal accountability must be accompanied by consistent application, attendant resources, and transparency to fulfill its ambitious mandate. Fourth, the selection of bishops and the need for a broader and more transparent process was raised at the colloquia and conferences I attended in the wake of the McCarrick scandal.⁶⁶ Lastly, greater knowledge

in the Twin Cities to Archbishop Hebda calling on him to help resolve the Nienstedt matter in furtherance of justice for all involved. The group renewed its call for justice and transparency in 2020.

64. See Katarina Schuth, *Seminary Formation: Addressing Clericalism and Sexuality in Human, Spiritual and Pastoral Areas*, *Asian Horizons* 14, no. 2, 421–30 (June 30, 2020), <http://www.dvkjournals.in/index.php/ah/article/view/2910>. These materials were used as part of the Interdisciplinary Workshop on Clericalism and Sexuality. St. Edmund's College, University of Cambridge, UK (2019). See RCOA Cultural Assessment, *supra* note 30, at 18–19.

65. John Lavenburg, *Catholic Leaders Tell Harvard Panel Victims are the 'True North' of Anti-Abuse Fight*, *CRUX* (Apr. 12, 2021), <https://cruxnow.com/church-in-the-usa/2021/04/catholic-leaders-tell-harvard-panel-victims-are-true-north-of-anti-abuse-fight/>. At this same Harvard conference, Cardinal O'Malley said vigilance in care for victim-survivors is needed on the part of Church leaders. Attendees at the Anti-Abuse Summit in Rome in 2019 credited victim-survivors for the positive dialogue that occurred and the outcomes toward greater accountability for bishops that soon followed.

66. See NAT'L CONVENING REP., *LAY LEADERSHIP FOR A WOUNDED CHURCH AND DIVIDED NATION* (June 14, 2019), <https://catholicsocialthought.georgetown.edu/events/lay-leadership-for-a-wounded-church-and-divided-nation>; see also *WE ARE THE BODY OF CHRIST: CREATING A CULTURE OF CO-RESPONSIBLE LEADERSHIP*, *supra* note 4.

and use of restorative justice and restorative practices holds strong potential for healing the harm of clergy abuse, the peripheral harm currently experienced by many Catholics, and could serve as an effective pastoral instrument for addressing and healing the wounds brought about by social injustice and polarization in society.⁶⁷

67. Hunter Johnson, *Restorative Justice in the Catholic Church and Beyond*, YOUTUBE (2020), https://www.youtube.com/watch?v=VROPTYyCR_8; see also Griffith, *supra* note 55, at 41–42.