STATE OF MINNESOTA | DISTRICT COURT

COUNTY OF HENNEPIN | FOURTH JUDICIAL DISTRICT

Doe 84,
Plaintiff,
vs.
The Children's Theatre Company, a Minnesota Non-Profit Corporation, and John Clark Donahue,
Defendants.

Laura Adams,
Plaintiff,
vs.
The Children's Theatre Company, a Minnesota Non-Profit Corporation, and Jason McLean,
Defendants.

JURY TRIAL

Case No. 27-CV-15-20713

VOLUME X (a.m. session)

January 30, 2019
9:03 a.m.

Pages 1687 through 1791

HEARD BEFORE

THE HONORABLE FRANCIS J. MAGILL

District Court Judge

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NO.	DESCRIPTION	OFFERED	RECEIVED
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P R O C E E D I N G S

(Review of the jury instructions at 8:09 a.m.)

THE CLERK: All rise for the jury.

(The jury entered the courtroom at 9:03 a.m.)

THE COURT: It's good to see everyone has all their fingers and toes. Please be seated, everyone. Ms. Bevilacqua, welcome back. I hope you had a good evening. And we'll continue with the evidence.

MS. BEVILACQUA: Thank you, Your Honor. The Children's Theatre calls Dr. Janet Warren.

THE COURT: Dr. Warren, the witness stand is right up here. And before you're seated, I need to swear you in. Please raise your right hand.

THE WITNESS: Okay.

DR. JANET WARREN,
the Witness in the above-entitled
matter after having been duly sworn
testifies and says as follows:

THE WITNESS: I do.

THE COURT: All right. Thank you. Please be seated. And then once you're seated, if you could state and spell your name for the record, please.

THE WITNESS: Janet -- is this on?

THE COURT: We need the witness's mic on, Tyler.

THE WITNESS: Can you hear me?

THE COURT: It should be on now.

THE WITNESS: Oh, this is much better. Janet Irene Warren, J-A-N-E-T; Irene, I-R-E-N-E; and Warren, W-A-R-R-E-N.

THE COURT: And whenever you're ready, Mr. Duerre.

DIRECT EXAMINATION

BY MR. DUERRE:

Q. Welcome to Minnesota, Dr. Warren.

A. Thank you.

Q. Please state your full professional address for the record.

A. I am at the Institute of Law, Psychiatry and Public Policy in the Department of Psychiatry and Neurobehavioral Sciences in the University of Virginia Medical School at the University of Virginia in Charlottesville, Virginia.

Q. Would you please provide the ladies and gentlemen of the jury with a thumbnail sketch of your educational background.

A. I have a number of degrees. I have a bachelor's of social work and a master's of social from the University of Manitoba in Winnipeg. I have my doctorate in social welfare from the University of California in Berkeley. And I also trained after my graduate work to be a psychoanalyst accredited by New York Freudian Society?

Q. And do you hold any professional licenses?
A. Yes, I am licensed as a clinical social worker. I'm also licensed in Virginia as a sex offender treatment provider. And as I was stating, I'm certified as an adult psychoanalysts.
Q. What is your current professional position?
A. I am a professor in the Department of Psychiatry and Mental Behavior of Sciences doing my research writing and teaching in the institute.
Q. You're going to have to lean forward just a little bit or speak up. You're very soft spoken.
THE COURT: Or pull the microphone closer.
THE WITNESS: I think that's really good.
BY MR. DUERRE:
Q. How long have you held your current position?
A. I've been at the University for 30 years, my entire career. Obviously I made my way up from assistant professor, full professor, and I'd likely been in that position for about 15 years.
Q. What are your current responsibilities at the University of Virginia?
A. I have a number of different responsibilities, and they ebb and flow, depending on what is most poignant or demanding at any one time. I teach, I conduct research, I do writing, policy work, and I also do forensic

evaluations as part of my work in that that is what I teach at the University.

Q. Do you have a rough estimate of how many journals or articles you have published or participated in publishing over the years?

A. I don't have an exact number. I would say likely maybe 60, 70, 75 articles.

Q. What I want to do, Dr. Warren, is briefly discuss each of four areas that you've listed that you currently participate in. You said teaching, you indicated research, policy development, and publishing, and then the final one was forensic evaluations, such as what you've done in this case, correct?

A. Yes.

Q. Let's start -- let's start and go back and start at the first one. Your teaching responsibilities, tell us a little bit about what you do in that role?

A. My teaching is somewhat different than what you think of when you think of a University professor. I do not teach undergrads. I certainly work with graduate students and post-docs. But my primary mandate for teaching is to train professionals in how to do forensic evaluations.

So the institute has a contract with our Department of Mental Health in Virginia. And the statute in Virginia says that you can't do forensic evaluations unless you're trained by a qualified source of education in professional development. We happen to be the only one who are qualified to do that.

So I've spent my career really training psychiatrists, psychologists, social workers, how to do forensic work; how do you think about it; what is the methodology; how do you write reports. So that is the teaching I do about 10 to 12 times a year on different topics. Could be topics such as the competence like the unabomber, could be insanity like Hinckley. It could be mitigation regarding like capital murder, should somebody be executed or sentenced to life. It could be sex offenders.

So before you go into the forensic arena you come to our training program, which may be up to a week long.

Q. And you also serve as a liaison with the FBI in that role?

A. Yes, I -- the University has quite a close relationship with the FBI, the Behavior Sciences Unit. And I've been working with them since about 1988. But in terms of teaching, the University of Virginia actually gives them, when senior law enforcement go to the national FBI academy for a 10-week program, they actually get accreditation from the University of Virginia for various graduate and graduate courses. I review all of the course materials, all of the instructors for the programs of being offered by the behavior sciences faculty.

Q. The second area you said that you're involved in is research. Can you briefly set forth some of the research that you've conducted.

A. Well, again, my research has certainly varied over the years. And I'm given a great deal of freedom in terms what I wish to study. It's usually funded by one of the federal grant agencies. If I just --

Q. Let me stop you, because there's one thing I'd like you to touch on, and that is your involvement with the Boy Scouts of America and your evaluation of the Boy Scouts of America Youth Protection Program?

A. Yes, I was just going to say. I might just talk about what I'm doing currently and that just seems -- so might be most interesting to you. The last five years I've been on private contract by the Boy Scouts of America. And you may have read about it in the news, but they have files. They're called ineligible volunteer files. And these are files that they created, individuals who have had their registration with the Boy Scouts revoked because of reasonable allegations of child sexual abuse.

And so they've become quite recognized in the press; they're a part of all their litigation. So I have been hired by them to review all of these files, beginning in 1944 through 2016. It has taken us five years. I've had 32 coders along the east coast coding these. We've had to create Internet access to everything. And we ended up coding 7,819 of these files, meaning 7,819 perpetrators who they believe were involved in sexually abusing a child.

From reviewing all these files we identified 12,254 victims. And, again, tried to assess what we could about the victims based on information. These weren't research files. These were administrative files. They were used every year to check against registration.

So once a year when people would register with the Boy Scouts, they would literally have 17 people in a room checking every name against this list, trying to keep these people out. And they were trying to keep these people out years ago when there were no computers; there were criminal background checks. So that has been a very major project which I suspect will be being released in the next couple of weeks.

Q. The third area besides teaching and research that you indicated was policy and commissions and advisory Boards, that that constitutes a part of your role at the University of Virginia. Just briefly outline what that consist of.

A. As part of my role at the Institute of Law, Psychiatry and Public Policy, as I am involved in quite a bit of policy work and really enjoy the kind of importance of getting laws right.

And so over the years I was on the Virginia Crime Commission, it was looking at satanic cult abuse, sexual abuse. I don't know if you all remember that? That was back in the '90s where everybody thought there was cults. They were sexually abusing children.

I was then involved in the Virginia Crime Commission which drafted our laws on the registration of sex offenders. I'm sure you all know there are registries for people who've been released after being convicted of a sex offense. I was part of looking at those nationally and drafting our laws. And then most recently I was involved in the sexually violent predator laws, which are the laws that half the states in America have and half don't. Where after somebody who served time in prison, if they look to be at really high risk, such the people are frightened of putting them back in the community, they can be committed, taken from prison, committed to a psychiatric hospital and held indefinitely so they're no longer a risk.

So drafting that law, figuring out risk assessment; how do you treat these individuals. I've been involved in that work for a number of years as well.

Q. Now, the fourth area that you're involved in at the

University of Virginia is forensic work, forensic evaluations and that's what brings you here today. So I want to ask you some questions about your forensic evaluations. First of all, it's a personal question but it's necessary in this case, because of the line of questioning I think you're likely to face later. What's your salary at the University of Virginia?

A. I currently, having worked there for a 38 years, I make hundred thirty-five thousand dollars a year.

Q. Now, is your salary at the University of Virginia impacted in any way by the forensic evaluations you complete, such as this one?

A. No. This often comes up, who's paid, who's paid how much, but I'm basically paid my salary. And there is an agency run by who used to be our medical director, Park Dietz. He has a contract with the University of Virginia to free me up to do these cases, which of course I have to do because I teach people how to do them. So my salary is set and it's all done on a contractual relationship through the University of Virginia.

Q. Now --

MR. DUERRE: May I approach, Your Honor?

THE COURT: Yes, you may.

BY MR. DUERRE:

Q. I'm showing what's been marked as Trial Exhibit 1054,

which I understand is your curriculum vitae. Is that your current curriculum vitae or resume?
A. Yes, it is.
MR. DUERRE: Your Honor, defendant would offer Exhibit 1054.
MR. FINNEGAN: No objection, Your Honor.
THE COURT: 1054 is admitted.
BY MR. DUERRE:
Q. Dr. Warren, do you recall being contacted by our office?
A. Yes. Hold that thought just for one minute. Yes, I did.
Q. And what did you understand the nature and scope of your assignment to be when you were obtained?
A. Well, first I was asked if I wanted to take on the evaluation because I have a very busy schedule and I have to parse them out very carefully. But what was explained to me was that this was a case involving the Children's Theatre of Minneapolis and they wanted an expert who knew about youth protection and policies regarding protection of children from child sexual abuse. And more specifically that would want me to address the standard of care in terms of what was the standard of care historically back in the early 1980s as it pertained to protecting children and adolescents from inappropriate sexual behavior.
Q. Do you recall receiving documents from our office in

connection with your review?
A. Yes, these documents for many years came in big boxes and there were just boxes and boxes sitting in your office. We now have a secure box folder at the University of Virginia. So once I'm retained and security is put into place, I can actually have the attorneys load all the documents. I have about ten different categories of materials I know I need and that are relevant and they can actually load the material in there. I can assure you there was a great number of materials to be reviewed.
Q. Can you describe for the jury the type of documents that you obtained and reviewed in connection with this matter?
A. Well, the documents were very similar from one case to another, you know, the content changes. But what you need -- basically you need to read everything you can get your hands on and ask for everything that you think might be relevant so you can piece together what is like a puzzle.
So it's very important as an expert that I can say, I'd like to see this and this and it's loaded into my box immediately. But in terms of this case, I certainly had to review everything to do with Children's Theatre, the evolution of it, the administrative structure of it, the events that happened in it.
As you have no doubt heard there was a very long

complicated investigation by the Bureau of Criminal Apprehension, BCA. There was a grand jury report and undertaking that followed that. And then there are depositions by many, many people. And it was interesting because some of the depositions were done in the last year or two, in 2018. But some of the depositions were back from 1987 and those also are very interesting. Because when you're trying to figure out forensically what happened at a point in time, you want to go back to the documents closest to that time because that's where you get the most relevant detail.

So I've been told that there were like 13,000 pages and material, and likely over 30 depositions with multiple, you know, many, many hours in each one of those.

Q. Did anyone assist you in reviewing and summarizing these voluminous materials?

A. Well, I had four people assisting me at the University in putting together the materials. I had two record reviewers, one was Bill Erwin. He is a retired special agent with the FBI. Apparently, I met him back in the 1980s. I had Steve Carter, he is also a retired FBI profiler. So both were very experienced. And I asked him to look at particular materials, mostly in terms of organizing them, picking the high spots and putting it in some kind of framework so that I could come in and begin to go through the materials on my own, but knowing -- without spending all the time sorting.

I also have a research manager who's very good at formatting and putting together diagrams. I have at least one, two, usually two times -- two individuals proof and edit my reports so that when I finish them and if I'm very tired they can go back and pick up all my typos and any errors that might be in my report.

Q. Now, following your review of the materials, did you reach opinions to a reasonable degree of professional certainty as to whether CTC met the applicable standard of care for nonprofit volunteer Boards in the late 1970s and early 1980s?

A. Yes, I did.

Q. And what is your opinion?

A. My opinion is that they did meet the standard of care, both in terms of these protection policies that were in place in the time and efforts that they did make in the organization to protect their students and their staff. And also that their response to the BCA investigation, due to its length and complexity certainly met the standard of care, and efforts to respond to any information that was ultimately given to them in 1984 was very reasonable and appropriate in terms of handled real charges and real identified criminal offenses.

Q. Now, as I understand your opinion and that are in your report that you referenced earlier, there appear to be three separate components to the opinion. So I'd like to walk through those if we could take some time and do that and discuss them separately.

So first of all, I want to ask whether you have an opinion as to whether CTC's youth protection efforts met and exceeded the standard of care for nonprofit volunteer Boards in the late 1970s and early 1980s?

A. Yes. And just to -- before we go on these different points, you don't know what they are when you begin an evaluation. You begin an evaluation just by reading everything. You know what the general referral question is, but until you're almost done or you're through reading most of the material, you don't know what the pivotal or important pieces are going to be. But as you go through and read and read more and go back and read it again, certain major ideas come forward that are -- what makes you make up your mind. And so in presenting this I identified three that I thought we could use to explain to you how I got to my opinion.

MR. DUERRE: Your Honor, may I approach?

THE COURT: Yes, you may.

BY MR. DUERRE:

Q. I'm showing you what's been marked as Exhibit 1065. And

it is a demonstrative exhibit only. Is this a document that you prepared in connection with this matter?
A. Yes, it is.
Q. And you thought that this would be helpful in using to discuss your opinions regarding CTC's youth protection policies back in 1983, correct?
A. Yes. I think it's valuable to just see what people have been saying, but it's all kind of organized and put in one place.
MR. DUERRE: Your Honor, may we publish?
THE COURT: Any objection, Mr. Finnegan?
MR. FINNEGAN: No objections.
MR. DUERRE: May we publish?
THE COURT: Yes, you may.
MR. DUERRE: Thank you. Vicky, pull up Exhibit 1065.
BY MR. DUERRE:
Q. What I'd like to do, Dr. Warren, starting at the top and going through like a clock, is have you discuss the CTC youth protection policies and program that was in place in 1983?
A. Um-hm. And before we begin there's always this question about what were people doing then and what are people doing now. And there's always that kind of unclear question about what was then and what are we talking about

now.

But what I can say is that 1987 was viewed as a very kind of pivotal time in the evolution of the youth protection programing. And much of my work with the BSA and all of the data analysis separate out the data before 1987 and after 1987, this being when the Boy Scouts of America implemented their first youth protection program. And it was viewed as state of the art and they testified through -- in front of the federal commissions. So it's not really relevant here. But what I'm trying to do is kind of go back pre-1987 to say, knowing that here's what was in place at CTC.

Q. Okay. Let's start with the service on Boards publications, the innovative programing and the teen summit. Explain for the jury your review of the records, all of the deposition testimony. What your understanding is about the CTC youth protection policies in effect in 1983?

A. I believe you've heard from Dr. Jennings, and of course he's now quite elderly and actually doesn't, from what I've heard, doesn't remember even now some of the things he said in his deposition, that happened about 18 months ago. But Dr. Jennings had been a superintendant of schools in the Minneapolis School District for almost 25 years before he took a sabbatical to go work at CTC.

And then he decided to remain on. So he had a very kind of rich experience in terms of working with schools, but also very interested in youth protection.

So he served on Boards. You may have heard of Resources (sic) that I think Ms. Anderson talked about. He was brought on as a Board member for that organization, because of his respected position and his attempts to do good programing to protect children. He was also involved in the program that was developed called Summit -- Teen Summit, I believe, which was really to bring in children and see that they're being protected and see that they understand how to protect themselves.

And he also published. There's some conversation about articles that were being published back in that time. And one of the articles published back in 1974 was by Dr. Jennings. So he was viewed as a reputable member of the community who was knowledgeable and sought after because of his expertise.

Q. Let's move on to what you have referred to as the buddy system for students. And tell the jury where you received information concerning CTC's efforts in that regard?

A. I believe this came from Jay Bush. Jay Bush, his job was to oversee security. He was responsible for those. There was also a woman. I think her name was Grimstead (sic) and she was in charge of the auditorium. But they together were responsible for really looking at the physical safety.

And just as kind of a structure for thinking about this. To do really good youth protection programming requires three different components, and it always requires those no matter where. One is that you try to create kind of a hard shell around an organization to protect the children. So you want to have good physical security. You want good police presence. You want a good reporting system. You want kids to go places in buddies, so that they're not vulnerable physically.

The second thing you want is you want freedom of communication within the organization. Because as we know not everybody is assaulted by a danger -- dangerous person who is out in the dark. So as soon as you begin talking about acquaintance rape, what you're really dealing with is people who know each other who are seducing children or assaulting children.

And you have to create communication so that the children will tell you. That's the only -- you're not often going to walk in on these things. So there has to be a dynamic relationship between adults and the children. And then you need people who are well-informed about programming and who are really aware of the state of the art and can come in and say, there's new ideas. I just read about this new program.

So when I talk about Dr. Jennings, he really was viewed as an expert. He was brought in by CTC, saying, here's a man we want to bring in. He left the public schools to come here. He brought that. But there was a buddy system where kids were -- are all of the children -- the students were told, don't go anywhere alone. You know, when you're here after-hours, which they sometimes were for rehearsals. The idea was you weren't alone in the room so you didn't leave the building alone so you were always in pairs. So it was really saying to these children, you need be protected and don't allow yourself to be alone.

Q. The next three, the blue -- I'll call it red and gray -- are kind of interrelated. So perhaps you can speak to the issue of the meetings, both morning meetings, quarterly meetings, and student advisor meetings, and explain the importance of that in youth protection?

A. Well, these three are -- when I talk about, they met the standard of care, CTC, and in some ways exceeded it. These are the three circles that I think were really very responsive by CTC. And it's part of the reason that youth who went there really -- many like this school very, very much because they felt that they were given respect and autonomy. They were asked, how do you want to run your school?

But they had student advisors and there were a number of advisors in the school. It was a ratio of 20 to 1. And so every -- so there would an advisor to 20 advisees, which is very, very small. At the University we might have 50 people that we have to be an advisor to. And there are indications that they met on a daily basis. We wrote down regular, but people said that the students had contact with their advisors on a daily basis.

So, again, here we're seeing a relationship between one person and one student, so that if a problem did arise, there would be something that they would be likely to tell about.

Q. And in addition, there were also quarterly meetings with parents and students, you observed that from your review of the records?

A. Yes. So the school had four meetings a year, which is quite unusual. Being a parent I think I went in the fall and the spring and I met one of the teachers. But this was a meeting, not only with an advisor, but the parents and the student. So, again, if you have a child, if they're being abused, if there's a problem, what you want to do is give them an environment where they feel safe to tell somebody. So bring together the advisor who is seeing them at school; the parent who knows how they're doing at home; what they're doing at home; and the youth, the teenager, themselves. This gives you the best kind of protected communication, nexus for protecting a child from things that are troubling them and need to be spoken about.

Q. You also referenced the escort service. I think the jury has heard a little bit about that. Do you recall where you pulled that information from?

A. Yes. And before I go to that. School-wide meetings, this is something I'm familiar with, because the quaker meetings that's in some schools, and they're usually private schools. They're usually magnet schools, but there will be a morning meeting where all the children meet with all the faculty. It's the first thing that is done. And it's time to make announcements, but the children are also -- or they -- the youths are also given an opportunity to get up and say anything that they think is important. Now, it could be something about politics, philosophy, current affairs, but if they think there's an issue that they want the teachers and administrators to hear about, it happens every morning.

So once again, this idea of trying to make it to the principal's office or try to find out who the administrative head of the University, of the school is, it's not necessary because they're all together in an auditorium every morning.

Q. Thank you, Doctor. Moving on to the escort service. The jury has heard a bit of that, but if you want to indicate anything that you recall from the review of your records?

A. Well, I thought this was quite exceptional. And I think it came into place, I'm not sure. It just makes rational sense to me. But when the school moved over to become part of the Minneapolis Art Institute, apparently they moved into a large compound. And in the compound it was all under the fine arts institute and then there was the museum. There was a college of design, I believe, and there was CTC. And across the entire compound there was a professional security organization that offered security. Now, my understanding was there was additional security in the museum because of the art that was there obviously.

But there was security staff on the premises 24 hours a day. They stayed in close contact so they were told if there was some kind of event or rehearsal going on, so they did not know about that. If they felt that there was something untoward, if they were concerned about a suspicious person, there were -- not offense report, but a crime report that would be written out and stuck in the elevators and on the bulletin boards. And they also provided an escort service. So if any of the youths were leaving in the evening, mostly after dark, and needed to go to the bus or walking some short distance, these guards would actually accompany them to where they were going.

Q. And finally, you have referenced the mandated reporter training. And we heard from some of the witnesses about that. Again, what's the significance with respect to your opinion of the mandated reporter training that was done at CTC?

A. I'm sure everybody has explained to you what mandated reporting laws are. But they were quite new at this time. And I won't go into that whole history, but they were very important. They were somewhat controversial, because at first the physician's didn't want to be the people responsible and they fought about that. But it became a law that really tried to say to certain professionals and mostly professionals who had very regular contact with children, if you're going to be in touch with children, such as physicians, such as teachers, such as social workers, and you think that they're being abused, we are now creating a law which makes it necessary for you to report this to the authorities.

But in addition, they said, if you report this, there's also protection to the person saying, if you got -- you can't just do this maliciously and if you're mad at somebody. But if there's a reasonable basis for thinking a child is specifically being abused, sexually abused, or neglected, which is also important, there's no way that you will be sued for defamation. So it's a two-way street.

But these laws were just becoming very popular across the country. They were just being enacted. And Wayne Jennings was like a real advocate for them. He had started training his staff in the public schools before he came to CTC. He immediately began training all of the educators at the school once he arrived at CTC. He could recall doing programs. He had materials. And he said he would also bring in somebody from the local community, usually he would bring in a social worker. Because reporting laws required -- or offer two possibilities. You can either report to the department of social services or you can report to the police department.

The Department of Social Services takes the case if it's a family matter, if the abuse is happening in the context of the family. And if it's abuse happening outside of the family, which makes it a criminal offense, then the police take on the investigation. So he was quite adamant about doing that training and ensured everybody did it, signed up for it, and that he followed up through the time he was at the school, which was -- I think he left in 1985.

Q. So were these youth protection policies that we just discussed and are shown on the demonstrative exhibit, were these policies and programs standard around the country in 1983 or was CTC ahead of its time?

A. These were not standard, and CTC was ahead of their time. I don't even know that they were ahead of the time. I think they really wanted to have real interactions with the students. It's the face of youth protection, but I'm not sure they did it only for that purpose. But if you think of public schools, many of you -- all of you have gone to public schools or have children in public schools. You don't usually have 24-hour professional security staff there. You don't usually have an escort service. You don't have everybody moving about in a buddy system. You don't have quarterly meetings. None of us had advisors where we met with them one time a day. So I think this all is youth protection. But I think they did it spontaneously for a number of different reasons, but ended up having a very progressive youth protection in place.

Q. And are there youth protection efforts that could and should be undertaken that aren't listed necessarily on your diagram?

A. I think the main one, which people talk a great deal about, is criminal background checks, on which certainly are a standard of practice. And having worked with the FBI and used their criminal background checks for research, they were very difficult to implement.

And for many of you, you may not remember when there were no computers. But there were certainly a time when there were no computers and there was no criminal background checks. And the FBI began collecting this data in 1967. And it was then implemented across the country in 1971. But that was information that only went out to law enforcement. It was not available to anybody else. And the information was very spotty.

So throughout the 1980s it went to the Federal Government a number of times but they could never get it pass. They said it was too sporadic, chaotic; it's too expensive. We don't have the technology. We just can't do it. And it wasn't until 1993 that the child protection act, which was passed in 1993 actually mandated the FBI to improve their crime -- their criminal background information and most importantly to get sex abuse crimes into it. Because for many years sex abuse of child was not even viewed as a crime. It wasn't viewed -- abusing a child wasn't a crime until 1961. And so it was always considered a family matter. So you might talk to a social worker or, you know, whatever, but it wasn't a crime.

So in 1993 they say, we got to get this information about children being abused into the criminal history of these individuals, and you got to be able to make this information available to people.

And so it was in 1993 that the government said, we'll make it possible. And then immediately after that it was assumed that if the FBI can make it possible, then you all youth serving organizations have to follow this. So it became a part of the practice. People often think that it's kind of an, oh, it's the perfect solution, but it's only about seven to eight percent of people who actually have a criminal background check run who work with youth serving organizations who are found to have a criminal history. So it certainly is valuable. All the organizations I've worked with now use it. But it's -- it certainly doesn't capture many people who turn out to be a risk to children.

Q. All right. We can take that diagram down. I want to ask you about the second component of your opinion that is issued in your report. Do you have an opinion, Dr. Warren, as to whether the Children's Theatre Company acted reasonably and appropriately when it was advised by the Bureau of Criminal Apprehension in October of 1982 that the BCA was conducting an investigation of John Clark Donahue?

A. Yes.

Q. And what is your opinion in that regard?

A. My opinion is that they were responsive and thoughtful.

And given what they were told and that the investigation went on for three and a half years, I have never encountered a criminal investigation that has gone on for three and a half years, maybe a spy investigation, but no expectation this would go on for so long. Given those caveats and how their hands were really tied by the investigators -- and we can walk through it historically -- I think they were very responsive. Obviously realized there was a problem and jumped in and did as much supervision as they could while they were waiting for information from the law enforcement, which of course never came to them until the day that Donahue was arrested.

Q. You, in preparation for this matter, indicated to me that you would like to prepare a timeline to assist you in describing your testimony to the jury?

MR. DUERRE: Your Honor, may I approach?

THE COURT: You may.

BY MR. DUERRE:

Q. I'm showing you what's been marked as Exhibit 1066. And, again, it is a demonstrative exhibit that you prepared, correct?

A. Yes.

MR. DUERRE: Your Honor, we would ask to publish 1066?

THE COURT: Any objection?

MR. FINNEGAN: No objection.

THE COURT: And you may publish 1066.

MR. DUERRE: Thank you, Your Honor.

BY MR. DUERRE:

Q. So this exhibit is entitled Minneapolis police and BCA investigation timeline 1977 to 1984. And you told me that you felt it would be useful for you to have something like this to explain your testimony to the jury. Up in the left-hand corner you've got law enforcement information. Explain to me kind of why you formulated the timeline like you did and the significance of the information in the top left and right-hand corner.

A. Of course. And just before I do, I created this timeline, and I often do it in cases that have complicated dates. And so there's nothing on here that I'm sure you haven't heard about in the last two weeks. And you've been listening to testimony. But I find it very confusing until -- and I know this case now very well. It's often very, very hard to keep track of who said what, what year was it, what was the information, when was this meeting.

Now, everybody's been telling you these dates. It's not like anybody is trying to keep it from you. But to get it all lined up I think is very difficult. So this is just a summary of everything that you've already heard, but it's put in a way that we can walk through it in sort of a routinized way.

So what I tried to do is the left-hand side is information that was known to the Bureau of Criminal Apprehension. This was information that they had about what John Clark Donahue had been doing in the past and with adolescent boys. We have on the right the meetings that Mr. Gerber had with the various attorneys and senior administrative personnel at CTC. The significance of the black line is that they were never told any of this information. The BCA said, if we find out anything, we'll let you know. But they kept saying, we're -- we only have the -- we're working on rumors and tidbits of information. So CTC assumed that's what they were working on. They also had been told they would be updated if there was any additional information, but they were not.

And on the bottom line we have sort of the timeline of what happened; what did people find out; what did they talk to the school; what else happened; what was the investigation of the alleged victims, and then the arrest of Mr. Donahue. So it kind of allows you to move from the first contact with law enforcement all the way through the arrest and then also the grand jury testimony of these individuals.

Q. So when we start on the far left in 1977 and 1978, and I don't want to belabor this point, because the jury has heard the testimony from a deposition of Jacqui Smith. It was taken back in the '80s and they heard from Deborah Anderson yesterday. But can you summarize briefly the importance of that information?

A. Well, it's important for two reasons. Primarily because Jacqui Smith was a mother, was a thoughtful mom, kids really seemed to like her. They came to her house. They told her things that they weren't telling other people. And she had concerns that they were talking, not about me being accused, but a friend of mine was abused. She didn't think she could report it, because there were no reporting laws until afterwards. And then after they had been passed in 1975 and she became a Board member, she thought, you know, I really have a responsibility here. These kids are telling me things. It's a very vague, but she went to speak with Deborah Anderson who I believe you heard from yesterday, who was working in the District Attorney's Office. Deborah Anderson said, bring in some kids. This was five years later of course. I'd be happy to talk with them. My gut feeling was saying, hey, I think something is amiss here.

But they passed it on to law enforcement, which would be the natural progression. And the captain of the police department got involved, spent a month trying to collect information and couldn't find anything, couldn't find any direct reports. There were always these rumors. This was complicated regarding rumors and John Clark Donahue because John Clark Donahue was a homosexual, gay man.

And back in this time, when we go back to 1961, it was illegal to be a homosexual and it was illegal -- against the law to have sex with a same sex partner. So there was always this sort of -- he was accepted in the art community, because it was seen as more progressive environment, but it was always rumors about John Clark Donahue, well, he was homosexual; well, it was with younger men. Was it with men under the age of consent, of 16, that was never clear. The point being is, is that when the captain of the police tried to investigate it, did a full investigation, he couldn't find anything and the case was just closed.

Q. Now the next date that you referenced is August 1981. And we've seen documents that indicate that that's when the BCA investigation actually commenced. But was CTC told of the initial start of the investigation in August of 1981?

A. No. So the investigation began, but it wasn't. And I can't explain this. It was begun but it wasn't formally called an investigation. They were waiting for additional information that came from a Mr. Kane (sic) who they had arrested for youth prosecution and pornography. And in a plea bargain he gave up two names, which was one John Clark Donahue.

So CTC didn't know that any of this was going on, none of this was conveyed to them. And so it wasn't until October of '82 that they went to talk to CTC. The important of what I tried to do with the red, is the red is everything that that they -- the police knew about, either the Minneapolis police or the BCA. And the green is everything that CTC knew about. And just visually, if you look at it, all the provocative, problematic information, none of it was conveyed to CTC. So when we look at the three dots above law enforcement information, CTC did not know that John Clark Donahue had been arrested for sodomy in 1961 and they were never told that. Now that would had been a very, very important piece of information for CTC to find out about.

Now, if had -- it was given this kind of patina of how it involved a young man, because he was a middle school teacher. And even I read it twice and didn't really realize it. You thought he's a middle school teacher so he abused a middle-age child. He didn't. He was a middle school teacher and he had sex with a 17-year-old boy. Now, by his account the boy said he was 18. It doesn't really matter, the boy was 17. But nonetheless he was arrested for sodomy and plea bargained it down to indecent exposure. He was 23. A 23-year-old man having sex with a 17-year-old boy is not illegal, except it was homosexual.

Anyway, all of that kind of confusion, it didn't matter, because they knew that he had a criminal background check, but they never told CTC.

They also did an interview with a young man that had just turned 16 who was a former student of CTC. And this young man said, yes, I was associated with CTC. I met John Donahue through CTC, and I had sex with him, possibly on the grounds of CTC in his private office. So they had a young man who said, I am a victim; I had sex. But he was just over his 16th birthday when he made the report. So, again, they couldn't use it to actually charge him with anything.

And then they had Mr. Timberlake who was -- says 17, some people say he was 19. But he also reported himself, not my friend; I had sex with John Clark Donahue. But by the time I believe he was the one where the statute of limitations had passed. It was three years back then. So by the time he told them about it, he was 19, and this had happened just past his 16th birthday.

So these are very, very provocative pieces of information. If you had gone to anybody at CTC, certainly the Board of Directors, and said John Clark Donahue was fired from the school for sodomy and indecent exposure; I have a 16-year-old boy who said he had oral and anal sex with him in his office at CTC and I have another young man who said he came up and had a sexual encounter with him one night after a play, obviously CTC would had taken action. They would have suspended him immediately. They would have done something. None of that information was conveyed to them.

And Mr. Gerber said to them repeatedly, two things, two things that are really important, and that's the green one, October 18, 1982. We have no factual -- we have no firm evidence. In fact, if we had firm evidence, we wouldn't be doing the investigation. We would arrest this man. We have no firm evidence. We have bits and pieces and rumors.

And the second thing he said to them is, we do not want you involved in this investigation. We are the experts. We are state police. We know how to do it. The last thing we want is a bunch of artistic educational people trying to do this. And if you interfere, we will charge you with obstruction of justice, which is bad enough, as we all know from what is going on politically today. But even more importantly they said, if you interfere and you tell the parents or you tell the youth or you tell the other faculty, you will be -- the idea is destroying evidence. You know, people -- we want -- we want to be able to get in here and find out what is going on. And if you tell everyone and they all become aware, you will contaminate the way they think of it, the evidence that we're trying find. So they weren't told anything and they were told, don't get involved.

They of course were very concerned, and they began to supervise Mr. Donahue very, very closely with Ms. Lawless saying she met with him almost on an hourly basis. Jay Bush saying, I really didn't take my eyes off of him. And Wayne Jennings says, I had a conversation with him and I made it very clear that I was keeping a good eye on him.

Q. Now, as we move left to right on the timeline and the jury has heard this information as well, that's the period of time, May/June 1983, when Ms. Stearns was assaulted by Jason McLean at Jason McLean's house. So that's a key date for you, I take it, and that's why it's on the timeline. So we move to the right and you say McLean first noted in BCA file and you have February 17, 1984, several months later. What's significant in your opinion about that gap in time.

A. Well, even with Ms. Stearns it seemed that it was a couple of things about the account were relevant to me in terms of having read and watched her deposition. Number one is, that it happened after a party. I believe at Mr. Donahue's house, which is likely his birthday party in June, which had nothing to do with CTC obviously. And more I also thought it was significant that, at least by her deposition testimony, Ms. Stearns was living independent. Her parents had given her permission at 15 to go and live with people near this school. So she couldn't drive, so she stayed there. And then even after she got her driver's license she continued to live independently.

And the reason I mention that is that we're talking about the responsibility of CTC, which of course we are. They're responsible for children when they're on their grounds. But I think it's also important to be aware that parents are also responsible for their children. And when children are at a party that it is not a part of any function, when they're living independently at 15 and don't have any supervision, when they can spend a night away and nobody is calling them to say, where are you, you get home right away, I think we also have to identify the responsibilities of parents to be responsible. The point being is that nobody was told about this.

And as the investigation continued there was no mention of girls. Everybody was investigating John Clark Donahue. Everybody had rumors about John Clark Donahue, but there was no idea that there were other sexual encounters going on. There were no reports made to the school, there were no reports made to the advisors, and there were no reports made to the BCA which was conducting all of these investigations.

And it wasn't until the investigation was going so poorly that the lead person -- I don't know if it would be the District Attorney -- but Erskine came in said, we've been at this for two and a half years. We're making no progress. We don't have any victims we can actually press charges against. We think that we're going to close this down and that this was sort of a -- maybe not a waste of time, but we're not making any progress. But all of a sudden they brought in Campion, they brought in Joelle Kohout, which was a woman investigator, and they solved this whole thing in four months.

But up until that time they thought that they were shutting down the investigation. So that when some of the attorneys of CTC were called to a meeting with the District Attorney, they thought they were going in the spring of '84 to be told, okay, we've been at this three years. We haven't found a credible witness who is a direct witness within the statute of limitations. And they went in and they said, not that we're closing down the investigation, but we're arresting John Clark Donahue.

And they talk about how much they felt shortchanged, that they had not heard anything for two and a half years. And all of a sudden there was going to be an arrest. The point being is that it wasn't until two years, two and a half years, almost three years later in the spring of '84, two months before Donahue was arrested that one girl was interviewed, Marni Osterberg. I don't know if you heard testimony from her. But she again talking about John Clark Donahue.

And then Joelle Kohout -- I think she is just a great investigator -- she said, you know, is there anything else going on? Which is always really important for an investigator, yes. But you think you're talking about it, and then you say, is there anything else? And she said, yes, there's also Jason McLean, who is very flirtatious and seems to be interested in having relationships with young ladies at this school. And so they said, well, can we speak to these young ladies. She said let me talk with them and I will try to arrange for you to have contact with them. So we're talking about February of 1984 when the investigation started in 1981.

So then if we go along to the right, they do. Then they start moving quickly. This isn't a number of years, this is a month. And they interview Laura Stearns or Laura Adams, the plaintiff in this case, and they say, you know, we've heard information from Marni Osterberg you've had a relationship with Jason McLean. And she said, absolutely not. She said, you know, I'm very happy at this school. I've learned how to handle the politics of being at an art school, and I'm very happy and I'm going to remain at the school. She said, absolutely not, I've had no sexual contact with him.

They then followed up with the two other women that were identified. One was Jina Lucas, I think she has a married name now. And the other one was Melissa Beneke. Who may also have a different name. And they both also said to the investigators, absolutely not, we're close friends with Jason McLean. He's a very close friend. We work together, but we have absolutely never had sexual contact with him. And then one of them was asked, have you ever have a bath and spent the night with him? And she said, absolutely not. I've never had sex with anyone.

So then Donahue with arrested and Jason McLean wasn't arrested. Jason McLean has never been arrested. Because there was never evidence that he was guilty. They then enacted -- here's the grand jury. This is -- now we're into the green, because we're into the green because now CTC knew what was going. But the District Attorney was having a hard time getting evidence. There were a number of youths who didn't want to give evidence. There was one young lady who was an alleged victim and she said, I don't feel like I was abused. She got up and slammed out of the courtroom. A lot of parents didn't believe what was going on, so they felt that they weren't getting the response they wanted.

And so the District Attorney said, I'm going to empanel a grand jury. And the value of that is when you empanel a grand jury, you can subpoena witnesses. So it's not just like going and saying, meet me at a coffee shop. We want to ask you about what was going on with Jason McLean. You're subpoenaed and under oath. You have to give testimony.

So then as part of the grand jury they brought in again Jina Lucas and Melissa Beneke. And under oath they again both said, absolutely, we're good friends with Jason McLean, as many, many of the students are, but we've never had any kind sexual contact with them. So because of all this, Jason McLean does not have a criminal record, never been arrested, he's never been indicted on anything. And then he will talk more about what happened to him after that.

Q. Okay. Good. Well, we've covered the timeline so we can take that down. The third and final component of your

opinion in this case, you were asked whether you have an opinion as to whether Children's Theatre's response to allegations relating to Jason McLean was a reasonable response and that the Children's Theatre met the applicable standard of care as it relates to McLean's supervision and retention at CTC. And do you have an opinion on those issues?
A. I do.
Q. And what is your opinion, Dr. Warren?
A. Again, my opinion is that given the circumstance and the information that was available, they were very cautious in how they handled Jason McLean but obviously followed the law in that he was not charged with anyone or found guilty of anything and everybody said that he had not had any sexual contact with anybody while he was serving as an actor at the school.
Q. Do you recall that he was suspended for a period of time while the grand jury was empanelled and later reinstated? Do you recall that --
A. Yes.
Q. -- in your review of the records?
A. Yes.
Q. Okay. And was it reasonable for him to be reinstated in your opinion.
A. Yes. And let me just kind of give you the outlines of

what happened. As soon as Donahue was arrested -- and that was on April 18, 1984 -- CTC suspended four other staff, and these were individuals that had been identified by BCA. They were not charged, but there was just enough of a -- they were talked to. So Jason McLean was one of these four individuals. I guess BCA said, hey, we've interviewed him.

Marni Osterberg said he's had sex; the girls all say he hasn't had sex. You know, we don't like this, so CTC immediately that day suspended him. And he was suspended from the school for six months while the grand jury proceeded. And at the end of the grand jury in September they found they -- no charges, no credible evidence. And so after that period of time they had -- there was no -- there was no crime.

And it's very easy to say they should have known or could have known because now everybody is saying it's happening or it happened, but this was 30 years ago. And back in 30 years ago everybody said he hasn't done anything. He hasn't done anything illegal. He's a good actor and performs well. But they were concerned because this time they were going to act just on rumor, because they weren't -- it wasn't law. They weren't confined by just is there credible evidence. They really thought, we're concerned now about these rumors and there just seems to be a lot going on here and we've got to get to the bottom of it. So they said, we'll let you back on probation, but you're going to be on probation for one year. And during probation you're going to see a reputable psychologist. We're going to choose the psychologist and you're going to see this psychologist on a regular basis. And during that course of time we want you to work with this psychologist to see what are the issues, if there's anything there, if there's any disorder you might have that might look like you're at risk for sexually abusing adolescents or children. And at the end of one year, it's going to be up to the psychologist to determine whether you're terminated, whether your probation is continued, or whether you're allowed to return to the school.

So for this year he saw this psychologist. This is like doing an ongoing one-year risk assessment. Often we have to do risk assessments in a month or two, but this was like working with him, getting to know him, understanding how he related to people. And at the end of one year they said, no, we don't see anything about him, any kind of sexual disorder that would suggest that he might be at risk. We don't have any evidence from anybody that he's harmed anybody. He can come back.

But even at that point CTC said, okay, you know, we know that you, you know, were having kids hang out at your class. We're going to make it really clear what you can and what you can't do. And here are the rules: You will have no children at home; there will be no taking kids in your car. And they laid out a number of these requirements. And they said if you -- if you break any of these -- none these were laws. These were just requirements. You're going to be terminated immediately.

And then it was about a year, almost a year and a half later it was found out that he had let one of these students stay at his house or he had been fraternizing with one of the female students. And there was no indication that they necessarily had sex, but that he had her at the home and he was terminated.

Q. So in your opinion, CTC conduct in supervising and reinstating and then eventually terminating or having him forced to resign met the standard of care?

A. It was extraordinarily cautious and it involved a lot of investment on their part. But you can't fire a man when absolutely no evidence suggested he has done anything wrong.

MR. DUERRE: Thank you, Dr. Warren. I have no further questions at this time.

THE COURT: Why don't we take our break a bit early -- take our morning break and then begin with cross-examination. So members of the jury, we'll break for about 20 minutes then reconvene.

(The jury exited the courtroom at 10:08 a.m.)

(Break was taken at 10:08 a.m.)

THE COURT: Still finalizing the jury instructions. But I think Tyler is handing out new drafts of the special verdict form. And any -- are we -- need to discuss anything before we bring the jury out? All right.

THE CLERK: All rise for the jury.

(The jury entered the courtroom at 10:34 a.m.)

THE COURT: Please be seated. Whenever you're ready, Mr. Finnegan.

MR. FINNEGAN: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. FINNEGAN:

Q. Hi, Dr. Warren.

A. Hi.

Q. My name is Mike Finnegan. We haven't met before.

A. Certainly.

Q. Dr. Warren, would you agree that it's never okay for a corporation to allow a child molester to run its school?

A. Absolutely.

Q. Would you also agree that schools and youth serving organizations must put the safety of the children first?

A. Certainly the safety of the children, also the well-being

in terms of programming and opportunities.
Q. And that's also been then and now, safety of kids and schools, primary thing, right?
A. I think it's a very important part of working with children, but of course there many other very, very important goals of what we want to provide to children. Their safety is one element of a complex effort to provide them the best development they can.
Q. In a school setting, do you believe that there is anything that's more important than the safety of the kids?
A. Certainly, educating them is very important as well. It's not an either/or question. It's never been an either/or question.
Q. Both are --
A. Sorry, I'm not looking at you. Get back to it.
Q. Both are super important, you would agree with that?
A. Of course.
Q. You also mentioned John Clark Donahue's 1961 conviction. Did you read that conviction was in the newspaper?
A. No, I didn't read that it was in the newspaper. I heard that it was in the newspaper, but my understanding was it was a little like so and so was arrested on this charge. At least that's my experience of seeing these kinds of charges in newspapers back in the '80s.
Q. Did you read John Clark Donahue's deposition from the

1980s where he said that this was in the newspaper?
A. I watched his deposition from start to finish, and I don't remember him saying it was in the newspaper, but I have heard that there was an article -- a small -- again, we're talking about a small article, a big article, my understanding was it was one of those little ones, he was arrested on what date, that's the best of my understanding.
Q. Doctor, have you actually seen the article?
A. No, I haven't.
Q. So you don't know whether it's a big article, small article, you don't know anything about it other than what you've been told; is that correct?
A. Yes, but I've been told by people who seem to have some awareness. But no, I've not seen the article.
Q. Okay.
A. I'd like to just add --
Q. Dr. Warren, there's no question now.
A. Oh, okay.
Q. The other piece of this, Dr. Warren, that I asked you a little bit about, did you know that John Clark Donahue sat down for a deposition in the 1980s and had to answer questions under oath? You talked about his video deposition. Did you actually read a transcript from the 1980s where he had to give testimony?

A. Yes.
Q. And it may not have all the people that were working with you on your team that was hired by Children's Theatre. Did you say there are, including you, there are five people or are there six people?
A. Four additional people and me, so five of us.
Q. Okay. So you, Park Dietz, Steve Carter, Bill Erwin, James Reed?
A. Yes, Park Dietz was not involved. He heads up the whole corporation, but he wasn't involved in the evaluation.
Q. He bills something on this, correct, in this case?
A. I think a quarter, half an hour maybe, for talking to the referring party.
Q. And your billing rate is $600 an hour?
A. Park Dietz charges $600 an hour for my time and he pays the University of Virginia a hundred thirty thousand dollars a year to pick up 35 percent of my contract.
Q. Park Dietz, he charges a thousand dollars an hour?
A. I believe he does. I don't know what he charges.
Q. Steve Carter, $400 an hour?
A. I believe he -- I have seen the bills and I think that they're 400 or 450 possibly.
Q. Would it help refresh your recollection to see the billing records on what that is?
A. No.

Q. You don't dispute that Park Dietz's rate is a thousand dollars an hour? You don't dispute that?
A. No, absolutely not.
Q. And Bill Erwin, $450 an hour?
A. Yes, retired FBI.
Q. James Reed, $250 an hour?
A. Yes.
Q. Correct --
A. Um --
Q. There's no question there.
A. Okay.
Q. Correct that your deposition was taken in this case on December 5th of this year -- or last year, sorry, of 2018?
A. Yes.
Q. And up until that point it's correct that Park Dietz had billed for your time and the others on your team, that Children's Theatre had billed over a hundred thousand dollars at that point?
A. I'm not aware of that. The last bill -- I've never see billing and I'm not involved with any of the billing. The last billing I came -- saw when I came for a deposition was at $94,000, had been charged for the four people, Park Dietz, University of Virginia, and then that would be part of my salary.
Q. So I think we're probably on the same page. It's also

a -- there's a $10,000 retainer that gets paid upfront; is that correct?
A. I actually don't know anything about the billing.
Q. Do you remember looking at the billing in your deposition?
A. I remember looking at the last page.
Q. Would it help you to see the billing?
A. No, I'm sure --
Q. Do you dispute that there was -- that the charges at that point at the deposition were over a hundred thousand dollars?
A. It could be if there was a retainer. All I can say is I looked at the last page, because I had never seen the billing. I saw $94,000.
Q. What about since then? You've done a whole lot of work since the deposition on this case, right, you and your team?
A. Quite a bit of work, certainly 85 percent of the work is done before I'm deposed.
Q. And so do you have a total of how much Park Dietz is billed for your time and the rest of the people's time to Children's Theatre for the time, the opinions that you're giving here today?
A. No. And again, I have nothing to do with the billing and none of the money comes to me and this is professional practice. The University of Virginia allows me to spend

35 percent of my time and Park Dietz pays for that part of my salary so I'm able to do these evaluations.

Q. And so the money, the approximately hundred grand, that goes to Park Dietz; is that right?

A. Certainly, it goes to Park Dietz and then a part of it goes to the University of Virginia, they take a quarter of it, and then a part, quite a small part, goes to my salary.

Q. In looking at your background, Dr. Warren, you've done a lot of work, a lot of research study on sex offenders; is that right?

A. Quite a bit of work over my career.

Q. You would agree that one of the things that sex offenders do and what they look for is they get access to the children, right?

A. Of course.

Q. And you also would agree that once they get access, that's where the grooming happens, right?

A. Yes. My hesitancy is people like to use the word "grooming." And I'm sure you've seen it on TV and heard about it. Grooming was the word that was developed by the LAPD around the mid- to late 1980s. So I can certainly talk about grooming, of research grooming, I have to reference it in my work. But in terms of using the word and the thoughts of grooming, it was inapplicable back at the time this case was unfolding because the word didn't exist.

Q. Same type of behaviors existed, just a label for it didn't exist. Is that what you're saying?

A. Yes. What we didn't know back then is there were acquaintances. We thought either people hiding in woods who grabbed children, then we knew there was incest in families. But it wasn't until going on into the late 1980s and early 1990s that we began to recognize acquaintance rape. And that is when we began to hear about the BSA, the Catholic church, sports teams, and that kind of thing. It's been an evolution of thinking.

Q. You'd agree that the Big Brothers and the Boys Club, they were talking about access to kids and their materials back in the 1930s?

A. In a 1939 publication and, in fact, Boy Scouts of America was talking about it in 1939, in an article in the New York Times.

Q. So it was out there?

A. People certainly knew there were pedophiles and people who tried to find children in youth serving organizations. The idea of grooming and how this came about was not part of thinking nomenclature or vernacular.

Q. And you would agree, Doctor, that having a school provides greater access to the kids, than just if they had just had

plays? Having your own school there provides greater access for the adults? Would you agree with that statement?
A. Certainly there's more hours, but it's not that the more hours you're with the child the higher the rate or the higher probability you're going to be sexually abused. Because we have many millions of teachers and they never abuse children. So I'm not sure we're equating time with risk. They -- they're not correlated.
Q. All right. Are you saying that the more time that a child molester has access to a kid doesn't correlate to the opportunity to molest a kid? Is that what you're telling us, yes or no, Dr. Warren?
A. Pardon me?
Q. It's a yes-or-no question?
A. I think, no.
Q. And what about setting up a village around the theatre, Donahue living there, McLean, other adults using the houses for rehearsals, cast parties, does that provide greater access to the children?
A. I don't believe that there was more access with children -- you know, I'm not sure. I know that there was the acting and I know there was a school, but I'm not sure this idea of people -- I think most people try to live through the school they teach. What I'm trying to say is

there's no correlation between the amount of time you spend with children and your risk for sexually abusing them. If you want to abuse a I child, you're going to find a child. You're going to find innovative, really secretive ways to find them, to abuse them. It's not how much time you're with them.

Q. And in everything that you reviewed, Doctor, it's correct that you saw, before 1984, John Clark Donahue was the center of that world at Children's Theatre?

A. No, absolutely, he was a figurehead and the inspirational artistic genius of the place.

Q. And now I want to talk a little bit, Dr. Warren, about you testified about the then and now concept. And then the Boy Scouts, when did they implement the rule of two, what they call the rule of two?

A. 1987 when I said that they implemented their first child protection program. It was that adults could not be alone with children.

Q. And so they call that the rule of two. Were you aware that many of the Catholic bishops put that in place in early 2000s, same rule?

A. Yes, the Catholic church has been very diligent in trying to develop very good youth protection programming. And that children are not allowed to be alone with priests or going into directories.

Q. And just so that we have the terminology correct. In opening, counsel talked about the policy that the Children's Theatre had. And they called it a rule of three, same rule, though, right? Three, you got one kid, you have to have two adults?
A. Yes.
Q. Same, so same terminology, the basic concept is an adult shouldn't be alone with a child, correct?
A. Yes, is the idea that you don't want somebody who is not in a protective stance to be alone with a child unobserved, because obviously it's in that kind of situation where the children do get abused.
Q. And you've reviewed all the written policies the Children's Theatre had in place that they gave you. They provided you all of them up until the current one?
A. Yes, and I certainly looked at each one of them somewhat, but haven't read every one of them, student handbooks from start to finish over the last 30 years.
Q. Would you agree that the 2017 Children's Theatre policy is the first time that Children's Theatre puts a "no adult alone with the child" rule down in writing?
A. I actually don't know that. It could be.
Q. You realize that's two years after Laura Stearns started this case against Children's Theatre?
MR. DUERRE: Objection; Your Honor, I think

counsel may have misspoken earlier. I thought he said 2017, now he's saying two years after Laura Stearns, which would be 1986.

MR. FINNEGAN: Two years after Laura Stearns. I'll figure it out.

MR. DUERRE: Maybe I was confused.

MR. FINNEGAN: After she brought the case.

BY MR. FINNEGAN:

Q. So that's two years after Laura Stearns brought the lawsuit in 2015, correct?

A. Um-hm.

Q. That a yes?

A. Yes, it could be.

Q. And that's also 30 years after the Boy Scouts of America first put that rule in place, correct?

A. Yes, but --

Q. Dr. Warren, yes or no on that one?

A. All right.

Q. And you understand, Dr. Warren, that if Children's Theatre wants you to explain anything, they'll have an opportunity to do that? You understand that, yes?

A. Yes, of course. Yes, of course.

Q. You gave the opinion that all of the actions by Children's Theatre that you reviewed were reasonable and appropriate; is that correct?

A. And thoughtful.
Q. And thoughtful. So three things, reasonable, appropriate, and thoughtful?
A. Yes.
Q. I'd like to walk through some of those with you, Doctor, if I may. And ask you some questions about them.
MR. FINNEGAN: May I use the board up there, Your Honor?
THE COURT: Yes, you may.
BY MR. FINNEGAN:
Q. And Dr. Warren, you told us it's important to have things in time, right? That's why you put the timeline up?
A. Absolutely.
Q. And so you talked -- told us a little bit about Jacqui Smith, right?
A. Correct.
Q. That in the '70s. And then in the mid-1970s Jay Bush heard that Donahue might be involved with young boys. He didn't do anything with that and said it was malicious gossip. Do you think that was reasonable, appropriate, and thoughtful?
A. Um --
Q. It's a yes or no?
A. I thought he reflected upon it and knew there were rumors about Donahue being gay and found no evidence for them.

Q. He told us this week that they thought it was malicious gossip. Do think that was reasonable, appropriate, and thoughtful?
A. Yes, there was gossip at that time and there was no evidence.
Q. Do you think his actions were reasonable?
A. Rumors are --
Q. Yes or no, do you think his actions were reasonable?
A. Yes, given that there was no evidence anything having occurred. Mr. Donahue had been gossiped about from the time he started in the art world.
Q. Also agree, that in order to investigate rumors, you got to go and ask, you got to check, you got to do something?
A. They went --
Q. Is that a yes, yes or no?
A. Yes, they went to the police.
Q. Jay Bush, right here they went to the police?
A. No, the police were investigating him in the late '70s. They did an investigation.
Q. Jay Bush went to the police --
A. No, no --
Q. -- is that what you said?
A. -- Jacqui Smith went.
Q. Okay.

THE COURT: Let's make sure we don't talk over each other.

THE WITNESS: Okay.

MR. FINNEGAN: We got to do that for the court reporter. She's taking it down.

THE WITNESS: Okay.

BY MR. FINNEGAN:

Q. And what about John Clark Donahue providing alcohol to minors at his home sometimes until the point that they became intoxicated. Do you think that was appropriate and thoughtful?

A. There was no evidence by anybody else who attended parties that he was giving alcohol to students. There were cast parties and there was alcohol in the kitchen. And as far as I knew teenagers at time go out and get the alcohol. But there were no CTC activities where he was actively giving alcohol to children.

Q. Did you read his deposition, '87 deposition?

A. Yes, he said it was available, people went into the kitchen. Again, I don't know what he was doing in his private time, but these parties were attended by teachers. They were also attended by the parents, even Jacqui Smith came and said, my kids asked me if I could have a glass of wine at one of these parties. I said they could. So the idea that there were these isolated parties where there was this John Clark Donahue supplying children with liquor

is not correct. Parents were there, staff, faculty, other actors, and the kids. One little girl did get drunk. I'm sure the children went into the back and got a glass of wine or whatever, but it wasn't like it was being given to children from this school openly and in flagrant violation of the law.
Q. Do you realize that every single student, former student that came into this courtroom told us that alcohol was available to them at Children's Theatre? You aware of that, yes or no?
A. I'm aware that --
Q. That's a yes or no, Dr. Warren?
A. I'm not surprised, but I'm going to stand by what I said.
Q. Yes or no, are you aware of that. The question is: Are you aware?
A. No, I wasn't here during their testimony.
Q. Wait for a question, please. 1980, '81, 16-year-old student, Kristen Froebel, she was asked a question about what she knew about Jason McLean, what she had heard. She heard from Patrick McNellis, who was an adult actor, that the men at CTC discussed which minor students to deflower. Was that appropriate?
A. No, that's hardly appropriate if it happened. And I -- again, there's no evidence of it. As I then --
Q. Dr. Warren, that was a yes or no?

A. Okay.
Q. Were you aware of that before I told you that piece of it?
A. Well, I'm aware you're telling me. I don't know that I believe it. I'd have to read it, and I'd have to know who she was.
Q. Are you saying that you don't believe this woman that came and testified in this court?
A. Often when you hear these very -- oh, very insidious comments. She might have been telling the truth, but you have to be very careful to tell what is going on and how accurate it is. BCA was already involved and they couldn't find evidence. So if everything is so obvious and it was so egregious, how can we have the best state law enforcement investigate for three and a half years and not find a single credible victim?
Q. Are you done?
A. For now.
Q. All right. Let's go to January/March 1982. This is during the "Cookie Jar," stage manager Debbie Goldstein tells Marta Keane, came in and testified that Jason McLean's lewd and perverse conduct towards a minor girls is not okay. Nothing was done in response to that. McLean was allowed to keep doing it. Was that reasonable, appropriate, and thoughtful?
A. That's incorrect, actually.

Q. Question: Did you hear it?
A. I can't answer because I know factually what you're saying is incorrect.
Q. So you disagree with Marta Hartman Keane, another former student, came in here and told us that Debbie Goldstein told her that McLean's lewd and perverse behavior is not okay. You don't -- wait for the question -- you don't believe her, yes or no?
A. It's being misrepresented. I'd be happy to tell you what happened and --
Q. You'll have a --
A. -- respond to --
Q. Doctor, they'll have a chance.
A. Okay.
Q. Sarah Lawless, the executive director, before she was told by the BCA, so before the BCA got there and the BCA records, it states that Sarah Lawless had already confronted John Donahue about his sexual involvement with juvenile males and he denied it. She took Donahue's word; they kept him in charge. Do you believe that that was reasonable, appropriate, and thoughtful, yes or no?
A. What year are you talking about?
Q. She told the BCA that before -- before they came to her --
A. Um-hm.
Q. -- she had confronted John Donahue about his sexual

involvement with juvenile males?
A. Um-hm.
Q. He denied it, that's before the BCA ever shows up. She took Donahue's word for it, kept him in charge. My question to you is: It's a yes-or-no question, was that reasonable, appropriate, and thoughtful?
A. If it was rumors, based on what had happened in --
Q. Yes or no?
A. -- I'm not sure what the rumors were. And when you have rumors, you ask the person, you investigate, you try to get information. And, again, there was nothing more there because when they tried to investigate it; they couldn't find anything. But the rumor -- I want to emphasize, the rumors --
Q. Doctor, that was a yes-or-no question.
A. I'm sorry, that was really unfair.
Q. Also, in the BCA records, it also states that Wayne Jennings had received a report about Donahue and his staff fooling around with the minor children. He confronted Donahue; Donahue denied it; he took Donahue's word for it. This is a yes-or-no question. Was that appropriate, reasonable, and thoughtful?
A. Again, that's an incorrect representation of what happened.
Q. Do you want to look at that record, look at that?

A. I'm very familiar with the record and I can comment on what happened.
Q. Let's show it to you then if you want? All right.
MR. FINNEGAN: Can we pull up Exhibit 73.
THE WITNESS: Um --
MR. FINNEGAN: I'll get a copy. There's no question right now.
May I approach again, Your Honor?
BY MR. FINNEGAN:
Q. Do you want some more water?
A. I am out of water again.
MR. FINNEGAN: May I get her some more water, Your Honor?
THE COURT: Yes, you may.
THE WITNESS: Very kind.
BY MR. FINNEGAN:
Q. You're welcome. That's the second paragraph down here at the bottom; I think it's number two. It's says that Mr. Jennings, he stated that he needed to know that there would be no fooling around with the children by Mr. Donahue and his staff -- or his staff. That it said, right here says, "Mr. Donahue made no denials to Jennings." He answered him that there be none of that, these types of troubles at the Children's Theatre."
When Mr. Jennings was here he did -- he said that

Donahue denied that. So does that refresh your memory about my question? That's a yes or no?
A. No, it doesn't refresh any of my memory, because I know about that quote. But I also know that there were actions afterwards, so this is a misrepresentation of what happened. But I'm happy to clarify later.
Q. So you think that the BCA internal records is a misrepresentation of this record, yes or no?
A. He referred --
Q. Yes or no?
A. This --
Q. That's a yes or no. Do you think these BCA records are a misrepresentation, Doctor?
A. If you cut and past them. If you want to bring in about another ten pages of what happened?
Q. That's a simple yes or no, Doctor?
A. I think the way you're presenting it is misleading, and so I can't respond other than to say that it is an incorrect presentation of what happened; more happened.
Q. I missed one here; I got these a tiny bit out of order. Marta Keane also reported to the production, the manager of managers, Frank McGovern, that Jason McLean was harassing her and the other girls, being lewd, grabbing their butts, trying to lick their necks, Frank McGovern went to Jason McLean and had him apologize and allowed him

to keep doing it to the other girls, not Marta. Was that reasonable, appropriate, and thoughtful. That's a yes or no?

A. It's again incorrect --

Q. It's a yes or no?

A. I can't answer yes or no. There's something that is incorrect presentation of facts.

Q. Do you believe that -- have you read Marta Keane's deposition?

A. Yes.

Q. And do you know what she said here in court when she was here?

A. I don't know if I read her deposition from yesterday. Anyway, I read her deposition. I know about the incident, but it's being misrepresented by you.

Q. Do you believe that Marta Keane was telling the truth when she was here?

A. Frank McGovern never allowed John McLean to continue doing it. He was pinching butts and he was told to stop it, knock it off, and not do it again.

Q. Do you know that Marta Keane came here and sat on that same stand and told us that he kept doing it to the other girls --

MR. DUERRE: Your Honor --

MR. FINNEGAN: -- not her --

MR. DUERRE: Your Honor, I'm going --
MR. FINNEGAN: -- but kept doing it to the other girls?
MR. DUERRE: Your Honor, I'm going to object; he knows the witness wasn't present during any testimony. She's read all the depositions. Counsel knows that. It's inappropriate cross.
THE COURT: Yeah, if she hasn't read the testimony, then --
MR. FINNEGAN: I can move on.
THE COURT: -- move on.
BY MR. FINNEGAN:
Q. All seven of these dates-wise, this all happened before the BCA showed up in October of '82?
A. BCA began their investigation in 1981.
Q. Wait for the question. All of this happened before the BCA came and had a conversation with Sarah Lawless in October of 1982. You're aware of that, right?
A. Oh, that's correct.
Q. You're also aware out of these seven pieces that were here before the BCA showed up, five of those involved people that at some point were on the Board, Smith, Bush, Lawless, Jennings, and McGovern. You aware of that?
A. I am aware that they were on the Board, yes.
Q. Okay. And after this, after the BCA shows up, at some

point contemporaneous Rana Haugen reported three times to actor, staff member Ann Fink between '80, '83, spring of '83, that Sean McNellis was sexually harassing and abusing her. She didn't do anything with that information. Was that appropriate and reasonable, yes or no?
A. Tell me about the incident again.
Q. Rana Haugen --
A. In what year?
Q. Rana Haugen --
A. I know Rana, um-hm.
Q. She goes three times to Ann Fink between 1980 and the spring of 1983 and tells her that Sean McNellis, an adult actor was sexually harassing and abusing her, summarizing those, and she doesn't do anything with that. Was that appropriate, yes or no?
A. I don't know about that incident.
Q. You never heard that before?
A. No, I heard about Rana and McNellis, but I believe he was actually tried and was exonerated and acquitted. So whatever Rana was saying, whatever evidence was presented it was reviewed by a court of law and he was free and the charges were dismissed. Again, it was a rumor or comment. I believe it was the case where she got angry --
Q. Dr. Warren --
A. -- they were having a relationship and --

Q. Dr. Warren, Dr. Warren, there's no question right now.

THE COURT: Yeah, let's wait for the next question.

BY MR. FINNEGAN:

Q. And just so that we have this correct. Rana Haugen telling adult staff member at CTC that she was being sexually harassed and sexually abused by Sean McNellis, that's a rumor to you, yes or no?

A. No, I wouldn't -- I would to have read more about the situation to let you know what I think. I haven't heard of that conversation.

Q. In the -- first of all, 1982 Mary Hallman Russell tried two different times to go to two different Board members, one male, one female on different occasions about the information she had about Donahue. She was blown off. They didn't get any information from her. Was that appropriate and reasonable, yes or no?

A. She had been referred to BCA.

Q. Was that appropriate and reasonable what those two Board members did, that's a yes or no?

A. For the school to refer her to the police, that was a very reasonable thing to do.

Q. Are you saying that those two Board members that were there, that they referred her to the police, yes or no?

A. Mr. Jennings, and I'm not sure --

Q. The question was the two Board members, Doctor? So we can get through this.
A. Again --
Q. Are you saying they referred her to the BCA?
A. No, but it's not interchange to grab people out of a Board meeting. She didn't go to the Board meeting, but she was referred to BCA so that she could tell their story, her story to them and no charges were brought.
Q. Rana Haugen also told us that she went and reported to the actor and stage manager Lisa Stanley that Sean McNellis had forced her to have sex with him. Lisa Stanley told Rana that every girl's first time is rape and did nothing about it. Is that appropriate, yes or no?
A. It was adjudicated and the person --
Q. Is that -- the question was: Is that appropriate? Her response to that girl at that time, was that appropriate, that's a yes or no, Doctor?
A. My problem with that is that --
Q. It's a yes-or-no question, Doctor, so we can get through this, please.
A. Okay. So what was the question?
Q. The question was that Rana Haugen, when she told Lisa Stanley that Sean McNellis had forced her to have sex with him, she responded to Rana, that every girl's first time is rape and did nothing about it. My question to you,

Doctor, is: Was that an appropriate response by Lisa Stanley, yes or no?
A. Yes. Well, it should have gone to the police and should have been -- he should have been charged and he was and acquitted.
Q. 1982, '83 John Donahue was aware that an adult employee Myron Johnson had sexually assaulted a female student, Jina Penn-Tracy Lucas, didn't do anything in response to that. Do you think that was an appropriate response, yes or no?
A. I am unfamiliar with that incident. I'm very familiar with Jina Lucas.
Q. There's no other question. I'll move to the next one then? In 1982, '83 Rana Haugen went and told the principal Dan Conrad, that Donahue is touching himself in the showers in front of a minor student, Dan Conrad did nothing. Was that appropriate and reasonable, yes or no?
A. It's a very odd report. I'm sure somebody --
Q. That's a yes or no. Do you think that's reasonable or not?
A. It's difficult because these young people are saying odd things, so --
Q. So you can't answer that?
A. I don't think you --
Q. It's a yes or no?

A. You consider everything you're told, of course you do.
Q. Okay. And then in the spring of 1983 John Donahue's secretary walked in on him pulling up his pants after sexually assaulted 13-year-old Don Goff. He reported that, she scowled at Donahue and did nothing else. Was that an appropriate response, yes or no?
A. Well, while he was being investigated, I find that very odd.
Q. You don't believe that?
A. I would have to know much more about it.
Q. We talked about these two already, the female Board member. And then you're also aware weren't you that Winthrop Rockwell became aware of the investigation into Donahue by the BCA for sexual abuse of juveniles. Were you aware of that, Win Rockwell?
A. Yes, of course, he was involved the first day the call came through and was involved throughout.
Q. You also aware that the piece that you talked about, the instruction that Sarah Lawless got from the BCA, not to do anything, not to intervene, you're aware of that, right? You've testified about that, correct?
A. Yes.
Q. And you're aware that the first time that was written down anywhere in the CTC documents was in 1986 in a press statement. Are you aware of that?

A. There was --
Q. That's a yes or no? Was it written down anytime before that?
A. No, on the advise of their attorney.
Q. And yesterday we heard from Bill Powell, who is also informed about some of the rumors about John Donahue. Were you aware of that?
A. He was informed of the investigation.
Q. Okay. Maybe I got it wrong. So the -- he knew about the investigation, correct?
A. Yes, of course.
Q. Okay. And then we also heard from Jon Cranney who said that even before he got to the Children's Theatre that he had heard some of the rumors about John Donahue. Were you aware of that?
A. Yes, there are many rumors about John Clark Donahue. He was a gay man. And had -- likely had sex --
Q. There's no question right now, Doctor. And you agree that all of these, all 17 of these adults that had been listed right here, all of this information was something that each one of them had before Laura Stearns was sexually assaulted in May or June of 1983?
A. I would have to review each of these situations to see if they seem factually true. But what was true is the --
Q. The question --

A. -- investigation by law enforcement --
Q. The question --
A. -- was underway.
Q. The question again, yes or no, all 17 of these adults with CTC, all of this happened, all this knowledge, what do you call it, rumors --
A. Rumors and tidbits --
Q. -- and reports listed --
A. -- of information is what the police said.
Q. I'll go with what you said, rumors and tidbits -- hold on -- rumors, tidbits of information, and reports about inappropriate conduct with kids, all of this was known before Laura Stearns was sexually assaulted in May or June, correct? That's a yes-or-no question.
A. Again, possibly, certainly some of them. I just don't know about some of these incidents. But the police were involved. They were investigating anything that anybody would say to them.
Q. There's no question right now.
A. Okay.
Q. You're also aware that the number of people on here were Board members, one, two, three, four, five, six, six of those were Board members?
A. Most of this has nothing to do with Mr. McLean.
THE COURT: That was not the question.

BY MR. FINNEGAN:
Q. That was not the question. Were you aware there were Board members on this list?
A. Yes.
Q. Number of them? Last thing that the counselor asked you, Doctor, was about when Children's Theatre brought Jason McLean back to the Theatre in 1984. Do you remember those questions?
A. Yes.
Q. And looked at all those documents around that?
A. Yes.
Q. And you also testified that Children's Theatre was extraordinarily cautious in that situation; is that correct?
A. Yes.
Q. You're aware that the Children's Theatre didn't warn any of the girls at the school about the risk that McLean posed. You aware of that?
A. McLean wasn't posing a risk at that time. He had not been found guilty of any charge.
Q. You need to be found guilty to pose a risk to kids? Is that your testimony?
A. If you're --
Q. That's a yes or no. Is that your testimony that you have to be convicted in order to pose a risk to kids?

A. Somebody has to define a level of risk, and nobody had --
Q. That's a yes or no, Doctor?
A. There was no risk associated with Jason McLean. Nobody had been able to find him guilty.
Q. There's no question, Doctor. There's no question.
A. Okay. Risk is a professional --
THE COURT: There's no question.
BY MR. FINNEGAN:
Q. There's no question, Doctor. They'll be able to ask you any questions. Do you remember that? Okay. Also, at that point -- this is a yes or no -- if you're aware that Children's Theatre didn't tell any of the parents about what they knew in 1984 about Jason McLean? That's a yes-or-no question, you're aware of that that they didn't tell any of them, right?
A. Ask me the question again.
Q. As of 1984 you're aware that Children's Theatre had not told any of the parents about what they knew about Jason McLean, yes or no?
A. They had not received any information.
Q. That's a yes-or-no question. Did they tell the parents?
A. They --
Q. We can have a debate about what they know. But did they tell the parents what they knew, yes or no?
A. Yes.

Q. That's my question.
A. Yes, because they didn't know anything.
Q. What parents did they tell?
A. No, I'm saying they hadn't been -- they didn't have any information to give anyone.
Q. Doctor, the question is: Did they tell any parents, yes or no?
A. Tell them what?
Q. What they knew?
A. They didn't know anything.
Q. You have a dispute about what they knew, but did they tell the parents anything, yes or no?
A. They suspended him for six months.
THE COURT: That wasn't the question.
MR. FINNEGAN: That's not the question. The question is whether -- thank you, Your Honor.
THE COURT: The question is whether they told the parents, if you can answer it.
THE WITNESS: They had nothing to tell the parents at that point.
BY MR. FINNEGAN:
Q. Is that a, no?
A. I guess it's a no.
Q. Was Children's Theatre at that point from 1984 until 1986, were they being extraordinarily cautious with the safety

of the kids relative to Jason McLean?
A. Yes, they were being cautious.
MR. FINNEGAN: Nothing further.
THE COURT: Any redirect?
MR. DUERRE: Briefly, Your Honor. Can you bring up 1066.

REDIRECT EXAMINATION

BY MR. DUERRE:
Q. Want to clarify a couple of points. On the timeline that we looked at earlier. And you are talking about the BCA beginning its investigation of August 1981? And then you were talking about a couple of interviews that the BCA or a couple of names that the BCA got in that August 1981 time frame. Who were those boys or young men?
A. The two that I reference up there?
Q. Yes.
A. They conducted interviews with two young men, one was unnamed, but he had just turned 16 and he said he had sex with John Clark Donahue in his office at CTC. And Charles Timberlake was a 17-year-old who also said after a play he went to John Clark Donahue's office at CTC and had sex with him. So in both instances we had young men saying it happened to me; I had sex, and it was with John Clark Donahue at CTC. They were both over the age of 16, so there was an issue of consent. And with one of them there

was a problem with statutes of limitations, which was three years.
Q. So let me stop you. I remember all of that. I want to make sure that I didn't lose something in the translation. Those two boys that they interviewed in/or around August of '81, that information was not shared with the Children's Theatre in October of '82, correct?
A. It was never shared with CTC.
Q. Those weren't rumors, those were actual names, ages of boys, and locations, correct?
A. Yes.
Q. And that would be important for the Children's Theatre to know; would it not?
A. Yes, it would have given a basis to immediately suspend Mr. Donahue.
Q. Right, because they had been looking all along for details, something with some meat on the bone. There's the meat on the bone, wasn't shared with Sarah Lawless in 1982, correct?
A. No, or at any point.
Q. Now, let's talk about the 17 incidents on the little paper and we got 12 to 17. I've even heard of some of them. Here's my question: Those incidents for the most part, all of those occur after October 1982 when they tell Sarah Lawless, don't interfere with our investigation; we're

experts; we'll take it from here?

MR. FINNEGAN: Objection, Your Honor; that misstates the record, evidence.

THE COURT: Well, overruled; the jury will remember what the evidence was.

THE WITNESS: And the question is?

BY MR. DUERRE:

Q. The question is: Most of the incidents, rumors that were listed on that poster board by counsel, those came to the attention after Paul Gerber told CTC not to interfere with their investigation?

A. Yes, he said two things, don't interfere; we're the experts; you're going to really mess it up and ruin the evidence if you do. But most importantly he said, we have no firm evidence; all we have is bits of information and rumors.

Q. And that wasn't accurate, was it, given the fact that they knew of these two incidents with specific details?

A. Hm-hm. They had information, but it wasn't sufficient for him to bring charges, so he chose not to tell CTC about incidents that would have given him a basis for suspending him and likely firing John Clark Donahue.

Q. And just so we're clear and I think Dr. Kraizer, their expert, testified to the same thing. Once you make a report to law enforcement, that is your duty to make a report, not to investigate. Is it that -- you agree with that?

A. Oh, absolutely, the last thing in the world that you want is a bunch of artistic actors and teachers to be trying to conduct an investigate -- a criminal investigation of a child of sexual abuse. You must leave it to the experts and experts said, leave it to us.

Q. And, in fact, Jacqui Smith in 1977 told the Hennepin County Attorney's Office and the Minneapolis Police Department that she had heard of some situation from her friends of her boys and reported it, correct?

A. Yes, she went and talked again to Deborah Anderson with the DA's office and it was referred to the Minneapolis police. So the report was made, both to the District Attorney and the local police in 1970, or '75 -- '9, they did an investigation and couldn't find anything.

MR. DUERRE: Okay. Thank you. I have nothing further.

MR. FINNEGAN: Nothing further, Your Honor.

THE COURT: Thank you. You may step down.

THE WITNESS: Thank you.

THE COURT: Any additional witnesses?

MS. BEVILACQUA: Yes, Your Honor, the Children's Theatre calls Kimberly Motes.

THE COURT: All right. Ms. Motes, I think you