

COPY

THE STATE OF NEW HAMPSHIRE

CHESHIRE, SS

SUPERIOR COURT

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THE STATE OF NEW HAMPSHIRE

V.

#93-S-0218, et al.

GORDON MACRAE

\* \* \* \* \*

TRIAL BY JURY

Volume IV

Pages 1 through 119

BEFORE:

The Hon. Arthur D. Brennan  
Presiding Justice  
Cheshire County Superior Court  
Box 444  
Keene, New Hampshire 03431

DATE:

Thursday, September 15, 1994

APPEARANCES:

For the State:

Bruce E. Reynolds, Asst. Cty. Atty.  
Robert Gainor, Asst. Cty. Atty.  
(Rockingham)

For the Defendant:

Ron Koch, Esquire (New Mexico)  
James R. Davis, Esquire

CLERK:

Stillman D. Rogers, Esquire

STENOGRAPHER:

Lorena Werner Patria, CSR  
Certificate #41

I N D E X

<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
Thomas Grover (Cont)		4-9/50		

EXHIBITS

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P-R-O-C-E-E-D-I-N-G-S

1  
2 THE COURT: Okay. One thing while it's on my mind is we have  
3 got cross-examination going on now. Before we have  
4 redirect, before the State does anything, I want to hear  
5 exactly what's going on on redirect and make decisions  
6 then. I don't want to go into this without doing that  
7 first. So we'll release the jury and talk up here and make  
8 up our minds as to what we should do.

9 We have a witness problem. Could you describe that to  
10 me?

11 MR. REYNOLDS: Kathy Hall, now Murray, is a material witness  
12 in the case, your Honor. She is in mid-pregnancy, it's my  
13 understanding, and is anxious about testifying. She has  
14 read in the paper concerning what the Court did with  
15 reference to Ms. Collett who testified earlier this week.  
16 She has, because of her pregnancy and because of her  
17 anxiety, some health concerns. She has been in contact  
18 with her physician, I believe an obstetrician/gynecologist  
19 who my understanding is the physician has talked with the  
20 court clerk, Mr. Rogers, concerning Ms. Hall's concerns and  
21 my understanding of the circumstances is that Ms. Hall is  
22 looking for some sort of consideration by the Court  
23 concerning -- because of her physical condition and her

1 concerns about her health and how her testimony will be  
2 delivered whether it be in open court or through some other  
3 method.

4 THE COURT: Well, my understanding is that her physician is  
5 willing to talk with the Court.

6 MR. REYNOLDS: Yes, your Honor.

7 THE COURT: Well, what I would like to do, one, I want the  
8 press and the public to know that I'm aware of the First  
9 Amendment issue and that you can contact your attorneys if  
10 you want.

11 What I'd like to do is -- I know the doctor is  
12 available now. I'd like to put the doctor on a phone here  
13 in court, put the doctor under oath and ask some questions  
14 about what his or her feelings are about this witness  
15 testifying in court, in open court, then if the press  
16 chooses, the press can contact their attorney, let them  
17 know what the doctor's testimony has been and in the event  
18 that I believe I might close the courtroom, then we would  
19 have a hearing before I do that so your attorneys would  
20 have an opportunity to be heard on that issue.

21 There is also a Sixth Amendment issue for the  
22 defendant and I don't know how the defendant feels, if the  
23 defendant would -- certainly the defendant has the

1 opportunity to register any objection to closing the  
2 courtroom for the testimony to this witness as well, so you  
3 can think about that.

4 But since the doctor, my understanding is, is  
5 available now, I'd like to do the phone call now, get that  
6 behind us and then revisit the issue later. What I'm  
7 wondering is if we might be able to -- I anticipate the  
8 doctor's questioning to be very short, if we could have a  
9 transcript of that for the parties and the public to have  
10 to in case they have something they want to say during the  
11 hearing on whether or not we close the courtroom.

12 If the witness is here and nobody objects, I could  
13 have her come into chambers and see if maybe she would just  
14 testify in open court anyway. I keep a record of it.

15 MR. REYNOLDS: We didn't advise the witness to be here. I spoke  
16 with the witness last night indicating that it would be  
17 necessary for your Honor perhaps to speak with the doctor  
18 to see where we would go from there, so that's as far as I  
19 was able to go with it last evening.

20 THE COURT: Well, Tim, could you call the doctor, eventually  
21 get ahold of him and ask if, say, at 10:30 or so it would  
22 be possible for her or him to call in here, we'll put him  
23 on the speaker phone, ask him maybe five minutes of

1 questions at the most, ask him a few questions about her  
2 health and his opinion as to whether or not testifying here  
3 would be dangerous to her health. We'll think about what  
4 other options we can use other than closure.

5 I am thinking maybe we can put the witness on the  
6 stand before the jury comes in and not bring the witness  
7 through the doors but just bring her through here and up  
8 on, maybe those kinds of things might make a difference.  
9 I'm thinking if I could talk with the witness, I might be  
10 able to reduce her anxiety by showing her the courtroom,  
11 maybe even the victim witness, could you do that, have you  
12 done that, Carolyn?

13 MS. KENNEDY: Who's the witness we're talking about?

14 MR. REYNOLDS: Kathy Hall.

15 MS. KENNEDY: I haven't met her yet.

16 THE COURT: Maybe that's something we can do, have Carolyn  
17 bring her.

18 THE CLERK: I made that suggestion to the doctor yesterday and  
19 he said that sounded good.

20 THE COURT: Carolyn, if -- I'm wondering if maybe you could  
21 just call the witness and discuss what it's like here and  
22 explain that you might give the witness -- you could even  
23 take her in the other courtroom and show her during these

1       proceedings or something just so that she has a better idea  
2       because really to me whether the press is here or not  
3       shouldn't have a great impact.

4   MR. KOCH:       One of the reporters made a comment to me -- in  
5       fact, he was a little upset that I didn't register an  
6       objection -- but he said even if we had to be removed, why  
7       couldn't we have a tape recorder there? For the camera  
8       people the problem is they can't write like a news reporter  
9       can and getting a transcript doesn't mean to them anything  
10      later. They use sound bites and visualgraphics, so they  
11      say why not a tape recorder so we could at least hear her  
12      testimony.

13   THE COURT:     We probably should have done it. I have never run  
14      into this before.

15   MR. KOCH:       From my perspective I don't care, it makes no  
16      difference in terms of the Sixth Amendment issue.

17   THE COURT:     Well, it's an important First Amendment issue,  
18      probably more important than the Sixth; but at any rate,  
19      we'll get ahold of the doctor, see if the doctor can call  
20      in at 10:30; we'll break at 10:30, put the doctor on the  
21      speaker phone, swear him in, and meanwhile Carolyn is going  
22      to call the witness and find out if there is a way she can  
23      kind of explain how the process works and that we'll do

1       such things as not bring her through the courtroom but have  
2       her seated, bring her through the other door and that sort  
3       of thing; and if you have any ideas of what we can do, let  
4       me know.

5       MS. KENNEDY: Okay.

6       THE COURT:     Are we ready for the jury?

7       MR. REYNOLDS: The State is ready, your Honor.

8       THE COURT:     Okay. Go ahead and call them up.

9                       OPEN COURT

10      THE COURT:     Before we begin I just want to ask you one more  
11                      time and tell you one more time if you have any reason why  
12                      you feel you can't be fair in this case, or there's been  
13                      any violation of the order concerning staying away from the  
14                      press or media coverage, that sort of thing, I've got to  
15                      know it. You don't have to say it here, you can give a  
16                      note to the bailiff. I'm just letting you know that now.

17                      I take it there is no problem at least that you want  
18                      to discuss now and, believe me, if you run into any problem  
19                      at all, let the bailiff know. Give the bailiff a note.  
20                      You don't even have to show what's in your note. The  
21                      bailiff will bring it to me. Thank you.

22                      Good morning, Attorney Koch.

23      MR. KOCH:       Good morning, your Honor. Could we approach for



1           one second?

2   THE COURT:     Do you need a record?

3   MR. KOCH:       No, sir.

4                   (Discussion held off the record).

5   CONTINUING CROSS-EXAMINATION: (by Mr. Koch)

6   Q     Good morning, Mr. Grover.

7   A     Good morning.

8   Q     Sir, are you on your medication this morning?

9   A     Yes, sir.

10   Q     And you're feeling okay to go forward with this process  
11           again?

12   A     Correct.

13   Q     Mr. Grover, when we left off yesterday we were talking  
14           about the incident that had occurred at the Marlborough  
15           rectory when you were delivering the papers. That was the  
16           Union Herald I think you indicated to the jury?

17   A     No, I said at the time they were two different papers that  
18           we delivered, the Union Leader and the Keene Sentinel.

19   Q     And which paper were you delivering on the day that this  
20           incident occurred Mr. Grover?

21   A     I said I didn't recall because it was in the morning and  
22           the Union Leader -- we only delivered the Sunday Leader, so  
23           it had to be on a weekend or on a Saturday or Sunday

1           because the Keene Sentinel only comes out in the afternoon  
2           except on Saturday mornings and that comes out early  
3           morning.

4   Q       Does that help you remember more closely the day of the  
5           week that this may have occurred?

6   A       No.

7   Q       Do you have -- when you say in the morning, sir, were you  
8           in school at that time?

9   A       I don't believe -- I don't know.

10   Q       No memory today of whether you were in school or out of  
11           school at that time during the year?

12   A       I would only be guessing.

13   Q       What time, Mr. Grover, would you normally begin a paper  
14           route? Let's talk about first of all during the school  
15           year and then maybe move to summer months and see if there  
16           is a difference.

17   A       All right. For the Keene Sentinel, I don't know, the  
18           papers usually came around I would say 1:00 or so in the  
19           afternoon and if it was during the school year, it probably  
20           would start around 3:00 or so.

21           Saturday mornings usually got up around, I don't know,  
22           probably around 6:00 or so to start the route; and the  
23           Union Leader came a little earlier than the Sentinel would,

1           so the majority -- well the Union Leader, the route wasn't  
2           very big and depending on the weather or sometimes my  
3           brother did it, the whole route by himself, sometimes he  
4           would ask for help depending on different circumstances.

5   Q    Mr. Grover, you testified that this was in the morning but  
6           can you give us any more of a timeframe than that?

7   A    No, I can't.

8   Q    You indicated, sir, that you had gone into the rectory and  
9           I think you described to us where this table area was and  
10          then you had gone into what you called the front room where  
11          you had had some conversation with Gordon MacRae?

12   A    Yes.

13   Q    And then you began to leave, is that correct?

14   A    That's correct.

15   Q    And when you began to leave, you started down the hallway?

16   A    That's correct.

17   Q    And when you started down that hallway, Mr. MacRae began to  
18          edge you or move you towards the side of the hall?

19   A    Correct.

20   Q    And then literally pushed you into the side of the hall,  
21          forced you into the side of the hall?

22   A    Yes.

23   Q    And then pinned you up against the wall with his arm under

1           your throat I think you had described, is that correct?

2   A   Well, yes, that's correct but that didn't happen until I  
3       started -- he edged me towards the wall and he came like  
4       this and started walking and walking closer to me, closer  
5       to me; and I would move over like this towards the wall  
6       more and more and then his shoulder pushed me up against  
7       the wall like this. And I started to turn and started to  
8       slide down the wall, and that's when he put his arm up to  
9       hold me, hold my back flush against the wall so I couldn't  
10      easily move in either direction.

11   Q   What had you just been talking about, sir?

12   A   Walking down the hall when that happened.

13   Q   No, sir, my question was what had you just been talking  
14      about.

15                You told the jury there was conversation that was  
16      going on between you and Mr. MacRae and then you started to  
17      leave. My question was what were you talking about?

18   A   I don't recall the conversation.

19   Q   When you slid down the wall, he then took his arm and put  
20      it up under your throat and pinned you to the wall?

21   A   Correct.

22   Q   That was a very aggressive action, wasn't it, sir?

23   A   Yes, it was.

1 Q It was a forceful action?

2 A That's right.

3 Q It was a violent action?

4 A Correct.

5 Q And you didn't know what was happening?

6 A That's right.

7 Q You had no idea why this man would be making these gestures

8 toward you when he moved you into the wall and put his arm

9 underneath your chin?

10 A That's correct.

11 Q Isn't that true?

12 A That's true.

13 Q Now, sir, I think you then said that he grabbed your

14 crotch?

15 A That's correct.

16 Q And was that while he was holding you pinned against the

17 wall, sir?

18 A That is correct.

19 Q And when he grabbed your crotch, he grabbed it and pinched

20 or he rubbed his hand over it or what he did do it?

21 A He put his hand on my crotch area.

22 Q Did you say or do anything at that moment in time, Mr.

23 Grover?

1 A No.

2 Q Is it fair to say that during the entire incident that took  
3 place in the hall that you made no comment of any sort?

4 A No, not that I recall.

5 Q And you do not recall Gordon MacRae saying anything either?

6 A No.

7 Q So it would be fair to say that during this entire incident  
8 there were no words or any kind of communication of any  
9 sort?

10 A You mean in the hall? As we were walking down the hallway  
11 there was.

12 Q There wasn't an incident before the hallway was there, sir?

13 A No, we had conversation before we entered the hallway.

14 Q I asked you about the incident. There was no conversation  
15 of any kind or communication during the incident?

16 A That's right.

17 Q And then I think you told the jury that Gordon MacRae just  
18 let you go?

19 A Yes.

20 Q And you left?

21 A That's correct.

22 Q Now, you remember when you first told your version of this  
23 incident to Detective McLaughlin, sir?

1 A Yeah, I had a conversation with him.

2 Q And you did talk to Detective McLaughlin about the incident  
3 that occurred in the Marlborough rectory in that hall?

4 A That's correct.

5 Q Didn't you tell, sir, -- I thought you told Detective  
6 McLaughlin that Father MacRae unzipped your fly and he  
7 started to fondle your penis, didn't you?

8 A Yes, perhaps.

9 Q Yes, perhaps?

10 A Yes, at different times I remember different things, more  
11 detailed than some. It had been -- when I first came and  
12 spoke to Jim McLaughlin, I don't know how many years, eight  
13 years maybe from that incident to the time I had talked to  
14 him had gone by and a lot of things in that conversation,  
15 such as in other conversations, were -- would flashback in  
16 and out of my memory. I remember some things some times  
17 and described them in different words and I just at the  
18 time recollected a little more than when you were asking  
19 me.

20 Q Now, Mr. Grover, what's happened over the course of time is  
21 that you have molded your story to fit facts that you now  
22 know; isn't that true?

23 A No.

1 Q When you talked to Detective McLaughlin you told this jury  
2 yesterday that you intended and you told him the truth  
3 about what had happened, didn't you?

4 A Yes, I did.

5 Q Now, sir, you told Detective McLaughlin that at that first  
6 time in that Marlborough hallway that he unzipped your fly  
7 and started to fondle your penis, didn't you?

8 A That's correct.

9 Q And that is different from what you're saying here, isn't  
10 it, sir?

11 A Yes, it is.

12 Q Because you know that didn't happen in that rectory?

13 A No, that's not a fair statement there.

14 Q Mr. Grover, would you agree with me that it's fairly easy  
15 for a person to tell the truth?

16 A Yes.

17 Q And would you also agree with me, sir, that when a person  
18 begins to lie, the more lies that they tell, -- the more  
19 caught up they get in trying to cover that lie to make an  
20 explanation fit?

21 A That may be true.

22 Q Well, you've done that, Mr. Grover, in your life on many  
23 occasions, haven't you, sir?



1 A I don't know if that's totally accurate.

2 Q In fact, when you were younger, sir, one of the biggest  
3 problems you had was a habitual pattern of lying; isn't  
4 that true, sir.

5 A No.

6 MR. REYNOLDS: Your Honor, may we approach?

7 THE COURT: Yes.

8 BENCH CONFERENCE

9 MR. REYNOLDS: I guess I have a concern here under Rule 608.

10 THE COURT: On the good faith basis?

11 MR. REYNOLDS: Well, I guess what we're talking about is a couple  
12 things here. Through 608, evidence of character and  
13 conduct of witnesses that -- what we're talking about here  
14 is a pattern of conduct, which I -- and really specific  
15 instances, and I don't think you can raise other specific  
16 instances under 608-B in order to impeach. It's he who's  
17 putting the character at issue, not us.

18 Also, under 404-B if he is going to raise specific  
19 instances of conduct, especially in a juvenile, I think  
20 there is a problem with that as well. Danger of unfair  
21 prejudice to the individual being questioned and the  
22 State's case generally substantially outweighs the  
23 probative value insofar as credibility is concerned in

1 terms of being able to make those arguments.

2 Now he can impeach by opinion and representation -- by  
3 opinion and reputation; but I don't think you can impeach  
4 with regard to a specific instance of conduct as it appears  
5 where he is going.

6 MR. KOCH: Your Honor, I am not sure I asked any questions  
7 about specific instances of conduct, and I wasn't planning  
8 on going into those. It was one of the problems that he  
9 presented with when he first came, as the State has said,  
10 to Gordon MacRae for counseling. In fact, there were three  
11 or four things going on. One was his thievery, that he had  
12 a constant pattern of stealing and things. It got him in  
13 enough trouble in school, in his personal life that he had  
14 to be sent to Dr. Rashac for that.

15 The second thing was his lying. It got to be a  
16 situation where he was living a constant lie because of the  
17 drugs, the alcohol, his thieving pattern, it was just  
18 constant deception. It had caused a problem for his  
19 family.

20 The third thing was his obvious alcohol and drug  
21 abuse. He is coming in here and saying these things that  
22 happened and what I am trying to do is not go into specific  
23 instances but speak with him in general about what he knows

1           himself.

2   MR. REYNOLDS: We didn't raise specific instances of conduct  
3           insofar as truth or voracity is concerned. They discovered  
4           Mr. Rashac, not the State; and we're also talking about  
5           perhaps conduct that is ten or more years ago as opposed to  
6           what the gentleman is saying on the stand now, and that's  
7           my concern is we're interested in the here today and that's  
8           what the rules of evidence are interested in, not what  
9           happened 12 or 14 years ago in terms of counseling, for  
10          truth or veracity which the State has now raised and things  
11          that he was saying then contemporaneously with his growing  
12          up.

13   THE COURT:     He has had some recent problems though, too,  
14           hasn't he?

15   MR. REYNOLDS: With regard to truth or veracity?

16   THE COURT:     No, the way I see it and my ruling is going to be.

17   MR. REYNOLDS: We have the burglary. But he pled guilty to that  
18           and that's not a truth or veracity issue.

19   MR. DAVIS:     The New Hampshire Supreme Court on charge of  
20           theft.

21   MR. REYNOLDS: It's not theft, it's burglary.

22   THE COURT:     Now, I'm going to overrule the State's objection.  
23           I think the defendant has a good faith basis for asking

1       these questions. I think that the questions may be  
2       beginning to be repetitive. There probably isn't going to  
3       be much further anyway; and as far as I see, I have not  
4       seen any specific incident of conduct raised by the  
5       defendant, so I don't have any problem with that issue.

6               Thank you.

7                               OPEN COURT

8   MR. KOCH:       I'm sorry. Would you read the last question

9                               (The preceding question was read back.)

10   A     No.

11   Q     Mr. Grover, did you hear that question?

12   A     Yes, I did.

13   Q     Mr. Grover, as I understand after you left the rectory that  
14       day, you then went and finished your paper route?

15   A     That's correct.

16   Q     And said nothing to Gordon MacRae?

17   A     That's correct.

18   Q     Nor to anyone else at that point in time?

19   A     That's correct.

20   Q     And I think you testified that the way you dealt with that  
21       situation was that you just avoided Mr. MacRae?

22   A     That's correct.

23   Q     Would it be fair to say you didn't understand why that had

1           happened?

2   A    That's correct.

3   Q    Now, Mr. Grover, at that point in time I believe you  
4       testified that Mr. MacRae continued to have contact with  
5       your family?

6   A    Yes.

7   Q    Okay. And continued to come over to the house or you all  
8       visiting him, that kind of a situation?

9   A    Yes.

10   Q   And I think you told the ladies and gentlemen of the jury  
11       that you then felt that Gordon MacRae somehow began to  
12       exclude you from his company, would that be a fair  
13       characterization or statement?

14   A   I mean, he still came into my house. He was still in the  
15       company of my house and my family. He just made a bigger  
16       -- made more of a focus on other brothers in my family.

17   Q   He was not paying attention to you?

18   A   Yeah, he said -- you know, when he was at my house and  
19       other people were around and stuff like that, he joked and  
20       still, you know said hi and was civil and things like that;  
21       but he just didn't -- didn't -- like about that time he  
22       would take my brothers off for a drive or whatever, take  
23       them to get ice cream and stuff like that. He never did

1           that after that incident.

2    Q       Had he done that before, sir?

3    A       No.

4    Q       In other words, before the incident in the rectory at  
5           Hampton, had Gordon MacRae taken you special places by  
6           yourself?

7    A       No, he just had kind - no, not with me.

8    Q       He didn't, did he, sir?

9    A       No, he didn't.

10   Q       And, as I understand it, when you went to that Marlborough  
11           rectory that day, you were not invited by Gordon MacRae to  
12           come to the rectory; in other words, he didn't invite you  
13           over to come see him?

14   A       No.

15   Q       Now, when you're in a large family like you were in, I take  
16           it that sometimes the kids compete with one another for the  
17           attention of whoever is around?

18   A       Correct.

19   Q       Would that be fair whether it be a father, mother, another  
20           adult or another friend?

21   A       That's correct.

22   Q       Tommy, you've been around other families?

23   A       Yes.

1 Q Group settings?

2 A Yes.

3 Q That's a fairly common experience, isn't it, sir?

4 A Yes, it is.

5 Q And you didn't want to be around Mr. MacRae, did you?

6 A I didn't -- I think what I said was I didn't want to be  
7 alone in his presence. He was still going -- I mean, he  
8 was still coming to our house, buying us presents and  
9 things of that nature, so that made me -- as long as my  
10 family was around and as long as people were around, it was  
11 okay. It made it -- it sort of made it okay, that I knew I  
12 was safe because there were other people around; but I  
13 didn't want to be alone with him.

14 Q Mr. Grover, have you ever heard the term street-wise?

15 A Yeah, I've heard the term before.

16 Q Pardon?

17 A Yes, I have.

18 Q Would you describe yourself, sir, as being street-wise?

19 MR. REYNOLDS: I object. I think we need to pin that down to a  
20 timeframe if it's going to be a fair question.

21 THE COURT: That's sustained.

22 Q All right.

23 A Today would I consider myself street-wise?

1 Q Yes, sir. As you sit here in the courtroom in 1994.

2 A I say from 1987 to this date, probably just because of what  
3 the circumstances were and that I hadn't any longer anybody  
4 to depend on but myself and Mr. MacRae and --

5 Q Okay.

6 A I didn't finish my answer.

7 Q I'm sorry.

8 A And I guess the reason I became street-wise was because of  
9 the middleman action that Mr. MacRae had taken where I had  
10 to go through him even to get any information to my -- or  
11 just so that my -- get anything to my parents or my mother  
12 and just became more reliant on myself.

13 Q All right. So in 1987 when you began to rely on yourself,  
14 you began a process of becoming street-wise; would that be  
15 a fair summary of what you just said?

16 A Yes.

17 Q Now, Mr. Grover, going back to that timeframe, you had  
18 already began drinking, hadn't you, sir?

19 A What timeframe is that?

20 Q I'm talking 1979, the incident that was alleged to have  
21 occurred in the rectory where Mr. MacRae pushed you into  
22 the wall.

23 A No.



1 Q You were 11 years old, weren't you, sir?

2 A Yes, I was.

3 Q And didn't you in fact testify here that you began drinking  
4 when you were in the sixth grade, 11 years old?

5 A Yeah, but I wasn't in the sixth grade until the fall after  
6 he was gone, so I hadn't drank before that.

7 Q Did you testify that you drank your first drink at 11 years  
8 old?

9 A Yes, I did; but that doesn't mean that I drank before he  
10 was there in the summer of '79. It didn't -- it was after  
11 -- when I was in the sixth grade and that was in 1979.

12 Q It was while you were in the sixth grade; and when did you  
13 start the sixth grade, sir?

14 A September of '79.

15 Q And that's when you were drinking?

16 A Yeah.

17 Q With Johnny Torres?

18 A No.

19 Q With your brothers?

20 A Yes.

21 Q With your older brothers?

22 A Yes.

23 Q Now, you blamed a lot of what's happened in your life to

1           you as you sit here today on Gordon MacRae; isn't that  
2           true?

3   A    That's true, but not until I started therapy did I have --  
4           could I relate the problems I had to what had happened to  
5           me. So even though all those years have gone by and things  
6           were really not stable, I couldn't relate it to what Gordon  
7           MacRae did. Only after I started counseling was I able to  
8           better see why I did the things I did and kind of related  
9           the two together, because this happened, I did this.

10   Q   Mr. Grover, that's the therapist telling you to relate  
11           those instances, isn't it, sir?

12   A    Well, I couldn't exactly see it for myself since I am not a  
13           professional.

14   Q    Mr. Grover, the question was very simple.

15   MR. REYNOLDS: I believe the witness wanted to finish his answer  
16           before he was cut off.

17   THE COURT:    Objection is sustained.

18   Q    Please?

19   A    Could you read back the question?

20                   (The preceding question was read back.)

21   A    I'm not a professional, so I wasn't able to relate one to  
22           another. She -- in those sessions, she related some things  
23           and I came up with my own conclusions that, yes, because of

1        what happened this is why I probably -- this is why I drank  
2        and -- I mean it wasn't like I could come up with the  
3        answers by myself. There were windows opened that were  
4        just clouded up over the years that I just instead -- I  
5        just buried what had happened and didn't -- just didn't  
6        know. I just thought that something was wrong with me but  
7        didn't relate the two.

8    Q    So if I understand it correctly, when you went out and  
9        picked up a bottl and were drinking with your brothers,  
10       that was because Gordon MacRae put that bottle in your  
11       hand, sir?

12   A    Not to say -- no, I wouldn't say it that way but because of  
13       the hurt and the pain and the shame I felt, I drank to  
14       cover a lot of that up.

15   Q    The hurt, the pain and the shame?

16   A    But I didn't always relate it to -- because there were  
17       other things in my life going on at the time and so --

18   Q    And how have you separated those out?

19   A    How have I?

20   Q    Yes, sir, the other things that were going on in your life  
21       at that time.

22   A    They were just every day -- some of those things were just  
23       every day kid things that kids do and, I mean, a lot of --

1           that's all they were.

2   Q     All right. Now, Mr. Grover, that drinking that you began  
3         was causing problems in your life, wasn't it, sir?

4   A     Yes, it did.

5   Q     And I think you told the jury that one of the reasons you  
6         went into counseling was because your mother wanted you to  
7         talk to Gordon MacRae?

8   A     That's right.

9   Q     And you wanted to obey your mother?

10  A     That's right.

11  Q     And listen to what your mother asked you to do, isn't that  
12         correct?

13  A     That's correct.

14  Q     Mr. Grover, when you were drinking starting at age 11, you  
15         knew your mother didn't want you to drink, didn't you, sir?

16  A     Well, I mean, yes.

17  MR. REYNOLDS: Your Honor, these questions -- excuse me if I may  
18         register my own objection. I don't think it's appropriate  
19         as I understand the rules of court and structure, for him  
20         to lodge an objection to a question he has asked that the  
21         witness is attempting to respond to. For one thing, it's  
22         not even out of the poor fellow's mouth yet.

23  MR. KOCH:     Your Honor, he has a habit of not answering the

1           questions and go off into a --

2   MR. REYNOLDS: May we approach?

3   THE COURT:     Yes, we should talk at the side bar and have a  
4           record.

5                               BENCH CONFERENCE

6   MR. REYNOLDS: My objection --

7   THE COURT:     First I will hear from Attorney Koch.

8   MR. KOCH:       Your Honor, I asked him questions that are  
9           seemingly to me fairly simple. Now, it seems to me that he  
10          can make a response yes or no but explain. In other words,  
11          what he does when I ask him a question like did you move to  
12          Keene in 1979, he won't say yes or no. He goes off into a  
13          five minute narrative to answer the question.

14                 Now, I understand that he should have a right to  
15          explain his answers; but most of the time I think he is not  
16          being responsive and I'm trying to phrase the questions so  
17          that -- you know, they can be answered simply and then if  
18          he wants to amplify, expand, to be able to do that.

19   MR. DAVIS:     Your Honor, the last question was something along  
20          the lines did your mother want you to stop drinking. Now,  
21          that's a pretty easy yes or no.

22   MR. KOCH:       If he wants to go off and explain for 15 minutes  
23          about what he thinks about his mother, I think that's

1       probably appropriate, but I can't get a straight answer out  
2       of him.

3       THE COURT:     I disagree with that.

4       MR. REYNOLDS: My concern is Mr. Koch is asking a question but  
5       just because he doesn't like the answer that he fostered by  
6       asking the question is no basis for him to object and  
7       grandstand in front of the jury as he just did with regard  
8       to this last thing.

9               I rose my objection, he attempted to speak over me and  
10       continued doing so to grandstand in front of the jury; and  
11       I think that's entirely inappropriate when he is the one  
12       who asked the question. He could have said, your Honor,  
13       this is non-responsive; but he didn't do that. He went off  
14       on a tangent. We didn't have a chance to approach the side  
15       bar. He is doing it for effect, not because he gives a  
16       darn about what Mr. Grover's answers are. He is an able  
17       lawyer doing this far longer than I have, as far as I can  
18       tell, and I am sure this is not the first priest he has  
19       represented and I am sure it's not the first victim of  
20       child abuse that he has ever cross-examined as an adult.

21              He is an able lawyer and playing it to the hilt, and  
22       what he is doing now is he is crossing the line.

23       MR. KOCH:     Your Honor, if I have done that, I apologize.

1           It's in the heat of battle.

2   THE COURT:     You have not. It is -- and I think as far as I'm  
3           concerned, all attorneys in the case have behaved  
4           themselves very well in this very difficult and sensitive  
5           case.

6           Now at this point I'm going to overrule the  
7           defendant's objection because I do think that the witness  
8           is answering the questions fairly. He does have a -- he  
9           does tend to explain his answers but not in a way that I  
10          find offensive to the process of getting the facts to this  
11          jury; however, I will continue to listen to the answers and  
12          if it does become a problem, just feel free to make the  
13          objection and we'll come to side bar and I will instruct  
14          the witness to answer in a different way if I think it's  
15          appropriate.

16   MR. DAVIS:     Could we have an instruction to the witness that  
17           -- to the extent he can, to answer yes or no and if he  
18           feels necessary, to explain? That's a fairly common  
19           instruction because -- I think that would be very  
20           appropriate.

21   THE COURT:     Well, I think you can ask that the witness do that  
22           yourself.

23   MR. KOCH:       All right.

1 THE COURT: Thank you.

2 MR. REYNOLDS: Thank you.

3 OPEN COURT

4 THE COURT: Ladies and gentlemen of the jury, we will break at  
5 10:30.

6 (The preceding question was read back.)

7 Q Now, sir, is that a question you can answer yes or no?

8 A No, it's not a yes or no question.

9 Q Do you need to explain?

10 A Yes, I do.

11 Q Would you please explain.

12 A When I first started, the first couple times I drank, my  
13 mother wasn't aware of it so it wouldn't be fair to say  
14 that I was going against my mother's wishes.

15 Q When did your mother first become aware that you had been  
16 drinking?

17 A I'd say it was about a year and a half, probably when I was  
18 around 12.

19 Q And how was that discovered, sir, at 12?

20 A I don't recall.

21 Q Were you drinking in the home or out of the home?

22 A No, I was out of the home.

23 Q And how often were you drinking at that timeframe, sir?



1 A I don't know. Maybe six or eight times that year probably.

2 Q And when you drank, sir, how did you drink or what did you  
3 drink?

4 A Basically drank whatever we could get our hands on.  
5 Sometimes I drank with other kids and stuff like that and  
6 whatever they had or whatever I could get from my house and  
7 so it was just that type of situation where whoever had it,  
8 that's what we drank.

9 Q Mr. Grover, what did you have at your house, sir?

10 A Mostly wine and some champagne and Cold Duck and  
11 occasionally had beer.

12 Q And then when you were out with your friends, did they --  
13 did you have whiskey or hard liquor?

14 A Yeah, it was occasional. Somebody would get a fifth of  
15 whiskey or vodka or rum or something of that nature.

16 Q Now, sir, when you were 12, what grade would you have been  
17 in?

18 A I guess if I was 11 in sixth grade I would probably be 12  
19 in seventh grade.

20 Q Is that the start of middle school or junior high school?

21 A Yes, that is.

22 Q I think you indicated to the ladies and gentlemen of the  
23 jury, sir, that you would drink whenever the opportunity

1           presented itself?

2   A       That's correct.

3   Q       If you would be around friends or at home and there was  
4           alcohol available, then you might partake?

5   A       Never at my house, always outside my house.

6   Q       But I mean if there was alcohol available in the home and  
7           you could get it outside to drink it, you would do so?

8   A       No, I never went drinking by myself. It was always with --  
9           whenever we decided, the people that I was with would say,  
10          well, Friday night let's go fishing and bring something to  
11          drink; and so I would fill up a canteen with wine or  
12          whatever and take it with us and go fishing overnight and  
13          just on occasions like that.

14                I just didn't drink it by myself. I mean, if there  
15          was a bottle of wine or champagne or a beer in the  
16          refrigerator and it was there, I mean, it could sit there  
17          for six to eight weeks. It wasn't --

18   Q       Mr. Grover, did you move to that level later on as you grew  
19          older in terms of drinking by yourself?

20   A       Yes.

21   Q       Now, you would have been 11 in 1979 and 12 in 1980, sir?

22   A       Yes.

23   Q       And so this pattern of drinking with your friends occurred

1           after the incident at the rectory in Marlborough but before  
2           the next time an incident had occurred?

3    A       That's correct.

4    Q       Now, Mr. Grover, were you using narcotics at that juncture  
5           in your life, the marijuana?

6    A       I think I had experimented around probably -- after '81.

7    Q       You've been in a half dozen or so treatment facilities for  
8           substance abuse problems, would that be a fair statement?

9    A       Correct.

10   Q       Beech Hill?

11   A       Correct.

12   Q       Derby Lodge?

13   A       Correct.

14   Q       Tirrell House?

15   A       Correct.

16   Q       Dover Crisis Center?

17   A       Correct.

18   Q       Tirrell House again?

19   A       Correct.

20   Q       Sobriety Maintenance?

21   A       Correct.

22   Q       And are there others? Farnum Center, I believe?

23   A       Correct.

1 Q And at each time that you went into those facilities, Mr.  
2 Grover, you would basically give a history to the in-take  
3 people about what your particular substance abuse situation  
4 was; is that an accurate statement?

5 A I made a statement, that's correct.

6 Q Okay. What I'm getting at, is it your experience that you  
7 remember when you went into these treatment facilities that  
8 you would be asked about essentially what your background  
9 was involving drug usage or non-usage, alcohol usage,  
10 non-usage and then you would tell them?

11 A I don't know how the discussion went.

12 Q I'm sorry, sir?

13 A I'm not aware of how the discussion went.

14 Q Okay. Do you remember going through processes like that,  
15 though, in each of the facilities?

16 A Correct.

17 Q And when you were in those facilities, sir, was it your  
18 intent to be as truthful with the people who were talking  
19 with you as you could be?

20 A That is correct.

21 Q Now, I want to go forward -- actually, let me back up for  
22 just a second.

23 Tom, do you think that at the age of around 12, 11,

1           that you were difficult to be around?

2   A       Well, in the way that I didn't have but -- I had maybe one  
3           or two good friends but I knew -- and people knew me and so  
4           I guess I wouldn't be able -- I mean -- I don't know. I  
5           wouldn't be able to say.

6   Q       Well, sir, did you feel isolated at that age, do you know?

7   A       I really can't say.

8   Q       Mr. Grover, let me ask you this. If you had a difference  
9           with a person, a disagreement, would you get angry?

10   A       Depends what the discussion was.

11   Q       Did you feel, sir, that you had a problem with anger when  
12           you were a young man?

13   A       No.

14   Q       The reason I ask you that is that when you were at the  
15           Farnum Center -- may I approach, your Honor?

16   THE COURT:     Yes.

17   MR. KOCH:       I meant the witness.

18   THE COURT:     Okay.

19   MR. REYNOLDS: Your Honor, maybe we better approach the side bar  
20           if we may, please.

21                               BENCH CONFERENCE

22   MR. GAINOR:     Your Honor, I would like to ask for some  
23           foundation. I believe that Attorney Koch is looking for

1       some character evidence of a violent propensity for Tom  
2       Grover, and I believe he has to meet the threshold of  
3       404-A:2 that it is a pertinent character trait of the  
4       victim. He has to show some degree of relevance, and I  
5       would ask for that showing before he gets into that area.

6       MR. REYNOLDS: The fact he may have been violent has nothing to  
7       do with comparably violent with the priest.

8       MR. KOCH:       I am not going into that. I am talking about his  
9       own statement of how he responds to people when he is  
10      confronted or -- see, your Honor, where this becomes  
11      important is he said that Gordon berated him, he put him  
12      down so bad. It's something he never said before in some  
13      of the other records, but he testified to on every  
14      situation here that Gordon began this process of berating  
15      him, attacking him, so humiliating him that he almost went  
16      to the point where he broke down, he started sobbing, he  
17      didn't know what to do.

18               Tom, out of his own words, said that his response to a  
19      situation where he is berated or attacked is that he is  
20      angry and in fact especially in situations like that, and I  
21      think the jury ought to be able to know out of his own  
22      mouth how he says his response is to those kinds of  
23      situations. I'm not trying to go into specific instances

1 of misconduct. I am not going to ask him did you beat up  
2 the little kid or did you beat your brothers around.

3 MR. GAINOR: Your Honor, I believe this is apples and oranges.  
4 You have a priest molesting a child and that authority  
5 figure patient/friend relationship, here you have child  
6 onto child. There is absolutely no connection. The only  
7 purpose I can see here is character impeachment.

8 MR. KOCH: Your Honor, this is contemporaneous in time.

9 THE COURT: I'm ready to make a ruling on this. I believe  
10 that the State on redirect can handle this issue, that is  
11 the difference between a priest and a child and that sort  
12 of thing; and I do think the defendant is proper in raising  
13 the issue and that it is relevant about the characteristics  
14 of the witness and what might motivate him to ultimately, I  
15 suppose, in a sense get back at Father MacRae, so I assume  
16 that's the way you're heading.

17 MR. KOCH: Sure.

18 OPEN COURT

19 Q Mr. Grover, let me show you this document from Farnum  
20 Center and I would ask you to look at that for a moment.

21 MR. REYNOLDS: Counsel, do you have a reference for that,  
22 please.

23 Q Mr. Grover, is that something that you wrote, sir?

1 A Can I have a minute please to finish reading it?

2 Q Certainly.

3 THE COURT: Would any of the members like to break now?

4 (No response from the jury)

5 THE COURT: Okay. We will go to 10:30.

6 Q Thank you, Mr. Grover. Mr. Grover, did you have an  
7 opportunity to review that document?

8 A Yes, I did.

9 Q And it is a document that you prepared, sir?

10 A Yes, that's my handwriting.

11 Q You were asked a question in that or given a statement that  
12 maturity is the ability to control anger and settle  
13 differences without violence or destruction and then you  
14 were asked to comment on that, were you not?

15 A Yes.

16 Q And, sir, you wrote, did you not, that when you were  
17 growing up you had one of the worst tempers.

18 A Yes, that's true; but what I meant by when I was growing up  
19 was to the age of -- into the fifth grade I had a tough  
20 time. I grew up in an all-white community, was different  
21 than everyone else, had a lot of spats over racial  
22 differences, was really -- didn't feel adequate about  
23 myself.



1           There were no other Indians beside my brother and I  
2       don't know -- to me in all of New Hampshire. I didn't --  
3       here I was growing in a community where no one looks or is  
4       like you and it caused a lot of problems. There were a lot  
5       of name calling incidents that took place with other pupils  
6       at the school, and it got to the point where that those  
7       things made me act the way I did out of anger or got to be  
8       so bad that I left public school in Marlborough and  
9       enrolled in St. Joseph's School in the middle of the year  
10      in my fifth grade year. Things seemed to really settle  
11      down. I was able to concentrate on school and the whole  
12      experience at St. Joe's was a lot more -- a lot different  
13      than it was in Marlborough, New Hampshire, and that's what  
14      I was referring to when I said when I was growing up.

15   Q     Would you agree with me, sir, that when you were asked to  
16       comment on that particular provision, and this would have  
17       been in 1989, that what you wrote is when I was growing up  
18       I had one of the worst tempers?

19   A     That's correct.

20   Q     And I have read that correctly?

21   A     Yes.

22   Q     Did you go on to explain, sir, that the kids in Marlborough  
23       made a racial issue when you were a grade schooler and

1           that's the reason you wrote that particular statement?

2   A       No, it didn't ask for that.

3   Q       Your next line, sir, was, "It took me many, many years to  
4           learn any kind of self-control when it came to discussing  
5           problems or being confronted." Is that a correct  
6           statement?

7   A       Yes.

8   Q       Are those your words?

9   A       Yes, they are.

10   Q       And did you write that?

11   A       Yes, I did.

12   Q       Now, do you need to or would you like to explain that for  
13           us? "It took me many, many years to learn any kind of  
14           self-control when it came to discussing problems"?

15   A       Could I have a copy of that so I have it in front of me?

16   Q       Certainly.

17   MR. KOCH:       May I approach again, your Honor.

18   THE COURT:       You needn't ask. You needn't ask to approach  
19           unless we get into kind of a confrontational situation.

20   MR. KOCH:       Yes, sir.

21   THE COURT:       You can use your own discretion. That goes for  
22           all counsel.

23   Q       Mr. Grover, to make things simpler, would you read that

1 sentence to us, the one I just asked you about?

2 A "It took me many, many years to learn any kind of  
3 self-control when it came to discussing problems or being  
4 confronted".

5 Q Okay. Would it help you to explain that or is that  
6 sufficient explanation in itself?

7 A Well, just as I had said moments earlier, when things were  
8 the way they were when I was growing up, when people would  
9 make racial slurs and degrading remarks, it wasn't exactly  
10 like there was any kind of way of discussing it with other  
11 children at that age, in my age at that time so, like  
12 normal kids or like kids are, we ended up having a lot of  
13 fights and a lot of battles more or less.

14 Q So that response in 1989 again would refer to your grade  
15 school days?

16 A Yes, when I was growing up.

17 Q Now I will need to approach.

18 THE COURT: We can make a copy of that. I'm going to break  
19 now and release the jury. I'm going to release the jury,  
20 it could be 20 minutes to half an hour before I call you  
21 back; and I just want to remind you not to discuss anything  
22 about the case with each other, certainly not with anyone  
23 else.

1                   Okay. Bailiff, you can take charge of the jury.

2                   HEARING OUT OF THE PRESENCE OF THE JURY

3 THE COURT:       Ms. Kennedy, did you have an opportunity to speak  
4                   to the witness?

5 MS. KENNEDY:    Yes, I did. She has a couple concerns. One is  
6                   her medical condition. She is pregnant and she has had  
7                   some problems with that. She does want you to talk with  
8                   her doctor.

9                   The other one was protecting her children from the  
10                  public of their names and her name in the paper, so I told  
11                  her -- what I did tell her was one of us would be getting  
12                  back to her. I think part of the problem is she is not  
13                  sure when she is going to be needed and she can't make any  
14                  babysitting plans. She is willing to come in and she is  
15                  just under a lot of anxiety and stress not knowing and just  
16                  being sort of on deck all the time.

17 THE COURT:     Well, as far as her children are concerned, that  
18                  won't be a problem. I don't think it is. I don't really  
19                  know. Does she have to mention her children in this? How  
20                  old are the children?

21 MS. KENNEDY:    9 and 4.

22 THE COURT:     The press wouldn't be mentioning childrens'  
23                  names.

1 MR. HAYWARD: I can't make a promise if it's relevant to a  
2 story.

3 MS. KENNEDY: Can I just talk to you for a moment privately?  
4 There are a couple other things.

5 (Ms. Kennedy conferred briefly with the Court)

6 MR. REYNOLDS: Perhaps a chambers conference with the other  
7 attorneys, your Honor.

8 THE COURT: Let's get the doctor on the phone and I will talk  
9 with you then and we'll see what the doctor has to say.

10 THE COURT: Would counsel all just approach the side bar for a  
11 moment.

12 CHAMBERS CONFERENCE

13 THE COURT: The doctor will be calling in. Would you move  
14 over, Mr. Gainor, closer to me.

15 MR. DAVIS: Huddle.

16 THE COURT: Apparently one of the issues here in this part of  
17 the record as of this moment at least is sealed. One of  
18 the issues here is that the oldest child of Kathy Hall is  
19 Tom Grover's son.

20 MR. DAVIS: Yes.

21 THE COURT: We don't know if that's public knowledge or not.  
22 If that were to come out here and the boy is not aware of  
23 that, it would obviously do tremendous damage to him.

1           So what I would like to do is do an in camera  
2       interview on the record but to be potentially sealed with  
3       Kathy Hall to find out if this is public knowledge or if  
4       the boy knows about it. Is there any objection to doing  
5       that?

6   MR. GAINOR:    No.

7   MR. KOCH:       No.

8   MR. REYNOLDS: No.

9   THE COURT:     Okay. That's what I will do and then the doctor  
10       will call in here in about I guess five minutes or so.

11   MR. KOCH:      Okay.

12       (In Camera phone conference with Kathy Hall not recorded)

13   THE COURT:     I called Kathy Hall and she said that she would  
14       like to meet with you, Carolyn, and so she is going to call  
15       back and give us a time today.

16           What it is is she is pregnant and very nervous about  
17       the upcoming hearing; and I asked her if today would be --  
18       to get it over with, if that's what she would like, and she  
19       has decided she would rather come in today at a specific  
20       time that she knows and then have Carolyn show her what the  
21       courtroom is like, which I think you can do next door. And  
22       then we'll have her come in, take the stand, swear her in,  
23       bring in the jury, nobody will stay out, everybody will be

1           here. That's fine.

2                   So she will be calling back to Tim Rogers, and he will  
3           let you know when to meet her and it should work out fine.

4   MS. KENNEDY:   Okay.

5   THE COURT:     We can have the jury. Does counsel have  
6           anything?

7   MR. REYNOLDS: Well, I would like to get Mr. Grover.

8   THE COURT:     We will continue until noon.

9   MR. REYNOLDS: May we approach briefly, your Honor? We don't  
10           need a record.

11                               (Discussion held off the record.)

12                               OPEN COURT

13   THE COURT:     Let me explain what happened. What we're doing  
14           now is there are some documents that both counsel don't  
15           have copies of. And what will happen if they don't have  
16           copies is they will have to constantly be looking at each  
17           other's same pieces of papers, so they are going and making  
18           copies now so everyone will have one and we don't want to  
19           stretch things out any more.

20                               (Pause)

21                   I'm sorry. I didn't even think of saying anything.

22                   Today we'll break from 12:00 to 1:15.

23   MR. KOCH:      Your Honor, may I approach with Mr. Gainor?

1 (Discussion held off the record.)

2 THE COURT: We did have some problems with the copying  
3 machine. So what I'm going to do is release you now and be  
4 back at quarter past one, and it's just one of those things  
5 that happens. So thank you very much. Be sure not to talk  
6 with anyone or read anything.

7 HEARING OUT OF THE PRESENCE OF THE JURY

8 THE COURT: At quarter past one the witness, Kathy Hall, will  
9 come in and testify; and it will be the same way that I  
10 described. We'll bring her in here and put her on the  
11 stand, swear her in, and then the jury will come in and  
12 we'll -- she will be examined at that time and then we'll  
13 continue with the cross-examination.

14 MR. GAINOR: Your Honor, side bar, please

15 (Discussion held off the record.)

16 THE COURT: It's my understanding the State will not be  
17 calling the witness.

18 MR. REYNOLDS: That's correct.

19 THE COURT: It's my understanding the defendant would like to  
20 interview the witness and then decide whether the defendant  
21 would like to present the witness?

22 MR. KOCH: Yes, your Honor.

23 THE COURT: Has it been explained to the witness?



1 MR. REYNOLDS: That very last portion has not. I represented to  
2 her that we were not going to call her, that the  
3 defendant's lawyers wanted to speak to her. I represented  
4 it's her decision whether or not to decide to speak to Mr.  
5 Koch.

6 THE COURT: Well, to some extent it is her decision, but it  
7 could end up being my decision. Why don't you tell her  
8 that she has a choice. She should consider whether she  
9 wants to be interviewed or whether she wants to face the  
10 possibility of having to testify rather than --

11 MR. REYNOLDS: I will certainly do that, your Honor, but I guess  
12 my focus here is I can tell her if she chooses to speak  
13 with them, then they may call her as a witness and if she  
14 chooses not to speak with them, they may call her as a  
15 witness.

16 THE COURT: So it would seem to me she would be much better  
17 off to go ahead and talk with the defense. That seems to  
18 be the fair thing for us to try to do. So maybe you could  
19 just take Attorney Koch and go and talk with her.

20 MR. REYNOLDS: Well, first I would like to let her know her  
21 choice and then bring Mr. Koch.

22 THE COURT: Just let her know. She is nervous. She is here,  
23 we want to get this over with. Apparently you were going

1 to call her and now we're in this situation so see if you  
2 can get it straightened out.

3 (Pause)

4 THE COURT: Are we all squared away with our witness?

5 MR. REYNOLDS: Yes. Thank you for the indulgence.

6 (Luncheon Recess)

7 HEARING OUT OF THE PRESENCE OF THE JURY

8 THE COURT: My ruling on this -- or I guess I haven't made a  
9 ruling but the witness would still be available to the  
10 defendant upon the defendant's request. I'm not saying  
11 which way I would go, just so you understand. You may come  
12 ahead again.

13 MR. KOCH: Your Honor, my inclination is probably not to  
14 because I think the information she has I can get through  
15 Mr. Grover but --

16 THE COURT: At any rate, you're right to bring up the issue  
17 again.

18 MR. REYNOLDS: As I indicated to Mr. Davis a moment ago, we  
19 intend to call her tomorrow.

20 THE COURT: Right. Now let's get the jury up here.

21 OPEN COURT

22 THE COURT: Attorney Koch?

23 CONTINUING CROSS-EXAMINATION: (By Mr. Koch)

1 Q Mr. Grover, before we broke at lunch I was asking you about  
2 some entries you had made on the document that's in front  
3 of you?

4 A Yes.

5 Q And, sir, I believe I had you read that response that you  
6 have written. It said, "When I was growing up I had one of  
7 the worst tempers. It took me many, many years to learn  
8 any kind of self-control when it came to discussing  
9 problems or being confronted."

10 And then I think at the very end, sir, I asked you if  
11 you had any explanation about that particular entry such as  
12 you did about the anger part when you were a grade  
13 schooler.

14 A I think you need to repeat that.

15 Q All right. Do you remember when I asked you about the  
16 portion of your response that says, "When I was growing up  
17 I had one of the worst tempers." Do you remember that  
18 question?

19 A Yes.

20 Q And then you explained that by saying what you were talking  
21 about was when you were a grade schooler and because you  
22 were a Native American that there was some racism in  
23 Marlborough and that it caused you some problems and that's

1           what you were referring to.

2                   What I'm asking now is this next sentence that  
3 immediately followed that was, "It took me many, many years  
4 to learn any kind of self-control when it came to  
5 discussing problems or being confronted." Does that need  
6 any explanation in your mind, Mr. Grover, or can it stand  
7 as written?

8   A    Yeah, that's what's on -- that is what is written here.

9   Q    Okay. Is that something you feel you need to explain?

10   A   Yes. When I was younger and, as I explained before, I did  
11 have a bad temper about certain things and then years after  
12 that I -- instead of acting out, I just would put that --  
13 kind of like hold it in; and that's how it became about  
14 that I would break down and cry instead of acting out.  
15 Instead of getting into fights or anything, I would just  
16 become emotional and that's -- in younger years I really  
17 wasn't able to mentally know why I was acting out the way I  
18 was but later on, as I became older, I became more aware of  
19 there were different avenues to -- instead of acting out, I  
20 could just -- I more or less bottled up the way I felt  
21 inside and that's why I would become emotional the way I  
22 would. I would break down and cry instead of -- if  
23 somebody said something or would call -- later on if there

1        were like -- I guess in the beginning was -- me having a  
2        bad temper did stem a lot over racial issues and the way I  
3        felt and just I later learned how to deal with that by just  
4        not acting out, not being violent.

5    Q    And when, sir, did you come to the realization that you  
6        didn't need to act out or become violent?

7    A    With time, as you get older, you start to see things a  
8        little more clearer. You know when you're 10 or 11, things  
9        may be a little bit different than when you're 11 or 12.  
10       You're exposed to more things and more people are in your  
11       life and you're better able to understand things; and we  
12       had a lot of discussions and basically counseling like  
13       that, things like that.

14   Q    All right, sir. Was there a time, though? I guess what  
15        I'm trying to figure out is if you're trying to relate this  
16        to when you were 11 or 12 years old and problems as a grade  
17        schooler, sometime, you said many, many years later, you  
18        learned to have self-control.

19        Is that when you were 15, 16, when you were 12 or was  
20        there a time?

21   A    Well, it wasn't just an overnight thing. It wasn't like  
22        one day I had a bad temper and the next day it was gone.  
23        It was over a period of time; and so as -- as of junior

1 high, high school, I didn't get into a lot of fights. I  
2 wasn't violent. Verbal arguments but no acting out type of  
3 things. So over time, over many years it took to reach  
4 that point where I didn't feel that I had to get physical.  
5 It just wasn't worth it.

6 Q So you moved from a physical response to problems or being  
7 confronted to a verbal response and then to no response at  
8 all? Would that be fair?

9 A No, that wouldn't be fair.

10 Q At what point did you begin to learn to deal with problems  
11 or confrontational issues in a verbal manner as opposed to  
12 a physical manner?

13 A Well, I had verbal arguments but I -- those were far in  
14 between and since the abuse had started and the way I  
15 reacted to that I really just put it all inside and just  
16 dealt with it that way and started to abuse drugs and  
17 alcohol because of that.

18 Q Mr. Grover, when you went to the Farnum Center it was after  
19 you had been to Derby Lodge, wasn't it?

20 A Correct.

21 Q After you had been to Beech Hill?

22 A Correct.

23 Q And after you had made this disclosure to Ms. Collett about

1       abuse?

2   A    Correct.

3   Q    And it was also after you had been to Tirrell House?

4   A    Correct.

5   Q    And in there when you were being asked to reflect on what  
6       was going on in your life, what you related to was these  
7       incidents from your childhood, is that a fair statement?

8   A    Well, I really don't know what was said about -- anything  
9       about it. I mean, unless you have something for me to look  
10      at, I am not sure if that was even a topic of discussion.

11   Q    Well, what I'm talking about is the document that you have  
12      in front of you and placing that in context.

13   A    Yes, they asked me to write something. I wrote it down.

14   Q    Now, you didn't like problems, did you, sir?

15   A    Well, not -- just like everybody, I guess.

16   Q    Sure. And you didn't like to be confronted, isn't that  
17      true?

18   A    I'd say probably that's a fair statement.

19   Q    And, in fact, if people would speak to you about problems,  
20      or confront you about problems, that's when you would  
21      respond by getting angry, isn't that true?

22   A    Angry in the sense that I would just walk out or just not  
23      want to see -- the whole thing was nobody knew exactly what

1           was going on; and when I was confronted about any problem,  
2           my reaction was to just turn and run away.

3   Q       So you moved to a level of reaction that would be just  
4           walking away?

5   A       Correct.

6   Q       And when did you learn to do that, sir?

7   A       There was no time period, say --

8   Q       And by the time you had reached 1989, sir, you had the  
9           ability to discuss the problems in your life with an open  
10          mind, isn't that true?

11   A       That is in reference to my drug and alcohol problem. I  
12          made the effort this time to seek treatment. All the other  
13          times those were self-imposed -- I mean imposed on me by  
14          other people. I hadn't said -- I hadn't come to any  
15          admission that I had a drinking and drugging problem. I  
16          just looked at it as I was covering up how I was feeling  
17          inside. And in 1989 when this was written, I had come to  
18          the conclusion that drugs and alcohol were really  
19          destroying my life; and it was more or less a last-ditch  
20          effort to basically save my life because I had just got  
21          back from a trip and I was basically on a suicidal  
22          mission. I was just drinking and drugging and didn't  
23          really care what happened. I was just in so much pain at



1           that time; and when I reached Manchester in 1989, I made  
2           one last effort to try to put my life in some kind of  
3           order, or at least try to exclude the drugs and alcohol  
4           from my life.

5   Q     Mr. Grover, could you have written those things in response  
6           to this particular exercise in your program, this written  
7           exercise, what you have just told us?

8   A     Could I have?

9   Q     Yes, sir.

10  A     Perhaps.

11  Q     After you said, "Now I have the ability to discuss my  
12           problems with an open mind", you then state, "I have  
13           learned that people respect others who are able to talk  
14           rationally about difficult problems. I constantly remind  
15           myself that it will benefit me more if I act instead of  
16           react." Is that correct?

17  A     Yes, that's what's written.

18  Q     Now, you do not like criticism, do you, sir?

19  A     I guess, no, I don't, but it's a part of everyday life.

20  Q     And you do not like to be attacked verbally?

21  A     No, I don't.

22  Q     Sir, would it be fair to say that you do not like someone  
23           who berates you?

1 A That's right.

2 Q And in your mind, sir, what does berate mean?

3 A Just I don't like people that make other people feel less  
4 than they are. I think that everybody has a good quality  
5 to them and I give them that fair shake; and I dislike the  
6 fact that other people -- when I see it happen, other  
7 people talking down to other people because they think they  
8 are better than them. I don't believe in that.

9 Q Putting somebody down is something you wouldn't like?

10 A No, I don't like it done to me.

11 Q Somebody being verbally abusive or aggressive with you you  
12 wouldn't like?

13 A No, I wouldn't.

14 Q In fact, Mr. Grover, if anybody has ever approached you in  
15 your life like that, it would be liable to evoke a response  
16 of anger, isn't that true?

17 A No, that wouldn't be true.

18 Q In your younger years?

19 A Perhaps in my younger years but you said overall.

20 Q Well, let's go back to the time you were 13, 14, 15 years  
21 old. Somebody gets in your face and starts insulting you  
22 or berating you, it's not the kind of thing that you put up  
23 with, was it, sir?

1 MR. REYNOLDS: Your Honor, may we approach, please?

2 THE COURT: Yes.

3 (Discussion held off the record.)

4 A I would say that was inaccurate.

5 Q That was --

6 A -- inaccurate.

7 Q How did you respond to that, sir?

8 A Pretty much during those years I was 14 and 15 anyway. I  
9 was drinking a lot and just really didn't really care, just  
10 that my state of mind at that time was I really just -- my  
11 life was already a mess and I just really didn't care what  
12 other people's opinions were, and so my reaction really  
13 didn't -- wasn't the way you stated it to be.

14 Q You do not agree with my recitation of what your words were  
15 in that statement in front of you?

16 A Excuse me?

17 Q You would agree with me about what your recitation of words  
18 were in that statement in front of you, is that correct,  
19 sir?

20 A Let me --

21 MR. REYNOLDS: I guess I wonder which statement.

22 THE COURT: I think the witness is having some difficulty  
23 understanding the question.

1 Q The statement that's in front of you, the written statement  
2 that you're reading.

3 MR. REYNOLDS: Well, which part? I mean, the thing runs a whole  
4 page; and Mr. Koch has mentioned about three sentences. Is  
5 he referring to the three sentences or the whole shebang?  
6 And if he is referring to the three sentences, I would say  
7 asked and answered.

8 THE COURT: I think the questions are fair. I just agree with  
9 Attorney Reynolds. I think the witness doesn't understand  
10 the question. I am not sure I do. So I think you're going  
11 to have to rephrase.

12 Mr. Grover, I'm going to ask that you just speak up a  
13 little louder. I think some of the members of the jury are  
14 having real difficulty. Okay, Attorney Koch.

15 Q We've gone through a series of statements that you had  
16 written in your own handwriting in that document in front  
17 of you?

18 A Correct.

19 Q And those are your words?

20 A Correct.

21 Q Sir, at any point in time during the treatment at Farnham  
22 Center, did you make any mention again about issues  
23 relating to alleged abuse by Gordon MacRae?

1 A No, I had not.

2 Q And that was something that you could have written about,  
3 wasn't it, sir?

4 A Sure, I could have written about it.

5 Q Had you chosen to do so?

6 A Correct, but for the last two years or so, I had done  
7 everything imaginably possible to bury that in any way I  
8 could; and it wasn't something that was comfortable for me  
9 to think about or even consider writing about.

10 Q The last two years being what two years?

11 A Two years prior to August of 1989.

12 Q Mr. Grover, do you know the various years you were in the  
13 treatment programs as you sit here today?

14 A No, I would just be guessing dates.

15 Q I had asked you a question somewhat earlier about whether  
16 you had a pattern of nontruth telling. Do you remember  
17 that question?

18 A Yes.

19 Q I'd like to show you an entry from September 8 of 1989.

20 MR. REYNOLDS: Mr. Koch, would you be kind enough to share with  
21 me?

22 MR. KOCH: September 8 of '89. In your packet, in fact, it's  
23 underlined or highlighted.

- 1 MR. REYNOLDS: Thank you.
- 2 Q Is there another side there, Mr. Grover?
- 3 A Yes.
- 4 Q Have you finished reading it, sir?
- 5 A Yes.
- 6 Q Thank you. Let me borrow that back for a moment. Do you  
7 recognize that, sir, as being written by you?
- 8 A Correct.
- 9 Q Sir, did you write in there that you lied a lot to get what  
10 you wanted or sometimes out of fear?
- 11 A Excuse me. I think it's only fair that I have a copy of  
12 that in front of me.
- 13 Q Okay. Sir, my question was did you write in there you lied  
14 a lot to get what you wanted?
- 15 A No, I think you read that incorrect. It said I lied a lot  
16 to get what I wanted or sometimes out of fear. That's the  
17 full sentence.
- 18 Q Okay. Did you write in there, sir -- and I'll ask the  
19 questions, please. "I lied a lot to get what I wanted."  
20 Are those your words?
- 21 A Yes, I wrote that.
- 22 Q Did you then say that you lied sometimes out of fear?
- 23 A Yes, I wrote that, too.

1 Q I lied and then would make alibis to convince others  
2 because I had lost their trust?

3 A That's correct.

4 Q You made excuses in order to get the focus off of yourself  
5 and your underlying problems? Just above that, sir?

6 A Yes, I wrote that.

7 Q Now, when you were addressing this you were in another  
8 individual session of counseling or exercise program at  
9 Farnum Center, is that correct?

10 A That's correct.

11 Q And they were talking with you about how to make the AA  
12 program work?

13 A That's correct.

14 Q You had many such opportunities throughout the programs to  
15 write these types of statements, didn't you, Mr. Grover,  
16 going all the way back to Beech Hill?

17 A Correct.

18 Q Did you find that most of the programs were pretty similar  
19 in terms of their approach?

20 A Correct.

21 Q And in terms of their exercises and counseling sessions,  
22 that kind of thing?

23 A Well, they all focused around the AA program and how to

1 stay sober. I wouldn't say that they were all exactly the  
2 same or even similar in some cases.

3 Q Mr. Grover, in some of these programs did they deal with  
4 issues of sexual abuse?

5 A No, the only time that topic ever came up concerning me was  
6 while I was in the office at Debra Collett's and she  
7 brought that up in a conversation. I am not even sure  
8 where she was going with it or how -- what she was relating  
9 it to.

10 Q Did they, sir, ever in group sessions or anything, people  
11 discuss issues relating to sexual abuse?

12 A Yeah, people had made --

13 Q In fact, sir, at the Derby Lodge program that Gordon MacRae  
14 got you admitted to, 13 or 14 out of the 16 people that  
15 were in that people claimed that they had been sexually  
16 abused, hadn't they, sir?

17 A I don't think that's a fair statement either.

18 Q Did people in the Derby Lodge program in your presence  
19 discuss issues relating to sexual abuse?

20 A Not that I recall.

21 Q In a group of themselves?

22 A Once again, not that I recall.

23 Q How about at Beech Hill?



1 A No, not -- because when I was in Beech Hill, I was in an  
2 adolescent program. I was not really grouped in with a lot  
3 of adults, and we didn't really deal with adult issues.  
4 They were two different types of issues, what kids would  
5 consider important and what adults would be consider  
6 important.

7 Q Tirrell House, sir?

8 A Tirrell was just a halfway house, kind of like a stepping  
9 stone where you wouldn't just have to -- you just wouldn't  
10 have to leave the 30-day program or whatever. It was for  
11 the more -- I don't know, the -- how would you say that,  
12 the more severe cases of people that had a longer history.

13 Q Did you have group sessions at Tirrell House, sir?

14 A Yes, we did.

15 Q And you were in Tirrell House on a couple of different  
16 occasions?

17 A I was there twice.

18 Q And, in fact, sir, in your two admissions to Tirrell House,  
19 those were for a fairly extended period of time; in other  
20 words, several months is what I mean by that?

21 A You will have to repeat that.

22 Q Well, when you went into the Tirrell House program, sir,  
23 you were in that program for several months?

1 A I think it's a three-month program.

2 Q Now, Mr. Grover, I think you related to the jury another  
3 instance where Mr. MacRae had done some improper touching  
4 of you and that was a time when you had traveled to get  
5 your brother or take your brother to an airport either in  
6 Manchester or Boston. Is that correct?

7 A Correct.

8 Q And you don't remember today the airport you went to?

9 A Well, to let the jury know that it wasn't just a one-time  
10 thing, Mr. MacRae also had taken my brother David when he  
11 was getting ready to get into the Army. He had given him a  
12 ride to the airport where he was leaving from and, uhm, he  
13 had taken Chris, my older brother, and I'm not sure but I  
14 -- I'm not sure, but I couldn't remember which airport  
15 that was.

16 Q Yes, sir. Well, you remember stopping at the home of a  
17 relative of Mr. MacRae's, didn't you?

18 A Yes, that's correct.

19 Q And I think yesterday, sir, you testified that that was at  
20 his sister's house?

21 A Yes, that was.

22 Q Sir, do you remember going to Mr. MacRae's mother's home?

23 A Unless his mother -- unless his sister lived with his

1 mother.

2 Q Do you remember in what community that was, sir?

3 A No, I don't recall where that was.

4 Q Was that near Boston if you remember?

5 A Yes, it was. Not far from Logan Airport.

6 Q Did you meet Mr. MacRae's brother-in-law, a fireman, on  
7 that trip?

8 A I had been there twice, on two occasions with Mr. MacRae.  
9 One time I did meet the brother and one time he was on  
10 duty, which meant he stayed at the fire station, and only  
11 his sister was present and the kids. The children were  
12 already in bed. It was late at night.

13 Q And on the two trips that you went on, sir, who went on the  
14 first one?

15 A I was by myself on both occasions.

16 Q You were by yourself?

17 A Yes.

18 Q For the entire trip?

19 A Yes.

20 Q And then the second time you were with your brother, Chris,  
21 according to your testimony?

22 A On the first occasion.

23 Q Okay. How about the second occasion?

1 A I don't know what that surrounded. Maybe you're confusing  
2 me. Two different trips?

3 Q Yes, sir.

4 A I didn't say to the airport twice. I said I had visited  
5 his sister -- supposedly his sister's house. It could  
6 have been his mother's house where his sister was staying,  
7 but his sister was there with her kids. She said that they  
8 were upstairs sleeping. We had something to drink. We had  
9 a bite to eat and we stayed and watched the rest of the  
10 movie that was on the television, and his sister was the  
11 only one present at the time.

12 Q Now, is that the incident that you described to the jury  
13 where this touching took place, that trip?

14 A No, what I said was when I took my brother, Chris.

15 Q So we're talking about a separate incident of travel?

16 A No, because we had stopped there and I couldn't remember if  
17 I had met the brother -- his brother-in-law -- I had been  
18 there twice. I couldn't remember when I talked -- when I  
19 first made my statement, whether I met the brother-in-law  
20 the first time on that trip or it was at the time when I  
21 met the sister and she was there alone; but on that trip to  
22 Logan Airport we stopped at his house and that was, I don't  
23 know, quite awhile ago, so I couldn't remember the

1           specifics, whether which time was which.

2   Q       And, sir, what did you do at the airport?

3   A       Dropped my brother off to go to -- he was heading to the  
4           Air Force.

5   Q       Okay. So the trip we're talking about when you stopped at  
6           the sister's house was when you were taking your brother to  
7           Logan Airport?

8   A       Correct.

9   Q       And your memory is you stopped at the sister's house with  
10          your brother, Chris?

11   A       No, we were taking my brother to Logan Airport to drop him  
12          off --

13   Q       Yes, sir?

14   A       -- to go into the Air Force. We -- see, this is what  
15          happened. My brother -- we waited around for my brother,  
16          Jon, who was supposedly going to go with us to make that  
17          trip. Jon was late. We waited and waited until the last  
18          minute. So we cut it to the very minute to make it down  
19          there in time because my brother had really been close to  
20          -- my brother, Chris, was really close to my brother Jon,  
21          so my brother Jon wanted to go. So we waited and we waited  
22          and so when it got to be, I don't know, say, okay, it's  
23          3:00 now. It takes two hours to get there. We waited

1           until the very last minute to leave the house so there was  
2           no time to stop at his parents' -- sister's house on the  
3           way there. We went to Logan, we dropped my brother off.  
4           Me and Mr. MacRae went and got -- came out of Logan,  
5           stopped at a place, got something to eat. We went to the  
6           sister's house, and I had stated that I could not remember  
7           if that was the time that I had met her her husband or  
8           what, if it was the time I had just met her but I had only  
9           been there twice and one of those was on that occasion that  
10          we took my brother to Logan Airport.

11       Q    For clarification, your memory is that you went to the  
12           airport, dropped your brother off, and then this incident  
13           that you described occurred on the way home?

14       A    After we were at the relative's house.

15       Q    And I think you described that you were asleep and you woke  
16           up and Mr. MacRae was fondling you?

17       A    That is correct.

18       Q    And this time had your zipper down and his hand on your  
19           penis, is that right?

20       A    Yes, I made that statement.

21       Q    Is that what you testified to?

22       A    Yes.

23       Q    Okay. And I think you testified further that on that trip

1           that you basically pressed yourself up against the car to  
2           stay away from Mr. MacRae?

3   A     Yeah.

4   Q     In other words, just up against the side of the car to  
5           basically get away from him?

6   A     Yes.

7   Q     Now, on that occasion again was there any discussion  
8           between you and Mr. MacRae?

9   A     No, I just stayed awake the rest of the way back. Normally  
10          he would just blare rock music on when we'd make long trips  
11          like that. He would blare rock music and listen to his  
12          rock and roll tapes and -- just like a 16-year-old kid  
13          would, and so there wasn't really room for any  
14          conversation. The music was playing and I hunched up or  
15          scooted over as close to the passenger side door as I  
16          could, and I stayed awake the rest of the way to my house.

17   Q     For my own understanding, Mr. MacRae said nothing to you at  
18          that time of the incident?

19   A     Immediately after it happened, no, maybe 15 miles, 20 miles  
20          down the road. I don't recall if there was any  
21          conversation the rest of the way home or not. I just know  
22          in the immediate timeframe that it happened.

23   Q     Mr. Grover, what were you thinking when that happened?

1 A I can't say.

2 Q Well, sir, you had had a prior experience where you had  
3 been pinned up against the hallway in the rectory of  
4 Marlborough and now another one repeats --

5 A All I could say is how I felt and that was scared and  
6 frightened and confused. What I was thinking I have no  
7 idea -- I could not say.

8 Q Did you want to get away from Gordon MacRae?

9 A Again, I can't say what I was thinking at the time. I only  
10 knew how I felt, huddled in the corner against the side of  
11 the door.

12 Q And when you got back to this area, Gordon MacRae took you  
13 to your home?

14 A I believe so, but I can't -- yeah, I would have to say that  
15 I went to my house.

16 Q Mr. Grover, when these incidents had happened, did you  
17 think about them at all? I mean, not maybe while they were  
18 happening but say the next day or later on in the evening  
19 after they had occurred.

20 Did you reflect on, at all, what was happening?

21 A I think I explained that, yes, I had and that's why I was  
22 abusing alcohol.

23 Q What I am asking you, sir, is are you -- were you thinking



1           about what had just happened to you?

2   A    I said -- I think I already answered that.

3   Q    Excuse me. I think you said that's why I started drinking  
4           but I am not sure that was my question.

5   A    I think I stated before that I thought about these  
6           incidents every day of my life, every minute and so on and  
7           so forth and that -- I think that covers that.

8   Q    Thank you. Now, once again, after this second incident  
9           that occurred, you wanted to stay away from and have no  
10          contact with Gordon MacRae; would that be a fair statement  
11          or unfair statement?

12   A    The second incident?

13   Q    Yes, sir.

14   A    Like I explained before, Mr. MacRae was a big part of my  
15          family's life and it was -- he had his hand in my family's  
16          business. He had control over members of my family. He  
17          was very manipulating and very controlling, and I would  
18          describe that as he had people in my family under a spell  
19          or something of that nature.

20   Q    And were you included in that, sir?

21   A    Yes, I was, and it took a long time before I really even  
22          saw that.

23   Q    Now, that incident that is alleged to have occurred in the

1 car coming back from the airport was when?

2 A I don't recall the exact date now. It would be when -- all  
3 I remember was when my brother was leaving for the Air  
4 Force so whatever that date was would be easier to find  
5 out.

6 Q Do you know what year, sir, that may have been?

7 A No, I don't.

8 Q Do you have any independent memory today of how old you  
9 were?

10 A No, I couldn't say. If I don't remember the date and the  
11 year, I wouldn't be able to -- I would just be guessing at  
12 an age.

13 Q Just -- it happened sometime in your life?

14 A No, I said it happened when my brother was leaving for the  
15 Air Force before I -- all right. Before I was the age of  
16 16 it happened.

17 Q All right, sir. There was, I believe, a third incident  
18 that you described occurred when you were going to get some  
19 pizza or food?

20 A Yes, that's correct.

21 Q And that was another instance of touching, was that  
22 correct, sir?

23 A Yes, it was.

1 Q Over your clothing?

2 A Yes, it was.

3 Q And again, sir, on that occasion was it a similar kind of  
4 response to Gordon MacRae that you had on the prior two  
5 occasions, by that I mean I want to get away from him?

6 A No, I wouldn't say that. What happened was he reached over  
7 and grabbed me by the crotch area, just kind of we were  
8 talking and the same kind of scenario, riding in the car,  
9 listening to rock music. He was fooling around, put his  
10 arm over like that, pushed me and grabbed my crotch area  
11 and then made it off to be like it was just a joke.

12 Q So on that occasion there was some discussion?

13 A Correct.

14 Q And you said -- when he made it off like it was a joke,  
15 what did he say?

16 A I don't know the exact statement he said or what he had  
17 said.

18 Q It just -- he made it off to be like he was joking around?

19 A Like he was kidding around, like it didn't mean anything.

20 Q Was he laughing?

21 A Yeah. Well, yeah, we were laughing and, you know, kidding  
22 around and then that happened.

23 Q Mr. Grover, that's -- that was three times when these

1 incidents of some kind of touching had occurred; would that  
2 be fair to say?

3 A Yes.

4 Q Now, at that point in time were you in counseling as you  
5 described it with Gordon MacRae?

6 A No, I hadn't been. I think he was still over at -- I think  
7 he was still at Hampton at the time because he was coming  
8 back and forth from Hampton to our house. We still lived  
9 in Marlborough, and that's why I think we were just -- I  
10 just remember we were still in Marlborough. We hadn't  
11 moved yet, and he was in Hampton. He hadn't made it to  
12 Keene yet, so, no, no counseling was really talked about at  
13 that point.

14 Q At this point in time when this third instance is alleged  
15 to have occurred, did you have a substance abuse problem  
16 then?

17 A I wouldn't say -- I'd say no because -- I was drinking, but  
18 it wasn't noticeable enough for my mother to recognize.  
19 When it got to the point that my mother could really see  
20 that something was really wrong, that's when she began to  
21 get worried. So, yes, I was drinking; no, there was no  
22 clear problem at that point.

23 Q And at that point in time did you feel or believe, sir,

1           that it was a problem that required any type of treatment?

2   A    I think I stated that I never thought it was a problem  
3       until the end of 1989 when I myself sought treatment  
4       through my own powers.

5   Q    When you went into Derby Lodge or Beech Hill you didn't  
6       feel that you had a problem?

7   A    No, I think I also stated that Mr. MacRae and my mother  
8       made that decision for me.

9   Q    And when you went in, sir, to Derby Lodge, in 1986, you  
10      felt that you didn't have a problem?

11   A    That's correct, the only problem that I was having at that  
12      time were the problems of Mr. MacRae.

13   MR. REYNOLDS: Your Honor, may we approach, please?

14   THE COURT:    Yes. Record?

15   MR. REYNOLDS: No, your Honor, I don't think so.

16                   (Discussion held off the record.)

17   THE COURT:    Ladies and gentlemen of the jury, we're going to  
18       take a ten-minute break now. We can go until 4:00 or  
19       4:30. Is there anyone that objects to 4:30, otherwise  
20       we'll stick to 4:00?

21                   (No response from the jury)

22   THE COURT:    Okay. You're okay? I'm looking at you because  
23       you're the one that objected last time!

1 (Laughter from jury)

2 THE COURT: Okay. We'll go to 4:30. We'll take about 10 or  
3 15 minutes. We'll come back and start with  
4 cross-examination again. Thank you very much.

5 Bailiff, take charge of the jury.

6 HEARING OUT OF THE PRESENCE OF THE JURY

7 THE COURT: We aren't starting anything. We don't have the  
8 jury here yet. I just want to get a feel for the terrain  
9 here. It looks as if this cross-examination will not end  
10 today. Do we have any witness problems or anything like  
11 that that could come up tomorrow in the case? I just want  
12 to know from counsel so I can be ready to anticipate any  
13 further witness problems.

14 MR. REYNOLDS: Of the sort we've experienced?

15 THE COURT: Yes.

16 MR. REYNOLDS: I don't think so.

17 THE COURT: In that case, if there is nothing further, go  
18 ahead and call up the jury

19 HEARING IN FRONT OF THE JURY

20 THE COURT: Attorney Koch?

21 MR. KOCH: Thank you, your Honor.

22 Q Mr. Grover, I think I would move forward to the point in  
23 time where you had begun counseling with Gordon MacRae. Do

1           you remember that, sir?

2   A    Is there any way possible to read back what we were just  
3       talking about?

4   Q    I'm sorry. What were you reading, sir, while I was asking  
5       the questions?

6   A    The piece of paper that you -- that thing you handed me.

7   Q    It's the letter you gave him. Okay. I am in a different  
8       area. That's Mr. Gainor's. Thank you.

9           You began counseling with Gordon MacRae at the request  
10       of your mother, is that correct?

11   A    Yes, that is correct.

12   Q    And, sir, at the time you began that counseling, do you  
13       remember where you were living?

14   A    I was living in Marlborough.

15   Q    And you were then still living at home with your mother?

16   A    Correct.

17   Q    And if I remember your testimony correctly, the only reason  
18       you went to counseling with Gordon MacRae was because your  
19       mother wanted you to do that?

20   A    I think that was a decision between her and Mr. MacRae.

21   Q    You didn't want anything to do with going to counseling?

22   A    No. I didn't see where it was productive.

23   Q    I am sorry?

1 A I said I didn't see where it was productive.

2 Q You didn't feel you needed counseling at that point in time  
3 for your mother's concerns?

4 A Correct.

5 Q But you went basically to appease her or because she had  
6 requested that you do so?

7 A She didn't really request. It was more mandatory than --  
8 she didn't say, well, you have a choice of going or not  
9 going. She said you'll be going.

10 Q And how was it set up from there, sir?

11 A Meaning?

12 Q Meaning so that an appointment or a contact would be made  
13 so you could begin this counseling that your mother  
14 mandated that you go to.

15 A I think I stated before that Mr. MacRae was continuously at  
16 our house; and it wasn't a professional setting type of  
17 counseling, it was more an open session. I call it an open  
18 session meaning that we didn't meet in any specific place  
19 at any specific time. It was just pastoral counseling, him  
20 being a friend of the family and him having the title that  
21 he had.

22 Q Mr. Grover, what I'm trying to understand is that it would  
23 seem to me that if there was this understanding that had



1       been reached between your mother and Gordon MacRae to  
2       counsel you, that at some point in time Mr. MacRae or your  
3       mother must have come to you and said, listen, you need to  
4       get together because we need to talk about certain issues.  
5       Did anything ever occur like that?

6   A    Yeah, he would take me aside and say your mother told me  
7       this happened or this happened and asked me why I did  
8       something and, you know, be like that.

9   Q    Mr. Grover, why did your mother feel that you needed  
10       counseling at that point in time? What was your  
11       understanding about that?

12  A    Once again, I already stated that my parents had been  
13       separated. I had started drinking noticeably and just a  
14       lot of confusion.

15  Q    So your understanding was that Mr. MacRae was to talk with  
16       you or counsel with you about the separation of your  
17       parents, that's one issue, right?

18  A    Correct.

19  Q    The second thing was your substance or alcohol abuse?

20  A    Correct.

21  Q    And then you used a category, a lot of other problems. Can  
22       you help me with that at all?

23  MR. REYNOLDS: Your Honor, may we approach, please?

1 THE COURT: Yes.

2 BENCH CONFERENCE

3 THE COURT: Why don't you express what you did, Attorney  
4 Reynolds, and then, Attorney Koch, you can respond.

5 MR. REYNOLDS: Your Honor, I have objected based on the Court's  
6 prior ruling concerning our not being able to get into  
7 juvenile records of the victim/witness. Mr. Koch has  
8 already examined him with regard to drug and alcohol  
9 problems and divorce problems that led to the counseling  
10 areas. My feeling is that there are no other areas that  
11 we're aware of, at least other than those I have mentioned  
12 except for the juvenile problems; and if this question went  
13 forward we would get into an area that's a prohibited area  
14 from the Court order, so I object on that basis.

15 MR. KOCH: My concern is I asked him a question, why did his  
16 mother feel he needed to go into counseling; and he gave a  
17 three-fold response. First was that problems over the  
18 separation of his family, second seemed to relate to  
19 alcohol and/or substance abuse, and then he says and there  
20 are other problems. I then asked what are those other  
21 problems, and Mr. Reynolds has made a representation he --  
22 although he is not sure, he thinks those other problems may  
23 relate to juvenile problems that he had had, maybe juvenile

1 adjudications. The only juvenile adjudications that I'm  
2 aware of are adjudications that go to crimes of dishonesty,  
3 forgery and shoplifting. I am not sure if there are other  
4 problems like that, and I don't know if the witness is  
5 referring to those or not; but it certainly seems like at  
6 this juncture that should be fair fodder for -- because it  
7 provided the whole basis for his having gone to see Gordon  
8 MacRae even against his will and under the mandate of his  
9 mother.

10 MR. DAVIS: Your Honor, could I have just a brief conference  
11 with co-counsel?

12 (Attorneys Davis and Koch conferred privately  
13 at this point).

14 MR. KOCH: Your Honor, I would have to check my record, but  
15 it did seem to me that these juvenile problems that he was  
16 having in terms of the convictions occurred after 1983. If  
17 I remember, it was '84. I think -- I could be wrong, but  
18 it seemed to me that the dates and time when he was having  
19 those problems were after the time he began counseling with  
20 Gordon MacRae and after these indictments.

21 MR. DAVIS: And in this case the indictments all allege acts  
22 in 1983. So if in fact the counseling related to his  
23 juvenile problems and if the juvenile problems were in 1984

1           later, the evidence does not jive with the indictment.

2   MR. KOCH:        Could Mr. Reynolds just ask him on sort of a side  
3           bar?

4   THE COURT:      I will tell you what I will do. This is what I  
5           think. As far as the juvenile dishonesty question, one,  
6           the convictions can't come in any way; but even if they  
7           could, they happened so long ago that I don't believe they  
8           are relevant or material at this point with this witness on  
9           the stand. Now, as far as asking about the problems that  
10          led to him having to have counseling, I will let it go as  
11          far as this, if he did have some problems with the law,  
12          that can be a legitimate question but no particulars.

13   MR. DAVIS:      Can we at least identify the department involved?

14   THE COURT:      Why? What possible relevance would it have?

15   MR. REYNOLDS:   They want to use it for discovery.

16   MR. DAVIS:      Let us suppose that Mr. Grover would testify that  
17           my earliest involvement and problem with the law  
18           enforcement officers that caused me to have to have  
19           counseling was a problem I had with the Marlborough Police  
20           Department. Well, the problem I have with the New  
21           Hampshire State Police or Keene P.D., and if we find out  
22           that his early involvement with them was in 1984, then the  
23           testimony doesn't jive. He either has the wrong time or he

1 is not telling the truth; and time -- although not an  
2 element to the exact offense, time is an element under the  
3 statute because it has to occur before his 16th birthday.  
4 And we know his 16th birthday was in November of 1983, so  
5 if the counseling was as a result of problems with juvenile  
6 authorities and if those all occurred in 1984 or later, the  
7 indictments are defective based upon the evidence that we  
8 won't be able to go into.

9 MR. REYNOLDS: We're missing an issue. The primary issue we're  
10 missing here is they have elicited a response to try to  
11 open a door themselves. This is not a door that the State  
12 has opened for them. He has gotten a response and now  
13 wants to follow up. When the State is in this position  
14 it's required to take the answer given and the inquiry ends  
15 there. That's the position they are in here. Now, this  
16 may cause them some consternation because they are not  
17 getting the response they thought or something like that.  
18 Nonetheless, I think, as I understand the rules of inquiry  
19 in opening a door, I feel they are stuck with the answer  
20 they got and now we have got to move on to something else.  
21 I don't think inquiry in this area is appropriate.

22 MR. DAVIS: The answer is other problems, and we haven't been  
23 allowed to find out what the other problems are. And in

1       this particular case, if in fact the other problems have to  
2       do with a problem with involvement with juvenile  
3       authorities and if his earlier involvement with the  
4       juveniles authorities were in January of '84, we have a  
5       real problem give the fact that the State has to prove the  
6       alleged events occurred before his 16th birthday.

7   MR. REYNOLDS: You are talking about convictions. I don't know  
8       but let's say there was a problem with the law not having  
9       to do with convictions, okay. Those are still individual  
10      other acts that we can't get into under 608 and don't even  
11      begin to have the level of credibility that a conviction  
12      would have if a conviction were admissible under the  
13      juvenile system.

14  MR. DAVIS:     Your Honor, we're hypothesizing about what the  
15      answer might be. We don't know what the answer is, and if  
16      the concern is -- that's the concern, Attorney Koch  
17      suggested Attorney Reynolds ask him at a side bar what the  
18      other problems were. We've got a confrontation right here  
19      on time and the dates of when these events occurred.  
20      Although they don't have to prove the specific event  
21      happened on June 18 of 1983, they have got to prove that  
22      they happened within the dates alleged in the indictment.

23  MR. REYNOLDS: No, they don't. Date is not an element of the

1 offense.

2 MR. DAVIS: If the jury is not convinced that those events  
3 occurred between the ages of 13 and 16, they cannot legally  
4 convict.

5 MR. REYNOLDS: Ages of 13 and 16?

6 MR. DAVIS: We know his 16th birthday was in November of  
7 1983.

8 MR. REYNOLDS: It still gets into areas of inquiry that are not  
9 subject --

10 MR. DAVIS: Your Honor, if that's what the answer is, you  
11 know, there are such things as limiting instructions; and I  
12 know right now the door was opened on previous events and  
13 there was limiting instructions.

14 MR. REYNOLDS: It is duplicitous. They are trying to paint as  
15 bad a picture as they possibly can of this individual; and  
16 following the other stuff that's already out here, I can't  
17 conceive a limiting instruction could be accepted by this  
18 jury to limit the damage of additional juvenile stuff, if  
19 there is some.

20 THE COURT: I will tell you, I think you can ask the question  
21 if he had legal problems.

22 MR. DAVIS: That is, were the other problems legal problems?

23 THE COURT: Did you have problems with the law? I think it's

1 a fair question.

2 MR. KOCH: As a query, though, what if he says no? Then I am  
3 right back to where I am.

4 THE COURT: Then you have to take the answer.

5 MR. GAINOR: That's right.

6 MR. KOCH: I can't ask him --

7 THE COURT: You can't prove it by extrinsic evidence.

8 OPEN COURT

9 Q The other problems you were speaking with reference to, do  
10 they have to do with the law?

11 A Perhaps.

12 Q Were there times, sir, where Gordon MacRae, in your words,  
13 counseled you at your home?

14 A Yeah, there were times.

15 Q Mr. Grover, so I can get the picture, would he just kind of  
16 come up and say -- and I assume he called you Tom instead  
17 of Mr. Grover?

18 A Correct.

19 Q Would there be times when he would come up and say, Tom, I  
20 need to talk with you about this matter and then there  
21 would be some discussion about whatever that issue was or  
22 that matter?

23 A Normally, if it took place at my house and it was spring to



1 fall, we have -- we used to -- at our old house in  
2 Marlborough we would have in our living room and then off  
3 that we had some french doors that opened up to a big sun  
4 porch which had a big table and a couple big long benches  
5 that we used to eat when it was nice weather out. He used  
6 to take me aside sometimes to that area or we would go walk  
7 out back or we would sit out on our front porch or we'd  
8 even sit in his car or we'd go for a ride. So it wasn't,  
9 you know, just one place.

10 Q Thinking back today, do you have any idea of the number of  
11 times those types of counseling sessions occurred? And I'm  
12 not talking about the ones you are claiming took place in  
13 the Keene rectory but the ones that may have taken place at  
14 your home or maybe outside or maybe in the car or --

15 A I'd say hundreds.

16 Q Was that, Mr. Grover, almost on a daily basis also, sir?

17 A No, not always. In 1982 he was at Hampton but he used to  
18 come and -- you know, as often as he could.

19 Q Do you have a memory today, sir, of how often that would  
20 be?

21 A I could not say.

22 Q Do you think it was weekly or once a month or --

23 A Oh, I really wouldn't be able to say.

1 Q But you can say that that occurred during 1982 when he was  
2 in Hampton, some of these types of sessions that you're  
3 talking about?

4 A It took place not just in 1982, these types of sessions.

5 Q Had they taken place before '82?

6 A No, but they went into -- before he came to Keene in '83,  
7 which was, I don't know, the middle of the year or  
8 somewhere about there. So they took place in the beginning  
9 of '83 before -- before he officially came to Keene.

10 Q Did they go back into 1982 as you remember today, sir?

11 A Yeah, they took place in 1982 also.

12 Q Now, how about the year prior to that, in 1981?

13 A He was -- yeah, he was around.

14 Q All right. So what we're talking about is for a period of  
15 years of these sort of counseling get-togethers, would that  
16 be a fair statement?

17 A The number of years?

18 Q Well, let me see, sir. I'm talking 1981, 1982, 1983. To  
19 me, three years is a -- I'm just going to call that a  
20 number of years.

21 A Yeah, that's fair.

22 Q During that time period, Mr. Grover, did the problems  
23 change or were they all basically the same dealing with

1       those three general areas that we talked about?

2   A    The three areas we talked about were pretty much there. I  
3       mean, were always there, and I'll stop.

4   Q    Mr. Grover, for counseling or any type of advice to work, a  
5       person has to be willing to listen to it, isn't that true?

6   A    No, not necessarily. I mean, counseling and used -- a term  
7       used by both my mother and Mr. MacRae at the time didn't  
8       happen -- I mean, I would go and they would talk to me and  
9       I didn't always listen to their advice on what he had to  
10      say. So, I mean, the only reason I did even attempt to,  
11      you know, have that go on, to me it was useless but once  
12      again my -- it was mandatory. I did not have a choice  
13      whether I wanted to or not. If it was up to me, I wouldn't  
14      have done it. I wouldn't have -- I didn't think there was  
15      really anything wrong.

16   Q    So when you were receiving advice, counseling from either  
17      your mother or from Mr. MacRae, whether you would listen to  
18      it and act on it was just really dependent on whether you  
19      wanted to or not; would that be a fair statement, sir?

20   A    Yeah, it was up to me whether I listened to the advice they  
21      were giving me in that period.

22   Q    Mr. Grover, did you resent people giving you advice during  
23      that timeframe in your life?

1 A I don't know if I had -- I don't know if I would use  
2 resent.

3 Q Okay.

4 A I didn't -- I mean, I didn't want to do it, but I didn't  
5 again resent that I was having to do it.

6 Q Did you listen to what they were telling you -- maybe  
7 listen? I know you heard it, but when they would tell you  
8 -- I don't want to go into a lot of specifics, but if they  
9 would tell you something, Tom, I think you should do this,  
10 then you would, if I'm hearing you correctly, basically  
11 just ignore it and do what you wanted to do?

12 A No, on occasion I would play along with them and, you know,  
13 do some of the things they said and -- you know, just to  
14 get them off my back or just to smooth the problem over but  
15 outside of that --

16 Q When you say play along, Mr. Grover, do you mean just sort  
17 of like, hey, I'm just going to do something to kind of get  
18 you off my back?

19 A Yeah, I would just do -- I mean some -- on occasion I would  
20 maybe do something to make them think that I was following  
21 what they wanted in order to smooth over the problem or  
22 make it seem like things were getting better or, you know,  
23 just enough so they would stop hounding me.

1 Q At that point in time in your life, Mr. Grover, was one of  
2 their concerns trying to get you to stop drinking?

3 A Yes.

4 Q And to stop using drugs?

5 A Yes.

6 Q Now, when Gordon MacRae came to Keene to actually be  
7 stationed or positioned in the parish here, did the  
8 frequency of these sessions increase or did it stay about  
9 the same or --

10 A Oh, they definitely increased. He was definitely at my  
11 house, if not daily, at least five or six times a week and  
12 in constant contact with my mother. When he was in Hampton  
13 he made -- I would say a real effort to get -- to come as  
14 often as he could to see us; and him being right out our  
15 back door gave him the opportunity to just come over  
16 whenever he wanted, and he took advantage of that.

17 Q And was it your memory or is it your memory today, sir,  
18 that basically every time Gordon MacRae would come in  
19 contact with you he was giving you advice or telling you to  
20 do stuff?

21 A No, not -- I mean, if something went wrong or my mother  
22 wasn't happy with me, my mother really didn't have -- lost  
23 any kind of, I would say -- I don't know if I would say

1 control, but I wasn't really listening to what she had to  
2 say and just took what she said with a grain of salt; and  
3 she thought that I needed that male figure, and that's how  
4 Mr. MacRae came about doing the counseling.

5 Q Once he had actually come to Keene, then his ability to be  
6 in contact with you would increase because he was here on a  
7 daily basis?

8 A Correct.

9 Q And when he came to Keene, sir, were there several -- were  
10 you being counseled almost on a daily basis by then would  
11 you feel?

12 A No. Again, you know, he would come to my house pretty much  
13 daily and unless something happened -- I mean, there were  
14 other kids at my house. They were also experiencing  
15 problems over the separation and he also had spoken to  
16 them, and the focus wasn't always on me unless something  
17 was asked.

18 Q Mr. Grover, by the time we go forward into the summer of  
19 1983 when Gordon MacRae came, your father had been gone  
20 from the home for quite some time, hadn't he?

21 A Yes.

22 Q And you all were used by that time to having him not  
23 physically present in the home?

1 A I wouldn't say used to it. I don't think at that age you  
2 become used to it. He was a missing parent and he was part  
3 of the family. Whatever role he played in our family he  
4 was missed, so I wouldn't say used to it.

5 Q Well, you were at a point where when you came home you  
6 realized he would not be physically present in your  
7 residence?

8 A That's correct.

9 Q And you still had access to your father, didn't you, sir?

10 A Yes, I did.

11 Q I mean, you could call your dad and speak with him on the  
12 phone?

13 A That's correct.

14 Q And you certainly could visit with him if you chose to do  
15 so, couldn't you?

16 A That's correct.

17 Q And did he spend time with you guys? Did you still  
18 continue your ballgames and those kind of things?

19 A For a long time after the separation and divorce there were  
20 a lot of bitter feelings towards my father and we didn't  
21 have a lot of contact with him. A lot of the kids in the  
22 family resented that he could just pick up and leave,  
23 abandon everybody; and so there were a lot of hard feelings

1       towards him, and so we didn't really want to or make any  
2       effort to keep in touch with him, even though he did only  
3       live within five miles of where we were living at the  
4       time. It still was very uncomfortable and it was very  
5       painful at the time to have, uhm, someone in your life  
6       leave like that.

7   Q    So when you say bitter, you're upset with your father, most  
8       of the kids in the household were for abandoning you?

9   A    Yes.

10  Q    Now, Gordon MacRae by this point in time has just almost  
11       become a fixture in your life; would that be a fair  
12       statement?

13  A    Yes.

14  Q    And, in fact, he is around your house almost more than any  
15       other person that you know, I mean, outside of family  
16       members?

17  A    That's correct.

18  Q    And, in fact, you've known him now for a period of about,  
19       well, four or five years?

20  A    Could you repeat that?

21  Q    Well, if I remember your testimony, sir, the very first  
22       time you met Gordon MacRae would have been back in about  
23       1979?



1 A Yes.

2 Q And I've just forwarded to now in 1983. So I'm counting  
3 from '79, '80, '81, '82, '83 to get my five years?

4 A Yes.

5 Q So what I'm saying five years, he has basically just been  
6 around all during that time?

7 A Correct.

8 Q Now, sir, when he would come to your house from 1979, '80,  
9 '81, '82, those years, did he come dressed in street  
10 clothing or any type of special --

11 A Well, unless you knew Mr. MacRae at the time, he was  
12 anything but a priest. He would make rude and racial  
13 jokes. I would consider him -- just the things he talked  
14 about, the things he said, the things -- he was real  
15 immature and he was -- I mean, when I picture a priest --  
16 when I looked up in my earlier years and thought of a  
17 priest, I thought of somebody that represented God, that  
18 had strong moral values, had -- was of good character. And  
19 unless you knew him at that time, I would say he wouldn't  
20 -- it would be my opinion that a lot of people wouldn't  
21 have thought him as a priest. He never dressed as a  
22 priest. He would come over in everyday jeans and a t-shirt  
23 and, you know, he just was like a little kid.

1 Q So in your eyes you certainly didn't see Gordon MacRae as  
2 being a -- what you thought of as a priest?

3 A That's correct. But, also, he was a priest; and my mother  
4 enforced over and over and over that no matter how he  
5 acted, no matter what he did, that we were to treat him  
6 with respect and reverence to him, give reverence to him.

7 Q Now, Mr. Grover, it sounds to me that everything Gordon  
8 MacRae represented to you was something that was obnoxious,  
9 something that you hated and didn't like, isn't that true?

10 A No, that's not true. That opinion of him didn't come until  
11 afterwards. I mean, at that point when I was at that age  
12 we all thought it was a big joke and -- you know, here's  
13 Gordon telling just jokes that aren't appropriate to be  
14 told by anybody but here he is a priest saying them to us;  
15 but, on the other hand, my mother is also, and we were also  
16 brought up to think as a priest as being something higher  
17 than or held higher than.

18 Q Mr. Grover, during a lot of the time that you had contact  
19 with Mr. MacRae in the early years he wasn't a priest, was  
20 he?

21 A No, he wasn't a priest.

22 Q Now, you're particularly sensitive, sir, I gather, to any  
23 type of comment that could be construed in any form or

1 fashion as a racial slur, isn't that true?

2 A Anything directed towards me, towards who I am.

3 Q In other words, sir, if anybody made any type of  
4 disparaging comment or remark about one being a Native  
5 American or something of that nature, that would be  
6 upsetting to you?

7 A Yes, correct.

8 Q And you indicated that Mr. MacRae would make those kind of  
9 comments. Would they be about you, sir?

10 A No, they wouldn't be about me.

11 Q Would they be about other races?

12 A Occasionally. I would -- in my opinion, I would say that  
13 Mr. MacRae was extremely homophobic and a lot of his jokes  
14 stemmed around that.

15 MR. KOCH: Your Honor, I would like to have some photographs  
16 identified.

17 THE COURT: That's fine. Those can be marked for  
18 identification. Will it be all right to mark these as one  
19 exhibit, all the photographs?

20 MR. DAVIS: For clarity we might want to mark them  
21 individually.

22 MR. KOCH: Some are different dates. Actually, they are Mr.  
23 Reynolds' and Mr. Gainor's.

1 (Marked Defendant's C-1 through C-6 for ID)

2 Q Mr. Grover, if I could show you what has been marked as  
3 Defendant's Exhibit C-1 through C-6. If you could look at  
4 those just briefly for a minute, sir, and see if you  
5 recognize them.

6 A I looked at them.

7 Q And what are those?

8 A These are pictures of Mr. MacRae at different times in our  
9 lives.

10 Q And where were those photographs obtained from, sir?

11 A These were taken out of photo albums at my mother's house.

12 Q And they were brought to court today and given to Mr.  
13 Reynolds?

14 A Yes, I brought them in.

15 MR. KOCH: Your Honor, I would move that the identification  
16 be struck.

17 THE COURT: It may be stricken.

18 MR. REYNOLDS: Without objection.

19 THE COURT: The Court will receive them as full exhibits.

20 (ID stricken on Defendant's Ex. C-1- C-6)

21 Q Mr. Grover, very quickly can you go through each one and --  
22 or maybe I can approach and let me just -- sir, this first  
23 one is a picture of whom?

1 A It's a picture of Mr. MacRae with my little brother. Where  
2 that was taken I'm not sure, but it was either in 1984 or  
3 1985.

4 THE COURT: Excuse me?

5 Q On the back, there appears to be what may be a year  
6 notation.

7 A That's correct.

8 Q Is that -- maybe I could just have you do that. What year  
9 is that?

10 THE COURT: Can I make a suggestion? When you hand each one  
11 of the photographs to him, read the exhibit number so it  
12 will be on the transcript.

13 Q I'm sorry. On C-1, what is the year that photograph was  
14 taken, sir?

15 A It was either taken in 1984 or 1985.

16 Q Is there a notation on the back that has the number '85?

17 A Yes, sir, there is.

18 Q Now, your brother is named?

19 A The one in that picture is James.

20 Q Is this the little boy that Gordon saved his life?

21 A Yes, it is.

22 Q In fact, hadn't your brother drowned and they were unable  
23 to revive him and Gordon MacRae came and was able to

1           resuscitate?

2   A       Yes, that's true; and that made it all the stronger the  
3           bond between him and my mother and him and my family.

4   Q       Is that young man of the African American persuasion, sir?

5   A       Yes, he is.

6   Q       Let me show you what's been marked as C-2 and if you can  
7           identify that photograph.

8   A       This here is a picture of Mr. MacRae on Thanksgiving of  
9           1984 at our house on Butternut Drive, the house in which we  
10          had moved into after the house in Marlborough.

11   Q       Thank you. Sir, this third one is marked C-3.

12   A       This is a picture of Mr. MacRae with my grandmother at  
13          Thanksgiving dinner of 1984.

14   Q       This grandmother would be your mother's mother or your  
15          father's mother?

16   A       My mother's mother.

17   Q       And let's just go through; I'm sorry, C-4.

18   A       This is picture of Mr. MacRae receiving a Christmas gift in  
19          the year of 1982.

20   Q       And on C-6 now.

21   A       That would be a picture at our Marlborough address.

22   Q       All right.

23   A       This is a picture of Mr. MacRae in 1981 taken at our house

1           in Marlborough, New Hampshire.

2   Q       Finally, sir, I have a picture here marked C-5.

3   MR. REYNOLDS:     The last one was C-6?

4   MR. KOCH:         Yes, the one preceding was C-6.

5   A       This is a picture of Thanksgiving of 1983 in which Gordon  
6           MacRae attended our Thanksgiving meal.

7   Q       In that photograph, where is Mr. MacRae seated?

8   A       He is seated at the head of the table.

9   Q       And where are you seated, sir?

10   A       I'm seated on the -- as you look at the picture, I am  
11           seated at the left-hand side.

12   Q       Can you just turn that briefly to the jury and show where  
13           you're seated?

14   A       Right here.

15   Q       Now, sir, that would have been -- that was in 1983?

16   A       That's correct.

17   Q       And --

18   A       I would have already been 16 years old when that picture  
19           was taken.

20   Q       What is that you're holding in your hand and showing to the  
21           photographer?

22   A       That is a bottle of wine.

23   Q       Okay.

1 Q And the lady seated in the front looking to us is whom, the  
2 elderly woman?

3 A That is my grandmother, my mother's mother.

4 Q Thank you. Mr. Grover, would you say that those pictures  
5 basically depict the way Gordon MacRae appeared back in  
6 1982, 1983?

7 A Meaning -- I am not sure what you mean.

8 Q That's how you remember Gordon MacRae from that time on, is  
9 it not?

10 A No, that wouldn't be fair to say. He was like that in  
11 1981, but after his ordination I wouldn't say I looked at  
12 it in quite that same view as I would in 1981 when he  
13 wasn't a priest.

14 Q There are photographs him of him at your house after his  
15 ordination?

16 A That's correct.

17 Q In fact, the very last picture that's going around, C-5,  
18 which is the picture of the Thanksgiving dinner, that would  
19 be after he was ordained?

20 A That's correct.

21 Q And, sir, in all of these photographs he is dressed  
22 essentially in I guess street garb for lack of a better  
23 word, street clothing?



1 A Yes, he was -- well, I think that's what made it so  
2 confusing was that he dressed and acted a certain way but  
3 his title and the way we were supposed to act towards him,  
4 that's what made it all the more confusing.

5 Q Mr. Grover, you form fairly quick likes or dislikes for  
6 people, don't you?

7 A No, I just -- I don't know. I don't think so. I wouldn't  
8 say that that was a fair statement.

9 Q Well, sir, if I spent my time giving you advice that you  
10 didn't want to listen to and you ignored, and I spent my  
11 time making comments that you thought were inappropriate,  
12 and I spent my time berating you or putting you down, do  
13 you think it would be reasonable for you to feel that you  
14 might not have much affection or use for me as a person?

15 A No, I mean --

16 Q Would you consider me a friend?

17 A The whole confusing part of it was that he was even though  
18 after it had happened, he was -- he was -- it's hard to  
19 describe the relationship between him and my mother. I  
20 think he used that to his full advantage and just more or  
21 less was controlling to the point where he became the head  
22 of our household and would at times be in more control of  
23 our household than even my mother was.

1 Q Mr. Grover, I guess what I'm asking you, sounds like  
2 everything you described just a few moments ago to the jury  
3 occurred prior to these instances of being fellated in the  
4 rectory in Keene?

5 A That's correct.

6 Q And you certainly were able by that juncture in time to  
7 form a basic like or dislike for Mr. MacRae, weren't you?

8 MR. REYNOLDS: Your Honor, I think that's been asked and  
9 answered, a couple of times and a couple of different ways  
10 actually.

11 MR. KOCH: I'm not sure it's been answered. I've heard sort  
12 of a long dialogue, but I don't know if I have received an  
13 answer.

14 MR. REYNOLDS: He said the relationship was confusing. Sometimes  
15 yes or no just doesn't fit.

16 THE COURT: I'll allow the question.

17 A Could you repeat the question?

18 Q By that point in time, you certainly knew whether you liked  
19 or disliked Gordon MacRae?

20 A At that point in time him being that young, I felt a lot of  
21 guilt and a lot of shame and I felt that it was -- I  
22 brought the problems on. I didn't have -- didn't blame Mr.  
23 MacRae. I felt that I was taking the responsibility for

1        what he did, and so I didn't -- I mean, he was in my  
2        family. He was part of my family. I could have disliked  
3        him, yes, but -- and I could have liked him, yes. Some of  
4        the things he did were good; but, on the other hand, some  
5        of the other things he did were bad.

6    Q    Mr. Grover, let's go to the rectory in Keene, the sessions  
7        that had occurred there that you have testified to. Can  
8        you give the ladies and gentlemen any idea of the timeframe  
9        between those incidents; and let me see if I can clarify  
10       that for you. You've testified that there were four  
11       instances where Mr. MacRae performed fellatio on you in the  
12       rectory at Keene?

13   A    That's right.

14   Q    And I believe you testified that some of those instances  
15        occurred in the southwest office and some of the instances  
16        occurred in the southeast office?

17   A    That's correct.

18   Q    Am I stating it correctly?

19   A    That's correct.

20   Q    Now, sir, what I want to know is if you could for a minute,  
21        do you remember my chart from yesterday where I had sort of  
22        written one, two, three, four, five?

23   A    Yes.

1 Q I want you to assume with me for a minute that number one,  
2 two, three, and four are the incidents that took place in  
3 the office at the rectory in the offices.

4 A Correct.

5 Q Can you tell us today what the span of time was between  
6 those incidents in terms of maybe days or weeks or - in  
7 other words, what I want to do is -- let's take instance  
8 number one, and just for purposes of discussion, let's say  
9 instance number one occurred the very first day. Are you  
10 where I am now?

11 A Yes, I am.

12 Q What I am trying to do is go from number one now to number  
13 two and get an idea of what the time period was between one  
14 and two. Are you able to do that?

15 A Yes. For the first two instances I would say within a  
16 month's time. It happened -- the first time it happened --  
17 after it had happened, I was very, very just out of  
18 control, just an emotional wreck; and I was drinking and  
19 just -- I did whatever I had to do to try to make it go  
20 away. And the more I acted out, the more my mother  
21 insisted on I go see him; so I would say the first one or  
22 two instances happened within the same month.

23 Q Okay. Now let's go to number three.

1 A Number three?

2 Q Yes, I would sort of like to get a timeframe here in terms  
3 of if you can relate it to number two or number one.

4 A I'd say within the next -- number two probably was within a  
5 month maybe. I would be guessing to say a month.

6 Q Okay. Let me back up for a minute. I think you said you  
7 thought number one and two probably would have occurred in  
8 about the same month period?

9 A Well, I could say this as a general statement that they all  
10 happened before I had returned to school in 1983.

11 Q Okay, but I would like to continue my exercise if you would  
12 allow me to do that.

13 A Yes.

14 Q If we go with number one and two and those basically being  
15 in the same month, I'm just talking kind of days now, when  
16 would number three have been in relation to those?

17 A Days and times really mean nothing to me, so you would be  
18 just -- all I can say is that I know that those four  
19 incidents had happened the summer of '83, before I started  
20 school in 1983.

21 Q Now, when I look at the indictments, sir -- if you would  
22 flip the chart, would you please help me with that. I  
23 think it's the next page. Your best memory is that the

1 incidents occurred, the four that we're talking about, in  
2 the summer of 1983 before you began school?

3 A That's correct.

4 Q Okay. Thank you. Please have a seat. Now, Mr. Grover, do  
5 you have any reason to dispute that Gordon MacRae did not  
6 come to the rectory at Keene until June 15 of '83?

7 A I don't know the exact date he came.

8 Q I want you to assume with me that that was June 15 of  
9 1983. You started school, sir, approximately when in 1983?

10 A September.

11 Q Would that be towards the beginning or the end of  
12 September? I'm not sure how your school's set up in terms  
13 of beginning dates here.

14 A I'd say just after Labor Day.

15 Q And, sir, Labor Day would be at the beginning of the month  
16 in September?

17 A I guess that's when it usually comes.

18 Q And that's your memory of about when you would have begun  
19 school?

20 A Correct.

21 Q So around September 6 -- for instance, this year I think we  
22 may have started this trial the day after Labor Day?

23 A Again, I don't know times and dates as to when Labor Day

1 was in 1983. I really don't know.

2 Q But you have no question in your mind it occurred after  
3 Gordon MacRae came and before you started school?

4 A In the summer of '83.

5 Q Now, I think you testified about one other incident that  
6 had occurred and that there was an instance that was  
7 alleged to have occurred on the rectory, the upstairs  
8 rectory floor, the third floor?

9 A That's correct.

10 Q Where does that fit in in the timeframe here, one, two,  
11 three, four, does it fit as number five?

12 A Again, I really don't recall.

13 Q All right. Well, do you think my sequencing is right with  
14 respect to the events that took place in the offices? By  
15 that I mean one, two, three, four.

16 A All I can say is twice it happened in one office and twice  
17 it happened in another office, and that's the only  
18 distinction I can make as far as time period.

19 Q Now, let me ask you this. Is it your memory that the  
20 incident in the rectory also took place during the summer  
21 of 1983?

22 A Yes.

23 Q And that would be before you started school?

- 1 A Correct.
- 2 MR. REYNOLDS: I guess I have a question. He said incidents in  
3 the rectory.
- 4 MR. KOCH: I'm sorry, on the third floor.
- 5 Q I am sorry. Did you understand what I was asking, Mr.  
6 Grover?
- 7 A Basically.
- 8 Q What I was asking about, I'm calling as number five, the  
9 incident that is alleged to have occurred on the third  
10 floor of the rectory, okay, are we together there?
- 11 A Yeah, you can call it five; but I couldn't say if that was  
12 the way it was -- in the order it happened.
- 13 Q But you would say that the number five, if I called that  
14 the incident on the third floor of the rectory, that would  
15 have also occurred during the summer of 1983?
- 16 MR. REYNOLDS: We're beating a dead horse. That has been asked  
17 and specifically answered.
- 18 THE COURT: Yes, it has been asked and answered. Sustained.
- 19 Q Are you able to place number five in that sequence at all?
- 20 MR. REYNOLDS: Your Honor, I make the same objection.
- 21 THE COURT: It's all right. You can answer the question  
22 again.
- 23 A It can be called number five, but to say that's the order



1           it was in would be -- wouldn't be accurate.

2   Q       Then can I ask you this, sir.  Would that have been the  
3           first incident?

4   A       No.

5   Q       So the incident on the third floor of the rectory would  
6           have occurred after the first instance in one of the  
7           offices?

8   A       Correct.

9   Q       Do you know if it would have occurred after the second  
10          incident that you described?

11  A       I told you I didn't know the order of which it happened.  
12          It happened in the summer of '83.  I don't know what you  
13          want me to say.  I really don't know the order of when it  
14          happened.  I can't tell you something that I just don't  
15          know.

16  Q       All right.  Mr. Grover, we come in ten years later trying  
17          to defend --

18  MR. REYNOLDS: I object.  This is a speech, not a question.

19  THE COURT:     Sustained.

20  Q       Mr. Grover, one of the ways you related yesterday that you  
21          remembered these various incidents was that you remembered  
22          certain things occurring during each one of these  
23          sessions.  For instance, I think you told the ladies and

1 gentlemen of the jury that the way you remembered incident  
2 number three --

3 MR. REYNOLDS: Your Honor, I guess I am waiting for the ruling.  
4 I object to the form.

5 MR. DAVIS: Your Honor, may we have a side bar on the record  
6 please?

7 MR. KOCH: I don't need one, your Honor. I can rephrase  
8 that.

9 THE COURT: I think it can be rephrased. Why don't we do  
10 that. It's getting late and we're tense. I realize that.

11 MR. KOCH: I'm not tense.

12 Q Mr. Grover, did you testify yesterday that one of the ways  
13 you remembered incident number three in this scenario was  
14 because you were playing chess?

15 A That is correct.

16 Q All right. And the reason you remember that you were  
17 playing chess -- what you remember about playing chess was  
18 that you were in Gordon MacRae's office, you had played a  
19 game and that in fact you had captured several of his  
20 pieces?

21 A Correct.

22 Q Okay. Now, as where you can't really remember any times  
23 other than the fact that it happened in the summer of '83,

1       you do specifically remember that that third incident  
2       occurred during that chess session?

3   A    Correct.

4   Q    And, sir, in fact you described the chess set to the jury  
5       as being a marble chess set?

6   A    Correct.

7   Q    And I think you went on also to describe in some detail  
8       that you couldn't quite remember if the chess set itself  
9       was on -- was actually attached to a table or just sitting  
10      on top of a table?

11   A    Correct.

12   Q    That it looked sort of like actually a piece of furniture?

13   A    Correct.

14   Q    Mr. Grover, isn't it true, sir, that that chess set that  
15       you're talking about was purchased in August of 1986 in Bar  
16       Harbor, Maine?

17   A    I don't know when it was purchased.

18   Q    But that's the only way that you can tie down the date of  
19       when this incident occurred?

20   A    That's correct.

21   Q    Now, let's go back to the first incident. You indicated  
22       yesterday that you had gone -- Mr. MacRae -- you had gone  
23       into his office and you started some of this counseling

1           again.

2    A     Correct.

3    Q     It -- was it similar to the kind of counseling you had been  
4           doing with him for a period of a couple years?

5    A     The only difference is that now he had an office.  I  
6           suppose that if he had an office at the time at the earlier  
7           dates we probably would have gone to that office perhaps.  
8           I can't say but now that he had an office and the  
9           opportunity to use that office.

10   Q     Okay.  That's the difference but basically the subject  
11           matter of the discussion was essentially similar to what  
12           you had all talked about on other occasions, would that be  
13           fair to say?

14   A     Yeah, that would be fair to say.

15   Q     Were you presenting to Gordon MacRae with a specific  
16           problem on the day that that first incident occurred?

17   A     Was I presenting a problem?

18   Q     Yes, sir.

19   A     Yes.

20   Q     Now, do you remember, sir, what you talked about on that  
21           first session?

22   A     No, I think I stated that.

23   Q     Okay.  You don't know if you were talking about drugs or

1 alcohol or problems with the law or problems with your  
2 family? You have no memory today whatsoever?

3 A Yeah, we were talking about drinking but that was what was  
4 going on at the time.

5 Q Do you have -- now that you remember you were talking about  
6 drinking, sir, do you remember what it was that you were  
7 talking about in terms of drinking?

8 A Basically that it wasn't good for me to be doing. I was  
9 underage. It was interfering with my life.

10 Q Now, Mr. Grover, from the time that the incident occurred  
11 where you state that Mr. MacRae put his hand on your  
12 genital area and sort of made a joke out of it, up until  
13 this time that we're describing now, am I correct in  
14 understanding that there were no instances of any type of  
15 misconduct by Mr. MacRae toward you?

16 A Up to that point, no.

17 Q Okay. Now, I think you described, sir, that during that  
18 process that Mr. MacRae began to, in your words, berate  
19 you; am I remembering that testimony correctly?

20 A That's correct.

21 Q Now, did you talk about -- and you were talking about  
22 alcohol?

23 A Correct, in addition to whatever else was being talked

1       about. It wasn't -- when I talked to him it wasn't always  
2       just about one subject. It could be -- it could start out  
3       as being a conversation about alcohol but then it could  
4       just go off about any old thing -- it's like what he would  
5       do -- I mean, he had known me all these years, so he had  
6       all these situations, all these problems that he used as  
7       ammunition.

8   Q   Okay. Let's talk about that. In what manner did he berate  
9       you?

10  A   What do you mean in what manner? I don't understand.

11  Q   What did he say to you?

12  A   I can't say specific things. All I know is that he made me  
13       feel a certain way. I can't say what he said. I don't  
14       know what he was -- exact comments he made; but all I know  
15       is how I felt when it occurred and what led up to that, the  
16       feeling that I felt, so I could not fairly say any exact  
17       statements.

18  Q   Sir --

19  THE COURT:     It's 4:30 and I guess this is probably as good a  
20       time as any to recess for the day. Tomorrow morning,  
21       9:00. Ladies and gentlemen of the jury, thank you for your  
22       service today. And please keep away from the newspaper and  
23       radio, television, don't talk with anyone. Thank you very

1 much.

2 Bailiff, you can take charge of the jury.

3 (Jury was excused)

4 THE COURT: Does counsel have anything?

5 MR. REYNOLDS: Nothing from the State.

6 THE COURT: So we're all set for tomorrow?

7 MR. KOCH: Yes.

8 (End of Day 4)

9 CERTIFICATE

10

11 I, Lorena Werner Patria, Certified Court Reporter for  
12 the State of New Hampshire and Official Court Reporter in  
13 the above-captioned matter, do hereby certify and affirm  
14 that the foregoing transcript, pages 1 through 119,  
15 represents a true and accurate transcription, to the best  
16 of my skill and ability, of my stenotype notes taken in the  
17 above-captioned matter.

18

19

Date

3-16-95

  
Lorena Werner Patria, CSR  
Certificate #41

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