

Whatever happened at Father Cooper's cabin in 1971, the archdiocese isn't responsible

By Nicholas Phillips

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In the late 1990s, a Mehlville man began sliding in and out of severe depression. He'd go days without showering. Fifty-two years old and a father of three, he usually managed to drag himself to his blue-collar union job at a large utility company, but sometimes he couldn't. On days off, his wife had to order him to get up and brush his teeth.

In July 1998, the man — whose attorneys have advised him to be identified in this story only as John Doe — spent several days in treatment for depression at Des Peres Hospital where, in a fit, he locked himself in the nurse's medicine closet. The staff had to summon his wife to come and coax him out. In March 2000 he underwent electroconvulsive therapy. Meanwhile he was swallowing various combinations of pills. Nothing helped.

The death of his twin brother in 1996 had triggered the downward spiral. But Doe remembers his doctor, Rick Mofsen, concluding that the source of his depression had to run deeper.

"All I wanted to do was die," Doe recalls on a recent afternoon. Hard of hearing, he speaks loudly and in rapid, nervous fragments, with the high vowels typical of south St. Louis (as in, Highway *farty-far*). His eyes grow wide and pink from tears as he recounts his story. John Doe wants — *needs* — to be believed.

"I wouldn't kill myself because I wouldn't do that to my kids," he says, stifling a sob. "But if they'd told me I had cancer, I'd have been happy."

On the morning of April 2, 2002, Doe found himself in his seventh therapy session with psychologist Thomas Lantsberger, who inquired whether Doe had been sexually abused as a child. "At first I denied it," Doe says, "but he kept asking. He must've known he hit on something. And all of a sudden — I'm not making this up — it came back, like it was yesterday."

Lantsberger wrote it down: "Primary issue was [patient] revealing for [the] first time to anyone that he sustained sexual abuse by a priest on at least two occasions..."

The alleged crime took place in 1971 at the priest's vacation house, southwest of St. Louis, near the Big River. John Doe was thirteen years old.

At first, Doe was embarrassed, fearing others might find out. Right after leaving Lantsberger's office in Lemay, he met his wife for lunch at Chevy's at Crestwood Court. He told her he had something awful to tell her. "She thought I was going to say I was leaving her, but I told her I'd been abused, and she looked at me, like, 'Holy Jesus.'"

In the next few months he reluctantly shared his revelation with a small set of friends and most of his nine siblings. They remembered the priest, Father Thomas T. Cooper, from his dozen years as associate pastor at their childhood parish, St. Mary Magdalen in south St. Louis. One of Doe's sisters had even been married by Cooper.

Dr. Mofsen counseled his patient to call the authorities. Doe contacted Ken Chackes, a St. Louis attorney who specializes in sexual-abuse litigation. A lawsuit was filed in 2005.

By that time, it was too late to sue Father Cooper. The priest had died of lung disease on Christmas Eve 2003, at the age of 76. Instead, Doe filed suit against the Archdiocese of St. Louis, claiming that the Church intentionally failed to supervise the clergyman back in the early 1970s.

In Missouri, a childhood victim of clergy sex abuse normally has until the age of 26 to bring action against the archdiocese. Doe's lawyers, though, insisted that their client was entitled to an extension because he didn't remember the abuse until his fateful therapy session in 2002.

The Church argued to the contrary. Many times before, they had contended that the hourglass of justice was already spent, and had prevailed. This time, they did not.

But the Church chose to defend itself in another way, one that again completely sidestepped the charge of molestation. If in fact Cooper did commit the offense, they argued, it would have occurred at Cooper's vacation house, off Church property, and outside of Church control.

Twenty-second Circuit Court Judge Donald L. McCullin agreed. His March 5, 2010 decision marked the first time a Missouri judge had ever ruled in the Church's favor based on where the actual sexual abuse took place.

In the ten-page ruling, McCullin stated, "The Court believes that the location of the inappropriate sexual conduct itself is the determinative issue..."

Church critics decried the judge's rationale, fuming that the archdiocese got off on a "technicality," thereby denying Doe his day in court in order to save its own reputation. And this, at a time when the pope has at last publicly apologized for the broader scandal and promised to crack down on offending priests.

Archdiocese attorney Bernie Huger, who declined to comment on this case specifically, says the Church will always offer assistance to victims but will resist any legal challenge if an accusation is found to lack credibility or if a victim demands an "exorbitant" sum of money for compensation.

With a dead priest, a recovered memory and an opaque litigation process, the truth in this case is difficult to pin down. What really happened to John Doe in the summer of 1971? And if indeed he was sexually abused, who is now responsible?

As John Doe recalls it, Father Thomas Cooper's rental property out in the country was "a really neat place to go" — at first. A city kid like Doe on summer break could scoop up lizards and poke at turtles. He can't remember the exact location of what he calls "the clubhouse" but remembers it was near the Big River.

Doe first got to know the priest by hanging around St. Mary Magdalen's school yard, located just down the block from where the boy's family lived. Cooper arrived at the parish in 1970.

"He was kind of a hippie," Doe says, recalling the priest's longish blond hair and sandals. He offered kids rides on his motorcycle and took them for ice cream. He invited Doe more than once to hop in his tool truck and accompany him on odd jobs.

"We always left from the rectory," Doe says. "Every time I was with that guy, it originated at St. Mary Magdalen." As for faraway excursions to Cooper's Big River clubhouse, Doe had to get permission from his parents. Of course, it was never hard to convince his father, who Doe says was an usher at Mass and a man of Italian descent for whom "the sun rose and set on the Catholic Church."

On several occasions Cooper drove groups of boys down to the clubhouse. The priest brought a .22 rifle and let them shoot it. He also recalls Cooper walking around naked and encouraging Doe and his comrades to skinny-dip. Not only that: He showed the boys "girlie mags" filled with pictures of half-naked women.

One day, according to Doe's sworn statements, Cooper invited him down to the clubhouse all by himself for an overnight stay. At some point during the night, a strange sensation awoke the young man. The priest was on the bed performing oral sex on him. After a few minutes, Cooper demanded that Doe do the same for him.

Cooper proceeded to flip the boy on his stomach and tried to sodomize him, spitting on his hand for lubricant. Cooper, claimed Doe, stopped when Doe cried out in pain.

The next morning, Cooper may have demanded that the boy keep this secret, but Doe can't remember. "I'm sure I wasn't going to say nothing to nobody," he says. "They would say I was a queer or a fag or something."

The other episode to surface during Doe's jolt of memory recovery occurred sometime later that summer, when Cooper managed to lure Doe back to the clubhouse. That time, he cornered the boy in his bedroom and instructed him to take his pants down. Again, he initiated an exchange of oral sex.

In a recent conversation with Church attorneys, Doe was asked for graphic details:

Lawyer: *This is a hard question. Did [Cooper] get you to ejaculate?*

Doe: *I believe I did.*

(...)

Lawyer: *And did he ejaculate on you?*

Doe: *No, he did not.*

Lawyer: *OK. How do you remember that he didn't ejaculate?*

Doe: *I remember he was encouraging me, telling me that I — that I was good or something. I don't know. It was something goofy. I don't know. I'm not lying about this.*

Lawyer: *I know you're not.*

When Doe filed his suit in June 2005, local victim advocates had never heard of Father Cooper. By this time, the clerical sex-abuse scandal that rocked Boston in 2002 had spread to dioceses across the country. Two-thirds of American bishops were revealed to have shuffled accused priests — some of them admitted pedophiles — from parish to parish, adhering to a culture of secrecy.

In St. Louis, dozens of people came forward to make fresh allegations, and several clergymen were removed from active ministry. In 2002, the year the scandal hit, the archdiocese settled zero cases. Over the next three years, they settled 39 cases and paid \$4.5 million to victims.

On June 26, 2005, the day after Doe made his claim, the Survivors Network of those Abused by Priests (SNAP) told reporters that the deceased Cooper had never been sued or accused of sexual abuse before.

As it turns out, they were wrong.

About a decade earlier, a different south-city man alleged in civil court that when he was twelve, he went on a canoe trip with Cooper near De Soto. The priest plied him with alcohol and marijuana and then sexually abused him, the petition reads. The nature of the abuse resembled Doe's account — both oral and anal sex — and would have occurred during the same summer. That plaintiff also mentioned two episodes of abuse inside the priest's living quarters at St. Mary Magdalen.

The case was settled out of court in 1997. John Doe had never heard anything about it.

Church officials, on the other hand, had known about Cooper decades before. Doe's court file contains a barely legible photocopy of a letter, dated December 21, 1968, from Father David Wichlan of St. Cecilia Parish in south St. Louis, addressed to Monsignor Adrian I. Dwyer. It concerns an unidentified young man and reads:

....In regard to Father Tom Cooper....I called the young man and asked him to come....and tell his story, which he did. I asked if he'd be willing to repeat his story in your presence and he said....he didn't want to get Fr. Cooper in trouble....but I explained to him that this may be necessary to help Fr. Cooper and perhaps preserve other innocent [unreadable] from harm.

Two days later, Monsignor Dwyer apparently wrote to the victim about "the problem of Father Cooper" and pleaded, "Please do not worry about getting Father Cooper in trouble. My job is to do everything possible to help him."

Obtaining letters such as these is crucial for any plaintiff in Missouri who hopes to prove that the archdiocese knowingly failed to supervise its clergy, says Rebecca Randles, Doe's lawyer. The reason, she explains, is that under state law, a victim in such a suit must possess a document showing that Church officials were aware that the priest had a history of sexually abusing kids — a high burden of proof, according to local and national attorneys.

"Lack of [such evidence] is one of the things that determines whether we tell our clients to settle or not," Randles says.

On June 6, 2007, John Doe, Church officials and legal counsel for both sides came to the table to hash out a settlement. Neither side can reveal what happened that day. But their attempts at reaching a compromise failed. Doe decided to fight on in court.

St. Louis is not another Boston, says Phil Hengen, the local archdiocese's self-described "point person" on the clerical sex-abuse issue. "Whatever happened there didn't happen here," he says. "There's a notion that there's this widespread abuse, and we're circling wagons and covering it up. And that's just not happening."

Hengen, director of the Church's Office of Child and Youth Protection, says most of the cases landing on his desk date back several decades, and he can explain why.

"Back then, the prevailing sense among physicians was that you could take the abuser to treatment, he'd be fixed, and he wouldn't do it again."

"We're smarter now," posits Hengen, himself a deacon and layman who has practiced therapy for 40 years. "We just know more. That's the nature of psychology."

For the sake of prevention, anybody in the archdiocese with regular access to kids — from a bishop down to a soccer volunteer — now submits to regular background checks. Youngsters are being taught what the red flags are. Adults learn what to watch for in other adults. Any sex-abuse complaint voiced by a minor is swiftly relayed to civil authorities, no exceptions.

If an adult comes forward with stories of abuse dating back many years, Hengen launches an internal investigation. An accused priest who is still alive is temporarily removed from duty, and the victim is encouraged to make a report to the police.

Meanwhile, Hengen presents his findings to the archdiocese's review board, which currently consists of clergymen, social workers, psychologists, teachers, even a former police commander. As a rule, the majority must be laymen. Many are parents and grandparents.

Should the board find the allegation credible, and the archbishop agrees, the archdiocese goes public with the finding and offers financial assistance to the victim.

"In the St. Louis area, we often get allegations not directly from victims, but from their lawyers," Hengen observes. "That changes the whole process."

Bernie Huger, legal counsel to the archdiocese since the '90s, estimates that this accounts for about half the cases.

Most of the litigation gets settled, Huger says. According to Church records, the archdiocese settled 81 cases from 2002 to 2010, paying \$7.1 million to victims.

Huger describes the mediation process by way of hypothetical example: Say a victim requests \$5 million. Based on a detailed consultation with therapists, the Church might consider \$75,000 more appropriate to cover all the therapy and medication the victim would ever need, plus some money for attorneys' fees and a little extra in case more therapy is needed.

"Our interest is in providing healing, not for providing monies for pain and suffering," says Hengen. But he resists the charge that the archdiocese leaves victims out in the cold. Many get help, he says, without lawyers.

Furthermore, Hengen points out, when the Missouri Supreme Court overturned a civil ruling against Father Thomas Graham in 2005, the archdiocese sought out the victim and helped pay for his therapy.

"Now, if we're so interested in getting off on technicalities, cutting corners and getting by as cheaply as we can, why would we do that?" Hengen asks. "That doesn't make any sense."

Huger, who is employed by the Greensfelder law firm, says he's noticed a slight uptick in false allegations in the last few years, owing to media coverage and "opportunists" who want to take advantage of the situation.

He says about 90 to 95 percent of the sex-abuse allegations against clergymen in the archdiocese are credible. Still, Huger says, "The Church has a fiduciary responsibility to all those people that it serves not to pay an exorbitant amount to resolve a claim. If a person makes a demand that we consider to be exorbitant, then we'll have to go to court."

On August 17, 2007, Church lawyers deposed John Doe and dived deep into his personal and sexual history. They inquired whether he'd ever had relations with another man. (He said no.)

When Doe expressed remorse about the abuse, one of the attorneys, Ed Goldenhersh, asked if maybe he felt guilty that what Cooper did was somehow pleasurable.

His reply: "No."

When the subject of his twin brother's death came up, Doe got so emotional they asked him if he needed a break. And on four occasions, they had to reassure him that they trusted his words.

"I'm being honest with you," he pleaded to them at one point.

"We believe you," Goldenhersh replied. "That's fine. Don't worry about it. Just do the best you can. I don't want you to get nervous over it."

The bulk of the questions seemed designed to establish that Doe never really lost the memory of Cooper's deeds and, instead, harbored it as a secret. Doe, however, never wavered.

"It didn't exist," he said of the memory over and over again. "It wasn't a secret. I never mentally thought, 'I don't want to remember this.' It just was something that was a part of my life that was erased."

But how then, Goldenhersh inquired, could Doe "remember" to steer clear of Cooper after the second episode, as he earlier testified?

"I don't know if 'remembered' would be the right word," he responded. "Instinct, I guess, told me that. Instinct told me this wasn't right."

But, the attorney pressed on, what about when he was 25? Wouldn't he have found such acts inappropriate between a boy and priest?

"Excuse the expression," Doe answered. "When I was 25, all I cared about was getting drunk and laid."

The defense did eventually identify one area on which there was no dispute: The clubhouse did not belong to the archdiocese. Nor did Cooper make any mention of spiritual matters while down there.

Doe argues that the only reason he left the rectory for the clubhouse was that he trusted Cooper as a man of the cloth.

But in his ruling, Judge McCullin wrote: "The fact that Father Cooper was a priest 24 hours a day does not make the archdiocese responsible for all his activities and does not make any and all of his activities the actions of a priest within the scope of his respective duties."

Hearing of the decision, David Clohessy of SNAP was incensed, saying it was unconscionable that the archdiocese would essentially concede that Cooper was molesting kids and failed to stop him, only to "squirm out of accountability" on a peripheral issue.

"If you claim to be a spiritual institution, then you have to defend yourself on the merits and not the technicalities," he asserts, "even if it's more arduous."

Says Church lawyer Huger: "I don't believe cases are won on technicalities," he says. "I think they're won on whatever the applicable legal principles are." He has filed an appeal, despite the victory, insisting that the statute of limitations must apply.

Clohessy says the ruling, which Doe has appealed, "almost signals to would-be predator priests that if you're going to molest a kid in your car, make sure you do it on the street and not in our parking lot."

Before his interview last month with this reporter, John Doe stoops over to greet his lawyer, Rebecca Randles, with a hug.

Wearing white tennis shoes and a T-shirt tucked into blue jeans, Doe announces, with a fair amount of pride, that he's been working 32 years now for the same utility company that his late father worked for. While he's only earned a high school diploma, he boasts that two of his children have attended college.

Doe confesses he doesn't know how memory loss works and feels enormous guilt that he first remembered his abuse with someone other than Dr. Mofsen.

"I don't know why I didn't tell him first; I apologized to him," Doe says. "He's a Jewish doctor. You know how your kids will make Jewish jokes? That man saved my life! I would swim the Mississippi for him."

This lawsuit isn't about a "payday," Doe insists. "We're not the Busches," he says, comparing his own family to the local brewing dynasty. "But it's not about the money for me."

It's about transparency and responsibility, he says. He believes Church officials are hiding in the court system, doing all they can to keep cases from going to trial and to keep evidence under seal. Soon, he says, he'll divulge his identity to St. Louis, because he's not ashamed anymore.

Both Doe's father and sister have been treated for major depression. He himself has been diagnosed as bipolar and thinks part of his affliction may be hereditary.

"I'm goofy," he says. "I know not all of my problems were caused by Cooper. But a lot of them were."

He wants a sit-down meeting with Archbishop Carlson. With litigation pending, the Church says it cannot accommodate his request. But the kind of closure he really wants, he can never have.

"I wish," muses Doe, "Cooper was alive, so I could say, 'Why'd you do that, Father?' And if he would just look at me and say, 'I'm sorry, I was wrong. I'm sorry I messed up your life.'"

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