

WRITTEN TESTIMONY

PENNSYLVANIA SENATE JUDICIARY COMMITTEE HEARING

OCTOBER 2, 2019

Good morning and thank you for the invitation to appear before your committee. I am Lawrence F. Stengel, and I am the Chair of the Oversight Committee for the Archdiocese of Philadelphia Independent Reconciliation and Reparations Program (IRRP).

As background, I currently serve as the Chair of the Internal Investigations Group with the private law firm of Saxton and Stump and as the head of its mediation practice. Prior to my retirement from the bench, I served for fourteen years as a federal judge, including as Chief Judge for the Eastern District of Pennsylvania. I also served for fourteen years as a judge on the Lancaster Court of Common Pleas.

The Independent Reconciliation and Reparations Program was implemented by the Archdiocese of Philadelphia to provide additional support and compensation for victims/survivors abused as minors by priests or deacons of the Archdiocese. The program was launched on November 13, 2018 and claim processing continues through today. The IRRP was designed by two nationally recognized claims administration experts, Kenneth Feinberg and Camille Biros, based upon input from victims. The IRRP offers support for victims/survivors through an independent victim support facilitator, Lynn Shiner. Mr. Feinberg and Ms. Biros also oversee several other archdiocese-sponsored reparations programs across the country.

I chair the Independent Oversight Committee of the IRRP. The IOC was originally formed to include Senator George Mitchell as chair, Kelley Hodge, Esquire and me. In early June, 2019 Senator Mitchell stepped down due to commitments at his law firm and I took over as

chair. We formally added Charlie Scheeler, Esquire, who served as counsel to the Independent Oversight Committee, and now serves on the Committee.

The duties of the IOC include approval of the protocol, appointment of Lynn Shiner as the victim support facilitator, overseeing the implementation and administration of the IRRP and periodically reviewing data and information requested by the Committee from the claims administrators. We hold in person and conference call meetings and we request information from the administrators and meet with them as necessary to discuss program operations.

As part of the oversight role, the IOC has issued two interim reports. I have copies with me today of the interim reports and I would ask permission of the chair to place these reports in the record.

In addition to these duties, the IOC is working with Ms. Shiner and the Archdiocese to review and improve upon the Archdiocese's internal best practices to serve the community, including improving interactions with victims/survivors, preventing future harm and protecting public safety. The Archdiocese has had a victim program in place for 25 years; we have commenced our review of this program and its practices, and we will be making recommendations to enhance these practices consistent with our charge under the Protocol.

The Archdiocese has two offices engaged in the protection of children: the Office of Investigations and the Office of Children and Youth Protection. Ms. Shiner has been reviewing the Archdiocese policies regarding victim support and outreach, while the IOC has begun reviewing the other Archdiocese policies related to preventing, reporting and investigating alleged abuse. Based upon the initial phases of this work, the IOC has a very positive view of the Archdiocese's long-standing policies to prevent and address child sexual abuse, and we look

forward to continuing to work with the Archdiocese to make any appropriate improvements to those policies and practices.

It is our belief that the IRRP is a successful program and provides a strong model for addressing the concerns of the survivors of clergy abuse. It is victim-centered and well-supported. The IRRP offers a trauma-informed program where survivors can come forward, disclose the harms they have endured, and obtain assistance in a way that respects their dignity. Much of the support comes from Lynn Shiner, the victim support facilitator, who is herself a survivor of violence and loss, and is an award-winning author and victims advocate. As the former Director of the Pennsylvania Office of Victims Services, Ms. Shiner oversaw the distribution of more than \$100 million in state and federal funding to meet the needs of crime victims throughout the Commonwealth. Lynn Shiner was the guiding force behind the creation of this program's victim-centered approach. Ms. Shiner supports survivors as they come forward to make their claims. Many victims have found this aspect of the program invaluable and have shared that they could never have completed and submitted their claim without Ms. Shiner's support.

Ms. Shiner is also available to work with victims after they have received their awards, to get connected with appropriate future support services. The program encourages victims to use the compensation they received to obtain services that will help them heal. This approach better serves victims than any litigation process could, which makes it easier and more likely that all victims will come forward.

The program is fully independent of the Church. The Archdiocese does not control the process, including compensation awarded to each victim/survivor. It simply pays the amounts set by the Administrators on a claim-by-claim basis. As one who has actively served on the IOC

from inception, let me reiterate this point which I cannot state strongly enough – the IRRP is fully independent of the Church.

The program is confidential. As the program documents make clear, it was designed as a confidential mediation process under Pennsylvania law. A victim is free to share any information he or she would like about the abuse they have suffered and their experience with the IRRP. The program agrees to keep victims' personal information confidential. This is critical because it respects the fact that many victims do not wish to make their experiences public. The process of making a claim about childhood sexual abuse involves sharing deeply personal information about the nature of the abuse, the impact that it has had on their lives and families, and their personal medical records that may substantiate their allegations and past treatment for the abuse. The program protects victims' private information and records. We have heard how important this confidentiality is to victims, who would not be coming forward at all if the only option was a public forum, such as the courts. However, nothing about the program's confidentiality extends to protecting information about alleged perpetrators. All new allegations of abuse are immediately reported to law enforcement, by both the victim and the Archdiocese.

The interests of fairness and due process are well served by the IRRP. Each survivor has the opportunity to provide full details about the abuse they suffered and the impact that abuse has had on their life. They are not limited in the type or extent of materials they can provide. For example, unlike the courts, there are no evidentiary rules keeping out certain types of information. Victims have the right to be heard by the Administrators, by phone, videoconference, meeting or formal hearing, before the Administrators decide the appropriate reparations amount to offer. The independent Claims Administrators carefully and thoroughly

consider all information provided. The Administrators are nationally recognized neutrals with decades of experience handling claims in a variety of traumatic circumstances. Mr. Feinberg has often been called “Mr. Fairness,” and he and Ms. Biros give careful, thoughtful and fair consideration to all claims.

The IRRP is non-adversarial. In the IRRP, victims are not required to face depositions, cross-examination and the trauma of having their past picked apart, scrutinized and challenged. In the IRRP program, the opportunity to be heard is entirely the victim’s right. The victim gets to tell their story to the administrators, if they so choose, and will not be confronted by counsel for the Church or any other Church representatives. The Archdiocese is not allowed to participate in these meetings or hearings in any way, so the survivor need not feel intimidated or deterred from participating.

The IRRP is entirely voluntary. If a victim chooses to enter the program, he or she loses nothing. The survivor has the right to see the compensation award the administrators offer and has the right to accept it or to decline it. If the survivor declines the award, they walk away with all the rights they had when they entered the program.

In the IRRP, there is no monetary cap on what the Archdiocese will pay. Mr. Feinberg and Ms. Biros decide the appropriate amount of financial compensation each victim is entitled to receive, and this cannot be negotiated or appealed by the Archdiocese.

There is no cap on the amount any one victim can receive, and there is no cap on the aggregate amount that can be awarded. The court system lacks a way to ensure true parity and equity among victims. If a select few get very high awards, that leads entities to bankruptcy as we have seen already across the country, and through the bankruptcy process, many other

victims will get very little or nothing at all. The private program model offers greater equity to victims regardless of whether they come forward on the first or last day of the program.

The IRRP is accessible and inclusive. The program is designed to be accessible to any victim, regardless of walk of life, level of education and whether or not the victim chooses to hire an attorney. Often victims who have criminal records or have difficult immigration issues will stay away from the courts. Those concerns are not in play in these cases. Each survivor who does not have an attorney is provided with an independent pro bono lawyer to advise them on the release they will sign upon acceptance of the reparations award. This is at no cost to the victim.

The IRRP is pro law enforcement. The IRRP provides a more accessible way for more victims to come forward and report allegations they have never shared before. This shines a brighter light on these issues and potentially brings more abusers to justice. As part of the program, every allegation of abuse not previously known to the Archdiocese must be reported to law enforcement. As we have seen, this program and others like it have unearthed allegations not previously known against clergy members accused of abuse for the first time and additional allegations against known perpetrators where the full extent of the abuse was not previously known. IRRP claims have precipitated new criminal investigations and even arrests. These claims have also led to internal investigations that have removed priests from the ministry.

The IRRP system is prompt and efficient. In the IRRP, the administrators strive to handle claims within 90 days. From my 28 years as a sitting trial judge, I can tell you that this is remarkable. The average civil litigation can last anywhere from a year to three or four years. Victims tell us how difficult it is to relive the pain of childhood abuse and how coming forward can reopen the wound. Having a long drawn out court battle can be extremely painful and can

act as another source of trauma for the survivors. I make this point only to emphasize that the prompt disposition of these claims in a secure, confidential and non-adversarial environment is a tremendous benefit to the survivors.

To date, the results of the Archdiocese of Philadelphia IRRP have been impressive. As of September 25, 2019, the IRRP received 449 claims, 244 of which were newly reported. Determinations have been made regarding 156 of those claims, 137 of which have been accepted by the victims. To date, \$30,765,000 has been paid or authorized to be paid to survivors.

We have received very positive feedback from survivors who have participated in the program. We have been authorized by the victims to share these quotes with you. One survivor told us that at first, “I wanted to just throw the application in the trash, however, I believe it is important to follow through since it is an outside source trying to address this issue and have the church face the wrongdoings rather than hiding behind their garments.”

In thanking Lynn Shiner for her support, one survivor said, “You have done a fabulous job putting this together. I appreciate all your assistance immensely. I know there are many others who are in need of your empathy and compassion to complete the forms.”

One victim told us that he/she is using the reparations award to enroll his/her son in college and noted, “This process has allowed me to gain something that I lost for my family that I could not do on my own.”

This is a very good program. It is the Archdiocese of Philadelphia doing the right thing, working to heal the community and giving many victims hope and support they desperately need and deserve. The people who need this program the most are the people you will never hear from. They are the ones who would only come forward under the strictest of confidentiality, people whose families are still extremely involved in the Church and maybe even work for the

Church and still do not know the horrific harm they have suffered. The IRRP is the only choice for those survivors to come forward, have their identities protected and privacy respected and seek relief from an independent source to help them heal and move forward.

This is a form of restorative justice: an acknowledgment of harm caused by the Church, a fair and impartial evaluation of a monetary award and an opportunity for counseling and emotional support.

I recognize that this testimony comes in the context of proposed legislation relating to modifying statutes of limitation for alleged sexual misconduct. The Independent Oversight Committee has no view regarding that legislation; we simply provide the perspective that the IRPP has been successful in accomplishing its stated objectives.

I welcome your questions.